

the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Republican majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution. . . . [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the Republican Leadership Manual on the Legislative Process in the United States House of Representatives, (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual: "Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule. . . . When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment."

In Deschler's Procedure in the U.S. House of Representatives, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues: "Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Mr. SESSIONS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

#### ELIMINATE PRIVACY NOTICE CONFUSION ACT

Mrs. CAPITO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5817) to amend the Gramm-Leach-Bliley Act to provide an exception to the annual privacy notice requirement, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5817

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Eliminate Privacy Notice Confusion Act".

#### SEC. 2. EXCEPTION TO ANNUAL PRIVACY NOTICE REQUIREMENT UNDER THE GRAMM- LEACH-BLILEY ACT.

Section 503 of the Gramm-Leach-Bliley Act (15 U.S.C. 6803) is amended by adding at the end the following:

"(f) EXCEPTION TO ANNUAL NOTICE REQUIREMENT.—A financial institution that—

"(1) provides nonpublic personal information only in accordance with the provisions of subsection (b)(2) or (e) of section 502 or regulations prescribed under section 504(b), and

"(2) has not changed its policies and practices with regard to disclosing nonpublic personal information from the policies and practices that were disclosed in the most recent disclosure sent to consumers in accordance with this subsection,

shall not be required to provide an annual disclosure under this subsection until such time as the financial institution fails to comply with any criteria described in paragraph (1) or (2)."

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from West Virginia (Mrs. CAPITO) and the gentleman from California (Mr. SHERMAN) each will control 20 minutes.

The Chair recognizes the gentlewoman from West Virginia.

GENERAL LEAVE

Mrs. CAPITO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to add extraneous materials on this bill.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from West Virginia?

There was no objection.

Mrs. CAPITO. Mr. Speaker, I yield myself such time as I may consume.

The amended version of H.R. 5817 represents compromise language that addresses concerns raised by some Members about the last section of the bill, which provided certain regulatory relief to State-licensed financial institutions. The bill before the House today is substantially the same as the legislation that passed the House by voice vote in April 2010, and we actually debated this bill a week ago.

I would like to thank the sponsors of H.R. 5817, Mr. LUETKEMEYER, Mr. SHERMAN, Mrs. MALONEY, Mr. CAPUANO, and Mr. FRANK, for agreeing to this compromise language.

With that, I reserve the balance of my time.

Mr. SHERMAN. Mr. Speaker, I yield myself such time as I may consume.

I will be brief. We passed substantially the same language unanimously by voice vote 2 years ago. This bill has been amended by unanimous consent so as to be virtually identical with what was passed 2 years ago. It now has the support of the ranking member.

I urge an "aye" vote and reserve the balance of my time.

Mrs. CAPITO. Mr. Speaker, I would like to yield as much time as he needs to consume to the gentleman from Missouri (Mr. LUETKEMEYER), who is the primary sponsor of this bill.

Mr. LUETKEMEYER. Thank you, Chairman CAPITO, for yielding.

I rise today in strong support of the amended version of H.R. 5817, the Eliminate Privacy Notice Confusion Act. Under current law, all financial institutions are required to provide annual privacy notices explaining information-sharing practices to customers. Banks and credit unions are required to give these notices each year even if their privacy notice has not changed. This creates not only waste for financial institutions but confusion among and increased costs to consumers.

In his book entitled "The Financial Crisis and the Free Market Cure," John Allison reports that one bank offered at the end of its privacy notice to pay \$100 to any customer that read its notice in full. Only one customer took the bank up on that offer.

Year after year, millions of dollars are spent on privacy notices that are either disregarded by or confuse the customers. Let's think about this cost for a second. This outdated requirement doesn't cost only in postage alone, but also costs in compliance costs, cost of supplies, printing fees, and man hours.

I talked to one community bank in my district that said they spent roughly 70 cents per disclosure. With a minimum of 250,000 accounts and customers, this one bank spends \$175,000 a year on this requirement. It may not seem like a lot of money to some of my colleagues, but I can tell you that \$175,000 is a lot of money for a small institution like this one in my district, especially when a lot of those costs are passed on to the customer.

There is some debate over what this legislation will do. Let me be completely clear: this legislation will only remove the Gramm-Leach-Bliley annual privacy notice requirement of an institution if an institution has not, in any way, changed its privacy notice or procedures.

□ 1350

This legislation does not exempt any institution from an initial privacy notice, nor does it allow a loophole for an institution to avoid issuing an updated notice.

We worked in a bipartisan fashion to amend this legislation to remove the stipulations for State-regulated financial institutions. The amended language is now identical to the legislation that passed the House by a voice

vote in the 111th Congress. Additionally, I would like to remind my colleagues that similar language, language that was the basis for the first version of legislation, passed in both the 109th Congress and the 110th Congress.

This language is not controversial, it does not jeopardize consumer privacy, and it does not exempt an institution from having to produce an initial or amended privacy notice. This legislation does eliminate millions of costly, confusing, and often ignored mailings. And, with the passage of this bill, the information included in these mailings would likely become more significant to the consumer because it would come only after a change in the privacy policy.

This legislation is supported by the Independent Community Bankers of America, the Credit Union National Association, the American Bankers Association, the National Association of Federal Credit Unions, and the Consumer Bankers Association, among others.

I'd like to thank the gentleman from California (Mr. SHERMAN) for his work on this bill. I would also like to thank Chairman BACHUS, Ranking Member FRANK, Chairman CAPITO, and Ranking Member MALONEY for their work with us toward swift passage of this legislation.

With that, Mr. Speaker, I ask my colleagues for their support.

Mr. SHERMAN. Mr. Speaker, I yield myself such time as I may consume.

I want to thank the gentleman from Missouri for his work and leadership on this bill. I also want to thank the ranking member, Mr. FRANK, for his support, and, of course, the gentlelady from West Virginia.

If this bill becomes law, a written copy of the privacy policy will still go by postal mail to every customer when he or she becomes a customer of the financial institution. Another copy will go every time that policy is changed, and the policy will be available day and night on the Internet on the Web site of the financial institution. The privacy policy will be known to everyone who has an interest in reading it, whether \$100 is paid as a bonus for reading it or not.

Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mrs. CAPITO. Mr. Speaker, I also urge passage of this bill.

With that, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from West Virginia (Mrs. CAPITO) that the House suspend the rules and pass the bill, H.R. 5817, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

## ASTHMA INHALERS RELIEF ACT OF 2012

Mr. BURGESS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6190) to direct the Administrator of the Environmental Protection Agency to allow for the distribution, sale, and consumption in the United States of remaining inventories of over-the-counter CFC epinephrine inhalers.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6190

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Asthma Inhalers Relief Act of 2012".

### SEC. 2. DISTRIBUTION, SALE, AND CONSUMPTION OF REMAINING INVENTORIES OF OVER-THE-COUNTER CFC EPINEPHRINE INHALERS.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency—

(1) shall allow for the distribution, sale, and consumption in the United States of remaining inventories of CFC epinephrine inhalers manufactured pursuant to the exception for medical devices under section 604(d)(2) of the Clean Air Act (42 U.S.C. 7671c(d)(2));

(2) shall not take any enforcement action or otherwise seek to restrict the distribution, sale, or consumption of such inhalers on the basis of any Federal law implementing the Montreal Protocol; and

(3) shall, in response to any request of any distributor or seller of such inhalers, including any such request pending on the date of the enactment of this Act, issue a No Action Assurance Letter to the requesting party stating that the Environmental Protection Agency will not initiate an enforcement action relating to the distribution or sale of any such inhaler occurring prior to August 1, 2013.

(b) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to limit or otherwise affect the authority of the Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) to ensure the safety and effectiveness of CFC epinephrine inhalers to be distributed, sold, or consumed pursuant to this Act.

(c) DEFINITIONS.—In this Act:

(1) The term "CFC epinephrine inhaler" means any epinephrine inhaler containing chlorofluorocarbons that was manufactured and classified as over-the-counter before January 1, 2012.

(2) The phrase "Federal law implementing the Montreal Protocol"—

(A) means any provision of title VI of the Clean Air Act (42 U.S.C. 7671 et seq.) or other Federal law implementing the Montreal Protocol; and

(B) includes the final rule published by the Food and Drug Administration entitled "Use of Ozone-Depleting Substances; Removal of Essential-Use Designation (Epinephrine)" published in the Federal Register at 73 Federal Register 69532 (November 19, 2008).

(3) The term "Montreal Protocol" has the meaning given such term in section 601 of the Clean Air Act (42 U.S.C. 7671).

(4) The term "over-the-counter" means not subject to section 503(b)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(b)(1)) or otherwise required pursuant to Federal law to be dispensed only upon issuance of a prescription.

(d) SUNSET.—This section ceases to be effective August 1, 2013.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

Texas (Mr. BURGESS) and the gentleman from California (Mr. WAXMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

### GENERAL LEAVE

Mr. BURGESS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on this bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BURGESS. Mr. Speaker, I yield myself such time as I may consume.

H.R. 6190, this is a bill that I honestly wish we did not have to consider today.

Over the past several years, I have repeatedly asked the Food and Drug Administration, the Environmental Protection Agency, and even the White House, the President himself, for answers to questions that I and other members of the committee have as to why the administration has refused to grant a waiver to sell the existing stock of over-the-counter epinephrine inhalers. Only last summer, and because the committee was moving legislation at the time, did the Food and Drug Administration finally provide at least some sort of response, albeit one that was entirely unsatisfactory.

Under the rules known as the Montreal Protocol, certain chemical propellants used in a number of medical and cosmetic devices were to be phased out over a number of years, the chlorofluorocarbons, CFC, used in the epinephrine inhalers. Here is one of the ones that was one of those propellants. One of the manufacturers of these over-the-counter inhalers has worked on a replacement inhaler only to meet with stonewalling through the Food and Drug Administration and requests for more studies into the device. Although the Food and Drug Administration claims they are awaiting an application from the company, the company counters that the Food and Drug Administration once again continues to move the goalpost. Regardless of the finger-pointing, Mr. Speaker—and there is much of it surrounding this issue—the fact remains that there is no viable alternative for the over-the-counter purchase by an asthmatic suffering from an acute emergency attack.

We've heard that a company is about to market a device, and indeed there is a device available without a prescription, but it's behind the counter. In other words, if the pharmacy is open but the pharmacist is not there, you cannot purchase this device. I know this firsthand because it happened to me one evening while we were home on one of the district work periods. The new product uses a nebulizer rather than a propellant. It's a little more complicated. In my experience, it's a little more difficult to use and less effective. Nevertheless, it is available, but the cost differential is significant