

COMMON SENSE NUTRITION
DISCLOSURE ACT OF 2015

GENERAL LEAVE

Mr. GUTHRIE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and to include extraneous material on the bill, H.R. 2017, including an exchange of letters between the Committees on Energy and Commerce and the Judiciary.

The SPEAKER pro tempore (Mr. WILSON of South Carolina). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 611 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 2017.

The Chair appoints the gentleman from Louisiana (Mr. GRAVES) to preside over the Committee of the Whole.

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IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 2017) to amend the Federal Food, Drug, and Cosmetic Act to improve and clarify certain disclosure requirements for restaurants and similar retail food establishments, and to amend the authority to bring proceedings under section 403A, with Mr. GRAVES of Louisiana in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

The gentleman from Kentucky (Mr. GUTHRIE) and the gentlewoman from Illinois (Ms. SCHAKOWSKY) each will control 30 minutes.

The Chair recognizes the gentleman from Kentucky.

Mr. GUTHRIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today in strong support of H.R. 2017, the Common Sense Nutrition Disclosure Act, sponsored by Conference Chair CATHY MCMORRIS RODGERS and Representative LORETTA SANCHEZ.

This legislation, first and foremost, is about making menu labeling work for the American people and American businesses. Providing accurate information to consumers when they are deciding what to order is at the heart of this bill. This is not about hiding the calorie information. This bill is about making menu labeling requirements work for the entire industry.

It seems obvious to me that a one-size-fits-all solution will not work for all restaurant chains; yet FDA's menu labeling recommendation does just that, and its burdensome rules have raised alarm bells with businesses across the country.

Convenience stores, grocery stores, take-out restaurants, pizza restaurants, movie theaters, amusement parks, bowling alleys, and chain res-

taurants, I think it is fair to say, can be very different. Expecting these distinct businesses to all comply with the same standards is simply not reasonable; in fact, it is ridiculous.

Furthermore, FDA's existing regulations force businesses to provide information that is often useless to the consumer. The Common Sense Nutrition Disclosure Act provides calorie information to the customers when it would actually be helpful before they order. Knowing how many calories are in your meal at the point of purchase is not going to help anyone. Having calorie information when you place your order will help customers make healthier decisions.

The current FDA menu labeling rules also will expose restaurants and retailers to harsh penalties. This bill makes sure that employees don't get penalized for an inadvertent error. This bill would also help protect businesses from frivolous lawsuits.

Our bill also addresses other impractical, unworkable aspects of FDA's regulation. For example, flyers and advertisements were never meant to be considered menus; yet, through guidance, the FDA confirmed that they consider flyers and advertisements menus. FDA had their chance to make corrections and they did not. This must be fixed, and our bill does just that.

This bill came through our Subcommittee on Health with a voice vote. In full committee, it passed with a bipartisan vote of 36–12–1. I look forward to passing H.R. 2017 through the House with an even stronger bipartisan vote. I urge my colleagues to support H.R. 2017.

I reserve the balance of my time.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, February 10, 2016.

Hon. FRED UPTON,
Chairman, Committee on Energy and Commerce,
Washington, DC.

DEAR CHAIRMAN UPTON: I am writing with respect to H.R. 2017, the "Common Sense Nutrition Disclosure Act of 2015," which was referred to the Committee on Energy and Commerce.

As you know, H.R. 2017 contains provisions that fall within the Rule X jurisdiction of the Committee on the Judiciary. As a result of your having consulted with the Committee and in order to expedite the House's consideration of H.R. 2017, the Committee on the Judiciary will not assert its jurisdictional claim over this bill by seeking a sequential referral. However, this is conditional on our mutual understanding and agreement that doing so will in no way diminish or alter the jurisdiction of the Committee on the Judiciary with respect to the appointment of conferees or to any future jurisdictional claim over the subject matters contained in the bill or similar legislation.

I would appreciate a response to this letter confirming this understanding with respect to H.R. 2017, and would ask that a copy of our exchange of letters on this matter be included in the Congressional Record during Floor consideration of H.R. 2017.

Sincerely,

BOB GOODLATTE,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, February 11, 2016.

Hon. BOB GOODLATTE,
Chairman, Committee on the Judiciary,
Washington, DC.

DEAR CHAIRMAN GOODLATTE: Thank you for your letter regarding H.R. 2017, the "Common Sense Nutrition Disclosure Act of 2015."

I appreciate your willingness to forgo seeking a sequential referral of the bill, and I agree that your decision will in no way diminish or alter the jurisdiction of the Committee on the Judiciary with respect to the appointment of conferees or to any future jurisdictional claim over the subject matters contained in the bill or similar legislation.

I will include a copy of your letter and this response in the Congressional Record during consideration of H.R. 2017 on the House floor.

Sincerely,

FRED UPTON,
Chairman.

Ms. SCHAKOWSKY. Mr. Chairman, I yield myself such time as I may consume, and I rise in strong opposition to H.R. 2017, the so-called Common Sense Nutrition Disclosure Act.

Far from common sense, this unnecessary legislation would deny consumers critical information about the food that we eat.

I began my career a long time ago as a consumer advocate, joining together with a small group of housewives to get retailers to put expiration dates on the products they sell. This was way back in 1970, when every single item in the grocery store was code dated. Now expiration dates are on nearly every single product because this change was good not only for consumers, but it was good for the retailers. They were able to control their inventory much better—less waste because dates are on the food. We can also control our refrigerators a little bit better as well.

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Consumers can make better decisions with better information, and retailers can better control their inventory. Similarly, I believe menu labeling would be helpful to both consumers and retail food establishments, as more and more people are asking for this information and making smart decisions.

At a time when over 78 million adult Americans are obese and the estimated cost of obesity in the United States is \$147 billion a year, we should be embracing efforts to reduce this enormous cost to our healthcare system.

In fact, a recent Harvard study found restaurant menu calorie labeling could save over \$4.6 billion in healthcare costs over 10 years. That is not chump change.

Countless consumer and public health organizations oppose H.R. 2017. That includes the American Diabetes Association, the American Cancer Society, the American Heart Association, the American Public Health Association, and the Center for Science in the Public Interest.

Supporters claim that menu labeling requirements would be too difficult to implement. That is what I heard from my colleague. But we know this isn't

true. Why? Because California, New York City, the State of Vermont, and several counties around the country have successfully implemented menu labeling.

Only chain restaurants with 20 or more locations operating under the same name must post calorie information. So this is not about small businesses must post calorie information. Many of these chains have already had to comply with menu labeling in the places where it is currently required.

In addition, the National Restaurant Association has long supported menu labeling, and consumers find this to be an asset. Claims that implementation of menu labeling has been rushed or has not allowed industry to weigh in are simply false.

It has been 6 years since the law first passed, giving industry plenty of time to weigh in with the FDA and implement this law. The FDA has already issued a 1-year extension, and the FY16 omnibus delayed implementation even further.

The FDA has allowed for plenty of industry participation through this 6-year process, and their final regulations provide a great deal of flexibility.

H.R. 2017 would not only decrease consumer access to calorie information, but it would allow for inconsistent or confusing menu information. This legislation, for example, allows food establishments to simply make up their own serving sizes.

For example, the bill would allow establishments to list the calories for one chicken wing as opposed to an order of chicken wings and wouldn't require the total number of calories to be listed.

We have also heard that many establishments, especially chain pizza restaurants, claim that menu labeling would be too difficult for them to account for all the variations in their menu offerings.

But let's be clear. Pizza chains only need to post calories for the standard menu items they list on their menu boards, not every possible pizza combination. So clearly, California, Vermont, and the City of New York have figured it out.

I also took it upon myself to come up with an easy template for pizza restaurants to use and that is free of charge. I am not going to charge them. It shows how easy it is for them to clearly display the calorie information and account for the different pizza options. You can see right here.

So we have one slice of cheese pizza. I just made up these calories. I think they are way too low. But let's say one slice of cheese pizza is 250 calories. God bless them if they can do that. So then, for sausage, you would add calories; mushrooms, you would add calories; pepperoni, add calories; onion. I think it is rather attractive, easy to read, and important for consumers.

Pizza is undeniably one of the most common menu items in America. On any given day, one out of every eight

Americans eats pizza—one out of eight. The United States spends \$37 billion a year on pizza, which accounts for one-third of the global pizza market.

H.R. 2017 still requires chain pizza restaurants to calculate the calories for their menu items; so, clearly, it can't be that difficult to come up with this information.

Instead, this bill would allow them to present calorie information in a deceptive manner and restrict customer access to this information, depending on where they place an order.

Given how often pizza is consumed, it is critical that consumers have access to accurate calorie information at all points of sale.

More and more, people are planning their caloric intake and making healthier decisions for themselves. We should be encouraging this and providing consumers with the information they need to make smart decisions about their health.

So I encourage my colleagues to oppose this unnecessary bill that only serves to harm and confuse consumers.

Mr. Chairman, I reserve the balance of my time.

Mr. GUTHRIE. Mr. Chairman, first, when we looked at the nice menu labeling board that was just presented, it shows why H.R. 2017 is necessary.

Because, if you look at just that board, it was simple, but it fails to specify the calories listed for each topping or the calories added to a single slice.

Under FDA regulations and guidance, the menu must specify that the sausage, mushroom, pepperoni, and onion calories are added to the basic preparation of slices of pizza with the word "add" or "added" spelled out.

You can't use the plus symbol, which the FDA has specifically said is not permitted. It fails to declare calories per slice and per topping for each size of pizza slice.

The FDA regulations require that calories be declared for each size of pizza slice and for each topping as applied to each size. So it shows why we need to move forward. It also doesn't say that 2,000 calories a day is used for general nutrition advice, but calorie needs vary.

Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. UPTON), my good friend and the chairman of the full committee.

Mr. UPTON. Mr. Chairman, I rise today in strong support of this bill H.R. 2017, the Common Sense Nutrition Disclosure Act.

Simply put, this is a bipartisan bill that would impose common sense where it is sorely needed: the final food labeling rule issued by this administration.

We have a classic example of the administration overreaching with a top-down, big government approach. Its impact is wide ranging and will negatively impact your pizza places, convenience stores, grocery stores, amusement parks, movie theaters, and ice cream stores, you name it.

The administration's own estimates state that this regulation could cost American businesses as much as \$1 billion to comply and 500,000 hours of paperwork, all on small businesses. That is a huge chunk of time and money that would be better spent hiring more folks who are creating improved experiences for customers.

Michigan's own Domino's pizza illustrates just how this rule simply doesn't work. They have literally hundreds and hundreds of different potential order combinations: large pizzas, small ones, medium, thick, thin, and crispy.

Right now they have an online calculator that, in fact, will determine nutritional information so that, when you order from your computer or your app, you can see the precise nutrition information on that pizza.

When 91 percent of orders are placed online, it doesn't make much sense for Domino's to have an in-store menu board that won't provide precise nutrition information for customers on literally hundreds of different choices. Yet, that is what the final food labeling rule would require.

We live in an innovative world, with businesses like Seamless and Uber Eats that bring all kinds of food with the click of a button to consumers' doorsteps. The menu board won't be impactful and is not the solution to menu labeling.

The Common Sense Nutrition Disclosure Act prevents these onerous burdens and puts in place a framework that actually works for consumers and businesses.

The CHAIR. The time of the gentleman has expired.

Mr. GUTHRIE. Mr. Chairman, I yield the gentleman from Michigan an additional 30 seconds.

Mr. UPTON. Mr. Chairman, I want to thank, in particular, CATHY MCMORRIS RODGERS and LORETTA SANCHEZ for their bipartisan work to advance a workable, pragmatic solution that focuses on consumers and small businesses.

As was noted, it did pass in our committee 36-12 with one voting present. I look forward to an even stronger bipartisan vote today.

Ms. SCHAKOWSKY. Mr. Chairman, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON LEE).

(Ms. JACKSON LEE asked and was given permission to revise and extend her remarks.)

Ms. JACKSON LEE. Mr. Chairman, I thank the distinguished gentlewoman. I also thank my good friend. I will move as quickly as I possibly can.

Mr. Chairman, these legislative issues are important to us, and we realize that there is a difference of opinion. So I don't come to the floor harking with great adversity, but I do come with a reasonable response to my opposition to H.R. 2017 in terms of its overall impact.

So I would like to say that it is overly broad in its approach to address narrower concerns from the pizza industry

and other food establishments that are better resolved through guidance.

The bill will reduce the likelihood that consumers will receive clear and consistent calorie information at chain food service establishments, and the bill weakens an important tool intended to help Americans make informed food choices at a time when obesity and other nutrition-related health problems are at crisis.

Our constituents have gotten used to seeing the calorie content. They look for it. They want transparency. Obviously, Americans eat less than the recommended amounts of vegetables, fruits, whole grains, dairy products, and oil. Although we are not the Big Brother, we have to create opportunities for such.

I live in communities where there are food deserts. More than 23 million Americans, including 6.5 million children, live in food deserts, areas that are more than a mile away from a supermarket.

In 2008, an estimated 49.1 million people, including 16.7 million children, experienced food insecurity—limited availability to safe and nutritionally adequate foods—multiple times throughout the year. So anytime there can be an increased knowledge about the nutrition of a food product, that is crucial.

In addition, as the co-chair and founder of the Congressional Children's Caucus, I work on the issues of childhood obesity.

Data from 2009 to 2010 indicates that over 78 million U.S. adults and about 12.5 million—16.9 percent—children and adolescents are obese. We need to help those individuals both in terms of their own confidence about themselves, but to eat healthy.

So I rise today to oppose this legislation because I believe we can find a better place of guidance.

I include in the RECORD a letter, Mr. Chairman, from the National Restaurant Association, which says: "We are writing to inform you of our opposition to H.R. 2017. This legislation would create an unfair advantage between competitors by specifically carving out segments of the food service marketplace from the federal requirement. . . ."

NATIONAL RESTAURANT ASSOCIATION,
Washington, DC, April 28, 2015.

DEAR REPRESENTATIVE: We are writing to inform you of our opposition to H.R. 2017. This legislation would create an unfair advantage between competitors by specifically carving out segments of the food service marketplace from the federal requirement to provide uniform nutrition information. We urge you to treat establishments selling restaurant type food equitably. Congress should not provide a competitive advantage for one segment of an industry over another.

H.R. 2017 would broadly exempt thousands of chain grocery and convenience stores from providing uniform nutrition information on restaurant type food to customers notwithstanding that each day thousands of customers purchase such meals at these establishments. Such establishments each made strategic decisions to compete directly with

their local restaurants. While we welcome their competition, there is no justifiable reason why they should not be held to the same rules as those with whom they have chosen to compete. While we recognize the need expressed by supporters of H.R. 2017 to have appropriate time for menu-labeling implementation, H.R. 2017 would outright exempt entities from providing nutrition information, create an uneven playing field, and cast different requirements amongst competitors.

The food service industry is a broad but competitive industry that is ever expanding in areas that have not traditionally provided restaurant meals. For example, today there are 54,000 grocery stores and 59,000 convenience stores that offer freshly prepared food and beverages, with annual average foodservice sales of \$25 billion dollars. Taken together, these two foodservice segments alone represent 12% of total restaurant and foodservice locations in the U.S. In fact, in recent years, sales in this broad 'retail host' segment have grown much faster than the restaurant industry as a whole. Between 2006 and 2011, sales in this sector jumped 31%, compared to a 16% increase in total restaurant industry sales.

It is clear that grocery and convenience stores are expanding into the traditional restaurant space and competing for the traditional restaurant customer. Just as a restaurant that decides to sell gas or packaged food would be required to adhere to the laws governing those products, our competitors should follow the rules that apply to restaurant products.

Moreover, as with most federal legislation, we recognized the need for a small business protection in the menu labeling requirements. As a result, the law only applies to chains with 20 or more locations that operate under the same trade name and offer for sale substantially the same menu items. Smaller chains and independent operators have the choice to voluntarily provide menu labeling but they are not required to do so under the federal law.

Lastly, the menu labeling rule comes at a time when consumers are demanding more information about the food they eat. In providing the nutritional content of restaurant foods, customers will have access to the information they seek. In fact, this information is being met favorably with estimates suggesting 76% of consumers want menu labeling.

We appreciate your consideration that establishments offering restaurant food be treated equally under the law. Should you have questions on the final requirements around menu labeling, please feel free to consult our website at www.restaurant.org/menulabeling. If you have any questions regarding this letter, please feel free to contact me at the National Restaurant Association.

Sincerely,

DAN ROEHL,
Vice President,
Government Relations.

TRUST FOR AMERICA'S HEALTH,
February 8, 2016.

DEAR LILLIE: Trust for America's Health (TFAH), a non-profit, non-partisan organization dedicated to promoting health for all Americans, urges Representative Jackson Lee to oppose H.R. 2017, legislation which would weaken and partially repeal critical Food and Drug Administration (FDA) menu labeling standards. The bill is scheduled to be considered by the House later this week.

According to The State of Obesity 2015, obesity remains one of the biggest threats to the health of our children and country. Mound 17 percent of children and more than 30 percent of adults are currently considered

obese, putting them at heightened risk for a wide range of health problems such as heart disease, hypertension, type 2 diabetes, stroke, cancer, asthma and osteoarthritis.

Today, Americans consume roughly one-third of all calories outside the home. There is no single solution to the obesity epidemic, but without improved information about the nutritional content of their food options, millions of Americans will not have the tools they need to make healthy choices.

I urge you to oppose this legislation. If you have any questions, please do not hesitate to contact TFAH's Senior Government Relations Manager Jack Rayburn.

Thank you,

RICHARD HAMBURG,
Interim President and CEO.

Ms. JACKSON LEE. This is the National Restaurant Association.

I received a letter from the Trust for America's Health. They, too, are a non-profit, nonpartisan organization. They have asked for us to oppose this, which would weaken and partially repeal critical Food and Drug Administration, FDA, menu labeling. The bill, as I said, is scheduled to come, and here we are today.

So my final points are this. If we have a problem, let's try to work it out, but let's not take a sledgehammer and sledgehammer the requirements that help Americans have transparent information about their food.

Mr. Speaker, I rise in opposition to H.R. 2017, the "Common Sense Nutrition Disclosure Act of 2015," which amends the Federal Food, Drug, and Cosmetic Act to revise the nutritional information that restaurants and retail food establishments must disclose.

As the founder and chair of the Congressional Children's Caucus, I oppose this legislation for the following four reasons:

1. H.R. 2017 is overly broad in its approach to address narrower concerns from the pizza industry and other food establishments that are better resolved through guidance;

2. The bill will reduce the likelihood that consumers will receive clear and consistent calorie information at chain food service establishments; and

3. The bill weakens an important tool intended to help Americans make informed food choices at a time when obesity and other nutrition-related health problems are at crisis levels.

The FDA has been responsive to industry concerns and has already delayed implementation of menu labeling by two years, which is more than six years after it was enacted.

Moreover, H.R. 2017 states that its goal is to establish that the nutrient content disclosure statement on the menu or menu board at establishments that serve prepared foods must include:

1. the number of calories contained in the whole menu item;

2. the number of servings and number of calories per serving;

3. the number of calories per common unit of the item, such as for a multi-serving item that is typically divided before presentation to the consumer; and

4. allow nutritional information may be provided solely by a remote-access menu (e.g., an Internet menu) for food establishments where the majority of orders are placed by customers who are off-premises.

NUTRITION AND OBESITY

Typical American diets exceed the recommended intake levels or limits in four categories: calories from solid fats and added sugars; refined grains; sodium; and saturated fat.

Americans eat less than the recommended amounts of vegetables, fruits, whole grains, dairy products, and oils.

About 90% of Americans eat more sodium than is recommended for a healthy diet.

Reducing the sodium Americans eat by 1,200mg per day on could save up to \$20 billion a year in medical costs.

Food available for consumption increased in all major food categories from 1970 to 2008. Average daily calories per person in the marketplace increased approximately 600 calories.

Since the 1970s, the number of fast food restaurants has more than doubled.

More than 23 million Americans, including 6.5 million children, live in food deserts—areas that are more than a mile away from a supermarket.

In 2008, an estimated 49.1 million people, including 16.7 million children, experienced food insecurity (limited availability to safe and nutritionally adequate foods) multiple times throughout the year.

In 2013, residents of the following states were most likely to report eating at least five servings of vegetables four or more days per week: Vermont (68.7%), Montana (63.0%) and Washington (61.8%). The least likely were Oklahoma (52.3%), Louisiana (53.3%) and Missouri (53.8%). The national average for regular produce consumption is 57.7%.

Empty calories from added sugars and solid fats contribute to 40% of total daily calories for 2–18 year olds and half of these empty calories come from six sources: soda, fruit drinks, dairy desserts, grain desserts, pizza, and whole milk.

US adults consume an average of 3,400 mg/day [of sodium], well above the current federal guideline of less than 2,300 mg daily.

Food safety awareness goes hand in hand with nutrition education. In the United States, food-borne agents affect 1 out of 6 individuals and cause approximately 48 million illnesses, 128,000 hospitalizations, and 3,000 deaths each year.

US per capita consumption of total fat increased from approximately 57 pounds in 1980 to 78 pounds in 2009 with the highest consumption being 85 pounds in 2005.

The US percentage of food-insecure households, those with limited or uncertain ability to acquire acceptable foods in socially acceptable ways, rose from 11% to 15% between 2005 and 2009.

OBESITY

Data from 2009–2010 indicates that over 78 million U.S. adults and about 12.5 million (16.9%) children and adolescents are obese.

Recent reports project that by 2030, half of all adults (115 million adults) in the United States will be obese.

Overweight adolescents have a 70% chance of becoming overweight or obese adults.

CHILDREN AND OBESITY

For children with disabilities, obesity rates are approximately 38% higher than for children without disabilities. It gets worse for the adult population where obesity rates for adults with disabilities are approximately 57% higher than for adults without disabilities.

In 2011–2012, 8.4% of 2- to 5-year-olds had obesity compared with 17.7% of 6- to 11-year-

olds and 20.5% of 12- to 19-year-olds. Childhood obesity is also more common among certain racial and ethnic groups.

In 2011–2012, the prevalence among children and adolescents was higher among Hispanics (22.4%) and non-Hispanic blacks (20.2%) than among non-Hispanic whites (14.1%).

The prevalence of obesity was lower in non-Hispanic Asian youth (8.6%) than in youth who were non-Hispanic white, non-Hispanic black or Hispanic.

Almost 40% of black and Latino youth ages 2 to 19 are overweight or obese compared with only 29% of white youth.

IMPACT OF BILL ON CHILDREN

Nearly 1 in 3 children, 2–19 years of age living in the United States is overweight or obese, putting them at risk for serious health problems.

As members of Congress we should be joining with parents, caregivers, brothers and sisters, schools, communities and healthcare providers in making accurate and easily understandable information regarding the nutrient and calorie content of takeout food transparent to the public.

Our goal should be to work together to create a nation where the healthy choices in takeout as well as food prepared at homes are readily available.

Part of that means information on calorie content and nutrition of food is essential.

Food high calorie content, while low in nutritional value, is a recipe for obesity.

HUMAN AND FINANCIAL COSTS OF OBESITY

Obesity-related illness, including chronic disease, disability, and death, is estimated to carry an annual cost of \$190.2 billion.

Projections estimate that by 2018, obesity will cost the U.S. 21 percent of our total healthcare costs—\$344 billion annually.

Those who are obese have medical costs that are \$1,429 more than those of normal weight on average (roughly 42% higher).

The annual cost of being overweight is \$524 for women and \$432 for men; annual costs for being obese are even higher: \$4,879 for women and \$2,646 for men.

Obesity is also a growing threat to national security—a surprising 27% of young Americans are too overweight to serve in our military. Approximately 15,000 potential recruits fail their physicals every year because they are unfit.

The medical care costs of obesity in the United States are staggering. In 2008 dollars, these costs totaled about \$147 billion.

Hunger hurts everyone, but it is especially devastating to children. Having enough nutritious, healthy food is critical to a child's physical and emotional development and their ability to achieve academically.

Children facing hunger may perform worse in school and struggle with social and behavioral problems that impact their ability to learn. 16 million children in America face hunger.

In 2014, more than 21.5 million low-income children received free or reduced-price meals daily through the National School Lunch Program.

84% of client households with children report purchasing the cheapest food available, even if it wasn't the healthiest option.

H.R. 2017 Removes the Information Needed by Consumers to make Good Food Choices

TEXAS AND CARRYOUT FOOD LABELING

Nearly 27 million people call the state of Texas home, making it the second largest and most populous state in the nation.

Unfortunately, Texas ranks first as the most obese state in the United States for children.

More than 1 in 3 children and adolescents in Texas is obese, putting them at risk for serious health problems.

The story does not end with these statistics. An initiative by state school districts in collaboration with the Robert Wood Johnson Foundation is working to address childhood obesity in the state of Texas.

More than 2,100 schools serving over 1.4 million students across the state of Texas have joined the Alliance's Healthy Schools Program, creating healthier school environments for children to thrive.

Since 2007, 136 Texas schools have been recognized with National Healthy Schools Awards for their outstanding efforts.

I must encourage my colleagues to join me in opposition to this unwise and harmful legislation.

Mr. GUTHRIE. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. BILIRAKIS), my good friend.

Mr. BILIRAKIS. I thank my good friend from Kentucky.

Mr. Chairman, I rise today in support of H.R. 2017, the Common Sense Nutrition Disclosure Act. This bill, as the name suggests, truly is a commonsense bill. H.R. 2017 would lift many of the burdens on small businesses and help protect establishments from excessive regulations.

This summer I visited many Florida food producers, distributors, and restaurants, including one of the local Publix Super Markets, in Land O' Lakes, Florida, where employees showed me how current policies and excessive regulations impact their store.

However, it was clear that reasonable regulations are needed. This bill allows for providing nutritional information to consumers based on the different ways that foods are prepared and sold across venues and formats.

Mr. Chairman, I thank Chairwoman MCMORRIS RODGERS for sponsoring the bill and the committee for their good work. I urge passage of this great bill, H.R. 2017.

Ms. SCHAKOWSKY. I yield 3 minutes to the gentleman from California (Mr. DESAULNIER).

I am really glad to introduce MARK DESAULNIER, who has experience with this particular legislation.

Mr. DESAULNIER. I thank the gentlewoman for yielding.

Mr. Chairman, I rise to express my strong opposition to H.R. 2017. I do this in the context of my background and my professional life, 40 years in the restaurant business.

I started as a busboy and a dishwasher. I have worked in chain restaurants and fast-food restaurants and owned multiple fine-dining restaurants in the Bay Area and have done consulting to restaurants throughout California.

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I was an author along with a colleague in the State legislature. At that time, the first statewide menu labeling legislation in the country was in California. My colleague had been on the

L.A. City Council, I had been in local government in the bay area, and we had started in local government doing this.

We took 2 years, from 2006 to 2008, to work with a Republican administration and a Democratic leadership of both Houses in California. I worked with the California Restaurant Association, which I was a longtime member of.

At the end of the day, we accommodated all people's interests, including the stakeholders in the pizza industry. What we had was a remarkable piece of legislation that is helping to address what the Center for Disease Control called over 10 years ago a national epidemic in this country, a national epidemic of obesity, particularly for young people, for young Americans, of which as many as two-thirds of them deal with obesity every day, or overweight, and obesity-related diseases, like diabetes type 2, has expanded over 300 percent since 1971, when many of us were younger. This is a national epidemic.

When we were doing the legislation in California, we considered cost benefits. We worked, as I said before, with the Restaurant Association. As somebody who spent 4 years in the Restaurant Association—and they were independent restaurants so I understand that this would not apply directly—but many of those restaurants already started on their own, and the consumers responded to it in the context of this national crisis.

Here is a piece of legislation that the administration is continuing to work in full faith with the stakeholders on. Why not let them continue. It is a major piece of prevention. It is a major piece of public health.

I have been in the restaurant business long enough to remember when Mothers Against Drunk Driving brought their issues to the restaurant industry and said that we should do something about the epidemic of drunk driving deaths. We did. The restaurant industry put up a struggle and thought it would be the end of it.

I have been in the business long enough to remember secondhand smoke, where similarly people said: This will be the end of us.

I know how hard it is to keep a restaurant open. It is one of the most daunting things you can do in life. I know the importance of them in a community where more and more Americans with two-income households rely on restaurants and dining out to provide for their families. Therein lies part of our crisis.

The restaurant business responded when we had drunk driving issues. It responded again in secondhand smoke. Many of us can remember when you would walk into a restaurant and you were engulfed in smoke. We know what the public health dangers of that were. We know how we have reduced that exposure and led the world.

Here is another occasion where the United States—and I know in Cali-

fornia, we led the world, and it is working. I will say that you can remedy, as somebody with my background, the conflicts between public health.

The Acting CHAIR (Mr. CURBELO of Florida). The time of the gentleman has expired.

Ms. SCHAKOWSKY. I yield the gentleman from California an additional 1 minute.

Mr. DESAULNIER. I urge my colleagues—given the experience I have had and others, and the urgency of the issue when it comes to public health and the future of this country—to vote “no.”

Ms. SCHAKOWSKY. Mr. Chairman, can I inquire how much time I have remaining?

The Acting CHAIR. The gentlewoman from Illinois has 16½ minutes remaining.

Mr. GUTHRIE. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. LORETTA SANCHEZ), my good friend.

Ms. LORETTA SANCHEZ of California. Mr. Chairman, this is an issue that I care a lot about. Diabetes runs in my family, and I am talking generations worth.

One of the ways that you combat diabetes is through nutrition and through exercise. I watch everything that I eat. I am very grateful that when I go to a restaurant, they put the calorie count on the different pieces on the menu. I am very grateful that when I go into a 7-Eleven or some other type of convenience store, that there is calorie count and serving size on everything that I buy there. This is very important to me.

But at the same time, I have been a small business woman, I have had a small business, and I know how difficult it is to make payroll, to be a small business trying to make a profit. I think that this particular regulation, not law, because when we passed the Affordable Care Act we said: Let's help people make good nutrition decisions, and I agree with that. But then we had a regulatory agency that made these regulations that just don't make sense. That is what this bill is about.

Ms. JACKSON LEE, one of my colleagues, said: This is easy, let's just work it out. But the reality is we have been at this for almost 2 or 3 years, and we have not been able to work it out at the table. This is very, very important.

There was just a letter of opposition put into the RECORD from the National Restaurant Association. Yes, early on, to this bill, they were opposed. But the thing they were opposed to was the 50 percent rule, and we have taken that out of this.

The Acting CHAIR. The time of the gentlewoman has expired.

Mr. GUTHRIE. I yield the gentlewoman from California an additional 30 seconds.

Ms. LORETTA SANCHEZ of California. I would like to say that the Common Sense Nutrition Disclosure Act of 2015 aims to fix these problems

and to help small businesses meet the intention of the law.

I think it is very unfair if you walk into a 7-Eleven and because something is taken out of its package and is put in a toaster oven that, all of a sudden, another place has to put the calories.

So I would ask my colleagues, please, let's do the right thing. Let's help consumers be smart about what they are eating, and let's let businesses go about their business.

Ms. SCHAKOWSKY. Mr. Chairman, I yield 5 minutes to the gentlewoman from Connecticut (Ms. DELAURO), the wonderful consumer advocate who has been fighting issues on nutrition and consumer information for such a long time and who is so knowledgeable about the importance of information for consumers.

Ms. DELAURO. Mr. Chairman, I rise in opposition to H.R. 2017, the Common Sense Nutrition Disclosure Act of 2015.

As many of you know, I have been a longstanding champion of menu labeling, and I have fought to secure its inclusion in the Affordable Care Act. In fact, I was the original author of the House menu labeling bill.

When the Congress passed standardized menu labeling in 2010, what was the goal? To arm Americans with the right-to-know information they need to make informed nutritional decisions for themselves and for their families.

The language was built on consensus and compromise and worked out between a wide variety of interests, including many industry partners. I can find you the quotes from the National Restaurant Association where we stood together to make the announcement to put calories up on menu boards where people could see them and make the decision about what they were going to purchase at the point of purchase.

Now certain sectors of the industry want to tear down the progress that we have made. This bill would weaken and repeal a crucial step to combat the obesity epidemic in the United States. This bill increases consumer confusion and allows restaurants to list deceptive portion sizes, listing an entree as multiple servings, even though these items are often consumed by one person.

For example, a restaurant could list the caloric content of one chicken wing, deciding that one chicken wing is a serving size. But people do not eat just one chicken wing. Under the proposed bill, a restaurant would not be obligated to inform a consumer that there are 12 chicken wings in an order, which can lead to consumers making misinformed decisions based on misleading information, consuming far more calories than they ever realized.

This bill would also deny consumers the right to nutritional information at that point of purchase, even if 49 percent of orders are placed from in-store menus. Food establishments, what they would like to do is to bury menu labeling online.

Multiple studies have shown that providing calorie menu information

can help Americans make lower calorie choices. But they cannot do this if they do not have the information they need.

It also weakens enforcement, consumer protection, and it would completely remove an establishment's incentive to comply with menu labeling requirements.

It also removes the ability of individuals to hold retail establishments accountable for violations to the food labeling law.

Many public interest health organizations are concerned about the ability of citizens to take action on non-compliance to menu labeling standards. Given that the Food and Drug Administration is chronically underfunded, this would be a serious setback.

We live in a country where obesity is an epidemic. In March 2015, sales at restaurants and bars surpassed spending at grocery stores for the first time ever. On an average day, one out of three Americans eat at a fast food restaurant. Americans are eating nearly half of their meals and snacks outside the home. Nutritional information must be made readily available where the consumer is at a point of purchase.

Children are especially at risk. Today, more than a third of children and adolescents are overweight and obese. Children eat almost twice as many calories at a restaurant than they do at home. The impact on our kids alone should be reason enough to oppose a measure that undermines the consumer's ability to make an informed nutrition choice at mealtime.

The good news is that menu labeling works. A 2015 study at Harvard found that menu labeling could save \$4.6 billion in healthcare costs over 10 years. It is a popular concept. A national poll found that 80 percent of Americans support menu labeling in chain restaurants. Over 100 nutrition and health organizations support menu labeling, along with trade associations, like the National Restaurant Association, chain restaurants such as McDonald's, Chili's, and IHOP.

The existing law is flexible. Restaurants with less than 20 locations—a mom and pop small businesses—are excluded. Your local grocery store is excluded.

It has been 6 years since the original labeling law passed. There has been a 2-year delay in its full implementation.

The Food and Drug Administration has actually gone almost door to door to work with the industry to address their concerns. We should let them work through this process rather than complicating it with this legislation, which is just industry's answer to gutting the legislation.

The Acting CHAIR. The time of the gentleman has expired.

Ms. SCHAKOWSKY. I yield the gentleman from Connecticut as much time as she may consume.

Ms. DELAURO. Let them work through the process. We would be undoing years of meaningful, impactful work on menu labeling with a single stroke.

This is a special interest-driven bill. No one is suggesting that every permutation of a meal has to be changed and listed on a menu board. That is false. That is misrepresentation. You take the standard menu and you put that up there, and the same is true of pizza places, the same is true of the deli counter, and a convenience store. Do not let an industry that doesn't want to provide information to the American people about what they are eating and what the calorie content is—you know, when we first started this, we talked about calories and sodium and a whole bunch of other things, but it was by working with the industry that I did at that time, that said: No, let's just put calories up there. That is reasonable. We don't have to go further than that. They stood side by side with me and we went to restaurants where we saw what the calorie count was on the label, and they were perfectly happy with it.

Subsections of this industry have refused to do what the broad-based industry has wanted to do.

This is industry-driven. It is not the answer. It would undo over 5 years of progress on menu labeling. It hurts the American public. It hurts our children. And I urge all of my colleagues to oppose it.

□ 1030

Mr. GUTHRIE. Mr. Chairman, I yield 2 minutes to my good friend, the gentleman from Iowa (Mr. BLUM).

Mr. BLUM. Mr. Chairman, I rise in strong support of H.R. 2017, the Common Sense Nutrition Disclosure Act.

This commonsense, bipartisan legislation would change the FDA's burdensome and impractical labeling of prepared food items at grocery stores and at convenience stores into a more workable and efficient solution that keeps food costs down for consumers.

In the First District of Iowa, many of my constituents stop by local businesses, like Casey's General Store or the Hy-Vee supermarket, to get a hot breakfast or to pick up a convenient meal over their lunch breaks. These stores often use local ingredients and offer specialty items, which means their recipes and nutritional information and content can vary.

Under the FDA's regulation, Casey's, Hy-Vee, and any other business that is impacted by the rule could be penalized for failing to label accurately a sandwich that happens to get an extra squirt of mayo or a salad that a customer chooses to top off with bacon bits. H.R. 2017 would fix these issues by providing a menu board that lists nutritional information for prepared items instead of forcing these businesses to pass excessive labeling compliance costs on to their customers.

Furthermore, as a career small-business man, I know how tough it is to compete with massive corporations, and excessive red tape like this makes it even harder. While large corporations can often afford the added costs,

it is the smaller businesses that get squeezed out of the marketplace by the extra burden of ever-increasing red tape.

Mr. Chairman, the FDA's regulation is just another example of Washington overreach that forces businesses to push costs, with no added benefit, onto customers.

I am proud to cosponsor this bill, and I urge my colleagues to join me in voting in favor of H.R. 2017.

Ms. SCHAKOWSKY. Mr. Chairman, I reserve the balance of my time.

Mr. GUTHRIE. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. WALBERG).

Mr. WALBERG. Mr. Chairman, I rise in strong support of the Common Sense Nutrition Disclosure Act.

This bipartisan bill would protect small businesses from overbearing FDA regulations that harm workers, job creators, our economy, and, oh, by the way, personal freedom of choice for individual citizens, who, in most cases, make good decisions and ought to have a choice in America.

The FDA's poorly designed menu labeling requirements do not take into account the diversity of restaurants and of food products. That is America. The estimated cost for places like delis, convenience stores, and pizzerias to comply would be more than \$1 billion.

Mr. Chairman, we are here today to offer a practical alternative that would rein in and clarify the FDA's burdensome, one-size-fits-all approach. This commonsense bill offers an efficient and, I believe, an effective solution by giving small businesses greater flexibility to provide nutrition information in a way that best serves their customers.

I urge its passage.

Ms. SCHAKOWSKY. Mr. Chairman, I yield myself such time as I may consume.

The previous speaker said that this is all about choice. I agree with that. I think it is all about choice and about having the kind of information to make a proper choice.

Let me just give you an example of a menu from a SUBWAY in Montgomery County, Maryland.

This is from SUBWAY, which lists the calories in a standardized way, and that is what the original regulations and law required before there being this confusing change in the legislation. It reads, for example, that a SUBWAY Melt is 380 calories and that a Chicken and Bacon Ranch is 580 calories. Now, one would not necessarily assume that a SUBWAY Melt, which sounds cheesy and kind of rich, would, actually, have fewer calories—by 200—than a Chicken and Bacon Ranch. I think it is good for me and for many consumers to go in and to be able to see that and know that is going to be the standard way that calories are presented. This legislation would allow such things as this.

The covered establishments could make their own decisions about what is

a serving size. It wouldn't be the same from establishment to establishment. For example, this allows covered establishments to not list the total number of servings for an item on the menu, like a platter of a certain appetizer. For example, an advertiser could list the calories as 400 calories but not disclose that one platter—just one order—has three servings, for a total of 1,200 calories—400 versus 1,200 calories. This presents real confusion and, I would argue, misinformation to the consumer.

More and more Americans are eating food outside of the home that is prepared by restaurants or by chain grocery stores where they have a section on prepared foods. In order to have complete decisionmaking power, it is very important that we have the calories that are there and posted.

Obviously, this is not overburdening, certainly, small businesses, because this isn't about small businesses. We have the largest State in the country already having these regulations, operating smoothly. We have got the second largest city in the country—the city of New York—and we have the State of Vermont, very different kinds of locations that are being able to comply with the FDA regulations and the law that we want to go into effect next year. We do not need H.R. 2017 to confuse and disarm consumers and not provide them with the information they need.

I have another menu from Specialty Pizza: build your own pizza. What it has is a range of calories; so it would not be overburdening for every single different iteration of a pizza to have all of the different calories. There are options and there is flexibility under the legislation. It doesn't need to be changed and undermined by H.R. 2017.

If we are serious about dealing with one of the most important, expensive, and ubiquitous diseases in the United States of America—diabetes. One of the greatest problems that we face is obesity in adults and especially in children—then I think we owe it to our families to make sure that we do not pass H.R. 2017, a special interest-driven bill to decrease consumer access to important nutrition and calorie information.

Mr. Chairman, I yield back the balance of my time.

Mr. GUTHRIE. Mr. Chairman, I yield myself such time as I may consume.

Again, let me state what this bill is not. It is not doing away with the calorie count or the ability for people to understand what calorie content, or caloric content, is available in each product. I am one who looks at that. I don't know of anything that has a calorie count on anything that I have eaten recently that I haven't looked at. I have checked out the serving sizes so that I know how many chicken wings I want to order. If I can get the calories per chicken wing, I can make that determination.

We looked at the menu board that was offered earlier, and it looked sim-

ple, but this is the issue: Even if you put ranges, how do you get the information in people's hands? I was just at a restaurant, when I was traveling in my district the other day, that had calories for different orders. One was from 400 to 800 on one. So what we want to do is to make it available in a way that is efficient, as most people now get their information not necessarily on a board where you have to have big ranges, but specific. For instance, at one pizza restaurant alone, we had the pizza slice plus a few toppings; but what if you have five styles of crust, six different cheeses, five sauces, four sizes, and 20 different toppings? If you put all of that together, it comes to about 34 million different combinations, and deviations from the standard that the FDA has put forward could lead to fines and to criminal penalties.

What we are looking at, as my friend from California said, are these rules that are incredibly complex, burdensome, and inflexible. What this bill does not do is create exemptions or diminish the amount of information that must be provided by restaurants or retailers. All it does is allow for some flexibility, and it clarifies the unworkable and overly complex regulations the FDA finalized in November 2014. A lot of things that happen here are overly cumbersome and unworkable. We go to delay, to delay, and we delayed an omnibus, as they said. These are going to be unworkable 6 months from now and a year from now.

So let's fix it so that our businesses know what to provide without their having the threat of penalty, because they will know what to provide, and so that consumers can make choices. I am one, as I said, who wants that information because I want to be able to make that choice for myself and for my family.

Mr. Chairman, I yield back the balance of my time.

Mr. PITTS. Mr. Speaker, the bill before us today takes an important step in protecting our nation's small businesses from unnecessary costs and regulatory burdens. The Common Sense Nutrition Disclosure Act provides for flexibility for the food service industry to ensure they can comply with the regulatory requirements as issued by the U.S. Food and Drug Administration (FDA).

Sadly, the rule issued by the FDA was declared to be the third most burdensome regulation proposed in 2010 and could cost American businesses \$1 billion to comply and 500,000 hours of paperwork. The 400-page rule establishes one-size-fits-all nutritional disclosure requirements.

H.R. 2017 is necessary to help small business owners, franchisees, as well as consumers who want easy access to accurate nutrition information in a common sense way.

Without HR. 2017, covered establishments, including pizza delivery businesses and grocery stores, would be subject to a cumbersome, rigid and costly regulatory compliance process to avoid violations and possible criminal prosecution.

H.R. 2017 improves and clarifies the final rule promulgated by the FDA implementing the

menu-labeling requirements of Section 4205 of the Affordable Care Act (ACA). The concern is that without the relief and flexibility provided for in H.R. 2017, the final rule goes well beyond what was intended by the ACA.

The obligations are imposed not only on chain restaurants—including delivery establishments, but also on any other chain retailer that sells non-packaged food, such as grocery store salad bars, and convenience stores' meals to go.

Small businesses that are not chain restaurants but are indeed subject to the rule will face a dramatic increase in regulatory compliance costs. Consumers most assuredly will see higher food costs, and perhaps fewer choices. Some retailers may find it more advantageous to stop selling restaurant-type food altogether. So instead of purchasing fresh sandwiches, consumers may have to buy pre-packaged sandwiches since those will not require the retailer to comply with labeling requirements.

Fixing this burdensome regulation will benefit tens of thousands of restaurants, grocery stores, convenience stores and small business owners that otherwise would be burdened with regulations that are costly and hurt job creation.

Mr. Speaker, this legislation provides clarity, flexibility, and certainty for these companies, and also ensures consumers have access to the information they need to make informed nutritional decisions. I urge my colleagues to support H.R. 2017.

The Acting CHAIR (Mr. HULTGREN). All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

It shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule an amendment in the nature of a substitute recommended by the Committee on Energy and Commerce, printed in the bill. The committee amendment in the nature of a substitute shall be considered as read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 2017

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 "Common Sense Nutrition Disclosure Act of 2015".

SEC. 2. AMENDING CERTAIN DISCLOSURE REQUIREMENTS FOR RESTAURANTS AND SIMILAR RETAIL FOOD ESTABLISHMENTS.

(a) IN GENERAL.—Section 403(q)(5)(H) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(q)(5)(H)) is amended—

(1) in subclause (ii)—

(A) in item (I)(aa), by striking "the number of calories contained in the standard menu item, as usually prepared and offered for sale" and inserting "the number of calories contained in the whole standard menu item, or the number of servings (as reasonably determined by the restaurant or similar retail food establishment) and number of calories per serving, or the number of calories per the common unit division of the standard menu item, such as for a multiserving item that is typically divided before presentation to the consumer";

(B) in item (II)(aa), by striking "the number of calories contained in the standard menu item,

as usually prepared and offered for sale” and inserting “the number of calories contained in the whole standard menu item, or the number of servings (as reasonably determined by the restaurant or similar retail food establishment) and number of calories per serving, or the number of calories per the common unit division of the standard menu item, such as for a multiserving item that is typically divided before presentation to the consumer”; and

(C) by adding at the end the following flush text:

“In the case of restaurants or similar retail food establishments where the majority of orders are placed by customers who are off-premises at the time such order is placed, the information required to be disclosed under items (I) through (IV) may be provided by a remote-access menu (such as a menu available on the Internet) as the sole method of disclosure instead of on-premises writings.”;

(2) in subclause (iii)—

(A) by inserting “either” after “a restaurant or similar retail food establishment shall”; and

(B) by inserting “or comply with subclause (ii)” after “per serving”;

(3) in subclause (iv)—

(A) by striking “For the purposes of this clause” and inserting the following:

“(I) IN GENERAL.—For the purposes of this clause”;

(B) by striking “and other reasonable means” and inserting “or other reasonable means”; and

(C) by adding at the end the following:

“(II) REASONABLE BASIS DEFINED.—For the purposes of this subclause, with respect to a nutrient disclosure, the term ‘reasonable basis’ means that the nutrient disclosure is within acceptable allowances for variation in nutrient content. Such acceptable allowances shall include allowances for variation in serving size, inadvertent human error in formulation or preparation of menu items, and variations in ingredients.”;

(4) by amending subclause (v) to read as follows:

“(v) MENU VARIABILITY AND COMBINATION MEALS.—The Secretary shall establish by regulation standards for determining and disclosing the nutrient content for standard menu items that come in different flavors, varieties, or combinations, but which are listed as a single menu item, such as soft drinks, ice cream, pizza, doughnuts, or children’s combination meals. Such standards shall allow a restaurant or similar retail food establishment to choose whether to determine and disclose such content for the whole standard menu item, for a serving or common unit division thereof, or for a serving or common unit division thereof accompanied by the number of servings or common unit divisions in the whole standard menu item. Such standards shall allow a restaurant or similar retail food establishment to determine and disclose such content by using any of the following methods: ranges, averages, individual labeling of flavors or components, or labeling of one preset standard build. In addition to such methods, the Secretary may allow the use of other methods, to be determined by the Secretary, for which there is a reasonable basis (as such term is defined in subclause (iv)(II)).”;

(5) in subclause (x)—

(A) by striking “Not later than 1 year after the date of enactment of this clause, the Secretary shall promulgate proposed regulations to carry out this clause.” and inserting “Not later than 1 year after the date of enactment of the Common Sense Nutrition Disclosure Act of 2015, the Secretary shall issue proposed regulations to carry out this clause, as amended by such Act. Any final regulations that are promulgated pursuant to the Common Sense Nutrition Disclosure Act of 2015, and any final regulations that were promulgated pursuant to this clause before the date of enactment of the Common Sense Nutrition Disclosure Act of 2015, shall not take effect earlier than 2 years after the promulgation of

final regulations pursuant to the Common Sense Nutrition Disclosure Act of 2015.”; and

(B) by adding at the end the following:

“(IV) CERTIFICATIONS.—Restaurants and similar retail food establishments shall not be required to provide certifications or similar signed statements relating to compliance with the requirements of this clause.”;

(6) by amending subclause (xi) to read as follows:

“(xi) DEFINITIONS.—In this clause:

“(I) MENU; MENU BOARD.—The term ‘menu’ or ‘menu board’ means the one listing of items which the restaurant or similar retail food establishment reasonably believes to be, and designates as, the primary listing from which customers make a selection in placing an order. The ability to order from an advertisement, coupon, flyer, window display, packaging, social media, or other similar writing does not make the writing a menu or menu board.

“(II) PRESET STANDARD BUILD.—The term ‘preset standard build’ means the finished version of a menu item most commonly ordered by consumers.

“(III) STANDARD MENU ITEM.—The term ‘standard menu item’ means a food item of the type described in subclause (i) or (ii) of subparagraph (5)(A) with the same recipe prepared in substantially the same way with substantially the same food components that—

“(aa) is routinely included on a menu or menu board or routinely offered as a self-service food or food on display at 20 or more locations doing business under the same name; and

“(bb) is not a food referenced in subclause (vii).”;

(7) by adding at the end the following:

“(xii) OPPORTUNITY TO CORRECT VIOLATIONS.—Any restaurant or similar retail food establishment that the Secretary determines is in violation of this clause shall have 90 days after receiving notification of the violation to correct the violation. The Secretary shall take no enforcement action, including the issuance of any public letter, for violations that are corrected within such 90-day period.”.

(b) NATIONAL UNIFORMITY.—Section 403A(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343–1(b)) is amended by striking “may exempt from subsection (a)” and inserting “may exempt from subsection (a) (other than subsection (a)(4))”.

SEC. 3. LIMITATION ON LIABILITY FOR DAMAGES ARISING FROM NONCOMPLIANCE WITH NUTRITION LABELING REQUIREMENTS.

Section 403(q)(5)(H) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(q)(5)(H)), as amended by section 2, is further amended by adding at the end the following:

“(xiii) LIMITATION ON LIABILITY.—A restaurant or similar retail food establishment shall not be liable in any civil action in Federal or State court (other than an action brought by the United States or a State) for any claims arising out of an alleged violation of—

“(I) this clause; or

“(II) any State law permitted under section 403A(a)(4).”.

The Acting CHAIR. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in House Report 114-421. Each such amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MRS. MCMORRIS RODGERS

The Acting CHAIR. It is now in order to consider amendment No. 1 printed in House Report 114-421.

Mrs. MCMORRIS RODGERS. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

On page 5, strike lines 15 through 24 and insert the following:

“(II) PERMISSIBLE VARIATION.—If the restaurant or similar food establishment uses such means as the basis for its nutrient content disclosures, such disclosures shall be treated as having a reasonable basis even if such disclosures vary from actual nutrient content, including but not limited to variations in serving size, inadvertent human error in formulation or preparation of menu items, variations in ingredients, or other reasonable variations.”;

The Acting CHAIR. Pursuant to House Resolution 611, the gentlewoman from Washington (Mrs. MCMORRIS RODGERS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Washington.

Mrs. MCMORRIS RODGERS. Mr. Chairman, the amendment I am offering is a clarifying amendment.

Current law requires that restaurants and food establishments have a reasonable basis for how they determine the calorie count they ultimately disclose to their customers. The FDA’s final rule does not accommodate for the variability that is involved when preparing food. Especially when chefs are preparing fresh, custom order items, mistakes and variations are inevitable. For example, if someone is making a pizza and is adding a handful of every topping, chefs’ hands are different sizes, so people may end up with more or less of each ingredient.

The amendment will provide the added flexibility that we want for food establishments to determine accurate nutrient disclosures by allowing for permissible variations, like inadvertent human error, while also ensuring that businesses and their employees will not be criminally penalized.

Now I want to address some of the concerns that were raised by my colleagues from across the aisle about the underlying legislation, H.R. 2017.

This bill is not about the merits of calorie counts. This bill does not remove any requirements for calorie counts on menus. This bill certainly does not make it more difficult for customers to receive nutritional information. This bill, at its very core, is about flexibility. In trying to create a uniform standard, the FDA’s rule attempts to impose a one-size-fits-all approach to an industry as diverse as its ingredients.

□ 1045

Every deli and salad bar offering, every possible pizza topping combination will soon have to be calculated

and their calorie count displayed on physical menus.

This is problematic for two reasons: First, the made-to-order portion of the food industry offers endless, constantly changing combinations of ingredients. For some sandwich shops and pizzerias, the possible variations are tens of millions. The FDA wants these restaurants to put on paper all of these variations and their calorie counts and have it publicly displayed in the restaurant. It is unrealistic.

Second, digital and online ordering are many customers' preferred methods of ordering. Nearly 90 percent of orders in some restaurants are placed by an individual never stepping foot into the restaurant. So tell me, why does it make sense to force a restaurant to have a physical menu with calorie listings when 90 percent of your customers aren't ever going to see it? How does it make sense to force a customer to navigate millions of combinations to find the nutritional information that matches their order?

This legislation provides flexibility in how these restaurants provide the nutritional information. It makes it easier for customers to actually see and understand the information because it is displayed where the customer actually places the order, including by phone, online, or through mobile apps.

By bringing this rule into the 21st century, customers can trust that they are getting more reliable information in an easy-to-access, consumer-friendly way. It also protects small-business owners and their employees from frivolous lawsuits and criminal actions that could be honest, inadvertent human error. Accidentally putting too many pickles on a sandwich and increasing its calorie count should not be a criminal offense.

This bill is about trusting people through their elected representatives to make their own decisions and pursue their own dreams. It is all a part of the choice that we are offering America as we move forward in 2016.

Before I close, I want to thank my colleagues and the stakeholders, including the National Restaurant Association, which has withdrawn its previous opposition to the bill, for their hard work in this bipartisan effort. Thank you, everyone. It has been a team effort, and I appreciate your support.

Finally, I encourage my colleagues on both sides of the aisle to support this important amendment and ultimately vote "yes" for the bipartisan, commonsense Nutrition Disclosure Act.

Mr. Chairman, I include in the RECORD this letter from the National Grocers Association.

NATIONAL GROCERS ASSOCIATION
KEY VOTE,
February 9, 2016.

Hon. PAUL RYAN,
Speaker of the House, The Capitol,
Washington, DC.

Hon. KEVIN MCCARTHY,
Majority Leader, The Capitol,
Washington, DC.

Hon. NANCY PELOSI,
Democratic Leader, The Capitol,
Washington, DC.

Hon. STENY HOYER,
Democratic Whip, The Capitol,
Washington, DC.

DEAR SPEAKER RYAN, LEADER PELOSI, LEADER MCCARTHY, AND REPRESENTATIVE HOYER: On behalf of the National Grocers Association (NGA), I am writing to express our support for H.R. 2017, the Common Sense Nutrition Disclosure Act of 2015, which would provide common sense reforms to the Food and Drug Administration's (FDA) final rule for Nutritional Labeling of Standard Menu Items in Restaurants and Similar Retail Food Establishments (FDA-2011-0172). NGA strongly encourages the House to pass this bill with bipartisan support. We commend House Leadership for bringing this bill to the Floor and the champions of the legislation, Congresswomen Cathy McMorris Rodgers (R-WA) and Loretta Sanchez (D-CA).

NGA is the national trade association representing the retail and wholesale grocers that comprise the independent channel of the food distribution industry. An independent retailer is a privately owned or controlled food retail company operating a variety of formats. Most independent operators are serviced by wholesale distributors, while others may be partially or fully self-distributing. Some independents are publicly traded, but with controlling shares held by the family and others are employee owned. Independents are the true "entrepreneurs" of the grocery industry and dedicated to their customers, associates, and communities. The independent supermarket channel is accountable for close to 1% of the nation's overall economy and is responsible for generating \$131 billion in sales, 944,000 jobs, \$30 billion in wages, and \$27 billion in taxes.

As part of the nutrition labeling provisions contained in the Affordable Care Act (ACA), the FDA is requiring the disclosure of caloric information for standard menu items in restaurants and retail food establishments. The provision amended the Federal Food, Drug, and Cosmetic Act (FFDCA) to require restaurants and similar retail food establishments that are part of a chain operating 20 or more locations and doing business under the same name to provide nutritional information for standard menu items, including food on display and self-service food. The original intent of the provision contained in the ACA aimed to provide one federal standard for chain restaurants with highly standardized menus and menu boards from regulatory confusion created by a growing list of state and local laws regarding nutrition information disclosures. Unfortunately, throughout the rulemaking process the FDA greatly expanded the scope of the rule, and has now included companies that have highly specialized menus that vary by location, including supermarkets.

H.R. 2017 contains important regulatory fixes that would eliminate confusion and uncertainty in implementation, limit burdensome regulatory costs and provide flexibility to community oriented supermarkets, allowing them to tailor their offerings to the neighborhoods and communities they serve. Importantly, H.R. 2017 does not exempt any entities, including supermarkets from the requirements under the law.

Under the FDA rule, independent supermarket operators with 20 or more locations

would be required to provide caloric information throughout the store, including menus, display cases, booklets, pamphlets or fliers, advertising circulars. For independent supermarkets that provide extensive fresh and local options, freshly baked goods, cut fruit, and salad bars, this creates challenges in terms of how to properly display this information. H.R. 2017 provides important flexibility for supermarkets while also ensuring consumers are provided with the information they desire.

Additionally, the rule does not provide flexibility for unique, local items that are sold at only one store within a chain. Many independent grocers take pride in providing fresh and local items that reflect the communities in which they operate, often contracting with local businesses in order to provide one or two items to one location. NGA believes that this provides a large disincentive for independent supermarket operators to continue providing localized options. H.R. 2017 provides flexibility to ensure independent supermarkets can continue to provide these local, unique products.

As currently constituted, the final menu labeling rule creates extensive legal liability issues for independent supermarket operators. Due to the fact that the menu labeling rule falls under the FFDCA, failure to comply with the menu labeling rule in any way carries potential felony penalties, including the possibility of jail time. Additionally, there is no grace period or warning system in place for first-time offenders who may be in violation of the rule due to inadvertent human error, such as adding an extra slice of ham to a sandwich, additional pepperoni to a pizza, or simply placing an item in the "wrong" bin before placing it in the salad bar. H.R. 2017 protects front line employees who make inadvertent mistakes while also providing establishments with 90 days to take corrective action prior to any enforcement action. Additionally, businesses are protected from frivolous lawsuits by prohibiting private rights of action.

NGA strongly supports H.R. 2017, and urges the House to pass this common sense bill to provide businesses with regulatory relief from this unworkable rule, while continuing to ensure that consumers receive the nutritional information they require from their local independent supermarket. NGA urges all Representatives to vote in favor of H.R. 2017, and will consider this a "key vote" for our scorecard for the 114th Congress.

Sincerely,

GREG FERRARA,
Senior Vice President,
Government Relations and Public Affairs,
National Grocers Association.

Mrs. McMORRIS RODGERS. Mr. Chairman, I reserve the balance of my time.

Ms. SCHAKOWSKY. Mr. Chairman, I claim the time in opposition to the amendment.

The Acting CHAIR. The gentlewoman from Illinois is recognized for 5 minutes.

Ms. SCHAKOWSKY. Mr. Chairman, I rise in opposition to the amendment offered today by Representatives McMORRIS RODGERS and CÁRDENAS. This amendment would further undermine consumer confidence in the nutrition information they receive from restaurants and retail food establishments. One could call it flexibility, which actually the current legislation provides; and others, including me, would call it adding confusion.

Under the Federal menu labeling law, restaurants and retail food establishments are supposed to have a reasonable basis for determining calorie and nutrition information for their menu items. This can be done using a nutrient database, such as USDA's National Nutrient Database, cookbooks, recipes, nutrition fact labels, or FDA's nutrient values, among others. Again, the FDA is allowing significant flexibility, as it is, in how establishments determine this information. What is most important to the agency is that this information is accurate and consistent.

Some stakeholders have raised concerns about changes to the nutrition information based on an employee being too heavyhanded with one ingredient, like pickles, or perhaps not following the recipe appropriately. We can all understand that in cooking, this type of flexibility is needed. FDA's guidance addresses the question of how closely standard menu items must match the nutrient values, advising that an establishment "must take reasonable steps to ensure that how you prepare your product . . . and how you serve your product are the same as those used to determine the calorie and nutrient declarations."

The McMorris Rodgers-Cárdenas amendment further undermines the "reasonable basis" standard outlined in H.R. 2017 and in FDA's final rule by permitting any type of variation for any reason from the nutrient content disclosed to the actual nutrient content in the standard menu item. Under this amendment, a restaurant would be able to change their recipe or how they prepare the food or swap out one ingredient for another and not have to change the nutrient information they disclose to account for these variations.

This amendment would also allow for further inconsistencies from restaurant to restaurant or grocery store to grocery store, as what might be a permissible variation to one restaurant or one grocery store may not be permissible to others, again, potentially creating an uneven playing field among the industry.

It is also important to note that this amendment is inconsistent with requirements for food labeling under the Federal Food, Drug, and Cosmetic Act. This law requires that food labeling be truthful and not misleading. If nutrient content disclosures can vary for any reason to any extent, it would undermine such requirement in the Federal Food, Drug, and Cosmetic Act, a requirement that the food industry has long had to meet.

As we have said all along, for calorie and nutrition information to be valuable to consumers, it must be accurate and it must be consistent. If consumers have no reason to believe that what is disclosed by a restaurant is accurate, then the disclosure of nutrient information is rendered meaningless.

I believe FDA's guidance has provided a great deal of flexibility for how

nutrient content should be disclosed, and I know the agency is committed to working with covered establishments to meet the requirement of providing accurate, consistent nutrition information in a way that is feasible for the establishment.

I urge my colleagues to vote "no" on the amendment.

Mr. Chairman, how much time do I have remaining?

The Acting CHAIR. The gentlewoman from Illinois has 1½ minutes remaining.

Ms. SCHAKOWSKY. Mr. Chairman, I reserve the balance of my time.

Mrs. McMORRIS RODGERS. Mr. Chairman, just to clarify, we are not getting rid of the "reasonable basis" definition, and it does not allow for any variation. What it says is, where there is inadvertent human error, there would not be criminal penalties attached to that.

I yield back the balance of my time.

Ms. SCHAKOWSKY. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Chairman, let me make a point. The fact has been mentioned that people can go online and they can find their information in that way. Forty-nine percent of orders are placed from in-store menus. Food establishments can bury anything online. Not everyone has access to that kind of information. All of the studies have determined that you make your choice at the point of purchase.

I want to make one other comment because the National Restaurant Association has been talked about here this morning. Let me just quote to you Scott DeFife, executive vice president of the National Restaurant Association, who praised the menu labeling law when the two of us stood to introduce this legislation 6 years ago. He said why it was a good thing to do and why he praised it and why the National Restaurant Association was foursquare for it: "It sets a clear national standard across the country."

They were opposed to this bill. They have been all along. God only knows what happened in the last 24 or 48 hours to have the National Restaurant Association, which we stood shoulder to shoulder as we passed this unbelievably record-breaking bill in order to allow people to know what they are eating, make their own choice, and to know the calorie content of food, standard-sized menus. The variations are not there.

So much misinformation is being peddled on this floor today about what was a bill to protect the American public.

Ms. SCHAKOWSKY. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from Washington (Mrs. McMORRIS RODGERS).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Ms. SCHAKOWSKY. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Washington will be postponed.

The Chair understands amendment No. 2 will not be offered.

AMENDMENT NO. 3 OFFERED BY MR. SCHRADER

The Acting CHAIR. It is now in order to consider amendment No. 3 printed in House Report 114-421.

Mr. SCHRADER. Mr. Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

On page 3, line 24, insert "and" after the semicolon.

Strike page 4, lines 13 through 22.

The Acting CHAIR. Pursuant to House Resolution 611, the gentleman from Oregon (Mr. SCHRADER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Oregon.

Mr. SCHRADER. Mr. Chairman, though I support efforts to clarify rules as they apply to consumers and small business, this bill, as currently constructed, creates an inequity in the industry by creating an exception for many menu labeling rules for certain establishments, particularly chain pizza shops and other restaurants that could potentially serve a majority of their customers via remote ordering.

While I have nothing against these businesses, I believe all restaurants should be treated equally. My amendment merely ensures that the rules are applied fairly by removing this exemption from the bill.

Under the terms of the bill, most chain restaurants will be required to list calories on menus at the point of purchase. However, pizza chains and other establishments where most orders could be placed off-site, will gain an exemption from this rule. They will not be required to list calories in their brick-and-mortar locations, even when orders are placed on-site. This is an inequitable and unfair exemption. While the vast majority of large chain restaurants will be required to list the calories in their physical location, these folks will not.

In addition to being unfair to businesses, it is also confusing to the consumers, whom we are actually trying to protect with this current bill. They will see calorie information when they place an order at one restaurant but not necessarily at their local pizza shop.

Opponents of the FDA rule argue the provision is necessary because pizza restaurants offer many menu items and will not be able to comply with the rule. This is simply not true. The FDA rule already allows some variation within menu labels and serving parameters. Generally, I agree that one size does not fit all when it comes to rule-making for businesses, but not in this case.

The National Restaurant Association has indicated that most of their members are preparing to comply with the menu labeling rules. By all means, the FDA should assist these restaurants with proper guidance, but specifying an exemption to one segment of the industry is unfair, inequitable, and confusing to the consumer.

You might hear opponents of my amendment argue the exemption allows pizza chains to post calorie information online rather than in their physical locations. For these Members, I have good news. If my amendment is adopted, these restaurants will still be able to offer this information online. In fact, many restaurants already do so, and those businesses should be commended for their transparency.

Mr. Chairman, we don't need to add unfair and confusing exemptions to the difficult menu labeling rule we already have. The FDA has indicated a willingness to work with all affected to provide guidance and clarity to make compliance easier. This is what our businesses want and need.

I ask my colleagues to join me in assuring fairness for businesses and clarity for consumers. Please reject this bill—it is an unfair loophole—and vote “yes” on this amendment.

I reserve the balance of my time.

Mr. WALBERG. Mr. Chairman, I claim the time in opposition to the amendment.

The Acting CHAIR. The gentleman from Michigan is recognized for 5 minutes.

Mr. WALBERG. Mr. Chairman, I express appreciation to my colleague who offers this amendment; yet I rise in opposition because, in fact, this amendment undermines a key provision of the Common Sense—I will repeat that—the Common Sense Nutrition Disclosure Act, which is a bipartisan bill that makes necessary changes to the FDA's menu labeling regulations.

If, indeed, as has been stated, the FDA is willing to work and be flexible, we wouldn't need this legislation. It is because they have shown no real flexibility that this legislation has been offered.

Currently, FDA's menu labeling rules remain costly, ineffective, and overly burdensome for more than 70,000 restaurants. That is no small number, Mr. Chairman. For places like pizza shops, where the vast majority of orders are online—and, yes, they are providing a service, in most cases, online for their customers—they are voluntarily doing it and really doing it in a quality way. It is nearly impossible for a single menu board to be designed in a way that can provide accurate calorie counts for literally millions of combinations.

The FDA sadly ignores the realities of a diverse market and the technological advances, innovation, creativity, et cetera, by applying the same menu standard as a one-size-fits-all, top-down approach, and that is the reality that is out there with the FDA.

If the House accepts this amendment which strips the remote ordering provision from the bill, it would greatly harm a bill that seeks to provide an alternative method for thousands of small businesses to effectively share nutritional information with consumers.

□ 1100

The FDA menu requirements simply do not make sense neither for the restaurant nor for consumers.

I urge my colleagues to reject this amendment, however well meaning, and support the underlying bipartisan bill that protects small businesses from overbearing FDA regulations that harm workers, job creators, consumers, and our economy.

Mr. Chair, I reserve the balance of my time.

Mr. SCHRADER. Mr. Chair, how much time is remaining?

The Acting CHAIR. The gentleman from Oregon has 2½ minutes remaining. The gentleman from Michigan has 2½ minutes remaining.

Mr. SCHRADER. Mr. Chair, I yield 30 seconds to the gentlewoman from Illinois (Ms. SCHAKOWSKY), the ranking member.

Ms. SCHAKOWSKY. Mr. Chair, there were so many falsehoods, really, in what my colleague across the aisle said. We have evidence in California, the city of New York, and Vermont that absolutely restaurants can comply. It is not about small businesses, about 20 or more establishments with the same name.

This idea of 50 percent online, this is not the vast majority of their information online. It is 50 percent. We already know that 49 percent of orders at these establishments are done in person. What about those people who come in? Are they not entitled to the same thing that is in other restaurants?

Mr. Chair, I support the gentleman's amendment.

Mr. WALBERG. Mr. Chair, I will respond just briefly to that. It is truly about making this information meaningful. I watch my wife go online on her iPhone to check calories all the time. She does it better than I do. But consumers are moving in that direction.

I have walked through various industries, including Domino's, and have seen the amazing technological advances that they have that are putting their consumers first and giving them the ability to know this in a far more meaningful way than you can do on a menu board. So I reject that argument, absolutely, in defense of the consumer as well as the industry.

Mr. Chair, again, I appreciate the concern that my colleague expresses here; yet, I still stand in very strong support of giving this opportunity, making sure that FDA is pushed into a flexibility that I don't believe they are willing to go. This is for the consumer in the end. This allows advances to move within the market.

I think we will find that all concerns are met and addressed very well, but we don't put unnecessary burdens upon businesses, job providers, and, ultimately, on the choice of citizens to have a better opportunity to make better choices. And, oh, by the way, we reaffirm in our country the desire to give people personal responsibility and personal choice together.

Mr. Chair, I yield back the balance of my time.

Mr. SCHRADER. Mr. Chairman, I appreciate the gentleman from Michigan's discussion. I want to assure him and everyone out there that the online ordering is still allowed under my amendment so that those people who have technology can do so.

But for seniors and some of our less-advantaged folks at home, they can go to the store and also get that information, which is not allowed under this current bill, but would be allowed under my amendment.

To the argument that there are too many combinations to be accounted for, the FDA does allow for flexibility in listing calories for menu items so they are accessible in different restaurant types. Pizza shops in locations like New York and Montgomery County, Maryland, already are complying with rules very similar to these.

Other restaurants have indicated a willingness to comply, including a national chain that sells coffee, doughnuts, and ice cream: Dunkin' Donuts, Baskin-Robbins. They serve 15,000 different ways of coffee, sandwiches 3,000 different ways, ice cream sundaes 80,000 different ways. They can comply under my amendment. Why can't everyone else?

The NRA itself, the National Restaurant Association, says it is critical that all businesses that have made the strategic decision to sell restaurant food play by the same rules.

Furthermore, they talk about that such provisions create inconsistent and erratic labeling by putting in these exemptions not only among restaurants, but among restaurants, food service operators, grocery stores, convenience stores, et cetera.

My amendment removes this unfair exemption. Very simple. Government should not be in the business of picking winners and losers in private enterprise. The same rules should apply to everybody.

Mr. Chair, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Oregon (Mr. SCHRADER).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. SCHRADER. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Oregon will be postponed.

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, proceedings will

now resume on those amendments printed in House Report 114-421 on which further proceedings were postponed, in the following order:

Amendment No. 1 by Mrs. McMORRIS RODGERS of Washington.

Amendment No. 3 by Mr. SCHRADER of Oregon.

The Chair will reduce to 2 minutes the minimum time for any electronic vote after the first vote in this series.

AMENDMENT NO. 1 OFFERED BY MRS. MCMORRIS RODGERS

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentlewoman from Washington (Mrs. McMORRIS RODGERS) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 309, noes 100, answered “present” 1, not voting 23, as follows:

[Roll No. 79]

AYES—309

Abraham	Conaway	Griffith
Adams	Connolly	Grothman
Aderholt	Cook	Guinta
Aguliar	Cooper	Guthrie
Allen	Costa	Hahn
Amash	Costello (PA)	Hanna
Ashford	Cramer	Hardy
Babin	Crawford	Harper
Barletta	Crenshaw	Harris
Barr	Cuellar	Hartzler
Barton	Culberson	Heck (WA)
Beatty	Curbelo (FL)	Hensarling
Benishkek	Davis (CA)	Hice, Jody B.
Bera	Davis, Rodney	Hill
Bilirakis	DeFazio	Holding
Bishop (GA)	Denham	Huelskamp
Bishop (MI)	Dent	Hultgren
Bishop (UT)	DesJarlais	Hunter
Black	Diaz-Balart	Hurd (TX)
Blackburn	Dold	Hurt (VA)
Blum	Donovan	Issa
Bost	Doyle, Michael	Jenkins (KS)
Boustany	F.	Jenkins (WV)
Brady (TX)	Duckworth	Johnson (GA)
Brat	Duffy	Johnson (OH)
Bridenstine	Duncan (SC)	Johnson, Sam
Brooks (AL)	Duncan (TN)	Jolly
Brooks (IN)	Ellmers (NC)	Jones
Brownley (CA)	Emmer (MN)	Jordan
Buchanan	Farenthold	Joyce
Buck	Fitzpatrick	Katko
Buchson	Fleischmann	Keating
Burgess	Fleming	Kelly (MS)
Bustos	Flores	Kelly (PA)
Butterfield	Forbes	Kennedy
Byrne	Fortenberry	Kilmer
Calvert	Foster	Kind
Cárdenas	Fox	King (IA)
Carney	Franks (AZ)	King (NY)
Carson (IN)	Frelinghuysen	Kinzinger (IL)
Carter (GA)	Garamendi	Kirkpatrick
Carter (TX)	Garrett	Kline
Cartwright	Gibbs	Knight
Chabot	Gibson	Kuster
Chaffetz	Gohmert	Labrador
Ciçilline	Goodlatte	LaHood
Clawson (FL)	Gosar	LaMalfa
Clay	Gowdy	Lamborn
Clyburn	Graham	Lance
Coffman	Granger	Latta
Cole	Graves (GA)	Lipinski
Collins (GA)	Graves (LA)	LoBiondo
Collins (NY)	Graves (MO)	Loebsack
Comstock	Green, Gene	Lofgren

Long	Pascrell	Sewell (AL)
Loudermilk	Paulsen	Sherman
Love	Pearce	Shimkus
Lucas	Perlmutter	Shuster
Luetkemeyer	Perry	Simpson
Lujan, Ben Ray	Peters	Sinema
(NM)	Peterson	Sires
Lummis	Pittenger	Smith (MO)
Lynch	Pitts	Smith (NE)
MacArthur	Poe (TX)	Smith (NJ)
Maloney, Sean	Poliquin	Smith (TX)
Marchant	Pompeo	Stefanik
Marino	Posey	Stewart
Masie	Price (NC)	Takai
Matsui	Price, Tom	Thompson (CA)
McCarthy	Ratcliffe	Thompson (PA)
McCauley	Reed	Thornberry
McClintock	Reichert	Tiberi
McHenry	Renacci	Tipton
McKinley	Rice (SC)	Titus
McMorris	Richmond	Tonko
Rodgers	Rigell	Torres
McNerney	Roby	Trott
McSally	Roe (TN)	Turner
Meadows	Rogers (AL)	Upton
Meehan	Rogers (KY)	Valadao
Meeks	Rohrabacher	Vela
Meng	Rokita	Wagner
Messer	Rooney (FL)	Walberg
Mica	Ros-Lehtinen	Walden
Miller (FL)	Roskam	Walker
Miller (MI)	Ross	Walorski
Moolenaar	Rothfus	Walters, Mimi
Mooney (WV)	Rouzer	Walz
Moulton	Royce	Weber (TX)
Mullin	Ruiz	Webster (FL)
Mulvaney	Ruppersberger	Wenstrup
Murphy (FL)	Russell	Westerman
Murphy (PA)	Ryan (OH)	Whitfield
Neugebauer	Salmon	Williams
Newhouse	Sanchez, Loretta	Wilson (SC)
Noem	Sanford	Wittman
Nolan	Scalise	Womack
Norcross	Schrader	Woodall
Nugent	Schweikert	Yoder
Nunes	Scott (VA)	Yoho
O'Rourke	Scott, Austin	Young (AK)
Olson	Scott, David	Young (IA)
Palazzo	Sensenbrenner	Young (IN)
Palmer	Sessions	Zeldin

NOES—100

Bass	Fudge	McGovern
Becerra	Gabbard	Nadler
Beyer	Gallego	Napolitano
Blumenauer	Grayson	Neal
Boyle, Brendan	Green, Al	Payne
F.	Gutiérrez	Pelosi
Brady (PA)	Hastings	Pingree
Brown (FL)	Higgins	Polis
Capps	Himes	Quigley
Capuano	Hinojosa	Rangel
Chu, Judy	Honda	Rice (NY)
Clark (MA)	Hoyer	Roybal-Allard
Clarke (NY)	Huffman	Rush
Cleaver	Israel	Sánchez, Linda
Conyers	Jackson Lee	T.
Courtney	Jeffries	Sarbanes
Crowley	Johnson, E. B.	Schakowsky
Cummings	Kaptur	Schiff
Davis, Danny	Kelly (IL)	Serrano
DeGette	Kildee	Slaughter
Langevin	Langevin	Speier
DeLauro	Larsen (WA)	Swalwell (CA)
DelBene	Larson (CT)	Takano
DeSaulnier	Lawrence	Thompson (MS)
Deutch	Lee	Tsongas
Dingell	Levin	Van Hollen
Doggett	Lewis	Vargas
Edwards	Lowenthal	Veasey
Ellison	Lowe	Velázquez
Engel	Lujan Grisham	Visclosky
Eshoo	(NM)	Waters, Maxine
Esty	Maloney,	Watson Coleman
Farr	Carolyn	Welch
Fattah	McCollum	Wilson (FL)
Frankel (FL)	McDermott	

ANSWERED “PRESENT”—1

Yarmuth

NOT VOTING—23

Amodei	Fincher	Lieu, Ted
Bonamici	Grijalva	Moore
Castor (FL)	Heck (NV)	Pallone
Castro (TX)	Herrera Beutler	Pocan
Cohen	Hudson	Ribble
DeSantis	Huizenga (MI)	

Smith (WA)	Wasserman	Zinke
Stivers	Schultz	
Stutzman	Westmoreland	

□ 1128

Mr. VISCLOSKEY, Ms. GABBARD, and Mr. HASTINGS changed their vote from “aye” to “no.”

Messrs. TONKO, MASSIE, LIPINSKI, BEN RAY LUJAN of New Mexico, JOYCE, Mrs. BEATTY, Messrs. THOMPSON of California, CLYBURN, and RICHMOND changed their vote from “no” to aye.”

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 3 OFFERED BY MR. SCHRADER

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Oregon (Mr. SCHRADER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This is a 2-minute vote.

The vote was taken by electronic device, and there were—ayes 148, noes 258, answered “present” 1, not voting 26, as follows:

[Roll No. 80]

AYES—148

Adams	Frankel (FL)	Maloney,
Bass	Fudge	Carolyn
Beatty	Gabbard	Maloney, Sean
Becerra	Gallego	Matsui
Bera	Garamendi	McCollum
Beyer	Grayson	McDermott
Bishop (GA)	Green, Al	McGovern
Blumenauer	Gutiérrez	McNerney
Boyle, Brendan	Hahn	Meeks
F.	Hastings	Meng
Brady (PA)	Heck (WA)	Mooney (WV)
Brown (FL)	Higgins	Moulton
Brownley (CA)	Hinojosa	Nadler
Capps	Honda	Napolitano
Capuano	Hoyer	Neal
Carney	Huffman	Nolan
Carson (IN)	Israel	Norcross
Cartwright	Jackson Lee	O'Rourke
Chu, Judy	Jeffries	Pascrell
Ciçilline	Johnson (GA)	Payne
Clark (MA)	Johnson, E. B.	Pelosi
Clarke (NY)	Kaptur	Perlmutter
Clyburn	Keating	Peters
Connolly	Kelly (IL)	Pingree
Conyers	Kennedy	Polis
Cooper	Kildee	Price (NC)
Costa	Kilmer	Quigley
Crowley	Kind	Rangel
Cummings	Kirkpatrick	Rice (NY)
Davis (CA)	Kuster	Richmond
Davis, Danny	Langevin	Roybal-Allard
DeGette	Larsen (WA)	Ruiz
Delaney	Larson (CT)	Ruppersberger
DeLauro	Lawrence	Rush
DelBene	Lee	Ryan (OH)
DeSaulnier	Lewis	Sarbanes
Deutch	Lipinski	Schakowsky
Doggett	Loebsack	Schiff
Edwards	Lofgren	Schrader
Ellison	Lowenthal	Scott (VA)
Engel	Lowe	Scott, David
Eshoo	Lujan Grisham	Serrano
Esty	(NM)	Sewell (AL)
Farr	Lujan, Ben Ray	Sherman
Fattah	(NM)	Slaughter
Foster	Lynch	Speier

Swalwell (CA)	Tonko	Velázquez
Takano	Tsongas	Visclosky
Thompson (CA)	Van Hollen	Waters, Maxine
Thompson (MS)	Vargas	Watson Coleman
Titus	Veasey	

NOT VOTING—26

Amodei	Herrera Beutler	Stivers
Bonamici	Hudson	Stutzman
Castor (FL)	Huizenga (MI)	Turner
Castro (TX)	Lieu, Ted	Walker
Cohen	Moore	Wasserman
Fincher	Pallone	Schultz
Franks (AZ)	Pocan	Westmoreland
Grijalva	Rokita	Wilson (FL)
Heck (NV)	Smith (WA)	Zinke

will be followed by a 5-minute vote on the motion to suspend the rules and concur in the Senate amendment to H.R. 757.

The vote was taken by electronic device, and there were—yeas 266, nays 144, answered “present” 1, not voting 22, as follows:

NOES—258

Abraham	Gosar	Palazzo
Aderholt	Gowdy	Palmer
Aguilar	Graham	Paulsen
Allen	Granger	Pearce
Amash	Graves (GA)	Perry
Ashford	Graves (LA)	Peterson
Babin	Graves (MO)	Pittenger
Barletta	Green, Gene	Pitts
Barr	Griffith	Poe (TX)
Barton	Grothman	Poliquin
Benishek	Guinta	Pompeo
Bilirakis	Guthrie	Posey
Bishop (MI)	Hanna	Price, Tom
Bishop (UT)	Hardy	Ratcliffe
Black	Harper	Reed
Blackburn	Harris	Reichert
Blum	Hartzler	Renacci
Bost	Hensarling	Ribble
Boustany	Hice, Jody B.	Rice (SC)
Brady (TX)	Hill	Rigell
Brat	Himes	Roby
Bridenstine	Holding	Roe (TN)
Brooks (AL)	Huelskamp	Rogers (AL)
Brooks (IN)	Hultgren	Rogers (KY)
Buchanan	Hunter	Rohrabacher
Buck	Hurd (TX)	Rooney (FL)
Bucshon	Hurt (VA)	Ros-Lehtinen
Burgess	Issa	Roskam
Bustos	Jenkins (KS)	Ross
Butterfield	Jenkins (WV)	Rothfus
Byrne	Johnson (OH)	Rouzer
Calvert	Johnson, Sam	Royce
Cárdenas	Jolly	Russell
Carter (GA)	Jones	Salmon
Carter (TX)	Jordan	Sánchez, Linda T.
Chabot	Joyce	Sanchez, Loretta
Chaffetz	Katko	Sanford
Clawson (FL)	Kelly (MS)	Scalise
Clay	Kelly (PA)	Schweikert
Cleaver	King (IA)	Scott, Austin
Coffman	King (NY)	Sensenbrenner
Cole	Kinzinger (IL)	Sessions
Collins (GA)	Kline	Shimkus
Collins (NY)	Knight	Shuster
Comstock	Labrador	Simpson
Conaway	LaHood	Sinema
Cook	LaMalfa	Sires
Costello (PA)	Lamborn	Smith (MO)
Courtney	Lance	Smith (NE)
Cramer	Latta	Smith (NJ)
Crawford	Levin	Smith (TX)
Crenshaw	LoBiondo	Stefanik
Cuellar	Long	Stewart
Culberson	Loudermilk	Takai
Curbelo (FL)	Love	Thompson (PA)
Davis, Rodney	Lucas	Thornberry
DeFazio	Luetkemeyer	Tiberi
Denham	Lummis	Tipton
Dent	MacArthur	Torres
DeSantis	Marchant	Trott
DesJarlais	Marino	Upton
Diaz-Balart	Massie	Valadao
Dingell	McCarthy	Vela
Dold	McCaul	Wagner
Donovan	McClintock	Walberg
Doyle, Michael F.	McHenry	Walden
Duckworth	McKinley	Walorski
Duffy	McMorris	Walters, Mimi
Duncan (SC)	Rodgers	Walz
Duncan (TN)	McSally	Weber (TX)
Ellmers (NC)	Meadows	Webster (FL)
Emmer (MN)	Meehan	Welch
Farenthold	Messer	Wenstrup
Fitzpatrick	Mica	Westerman
Fleischmann	Miller (FL)	Whitfield
Fleming	Miller (MI)	Williams
Flores	Moolenaar	Wilson (SC)
Forbes	Mullin	Wittman
Fortenberry	Mulvaney	Womack
Fox	Murphy (FL)	Woodall
Frelinghuysen	Murphy (PA)	Yoder
Garrett	Neugebauer	Yoho
Gibbs	Newhouse	Young (AK)
Gibson	Noem	Young (IA)
Gohmert	Nugent	Young (IN)
Goodlatte	Nunes	Zeldin
	Olson	

ANNOUNCEMENT BY THE ACTING CHAIR
The Acting CHAIR (during the vote).
There is 1 minute remaining.

□ 1132

Mr. NORCROSS changed his vote from “no” to “aye.”

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. LEVIN. Mr. Speaker, I rise to correct my vote from earlier today on rollcall 80, which was the Schrader amendment to H.R. 2017. While my vote was recorded as a “nay” it was my intention to vote “yea.”

The Acting CHAIR. The question is on the committee amendment in the nature of a substitute, as amended.

The amendment was agreed to.

The Acting CHAIR. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. NEWHOUSE) having assumed the chair, Mr. HULTGREN, Acting Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 2017) to amend the Federal Food, Drug, and Cosmetic Act to improve and clarify certain disclosure requirements for restaurants and similar retail food establishments, and to amend the authority to bring proceedings under section 403A, and, pursuant to House Resolution 611, he reported the bill back to the House with an amendment adopted in the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the amendment reported from the Committee of the Whole?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

Mrs. McMORRIS RODGERS. 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, this 5-minute vote on passage of H.R. 2017

[Roll No. 81]
YEAS—266

Abraham	Gosar	Noem
Aderholt	Gowdy	Nugent
Aguilar	Graham	Nunes
Allen	Granger	O'Rourke
Amash	Graves (GA)	Olson
Ashford	Graves (LA)	Palazzo
Babin	Graves (MO)	Palmer
Barletta	Griffith	Paulsen
Barr	Grothman	Pearce
Barton	Guinta	Perry
Benishek	Guthrie	Peterson
Bilirakis	Hanna	Pittenger
Bishop (GA)	Hardy	Pitts
Bishop (MI)	Harper	Poe (TX)
Bishop (UT)	Harris	Poliquin
Black	Hartzler	Pompeo
Blackburn	Hensarling	Posey
Blum	Hice, Jody B.	Price, Tom
Bost	Hill	Ratcliffe
Boustany	Holding	Reed
Brat	Huelskamp	Reichert
Bridenstine	Hultgren	Renacci
Brooks (AL)	Hunter	Ribble
Brooks (IN)	Hurd (TX)	Rice (SC)
Buchanan	Hurt (VA)	Rigell
Buck	Issa	Roby
Bucshon	Jenkins (KS)	Roe (TN)
Burgess	Jenkins (WV)	Rogers (AL)
Bustos	Johnson (OH)	Rogers (KY)
Butterfield	Johnson, Sam	Rohrabacher
Byrne	Jolly	Rokita
Calvert	Jones	Rooney (FL)
Cárdenas	Jordan	Ros-Lehtinen
Carter (GA)	Joyce	Roskam
Carter (TX)	Katko	Ross
Chabot	Keating	Rothfus
Chaffetz	Kelly (MS)	Rouzer
Clawson (FL)	Kelly (PA)	Royce
Clay	Kennedy	Ruppersberger
Cleaver	Kind	Russell
Coffman	King (IA)	Salmon
Cole	King (NY)	Sanchez, Loretta
Collins (GA)	Kinzinger (IL)	Sanford
Collins (NY)	Kline	Scalise
Comstock	Knight	Schweikert
Conaway	Labrador	Scott, Austin
Cook	LaHood	Scott, David
Costa	LaMalfa	Sensenbrenner
Costello (PA)	Lamborn	Sessions
Cramer	Lance	Shimkus
Crawford	Latta	Shuster
Crenshaw	LoBiondo	Simpson
Cuellar	Long	Sinema
Culberson	Loudermilk	Sires
Curbelo (FL)	Love	Smith (MO)
Davis, Rodney	Lucas	Smith (NE)
DeFazio	Luetkemeyer	Smith (NJ)
Denham	Lummis	Smith (TX)
Dent	Lynch	Stefanik
DeSantis	MacArthur	Stewart
DesJarlais	Marchant	Takai
Diaz-Balart	Marino	Thompson (MS)
Dold	Matsui	Thompson (PA)
Donovan	McCarthy	Thornberry
Doyle, Michael F.	McCaul	Tiberi
Duffy	McClintock	Tipton
Duncan (SC)	McHenry	Tonko
Duncan (TN)	McKinley	Trott
Ellmers (NC)	McMorris	Turner
Emmer (MN)	Rodgers	Upton
Farenthold	McSally	Valadao
Fitzpatrick	Meadows	Vela
Fleischmann	Meehan	Wagner
Fleming	Messer	Walberg
Flores	Mica	Walden
Forbes	Miller (FL)	Walker
Fortenberry	Miller (MI)	Walorski
Fox	Moolenaar	Walters, Mimi
Frelinghuysen	Mooney (WV)	Walz
Garrett	Mullin	Weber (TX)
Gibbs	Mulvaney	Webster (FL)
Gibson	Murphy (FL)	Welch
Gohmert	Murphy (PA)	Wenstrup
Goodlatte	Neal	Westerman
	Neugebauer	Whitfield
	Newhouse	Williams

ANSWERED “PRESENT”—1

Yarmuth

Wilson (SC) Yoder Young (IN)
Wittman Yoho Zeldin
Womack Young (AK)
Woodall Young (IA)

NAYS—144

Adams Gallego Meeks
Bass Garamendi Meng
Beatty Grayson Moulton
Becerra Green, Al Nadler
Bera Green, Gene Napolitano
Beyer Gutiérrez Nolan
Blumenauer Hahn Norcross
Boyle, Brendan Hastings Pascrell
 F. Heck (WA) Payne
Brady (PA) Higgins Pelosi
Brown (FL) Himes Perlmutter
Brownley (CA) Hinojosa Peters
Capps Honda Pingree
Capuano Hoyer Polis
Carney Huffman Price (NC)
Carson (IN) Israel Quigley
Cartwright Jackson Lee Rangel
Chu, Judy Jeffries Ashford
Cicilline Johnson (GA) Rice (NY)
Clark (MA) Johnson, E. B. Richmond
Clarke (NY) Kaptur Roybal-Allard
Clyburn Kelly (IL) Ruiz
Connolly Kildee Rush
Conyers Kilmer Ryan (OH)
Cooper Kirkpatrick Sánchez, Linda
Courtney Kuster T.
Crowley Langevin Sarbanes
Cummings Larsen (WA) Schakowsky
Davis (CA) Schiff
Davis, Danny Schroder
DeGette Lee Scott (VA)
Delaney Levin Serrano
DeLauro Lewis Sewell (AL)
DelBene Lipinski Sherman
DeSaulnier Loeb sack Slaughter
Deutch Lofgren Speier
Dingell Lowenthal Swallow (CA)
Doggett Lowey Takano
Duckworth Lujan Grisham Thompson (CA)
Edwards (NM) Titus
Ellison Luján, Ben Ray Torres
Engel (NM) Tsongas
Eshoo Maloney, Van Hollen
Esty Carolyn Vargas
Farr Maloney, Sean Veasey
Fattah Massie Velázquez
Foster McCollum Visclosky
Frankel (FL) McDermott Waters, Maxine
Fudge McGovern Watson Coleman
Gabbard McNerney Wilson (FL)

ANSWERED "PRESENT"—1

Yarmuth

NOT VOTING—22

Amodei Heck (NV) Smith (WA)
Bonamici Herrera Beutler Stivers
Brady (TX) Hudson Stutzman
Castor (FL) Huizenga (MI) Wasserman
Castro (TX) Lieu, Ted Schultz
Cohen Moore Westmoreland
Fincher Pallone Zinke
Grijalva Pocan

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining.

□ 1141

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

NORTH KOREA SANCTIONS ENFORCEMENT ACT OF 2016

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and concur in the Senate amendment to the bill (H.R. 757) to improve the enforcement of sanctions against the Government of North Korea, and for other purposes, on which the yeas and nays were ordered.

The Clerk read the title of the bill. The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ROYCE) that the House suspend the rules and concur in the Senate amendment.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 408, nays 2, not voting 23, as follows:

[Roll No. 82]

YEAS—408

Abraham Curbelo (FL) Hill
Adams Davis (CA) Himes
Aderholt Davis, Danny Hinojosa
Aguilar Davis, Rodney Holding
Allen DeFazio Honda
Ashford DeGette Hoyer
Babin Delaney Huelskamp
Barletta DeLauro Huffman
Barr DelBene Hultgren
Barton Denham Hunter
Bass Dent Hurd (TX)
Beatty DeSantis Hurt (VA)
Becerra DeSaulnier Israel
Benishak DesJarlais Issa
Bera Deutch Jackson Lee
Beyer Diaz-Balart Jeffries
Bilirakis Dingell Jenkins (KS)
Bishop (GA) Doggett Jenkins (WV)
Bishop (MI) Dold Johnson (GA)
Bishop (UT) Donovan Johnson (OH)
Black Doyle, Michael Johnson, E. B.
Blackburn Blum Johnson, Sam
Blum Duckworth Jolly
Blumenauer Duffy Jones
Bost Duncan (SC) Jordan
Boustany Duncan (TN) Joyce
Boyle, Brendan Edwards Kaptur
 F. Ellison Katko
Brady (PA) Ellmers (NC) Keating
Brady (TX) Emmer (MN) Kelly (IL)
Brat Engel Kelly (MS)
Bridenstine Eshoo Kelly (PA)
Brooks (AL) Esty Kennedy
Brooks (IN) Farenthold Kildee
Brown (FL) Farr Kilmer
Brownley (CA) Fattah Kind
Buchanan Fitzpatrick King (IA)
Buck Fleischmann King (NY)
Bucshon Fleming Kinzinger (IL)
Burgess Flores Kirkpatrick
Bustos Forbes Kline
Butterfield Fortenberry Knight
Byrne Foster Kuster
Calvert Foyx Labrador
Capps Frankel (FL) LaHood
Capuano Franks (AZ) LaMalfa
Cárdenas Frelinghuysen Lamborn
Carney Fudge Lance
Carson (IN) Gabbard Langevin
Carter (GA) Gallego Larsen (WA)
Carter (TX) Garamendi Larson (CT)
Cartwright Garrett Latta
Chabot Gibbs Lawrence
Lee Gibson Lee
Chu, Judy Gohmert Levin
Cicilline Goodlatte Lewis
Clark (MA) Gosar Lipinski
Clarke (NY) Gowdy LoBiondo
Clawson (FL) Graham Loeb sack
Clay Granger Lofgren
Cleaver Graves (GA) Long
Clyburn Graves (LA) Loudermilk
Coffman Graves (MO) Love
Cole Grayson Lowenthal
Collins (GA) Green, Al Lowey
Collins (NY) Green, Gene Lucas
Comstock Griffith Luetkemeyer
Conaway Grothman Lujan Grisham
Connolly Guinta (NM)
Conyers Guthrie Luján, Ben Ray
Cook Gutiérrez (NM)
Cooper Hahn Lummis
Costa Hanna Lynch
Costello (PA) Hardy MacArthur
Courtney Harper Maloney,
Cramer Harris Carolyn
Crawford Hartzler Maloney, Sean
Crenshaw Hastings Marchant
Crowley Heck (WA) Marino
Cuellar Hensarling Matsui
Culberson Hice, Jody B. McCarthy
Cummings Higgins McCaul

McClintock Price, Tom Smith (NE)
McCollum Quigley Smith (NJ)
McDermott Rangel Smith (TX)
McGovern Ratcliffe Speier
McHenry Reed Stefanik
McKinley Reichert Stewart
McMorris Renacci Swallow (CA)
Rodgers Ribble Takai
McNerney Rice (NY) Takano
McSally Rice (SC) Thompson (CA)
Meadows Richmond Thompson (MS)
Meehan Rigell Thompson (PA)
Meeks Roby Thornberry
Meng Roe (TN) Tiberi
Messer Rogers (AL) Titus
Mica Rogers (KY) Tonko
Miller (FL) Rohrabacher Torres
Miller (MI) Rokita Trott
Moolenaar Rooney (FL) Tsongas
Mooney (WV) Ros-Lehtinen Turner
Moulton Roskam Upton
Mullin Ross
Mulvaney Rothfus Valadao
Murphy (FL) Rouzer Van Hollen
Murphy (PA) Roybal-Allard Vargas
Nadler Royce Veasey
Napolitano Ruiz Vela
Neal Ruppertsberger Velázquez
Neugebauer Rush Visclosky
Newhouse Russell Wagner
Noem Ryan (OH) Walberg
Nolan Salmon Walden
Norcross Sánchez, Linda Walker
Nugent T.
Nunes Sanchez, Loretta Walters, Mimi
O'Rourke Sanford Walz
Olson Sarbanes Watson Coleman
Palazzo Scalise Weber (TX)
Palmer Schakowsky Webster (FL)
Pascrell Schiff Welch
Paulsen Schrader Wenstrup
Payne Schweikert Westerman
Pearce Scott (VA) Whitfield
Pelosi Scott, Austin Williams
Perlmutter Scott, David Wilson (FL)
Perry Sensenbrenner Wilson (SC)
Peters Serrano Wittman
Peterson Sessions Womack
Pingree Sewell (AL) Woodall
Pittenger Sherman Yarmuth
Pitts Shimkus Yoder
Poe (TX) Shuster Yoho
Poliquin Simpson Yoho
Polis Sinema Young (AK)
Pompeo King (IA) Young (IA)
Posey King (NY) Young (IN)
Price (NC) Kinzinger (IL) Smith (MO)

NAYS—2

Amash Massie

NOT VOTING—23

Amodei Herrera Beutler Stivers
Bonamici Hudson Stutzman
Castor (FL) Huizenga (MI) Tipton
Castro (TX) Lieu, Ted Wasserman
Cohen Moore Schultz
Fincher Pallone Waters, Maxine
Grijalva Pocan Westmoreland
Heck (NV) Smith (WA) Zinke

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining.

□ 1149

So (two-thirds being in the affirmative) the rules were suspended and the Senate amendment was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. SMITH of Washington. Mr. Speaker, on Tuesday, February 9; Wednesday, February 10; Thursday, February 11; and Friday, February 12, 2016, I was on medical leave while recovering from hip replacement surgery and unable to be present for recorded votes. Had I been present, I would have voted: "Yes" on rollcall vote No. 64 (on the motion to suspend the rules and pass H.R. 3036, as amended).