

TITLE II—LIMITATION ON SPECULATIVE AND ARBITRARY DAMAGE AWARDS

SEC. 201. TREBLE DAMAGES AS PENALTY IN CIVIL ACTIONS.

Page 17, line 21, insert "rights or" before "safety".

Page 17, beginning in line 25, strike "for the economic loss on which the claimant's action is based" and insert "for economic loss".

Page 18, insert after the period in line 2 the following: "This section shall be applied by the court and shall not be disclosed to the jury."

Page 18, line 3, strike "AND PREEMPTION".

Page 18, strike "title" in lines 4 and 6 and insert "section".

Page 18, beginning in line 7, strike "in any jurisdiction that does not authorize such actions" and insert after the period in line 8 the following: "This section does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of punitive damages."

Page 19, after line 19, insert the following new sections (and redesignate the subsequent section accordingly):

SEC. 202. FAIR SHARE RULE FOR NONECONOMIC DAMAGE AWARDS.

(a) FAIR SHARE OF LIABILITY IMPOSED ACCORDING TO SHARE OF FAULT.—In any product liability or other civil action brought in State or Federal court, a defendant shall be liable only for the amount of noneconomic damages attributable to such defendant in direct proportion to such defendant's share of fault or responsibility for the claimant's actual damages, as determined by the trier of fact. In all such cases, the liability of a defendant for noneconomic damages shall be several and not joint.

(b) APPLICABILITY.—Except as provided in section 401, this section shall apply to any product liability or other civil action brought in any Federal or State court on any theory where noneconomic damages are sought. This section does not preempt or supersede any State or Federal law to the extent that such law would further limit the application of the theory of joint liability to any kind of damages.

Page 19, after line 21, insert the following new paragraph:

(1) The term "actual damages" means damages awarded to pay for economic loss.

Page 19, line 22, strike "(1)" and insert "(2)".

Page 20, line 4, strike "(2)" and insert "(3)".

Page 20, line 12, strike "(3)" and insert "(4)".

Page 20, line 18, strike "(4)" and insert "(5)".

Page 20, after line 20, insert the following new paragraph (and redesignate subsequent paragraphs accordingly):

(6) The term "noneconomic damages" means damages other than punitive damages or actual damages.

Page 20, line 21, strike "(5)" and insert "(7)".

Page 21, line 1, strike "(6)" and insert "(8)".

Page 30, strike lines 6 and 7, and insert the following:

TITLE IV—LIMITATIONS ON APPLICABILITY; EFFECTIVE DATE

SEC. 401. APPLICATION LIMITED TO INTERSTATE COMMERCE.

Titles I, II, and III shall apply only to product liability or other civil actions affecting interstate commerce. For purposes of the preceding sentence, the term "interstate commerce" means commerce among the several States or with foreign nations, or in any territory of the United States or in the District of Columbia, or between any such territory and another, or between any such terri-

tory and any State or foreign nation, or between the District of Columbia and any State or territory or foreign nation.

Redesignate subsequent sections accordingly.

It was decided in the affirmative { Yeas 263 Nays 164

41.25 [Roll No. 225] AYES—263

- Allard Gallegly Nethercutt
Archer Ganske Neumann
Army Gekas Ney
Bachus Geren Norwood
Baesler Gilchrest Nussle
Baker (CA) Gillmor Ortiz
Baker (LA) Gilman Packard
Baldacci Goodlatte Parker
Ballenger Goodling Paxon
Barcia Gordon Payne (VA)
Barr Goss Peterson (MN)
Barrett (NE) Graham Petri
Bartlett Greenwood Pombo
Barton Gunderson Pomeroy
Bass Gutknecht Porter
Bereuter Hall (TX) Portman
Billbray Hamilton Pryce
Bilirakis Hancock Quillen
Billey Hansen Quinn
Blute Harman Radanovich
Boehlert Hastert Ramstad
Boehner Hastings (WA) Regula
Bonilla Hayworth Richardson
Bono Hefley Riggs
Brewster Heineman Roberts
Browder Hergen Roemer
Brownback Hillery Rogers
Bryant (TN) Hobson Rohrabacher
Bunn Hoekstra Ros-Lehtinen
Bunning Hoke Roth
Burr Holden Roukema
Burton Horn Royce
Buyer Hostettler Salmon
Callahan Houghton Sanford
Calvert Hunter Saxton
Camp Hutchinson Scarborough
Canady Hyde Schaefer
Candry Inglis Schumer
Castle Johnson (CT) Seastrand
Chabot Johnson, Sam Sensenbrenner
Chambliss Jones Shadegg
Chenoweth Kasich Shaw
Christensen Kelly Shays
Chrysler Kennelly Shuster
Clement Kim Siskis
Clinger King Skeen
Coburn Kingston Smith (MI)
Collins (GA) Klug Smith (NJ)
Combest Knollenberg Smith (TX)
Condit Kolbe Smith (WA)
Cooley LaHood Solomon
Cox Largent Souder
Cramer Latham Spence
Crane LaTourette Stearns
Crapo Leach Stenholm
Creameans Lewis (CA) Stockman
Cunningham Lewis (KY) Stump
Danner Lightfoot Talent
Davis Lincoln Tanner
Deal Linder Tate
DeLay Linder Taylor (MS)
Dickey Livingston Taylor (NC)
Dicks LoBiondo Tejada
Dooley Longley Thomas
Doolittle Lucas Thornberry
Dornan Maloney Tiahrt
Dreier Manzullo Torildsen
Duncan McCarthy Torricelli
Dunn McCollum Traficant
Edwards McCrery Upton
Ehlers McDade Vucanovich
Ehrlich McHugh Waldholtz
Emerson McInnis Walker
English McIntosh Walsh
Ensign McKeon Wamp
Everett McNulty Watts (OK)
Ewing Metcalf Weldon (FL)
Fawell Meyers Weldon (PA)
Fazio Mica Weller
Fields (TX) Miller (CA) White
Flanagan Miller (FL) Whitfield
Foley Molinari Wicker
Fowler Montgomery Wolf
Franks (CT) Moorhead Young (AK)
Franks (NJ) Morella Young (FL)
Frelinghuysen Myers Zeliff
Frisa Myrick Zimmer
Funderburk Neal

NOES—164

- Abercrombie Gephardt Obey
Ackerman Gonzalez Olver
Andrews Green Orton
Barrett (WI) Gutierrez Oxley
Bateman Hall (OH) Pallone
Becerra Hastings (FL) Pastor
Beilenson Hayes Payne (NJ)
Bentsen Hefner Pelosi
Berman Hilliard Peterson (FL)
Bevill Hinchey Pickett
Bishop Hoyer Poshard
Bonior Istook Rahall
Borski Jackson-Lee Reed
Boucher Jacobs Reynolds
Brown (CA) Jefferson Rivers
Brown (FL) Johnson (SD) Rose
Brown (OH) Johnson, E. B. Roybal-Allard
Bryant (TX) Johnston Rush
Chapman Kanjorski Sabo
Clay Kaptur Sanders
Clayton Kennedy (MA) Sawyer
Clyburn Kennedy (RI) Schiff
Coble Kildee Schroeder
Coleman Kleczka Scott
Collins (IL) Klink Serrano
Collins (MI) LaFalce Skaggs
Conyers Lantos Skelton
Costello Laughlin Slaughter
Coyne Levin Spratt
de la Garza Lewis (GA) Stark
DeFazio Lipinski Stokes
DeLauro Lofgren Studds
Dellums Lowey Stupak
Deutsch Luther Tauzin
Diaz-Balart Manton Thompson
Dingell Markey Thornton
Dixon Martinez Thurman
Doggett Martini Torres
Doyle Mascara Towns
Durbin Matsui Velazquez
Engel McDermott Vento
Eshoo McHale Visclosky
Evans McKinney Volkmer
Farr Meehan Ward
Fattah Meek Waters
Fields (LA) Menendez Watt (NC)
Filner Mfume Waxman
Flake Mineta Williams
Foglietta Minge Wilson
Ford Mink Wise
Fox Moakley Woolsey
Frank (MA) Mollohan Wyden
Frost Moran Wynn
Furse Nadler Yates
Gejdenson Oberstar

NOT VOTING—7

- Cubin Murtha Tucker
Forbes Owens
Gibbons Rangel

So the amendment was agreed to. After some further time,

41.26 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment submitted by Mr. COX:

Page 19 redesignate section 202 as section 203 and after line 19 insert the following:

SEC. 202. LIMITATION ON NONECONOMIC DAMAGES IN HEALTH CARE LIABILITY ACTIONS.

(a) MAXIMUM AWARD OF NONECONOMIC DAMAGES.—In any health care liability action, in addition to actual damages or punitive damages, or both, a claimant may also be awarded noneconomic damages, including damages awarded to compensate injured feelings, such as pain and suffering and emotional distress. The maximum amount of such damages that may be awarded to a claimant shall be \$250,000. Such maximum amount shall apply regardless of the number of parties against whom the action is brought, and regardless of the number of claims or actions brought with respect to the health care injury. An award for future noneconomic damages shall not be discounted to present value. The jury shall not be informed about the limitation on noneconomic damages, but an award for noneconomic damages in excess of \$250,000 shall be reduced either before the entry of

judgment or by amendment of the judgment after entry. An award of damages for noneconomic losses in excess of \$250,000 shall be reduced to \$250,000 before accounting for any other reduction in damages required by law. If separate awards of damages for past and future noneconomic damages are rendered and the combined award exceeds \$250,000, the award of damages for future noneconomic losses shall be reduced first.

(b) APPLICABILITY.—Except as provided in section 401, this section shall apply to any health care liability action brought in any Federal or State court on any theory or pursuant to any alternative dispute resolution process where noneconomic damages are sought. This section does not create a cause of action for noneconomic damages. This section does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of noneconomic damages. This section does not preempt any State law enacted before the date of the enactment of this Act that places a cap on the total liability in a health care liability action.

(d) DEFINITIONS.—As used in this section—
 (a) The term “claimant” means any person who asserts a health care liability claim or brings a health care liability action, including a person who asserts or claims a right to legal or equitable contribution, indemnity or subrogation, arising out of a health care liability claim or action, and any person on whose behalf such a claim is asserted or such an action is brought, whether deceased, incompetent or a minor.

(b) The term “economic loss” has the same meaning as defined at section 203(3).

(c) The term “health care liability action” means a civil action brought in a State or Federal court or pursuant to any alternative dispute resolution process, against a health care provider, and entity which is obligated to provide or pay for health benefits under any health plan (including any person or entity acting under a contract or arrangement to provide or administer any health benefit), or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, in which the claimant alleges a claim (including third party claims, cross claims, counter claims, or distribution claims) based upon the provision of (or the failure to provide or pay for) health care services or the use of a medical product, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, or defendants or causes of action.

Page 17, line 10, insert “and other” after “punitive”.

It was decided in the { Yeas 247
 affirmative { Nays 171

41.27 [Roll No. 226]
 AYES—247

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| Allard | Bono | Combest |
| Archer | Brewster | Condit |
| Armey | Browder | Cooley |
| Bachus | Brownback | Cox |
| Baker (CA) | Bryant (TN) | Cramer |
| Baker (LA) | Bunn | Crane |
| Baldacci | Bunning | Crapo |
| Ballenger | Burr | Creameans |
| Barcia | Burton | Cunningham |
| Barr | Buyer | Davis |
| Barrett (NE) | Callahan | DeLay |
| Bartlett | Calvert | Dooley |
| Barton | Camp | Doolittle |
| Bass | Canady | Dornan |
| Bateman | Cardin | Dreier |
| Bereuter | Castle | Duncan |
| Bevill | Chabot | Dunn |
| Bilbray | Chambliss | Ehlers |
| Bilirakis | Chapman | Ehrlich |
| Bliley | Chenoweth | Emerson |
| Blute | Christensen | English |
| Boehkert | Chrysler | Ensign |
| Boehner | Coburn | Eshoo |
| Bonilla | Collins (GA) | Everett |

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| Ewing | Laughlin |
| Fawell | Lazio |
| Fazio | Leach |
| Fields (TX) | Lewis (CA) |
| Foley | Lewis (KY) |
| Fowler | Lightfoot |
| Fox | Linder |
| Franks (CT) | Livingston |
| Franks (NJ) | Longley |
| Frisa | Lucas |
| Funderburk | Manzullo |
| Galleghy | McCollum |
| Ganske | McCrery |
| Gekas | McHale |
| Geren | McHugh |
| Goodlatte | McInnis |
| Goodling | McIntosh |
| Gordon | McKeon |
| Goss | McNulty |
| Greenwood | Metcalf |
| Gunderson | Meyers |
| Gutknecht | Mica |
| Hall (TX) | Miller (FL) |
| Hamilton | Minge |
| Hancock | Molinari |
| Hansen | Montgomery |
| Harman | Moorhead |
| Hastert | Moran |
| Hastings (WA) | Morella |
| Hayes | Myers |
| Hayworth | Myrick |
| Hefley | Neumann |
| Heineman | Ney |
| Herger | Norwood |
| Hilleary | Nussle |
| Hobson | Oxley |
| Hoekstra | Packard |
| Hoke | Pallone |
| Holden | Parker |
| Horn | Paxon |
| Hostettler | Payne (VA) |
| Houghton | Peterson (FL) |
| Hunter | Peterson (MN) |
| Hutchinson | Petri |
| Hyde | Pickett |
| Inglis | Pombo |
| Johnson (SD) | Porter |
| Johnson, Sam | Portman |
| Jones | Poshard |
| Kasich | Quillen |
| Kelly | Quinn |
| Kim | Radanovich |
| Kingston | Ramstad |
| Klug | Regula |
| Knollenberg | Richardson |
| Kolbe | Riggs |
| LaHood | Roberts |
| Largent | Roemer |
| Latham | Rogers |

NOES—171

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| Abercrombie | Doyle |
| Ackerman | Durbin |
| Andrews | Edwards |
| Baesler | Engel |
| Barrett (WI) | Evans |
| Becerra | Farr |
| Beilenson | Fattah |
| Bentsen | Fields (LA) |
| Berman | Filner |
| Bishop | Flake |
| Bonior | Flanagan |
| Borski | Foglietta |
| Brown (CA) | Ford |
| Brown (FL) | Frank (MA) |
| Brown (OH) | Frelinghuysen |
| Bryant (TX) | Frost |
| Clay | Furse |
| Clayton | Gejdenson |
| Clement | Gephardt |
| Clyburn | Gilchrest |
| Coble | Gillmor |
| Coleman | Gilman |
| Collins (IL) | Gonzalez |
| Collins (MI) | Graham |
| Conyers | Green |
| Costello | Gutierrez |
| Coyne | Hastings (FL) |
| Danner | Hefner |
| de la Garza | Hilliard |
| Deal | Hinchev |
| DeLauro | Hoyer |
| Delums | Istook |
| Deutsch | Jackson-Lee |
| Diaz-Balart | Jacobs |
| Dickey | Johnson, E. B. |
| Dicks | Johnston |
| Dingell | Kanjorski |
| Dixon | Kaptur |
| Doggett | Kennedy (MA) |

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| Rohrabacher | Oberstar |
| Ros-Lehtinen | Obey |
| Roth | Olver |
| Roukema | Ortiz |
| Royce | Orton |
| Salmon | Pastor |
| Sanford | Payne (NJ) |
| Saxton | Pelosi |
| Scarborough | Pomeroy |
| Schaefer | Pryce |
| Seastrand | Rahall |
| Sensenbrenner | Reed |
| Shaw | Reynolds |
| Shays | Rivers |
| Shuster | Rose |
| Sisisky | Roybal-Allard |
| Skeen | Rush |
| Skelton | Sabo |

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| Smith (MI) | Boucher |
| Smith (NJ) | Clinger |
| Smith (TX) | Cubin |
| Smith (WA) | DeFazio |
| Solomon | Forbes |
| Souder | Gibbons |
| Spence | Hall (OH) |
| Stearns | Jefferson |
| Stenholm | Johnson (CT) |
| Stockman | Martinez |
| Stump | Murtha |
| Talent | Owens |
| Tanner | Rangel |
| Tate | Weller |
| Tauzin | Williams |
| Taylor (MS) | Yates |
| Taylor (NC) | |
| Thomas | |
| Thornberry | |
| Tiahrt | |
| Torkildsen | |
| Torricelli | |
| Trafficant | |
| Upton | |
| Volkmer | |
| Vucanovich | |
| Waldholtz | |
| Walker | |
| Wamp | |
| Watts (OK) | |
| Weldon (FL) | |
| White | |
| Whitfield | |
| Wicker | |
| Wolf | |
| Young (AK) | |
| Young (FL) | |
| Zeliff | |
| Zimmer | |

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| Sanders | Thurman |
| Sawyer | Torres |
| Schiff | Towns |
| Schroeder | Tucker |
| Schumer | Velazquez |
| Scott | Vento |
| Serrano | Visclosky |
| Shadegg | Walsh |
| Skaggs | Ward |
| Slaughter | Waters |
| Spratt | Watt (NC) |
| Stark | Waxman |
| Stokes | Weldon (PA) |
| Studds | Wilson |
| Stupak | Wise |
| Tejeda | Woolsey |
| Thompson | Wyden |
| Thornton | Wynn |

NOT VOTING—16

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|---------|--------------|----------|
| Boucher | Hall (OH) | Rangel |
| Clinger | Jefferson | Weller |
| Cubin | Johnson (CT) | Williams |
| DeFazio | Martinez | Yates |
| Forbes | Murtha | |
| Gibbons | Owens | |

So the amendment was agreed to.
 The SPEAKER pro tempore, Mr. LONGLEY, assumed the Chair.

When Mr. DREIER, Chairman, reported that the Committee, having had under consideration said bill, had come to no resolution thereon.

41.28 MESSAGE FROM THE PRESIDENT—
 ECONOMIC EMERGENCY IN MEXICO

The SPEAKER pro tempore, Mr. LONGLEY, laid before the House a message from the President, which was read as follows:

To the Congress of the United States:

On January 31, 1995, I determined pursuant to 31 U.S.C. 5302(b) that the economic crisis in Mexico posed “unique and emergency circumstances” that justified the use of the Exchange Stabilization Fund (ESF) to provide loans and credits with maturities of greater than 6 months to the Government of Mexico and the Bank of Mexico. Consistent with the requirements of 31 U.S.C. 5302(b), I am hereby notifying the Congress of that determination. The congressional leadership issued a joint statement with me on January 31, 1995, in which we all agreed that such use of the ESF was a necessary and appropriate response to the Mexican financial crisis and in the United States’ vital national interest.

On February 21, 1995, the Secretary of the Treasury and the Mexican Secretary of Finance and Public Credit signed four agreements that provide the framework and specific legal arrangements under which up to \$20 billion in support will be made available from the ESF to the Government of Mexico and the Bank of Mexico. Under these agreements, the United States will provide three forms of support to Mexico: short-term swaps through which Mexico borrows dollars for 90 days and that can be rolled over for up to 1 year; medium-term swaps through which Mexico can borrow dollars for up to 5 years; and securities guarantees having maturities of up to 10 years.

Repayment of these loans and guarantees is backed by revenues from the export of crude oil and petroleum products formalized in an agreement signed by the United States, the Government of Mexico, and the Mexican govern-