

**SEC. 303. DEFINITIONS.**

For purposes of this title:  
 (1) The term "biomaterials supplier" means an entity that directly or indirectly supplies, or licenses another person to supply, a component part or raw material for use in the manufacture of a medical device—

(A) that is intended by the manufacturer of the device—

(i) to be placed into a surgically or naturally formed or existing cavity of the body for a period of at least 30 days; or

(ii) to remain in contact with bodily fluids of internal human tissue through a surgically produced opening for a period of less than 30 days; and

(B) suture materials used in implant procedures.

(2) Notwithstanding paragraph (1), the term "biomaterials supplier" excludes any person, with respect to a medical device which is the subject of a product liability action—

(A) who is engaged in the manufacture, preparation, propagation, compounding, or processing (as defined in section 510(a)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(a)(1)) of the medical device, and has or should have registered with the Secretary of Health and Human Services pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section, and has or should have included the medical device on a list of devices filed with the Secretary of Health and Human Services pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section; or

(B) who, in the course of a business conducted for that purpose, has sold, distributed, leased, packaged, labeled, or otherwise placed the implant in the stream of commerce after it was manufactured.

(3) The term "harm" means any physical injury, illness, disease, or death or damage to property caused by a product. The term does not include commercial loss or loss or damage to a product itself.

(4) The term "product liability action" means a civil action brought on any theory for harm caused by a product or product use.

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

**SEC. 402. EFFECT ON OTHER LAW.**

Nothing in title I, II, or III shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any law;

(2) supersede any Federal law;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(5) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

**SEC. 403. FEDERAL CAUSE OF ACTION PRECLUDED.**

The district courts of the United States shall not have jurisdiction pursuant to this Act based on section 1331 or 1337 of title 28, United States Code.

**SEC. 404. EFFECTIVE DATE.**

Titles I, II, and III shall apply with respect to actions which are commenced after the date of the enactment of this Act.

The bill, as amended, was ordered to be engrossed and read a third time, was read a third time by title.

Mr. GORDON moved to recommit the bill to the Committee on the Judiciary with instructions to report the bill back to the House forthwith with the following amendment:

Add at the end of the bill the following:

**SEC. 404. SERVICE OF PROCESS.**

This Act shall not apply to a product liability action unless the manufacturer of the product or component part has appointed an agent in the United States for service of process from anywhere in the United States.

Change the limit in section 201 on punitive damages to the following: "3 times the amount of damages awarded to the claimant for the economic loss on which the claimant's action is based, or \$1,000,000, whichever is greater".

After debate,

By unanimous consent, the previous question was ordered on the motion to recommit with instructions.

The question being put, *viva voce*,

Will the House recommit said bill with instructions?

The SPEAKER pro tempore, Mr. WALKER, announced that the nays had it.

Mr. GORDON demanded a recorded vote on agreeing to said motion, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the { Yeas ..... 195  
 negative ..... Nays ..... 231

428 [Roll No. 228] AYES—195

- |              |             |                |
|--------------|-------------|----------------|
| Abercrombie  | de la Garza | Gordon         |
| Ackerman     | Deal        | Graham         |
| Andrews      | DeFazio     | Green          |
| Baesler      | DeLauro     | Gutierrez      |
| Baldacci     | Dellums     | Hall (OH)      |
| Barrett (WI) | Deutsch     | Hall (TX)      |
| Becerra      | Dickey      | Hamilton       |
| Beilenson    | Dicks       | Harman         |
| Bentsen      | Dingell     | Hastings (FL)  |
| Berman       | Dixon       | Hayes          |
| Bevill       | Doggett     | Hefner         |
| Bishop       | Dooley      | Hilliard       |
| Bonior       | Doyle       | Hinchey        |
| Borski       | Duncan      | Holden         |
| Boucher      | Durbin      | Hoyer          |
| Browder      | Edwards     | Jackson-Lee    |
| Brown (CA)   | Engel       | Jacobs         |
| Brown (FL)   | Eshoo       | Johnson (SD)   |
| Brown (OH)   | Evans       | Johnson, E. B. |
| Bryant (TX)  | Farr        | Johnston       |
| Cardin       | Fattah      | Kaptur         |
| Chapman      | Fazio       | Kennedy (MA)   |
| Clay         | Fields (LA) | Kennedy (RI)   |
| Clayton      | Filner      | Kennelly       |
| Clement      | Flake       | Kildee         |
| Clyburn      | Foglietta   | Kleczka        |
| Coleman      | Ford        | Klink          |
| Collins (IL) | Frank (MA)  | LaFalce        |
| Collins (MI) | Frost       | Lantos         |
| Conyers      | Furse       | Laughlin       |
| Costello     | Gejdenson   | Levin          |
| Coyne        | Gephardt    | Lewis (GA)     |
| Cramer       | Gibbons     | Lincoln        |
| Danner       | Gonzalez    | Lipinski       |

- |             |               |             |
|-------------|---------------|-------------|
| Lofgren     | Olver         | Slaughter   |
| Lowe        | Ortiz         | Spratt      |
| Luther      | Orton         | Stark       |
| Maloney     | Owens         | Stokes      |
| Manton      | Pallone       | Studds      |
| Markey      | Pastor        | Stupak      |
| Martinez    | Payne (NJ)    | Tanner      |
| Mascara     | Payne (VA)    | Tauzin      |
| Matsui      | Pelosi        | Taylor (MS) |
| McCarthy    | Peterson (FL) | Tejeda      |
| McCollum    | Pomeroy       | Thompson    |
| McDermott   | Poshard       | Thornton    |
| McHale      | Rahall        | Thurman     |
| McKinney    | Reed          | Torres      |
| McNulty     | Reynolds      | Trafiacant  |
| Meehan      | Richardson    | Tucker      |
| Meek        | Rivers        | Velazquez   |
| Menendez    | Roemer        | Vento       |
| Mfume       | Rose          | Visclosky   |
| Miller (CA) | Roybal-Allard | Volkmer     |
| Mineta      | Rush          | Ward        |
| Minge       | Sabo          | Waters      |
| Mink        | Sanders       | Watt (NC)   |
| Mollohan    | Sawyer        | Waxman      |
| Montgomery  | Schiff        | Williams    |
| Moran       | Schroeder     | Wilson      |
| Murtha      | Schumer       | Wise        |
| Nadler      | Scott         | Woolsey     |
| Neal        | Serrano       | Wyden       |
| Oberstar    | Skaggs        | Wynn        |
| Obey        | Skelton       | Yates       |

NOES—231

- |              |               |               |
|--------------|---------------|---------------|
| Allard       | Fawell        | LoBiondo      |
| Archer       | Fields (TX)   | Longley       |
| Armey        | Flanagan      | Lucas         |
| Bachus       | Foley         | Manzullo      |
| Baker (CA)   | Forbes        | Martini       |
| Baker (LA)   | Fowler        | McCrery       |
| Ballenger    | Fox           | McDade        |
| Barcia       | Franks (CT)   | McHugh        |
| Barr         | Franks (NJ)   | McInnis       |
| Barrett (NE) | Frelinghuysen | McKeon        |
| Bartlett     | Frisa         | Metcalf       |
| Barton       | Funderburk    | Meyers        |
| Bass         | Galleghy      | Mica          |
| Bateman      | Ganske        | Miller (FL)   |
| Bereuter     | Gekas         | Molinari      |
| Bilbray      | Geren         | Moorhead      |
| Bilirakis    | Gilchrest     | Morella       |
| Bilely       | Gillmor       | Myers         |
| Blute        | Gilman        | Myrick        |
| Boehlert     | Goodlatte     | Nethercutt    |
| Boehner      | Goodling      | Neumann       |
| Bonilla      | Goss          | Ney           |
| Bono         | Greenwood     | Norwood       |
| Brewster     | Gunderson     | Nussle        |
| Brownback    | Gutknecht     | Oxley         |
| Bryant (TN)  | Hancock       | Packard       |
| Bunn         | Hansen        | Parker        |
| Bunning      | Hastert       | Paxon         |
| Burr         | Hastings (WA) | Peterson (MN) |
| Burton       | Hayworth      | Petri         |
| Buyer        | Hefley        | Pickett       |
| Callahan     | Heineman      | Pombo         |
| Calvert      | Hergert       | Porter        |
| Camp         | Hilleary      | Portman       |
| Canady       | Hobson        | Pryce         |
| Castle       | Hoekstra      | Quillen       |
| Chabot       | Hoke          | Quinn         |
| Chambliss    | Horn          | Radanovich    |
| Chenoweth    | Hostettler    | Ramstad       |
| Christensen  | Houghton      | Regula        |
| Chrysler     | Hunter        | Riggs         |
| Clinger      | Hutchinson    | Roberts       |
| Coble        | Hyde          | Rogers        |
| Coburn       | Inglis        | Rohrabacher   |
| Collins (GA) | Istook        | Ros-Lehtinen  |
| Combest      | Johnson (CT)  | Roth          |
| Condit       | Johnson, Sam  | Roukema       |
| Cooley       | Jones         | Royce         |
| Cox          | Kasich        | Salmon        |
| Crane        | Kelly         | Sanford       |
| Crapo        | Kim           | Saxton        |
| Creameans    | King          | Scarborough   |
| Cunningham   | Kingston      | Schaefer      |
| Davis        | Klug          | Seastrand     |
| DeLay        | Knollenberg   | Sensenbrenner |
| Diaz-Balart  | Kolbe         | Shadegg       |
| Doolittle    | LaHood        | Shaw          |
| Dornan       | Largent       | Shays         |
| Dreier       | Latham        | Shuster       |
| Dunn         | LaTourette    | Sisisky       |
| Ehlers       | Lazio         | Skeen         |
| Ehrlich      | Leach         | Smith (MI)    |
| Emerson      | Lewis (CA)    | Smith (NJ)    |
| English      | Lewis (KY)    | Smith (TX)    |
| Ensign       | Lightfoot     | Smith (WA)    |
| Everett      | Linder        | Solomon       |
| Ewing        | Livingston    | Souder        |

Spence	Tiaht	Weldon (PA)
Stearns	Torkildsen	Weller
Stenholm	Upton	White
Stockman	Vucanovich	Whitfield
Stump	Waldholtz	Wicker
Talent	Walker	Wolf
Tate	Walsh	Young (AK)
Taylor (NC)	Wamp	Young (FL)
Thomas	Watts (OK)	Zeliff
Thornberry	Weldon (FL)	Zimmer

NOT VOTING—8

Cubin	McIntosh	Torrice
Jefferson	Moakley	Towns
Kanjorski	Rangel	

So the motion to recommit with instructions was not agreed to.

The question being put, *viva voce*,  
Will the House pass said bill?

The SPEAKER pro tempore, Mr. WALKER, announced that the yeas had it.

Mr. CONYERS demanded a recorded vote on passage of said bill, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the affirmative { Yeas ..... 265  
Nays ..... 161

42.9 [Roll No. 229]  
AYES—265

Allard	Dickey	Holden
Archer	Dooley	Horn
Armey	Doolittle	Hosettler
Bachus	Dornan	Houghton
Baesler	Dreier	Hunter
Baker (CA)	Duncan	Hutchinson
Baker (LA)	Dunn	Hyde
Ballenger	Edwards	Inglis
Barcia	Ehlers	Johnson (CT)
Barr	Ehrlich	Johnson, Sam
Barrett (NE)	Emerson	Jones
Bartlett	English	Kaptur
Barton	Ensign	Kasich
Bass	Everett	Kelly
Bereuter	Ewing	Kennelly
Bevill	Fawell	Kim
Bilbray	Fields (TX)	Kingston
Bilirakis	Flanagan	Klecicka
Bliley	Foley	Knollenberg
Blute	Forbes	Knollenberg
Boehlert	Fowler	Kolbe
Boehner	Fox	LaHood
Bonilla	Franks (CT)	Largent
Bono	Franks (NJ)	Latham
Boucher	Frelinghuysen	LaTourette
Brewster	Frisa	Laughlin
Browder	Funderburk	Lazio
Brownback	Gallagher	Leach
Bryant (TN)	Ganske	Lewis (CA)
Bunn	Gekas	Lewis (KY)
Bunning	Geren	Lightfoot
Burr	Gilchrest	Lincoln
Burton	Gillmor	Linder
Buyer	Gilman	Livingston
Callahan	Goodlatte	LoBiondo
Calvert	Goodling	Longley
Camp	Gordon	Lucas
Canady	Goss	Manzullo
Castle	Graham	McCollum
Chabot	Greenwood	McCrery
Chenoweth	Gunderson	McDade
Christensen	Gutknecht	McHugh
Chrysler	Hall (OH)	McInnis
Clement	Hall (TX)	McKeon
Clinger	Hamilton	McNulty
Coburn	Hancock	Metcalf
Collins (GA)	Hansen	Meyers
Combest	Harman	Mica
Condit	Hastert	Miller (FL)
Cooley	Hastings (WA)	Minge
Cox	Hayes	Molinari
Cramer	Hayworth	Montgomery
Crane	Hefley	Moorhead
Crapo	Hefner	Moran
Creameans	Heineman	Morella
Cunningham	Hergert	Myers
Danner	Hillery	Myrick
Davis	Hobson	Nethercutt
Deal	Hoekstra	Neumann
DeLay	Hoke	Ney

Norwood	Salmon	Tate
Nussle	Sanford	Tauzin
Oxley	Saxton	Taylor (MS)
Packard	Scarborough	Taylor (NC)
Parkar	Schaefer	Thomas
Paxon	Schiff	Thornberry
Payne (VA)	Seastrand	Tiaht
Peterson (FL)	Sensenbrenner	Torkildsen
Peterson (MN)	Shadegg	Trafciant
Petri	Shaw	Upton
Pombo	Shays	Vucanovich
Porter	Shuster	Waldholtz
Portman	Sisisky	Walker
Poshard	Skeen	Walsh
Pryce	Slaughter	Wamp
Quillen	Smith (MI)	Watts (OK)
Quinn	Smith (NJ)	Weldon (FL)
Radanovich	Smith (TX)	Weldon (PA)
Ramstad	Smith (WA)	Weller
Regula	Solomon	White
Riggs	Souder	Whitfield
Roberts	Spence	Wicker
Roemer	Spratt	Wolf
Rogers	Stearns	Young (AK)
Rohrabacher	Stenholm	Young (FL)
Ros-Lehtinen	Stockman	Zeliff
Roth	Stump	Zimmer
Roukema	Talent	
Royce	Tanner	

NOES—161

Abercrombie	Furse	Olver
Ackerman	Gejdenson	Ortiz
Andrews	Gephardt	Orton
Baldacci	Gonzalez	Owens
Barrett (WI)	Green	Pallone
Bateman	Gutierrez	Pastor
Becerra	Hastings (FL)	Payne (NJ)
Beilenson	Hinchee	Pelosi
Bentsen	Hoyer	Pickett
Berman	Istook	Pomeroy
Bishop	Jackson-Lee	Rahall
Bonior	Jacobs	Reed
Borski	Johnson (SD)	Reynolds
Brown (CA)	Johnson, E.B.	Richardson
Brown (FL)	Johnston	Rivers
Brown (OH)	Kanjorski	Rose
Bryant (TX)	Kennedy (MA)	Roybal-Allard
Cardin	Kennedy (RI)	Rush
Chapman	Kildee	Sabo
Clay	King	Sanders
Clayton	Klink	Sawyer
Clyburn	LaFalce	Schroeder
Coble	Lantos	Schumer
Coleman	Levin	Scott
Collins (IL)	Lewis (GA)	Serrano
Collins (MI)	Lipinski	Skaggs
Conyers	Lofgren	Skelton
Costello	Lowe	Stark
Coyne	Luther	Stokes
de la Garza	Maloney	Studds
DeFazio	Manton	Stupak
DeLauro	Markey	Tejeda
Dellums	Martinez	Thompson
Deutsch	Martini	Thornton
Diaz-Balart	Mascara	Thurman
Dicks	Matsui	Torres
Dingell	McCarthy	Torrice
Dixon	McDermott	Tucker
Doggett	McHale	Velazquez
Doyle	McKinney	Vento
Durbin	Meehan	Visclosky
Engel	Meek	Volkmer
Eshoo	Menendez	Ward
Evans	Mfume	Waters
Farr	Miller (CA)	Watt (NC)
Fattah	Mineta	Waxman
Fazio	Mink	Williams
Fields (LA)	Moakley	Wilson
Filner	Mollohan	Wise
Flake	Murtha	Woolsey
Foglietta	Nadler	Wyden
Ford	Neal	Wynn
Frank (MA)	Oberstar	Yates
Frost	Obey	

NOT VOTING—8

Chambliss	Hilliard	Rangel
Cubin	Jefferson	Towns
Gibbons	McIntosh	

So the bill was passed.

A motion to reconsider the vote whereby said bill was passed was, by unanimous consent, laid on the table.

Ordered, That the Clerk request the concurrence of the Senate in said bill.

42.10 CLERK TO CORRECT ENGROSSMENT

On motion of Mr. HYDE, by unanimous consent,

Ordered, That in the engrossment of the foregoing bill, the Clerk be authorized to correct section numbers, punctuation, cross references, and to make other technical corrections.

42.11 APPOINTMENT OF ADDITIONAL CONFEREES—S. 244

The SPEAKER pro tempore, Mr. WALKER, by unanimous consent and pursuant to clause 6(f) of rule X, announced the appointment of the following Members as additional conferees on the part of the House to the conference with the Senate on the disagreeing votes of the two Houses on the amendment of the House to the bill of the Senate (S. 244) to further the goals of the Paperwork Reduction Act to have Federal agencies become more responsible and publicly accountable for reducing the burden of Federal paperwork on the public, and for other purposes: Mrs. COLLINS of Illinois, Messrs. PETERSON of Minnesota and WISE.

Ordered, That the Clerk notify the Senate of the foregoing appointments.

42.12 COMMITTEE FUNDING

Mr. THOMAS, by direction of the Committee on House Oversight, reported (Rept. No. 104-74) the privileged resolution (H. Res. 107) providing amounts for the expenses of certain committees of the House of Representatives in the One Hundred Fourth Congress.

When said resolution and report were referred to the House Calendar and ordered printed.

42.13 PERMISSION TO FILE REPORT

On motion of Mr. GOODLING, by unanimous consent, the Committee on Economic and Educational Opportunities was granted permission until 5:00 p.m. today to file a report (Rept. No. 104-74) on the bill (H.R. 999) to establish a single, consolidated source of Federal child care funding; to establish a program to provide block grants to States to provide nutrition assistance to economically disadvantaged individuals and families and to establish a program to provide block grants to States to provide school-based food services to students; to restrict alien eligibility for certain education, training, and other programs; and for other purposes.

42.14 ADJOURNMENT OVER

On motion of Mr. ARMEY, by unanimous consent,

Ordered, That when the House adjourns today, it adjourn to meet at 2 o'clock p.m. on Monday, March 13, 1995.

42.15 HOUR OF MEETING

On motion of Mr. ARMEY, by unanimous consent,

Ordered, That when the House adjourns on Monday, March 13, 1995, it adjourn to meet at 12:30 p.m. on Tuesday, March 14, 1995, for "morning hour" debates.