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HOUSE OF REPRESENTATIVES
REPORT
109–249

PROVIDING FOR CONSIDERATION OF H.R. 554, PERSONAL RESPONSIBILITY IN FOOD CONSUMPTION ACT OF 2005

OCTOBER 17, 2005.—Referred to the House Calendar and ordered to be printed

Mr. GINGREY, from the Committee on Rules, submitted the following

R E P O R T

[To accompany H. Res. 494]

The Committee on Rules, having had under consideration House Resolution 494, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 554, the Personal Responsibility in Food Consumption Act of 2005, under a structured rule. The rule provides one hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The rule waives all points of order against consideration of the bill.

The rule provides that the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill shall be considered as an original bill for the purpose of amendment.

The rule makes in order only those amendments printed in this report. The rule provides that the amendments printed in this report may be considered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this 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 in the House or in the Committee of the Whole. The rule waives all points of order against the amendments printed in this report. The rule provides one motion to recommit with or without instructions.

EXPLANATION OF WAIVERS

The Committee on Rules is not aware of any points of order against consideration of the bill. The waivers of all points of order are prophylactic in nature.

SUMMARY OF AMENDMENTS MADE IN ORDER

(Summaries derived from information provided by sponsors.)

1. Sensenbrenner: Manager's Amendment. Makes technical changes to the section of the bill that sets out the types of information a plaintiff must provide to a judge to allow the court to determine whether the lawsuit should proceed or be dismissed. Clarifies that the pleading provision in H.R. 554 is meant to apply to all cases seeking obesity-related damages. Adds the phrase "for each defendant and cause of action" to clarify that a judge must apply H.R. 554's pleading requirements to each specific claim. This prevents a plaintiff from improperly using a claim that is not barred by H.R. 554 as a means of pursuing obesity-related claims that are barred by H.R. 554 against the same or other defendants. (10 minutes)

2. Jackson-Lee: Prohibits the food industry from initiating lawsuits against any person for damages or other relief due to injury or potential injury based on a person's consumption of a qualified food product and weight gain, obesity, or any health condition that is associated with a person's weight gain or obesity. (10 minutes)

3. Filner: Exempts those who are age eight and under from the provisions of this Act as it relates to large chain outlets. (10 minutes)

4. Scott (VA): Exempts State law enforcement actions from the impact of the legislation to ensure that Attorneys General and State agencies can enforce State consumer protection laws concerning mislabeling or other unfair and deceptive trade practices. (10 minutes)

5. Waxman: Exempts lawsuits involving a dietary supplement relating to a person's weight gain, obesity or any health condition associated with weight gain or obesity. (10 minutes)

TEXT OF AMENDMENTS MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SENSENBRENNER OF WISCONSIN, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 4, line 8, strike "(B)".

Page 5, line 9, strike "(B)".

Page 5, line 12, insert "for each defendant and cause of action" before the dash.

Page 5, line 13, insert "and the specific facts alleged to satisfy each element of the cause of action" before the semicolon.

Page 5, line 15, strike "were allegedly violated;" and insert "allegedly create the cause of action; and".

Page 5, line 16, strike "the specific facts" and all that follows through the end of line 19 and insert "the section 4(5)(B) exception being relied upon and the specific facts that allegedly satisfy the requirements of that exception.".

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE JACKSON-LEE OF TEXAS, OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 6, line 24, insert after "trade association," the following: "or a civil action brought by a manufacturer or seller of a qualified product, or a trade association, against any person,".

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3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FILNER OF CALIFORNIA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of the bill, add the following new section:

SEC. ___. LIMITATION.

Notwithstanding any other provision of this Act, this Act does not apply to an action brought by, or on behalf of, a person injured at or before the age of 8, against a seller that, as part of a chain of outlets at least 20 of which do business under the same trade name (regardless of form of ownership of any outlet), markets qualified products to minors at or under the age of 8.

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4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SCOTT OF VIRGINIA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of the bill, add the following new section:

SEC. ___. STATE CONSUMER PROTECTION ACTIONS.

Notwithstanding any other provision to the contrary in this Act, this Act does not apply to an action brought by a State agency to enforce a State consumer protection law concerning mislabeling or other unfair and deceptive trade practices.

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5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WAXMAN OF CALIFORNIA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of the bill, add the following new section:

SECTION ___. NOT APPLICABLE TO DIETARY SUPPLEMENTS.

Notwithstanding any other provision of this Act, this Act does not apply to a claim of injury involving a dietary supplement relating to a person's weight gain, obesity or any health condition associated with weight gain or obesity.

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