

concern or negligence, if plaintiff is 50 percent responsible then either there should be comparative negligence or contributory negligence should preclude a recovery. It should not just be limited in that one situation. In fact, I can think of far more egregious actions on the part of the plaintiff than simply being drunk or under the influence of alcohol.

Third, there is a provision that I spoke to earlier that says that, in a product liability case, the seller should not have to pay for the manufacturer's liability. It seems to me that should apply in any kind of situation. In no case should the seller be required to pay for the manufacturer's liability simply because you cannot find the manufacturer or the manufacturer does not have insurance to pay. If the seller was not responsible in any way, then the seller should not have to pay the damages.

As I said, notwithstanding these areas in which I believe S. 565 could be broadened, I think it is important we not allow the perfect to be the enemy of the good, and therefore we should support whatever reforms we can accomplish. In the last 5 years cloture motions have effectively barred votes on the merits of bills similar to this that were supported by a majority of the Senate. We should not allow this to happen again.

So I would like to close by addressing one of the most frequently cited and most unpersuasive arguments employed by the opponents of the national legal reform, only one, but I think it is important to establish this right up front because it has the superficial sense of States rights about it and suggests that those of us who support this legislation do not trust the States.

As someone who is a very strong States' rights supporter, who is very interested in allowing local decision-making, I want to make very clear our basis for supporting this legislation. This legislation would not prohibit a State from enacting more restrictive provisions so we are not saying the Federal Government should take over this area of law to the exclusion of the States at all. We are simply establishing a standard. If the States wish to be more restrictive they are entitled to do so.

It is not appropriate to argue it would be an unconstitutional preemption of State authority if we were to act in this fashion. The commerce clause clearly grants the United States the authority to act. No individual State can solve the problems created by abusive litigation of the kind we have been discussing here and that is particularly true with product liability where a product may be manufactured in one State, sold in another State, and cause injury in a third State. In fact, Government figures establish that on average over 70 percent of the goods manufactured in one State are shipped out of State for sale and use. So it is

clear that a national solution is required and justified by the fundamental interstate character of produce commerce.

The threat of disproportionate unpredictable punitive damages awards exerts an impact far beyond the borders of individual States, and this threat influences investment strategies, it dampens job creation and prevents new products from reaching the marketplace. In an increasingly integrated national and international economy, the confusing inconsistent patchwork of State liability awards has created a major obstacle to America's economic strength. And I think this is precisely the kind of problem the Framers gave Congress the power to address through the commerce clause of the U.S. Constitution. The Framers clearly realized the National Government needed the power to prevent the chaos that would result if every State could regulate interstate commerce. That is one of the reasons, as a matter of fact, that the Articles of Confederation were required to be amended.

Opponents of legal reform profess concern about the preemption of State law and interference with States rights, but I note that many of these same interests are enthusiastic supporters of intrusive Federal regulations imposed on the States by OSHA, by the FDA, by the EPA, and other Federal regulators. In truth, States rights is not what is being defended here but rather the status quo or else.

Why is the multimillion-dollar litigation industry the only segment of the economy that opponents of legal reform believe is beyond the reach of Federal law? Legal reform will not cause the creation of a single new Federal program or the expenditure of a single new appropriation. Legal reform will not impose new taxes or new regulations on our citizens. Legal reform will simply create clear, consistent legal standards covering civil actions brought in State and Federal court. It will enhance the essential principle of due process and, as the U.S. Supreme Court has said, due process, criminal and civil, is fundamental to our concept of ordered liberty.

So, Mr. President, I hope we keep these thoughts in mind as we debate this important, and as I said at the beginning, historic legislation, and that in the end we will have found the wisdom and courage to make these reforms so we can pass them on to the President for his signature and begin the process of restoring more sensibility, more common sense, more fairness into the U.S. tort system.

I yield the floor, Mr. President.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. KYL. Mr. President, I have several announcements and requests for unanimous consent. I would note all of these have been cleared with the minority and therefore I wish to make them at this time.

First, Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE RECEIVED DURING THE ADJOURNMENT

Under the authority of the order of January 4, 1995, the Secretary of the Senate on April 7, 1995, during the adjournment of the Senate received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

H.R. 889. An act making emergency supplemental appropriations and rescissions to preserve and enhance the military readiness of the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes;

S. 178. An act to provide for the safety of journeymen boxers, and for other purposes; and

S. 244. An act 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.

The enrolled bills were signed on April 7, 1995 by the President pro tempore (Mr. THURMOND).

Under the authority of the order of January 4, 1995, the Secretary of the Senate on April 12, 1995, during the adjournment of the Senate received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

H.R. 1345. An act to eliminate budget deficits and management inefficiencies in the government of the District of Columbia through the establishment of the District of Columbia Financial Responsibility and Management Assistance Authority, and for other purposes.

The enrolled bills were signed on April 12, 1995 by the President pro tempore (Mr. THURMOND).

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United

States submitting sundry nominations and two treaties which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MEASURES PLACED ON THE CALENDAR

The following measure was read the second time and placed on the calendar:

H.R. 483. An act to amend title XVIII of the Social Security Act to permit Medicare select policies to be offered in all States, and for other purposes.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 1380. An act to provide a moratorium on certain class action lawsuits relating to the Truth in Lending Act.

REPORTS OF COMMITTEES SUBMITTED DURING ADJOURNMENT

Under the authority of the order of the Senate of April 6, 1995, the following reports of committees were submitted on April 18, 1995:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 719: A bill to provide for the conservation, management, and administration of certain parks, forests, and other areas, and for other purposes (Rept. No. 104-49).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 694: A bill entitled the "Minor Boundary Adjustments and Miscellaneous Park Amendments Act of 1995" (Rept. No. 104-50).

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

S. 268: A bill to authorize the collection of fees for expenses for triploid grass carp certification inspections, and for other purposes (Rept. No. 104-51).

By Mr. CHAFEE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 534: A bill to amend the Solid Waste Disposal Act to provide authority for States to limit the interstate transportation of municipal solid waste, and for other purposes (Rept. No. 104-53).

By Mr. MCCAIN, from the Committee on Indian Affairs, without amendment:

S. 441: A bill to reauthorize appropriations for certain programs under the Indian Child Protection and Family Violence Prevention Act, and for other purposes (Rept. No. 104-53).

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 84: A bill to authorize the Secretary of Transportation to issue a certificate of documentation and coastwise trade endorsement for the vessel *Bagger*, and for other purposes (Rept. No. 104-54).

S. 172: A bill to authorize the Secretary of Transportation to issue a certificate of documentation for the vessel *L.R. Beattie* (Rept. No. 104-55).

S. 212: A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for

employment in the coastwise trade for the vessel *Shamrock V* (Rept. No. 104-56).

S. 213: A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Endeavour* (Rept. No. 104-57).

S. 278: A bill to authorize a certificate of documentation for the vessel *Serenity* (Rept. No. 104-58).

S. 279: A bill to authorize a certificate of documentation for the vessel *Why Knot* (Rept. No. 104-59).

S. 475: A bill to authorize a certificate of documentation for the vessel *Lady Hawk* (Rept. No. 104-60).

S. 480: A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Gleam* (Rept. No. 104-61).

S. 482: A bill to authorize the Secretary of Transportation to issue a certificate of documentation and coastwise trade endorsement for the vessel *Emerald Ayes* (Rept. No. 104-62).

S. 492: A bill to authorize the Secretary of Transportation to issue a certificate of documentation for the vessel *Intrepid* (Rept. No. 104-63).

S. 493: A bill to authorize the Secretary of Transportation to issue a certificate of documentation for the vessel *Consortium* (Rept. No. 104-64).

S. 527: A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Empress* (Rept. No. 104-65).

S. 528: A bill to authorize the Secretary of Transportation to issue a certificate of documentation and coastwise trade endorsement for three vessels (Rept. No. 104-66).

S. 535: A bill to authorize the Secretary of Transportation to issue certificates of documentation with appropriate endorsement for employment in coastwise trade for each of 2 vessels named *Gallant Lady*, subject to certain conditions, and for other purposes (Rept. No. 104-67).

S. 561: A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Isabelle*, and for other purposes (Rept. No. 104-68).

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 565: A bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes (Rept. No. 104-69).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BROWN:

S. 720. A bill to amend rule 11 of the Federal Rules of Civil Procedure, relating to representations in court and sanctions for violating such rule, and for other purposes; to the Committee on the Judiciary.

By Ms. SNOWE (for herself and Mr. COHEN):

S. 721. A bill to impose a moratorium on sanctions under the Clean Air Act with respect to marginal and moderate ozone non-attainment areas, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. NICKLES (for himself, Mr. INHOFE, Mr. DOLE, Mr. DASCHLE, Mr. HATCH, Mr. HELMS, Mr. BROWN, Mr. SMITH, Mrs. FEINSTEIN, Mr. DODD, Mr. BYRD, Mr. CONRAD, Mr. FORD, Mr. KOHL, Ms. MOSELEY-BRAUN, Mrs. MURRAY, Mr. ROBB, Mr. ROCKEFELLER, Mr. LIEBERMAN, Mr. ABRAHAM, Mr. ASHCROFT, Mr. BENNETT, Mr. BOND, Mr. BURNS, Mr. CAMPBELL, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DOMENICI, Mr. FAIRCLOTH, Mr. FRIST, Mr. GORTON, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mrs. HUTCHISON, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. KEMPTHORNE, Mr. KYL, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. PACKWOOD, Mr. PRESSLER, Mr. ROTH, Mr. SANTORUM, Mr. SHELBY, Mr. SIMPSON, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, and Mr. WARNER):

S. Res. 110. A resolution expressing the sense of the Senate condemning the bombing in Oklahoma City.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BROWN:

S. 720. A bill to amend rule 11 of the Federal Rules of Civil Procedure, relating to representations in court and sanctions for violating such rule, and for other purposes; to the Committee on the Judiciary.

LEGISLATION TO DETER FRIVOLOUS LITIGATION

● Mr. BROWN. Mr. President, the United States has become the most litigious society in history. The filing of frivolous or baseless claims has begun to jeopardize our system of redress for legitimate claims. Neither the parties nor the courts can or should shoulder the costs of the frivolous, baseless, or harassing suits.

Last Congress, changes were proposed to rule 11. By law, unless Congress acted to prevent or modify those changes, they would automatically become law. This body refused to consider the changes to rule 11. Protection against frivolous lawsuits included under rule 11 were repealed by Congress's refusal to act. As a consequence, rule 11 no longer provides clear deterrence to frivolous lawsuits. The changes of last year in effect protect the abuser, not the abused.

If this Congress wishes to address civil justice reform, the first place to start is with rule 11 and frivolous litigation.

I have introduced a bill that would breath life back into rule 11 and once again deter those who abuse the court system.

Last Congress, rule 11 was changed in significant ways. Under the new, ineffective rule 11, if a court finds the rule was violated, sanctions are no longer