

in pursuing through the judicial and legislative system a just solution to a wrong about which he felt strongly. He can be assured that we will work quickly to get this piece of legislation to the President's desk for his signature so that Mr. Besman's fight for all music writers and publishers can come to a rewarding end.

Mr. Speaker, all of the provisions contained in this bill are necessary for the proper functioning of the U.S. Copyright Office and the Copyright system, I am unaware of any opposition to this legislation, and I urge a favorable vote on H.R. 1861.

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

Mrs. SCHROEDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker. I again thank my subcommittee chairman, the distinguished gentleman from California, [Mr. MOORHEAD], and I join the subcommittee chairman and the members of the subcommittee in supporting H.R. 1861, which has a whole number of provisions that clarify the copyright law.

So we are doing two things today. In the prior bill we increased the penalties, and here we are making it as clear as possible what the copyright law should be. Some of these provisions correct drafting errors in prior recent amendments to the law. Other provisions are intended to assist the Copyright Office in carrying out their duties. These provisions are basically technical and housekeeping in nature. This is one of the few housekeeping tasks I ever do in my role here. They are described in detail in the bill report that accompanies this.

Another provision reinstates the longstanding view of the Copyright Office that has been confirmed by the Second Circuit Court of Appeals that the sale or distribution of recordings to the public before 1978 did not constitute publication of the music composition embodied in the recording.

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This longstanding view, however, was rejected by the ninth circuit last year, and that created a good deal of uncertainty for many musical works that have been recorded and sold before 1978. This bill is intended to remove that uncertainty by confirming the longstanding view of the Copyright Office and what everybody had thought had been the law before the ninth circuit decision.

Finally, there is a narrowly crafted provision that enables independent service organizations that have the ability to activate a computer to maintain and repair its hardware components without becoming liable for copyright infringement.

I want to emphasize the extremely narrow reach of this provision. It is designed to maintain undiminished copyright protection to authors of computer programs, while making it possible for third parties to service the computer hardware.

The provisions of this bill have received the support of the Register of Copyrights who testified before our subcommittee on behalf of the U.S. Copyright Office. I urge my colleagues to support this bill.

Mr. Speaker, having no further requests for time, I yield back the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan [Mr. KNOLLENBERG].

Mr. KNOLLENBERG. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I want to thank Chairman MOORHEAD for pushing this bill through Congress. It is a tribute to his fine leadership—and leadership we will miss when he departs at the end of this Congress.

I am very pleased the chairman has provided this opportunity to move this important, bipartisan bill through the House. My bill, H.R. 533, has been included in this legislation, and I want to extend my appreciation to the chairman for choosing to include our language.

My bill is designed to ensure that independent service organizations [ISO's] do not inadvertently become liable for copyright infringement merely because they have turned on a machine in order to service its hardware components.

As it is written, current law holds them liable when they flip the switch. It places a heavy burden on our workers who need to service our computer systems. And a strict enforcement of this law could shut down the multibillion dollar high technology maintenance industry which provides thousands of jobs.

In today's business world, our computer service technicians must have the flexibility to do their jobs without the fear they are breaking copyright laws.

Every day our reliance on our computer systems is growing, and in today's deadline-filled, rushed business world, minutes can mean millions.

These restrictions also have a negative impact on consumers. Costs and convenience are major factors when using specific computer service people. Forcing consumers into strict requirements of who can and cannot service your computer will certainly negatively impact consumers and businesses alike.

With the personal computer as common in our day-to-day lives as any other household item, we need to give our computer repairmen the flexibility and opportunity to service our systems.

At this point I would like to enter into a colloquy with the distinguished chairman of the Courts and Intellectual Property Subcommittee.

Mr. Chairman, the report language states:

When a computer is activated, that is when it is turned on, certain software or parts thereof (generally the machine's operating

system software) is automatically copied into the machine's random access memory, or RAM.

In the very next sentence it states:

During the course of activating the computer, different parts of the operating system may reside in the RAM at different times because the operating system is sometimes larger than the capacity of the RAM.

Mr. Chairman, does activating the computer mean allowing the entire operating system to be loaded by the computer into the RAM, even if different parts of the operating system are not loaded in one step?

Mr. MOORHEAD. If the gentleman will yield, Mr. Speaker, the gentleman is correct. Activation may include getting the different parts of the operating system through the RAM. Because the entire operating system may not entirely fit into the RAM, activation may proceed through a series of steps until the entire operating system is fully loaded.

Mr. KNOLLENBERG. Again, I want to thank the chairman for his efforts and hard work. I want to thank him for including my legislation in this bill.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MOORHEAD] that the House suspend the rules and pass the bill, H.R. 1861, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

BOATING AND AVIATION OPERATION SAFETY ACT OF 1996

Mr. GEKAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 234) to amend title 11 of the United States Code to make nondischargable a debt for death or injury caused by the debtor's operation of watercraft or aircraft while intoxicated, as amended.

The Clerk read as follows:

H.R. 234

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 "Boating and Aviation Operation Safety Act of 1996".

SEC. 2. AMENDMENT.

Section 523(a)(9) of title 11, United States Code, is amended by inserting " , watercraft, or aircraft" after "motor vehicle".

SEC. 3. EFFECTIVE DATE; APPLICATION OF AMENDMENT.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendment made by section 2 shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENT.—The amendment made by section 2 shall not apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. GEKAS] and the gentleman from Rhode Island [Mr. REED] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GEKAS].

GENERAL LEAVE

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on H.R. 234, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 234, the Boating and Aviation Operation Safety Act and urge its adoption by the House.

Mr. Speaker, prior to 1984, it was possible in some realms in bankruptcy to have the spectacle of a drunk driver who causes untold adverse consequences, damages, and injuries to an innocent victim and then we could observe a phenomenon whereby a judgment would be entered against this drunk driver for the damage that he has caused and then to see the drunk driver enter bankruptcy and have his whole obligation wiped out, discharged, because of the safe haven that a bankruptcy would accord him.

In 1984, the Congress passed legislation that would make nondischargeable that kind of situation. That is, if that scenario were repeated after 1984, notwithstanding the fact that a drunk driver later would try to file for bankruptcy, even if he were accorded the safeguards of bankruptcy, this particular obligation on drunk driving damages that he had caused would not be discharged from bankruptcy.

Now, bringing us up to date here today, it has come to pass that several cases have come up on watercraft drunk operation, and then the courts became split as to whether the nondischargeability of a debt of a drunk driver would apply to a drunk boat operator.

So we have this legislation here to clarify all of those distinctions and controverted issues and solve the situation. In other words, this legislation would add watercraft of any type where operated by someone who is drunk, who causes damages, that kind of damage would not be dischargeable in bankruptcy to accompany the same prohibition that now exists in the law for drunk driving of land vehicles, as it were.

That is the whole purpose of the legislation. But there are some matters that we wanted to clear up, so we will enter into a colloquy, or after the statement of the gentleman from Rhode Island [Mr. REED], we will enter into a colloquy to further clarify some of these distinctions.

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

Mr. REED. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the bill. The goal of chapter 7 and chapter 13 bankruptcy proceedings is to give the debtor a fresh start by discharging his or her debts, either after liquidation of assets and payments to creditors in chapter 7 or after a 3- to 5-year consumer reorganization repayment period in chapter 13.

However, certain debts, such as alimony and child support, are non-dischargeable. The bankruptcy code already prohibits the discharge of debt arising from the operation of a motor vehicle while intoxicated, and there have been three reported cases interpreting this section of the bankruptcy code. Two have held that the motor boat falls within the meaning of motor vehicle; one held the opposite.

This bill, introduced by the gentleman from Michigan [Mr. EHLERS], would add watercraft and aircraft to the phrase motor vehicle in section 523(a)(9).

This addition would clarify and emphasize that current law already prohibits the discharge of debts incurred through the drunken operation of boats and aircraft, as well as cars. H.R. 234 would eliminate further confusion in the courts about the intended scope of this statute.

I commend the gentleman from Michigan [Mr. EHLERS] for his interest in this issue. My home State of Rhode Island is known as the Ocean State. We have thousands of people operating all types of watercraft off our shores. Regrettably, in the next few weeks we will probably have tragic incidents in which people are injured and perhaps killed by someone who irresponsibly drank and piloted a boat.

One of the witnesses at the subcommittee hearing on this issue testified that 25 percent of the reported boating accidents in Maryland involved people with elevated blood alcohol levels. Clearly, this type of dangerous and irresponsible behavior is something we must try to discourage by all means at our disposal, and using the bankruptcy code to do so I think is appropriate. This clarification is indeed a very useful clarification of the code.

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

Mr. GEKAS. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan [Mr. EHLERS].

Mr. EHLERS. Mr. Speaker, I want to thank the chairman of the subcommittee not only for yielding time but also for taking this bill up in the subcommittee and lending his support to it.

As my colleagues have heard, this bill is necessary because the current law simply specifies motor vehicle, and that has been interpreted in three different ways by the courts.

In 1989, there was a case in Florida in which the judge ruled that motor vehicle included a boat or an airplane, operated respectively on a waterway or on an airway.

In a later decision in 1993, another court held that motor vehicle clearly was intended to apply only to an automobile and, therefore, did not apply to watercraft or aircraft.

Once again, in 1995, there was a judgment in another court that, indeed, motor vehicle included boats and aircraft.

So it is not only necessary to pass this particular bill to make certain that we include aircraft and watercraft as vehicles whose illegal operations by someone who is drunk or on drugs results in a nondischargeable debt during bankruptcy, but it is also very important to make this clear because the courts have ruled in different fashions in these various cases. Therefore, I appreciate the committee taking up the bill and giving us an opportunity to clarify this.

The bill itself is very simple. It simply makes clear that anyone who is operating a motor vehicle, a watercraft or an aircraft illegally by virtue of being intoxicated from using alcohol, a drug or another substance may not hide from responsibility for damages by making this a dischargeable debt by declaring bankruptcy. Clearly, this can be labeled as a victims' rights bill, because this will ensure that victims of such a drunk or drugged operator will receive adequate compensation and they cannot be deprived of that compensation simply by virtue of the perpetrator having declared bankruptcy.

I urge that the bill be passed, and I thank the chairman, once again, for his diligent work on this issue.

Mr. REED. Mr. Speaker, I yield myself such time as I may consume for the purpose of conducting a colloquy with my colleague, the distinguished gentleman from Pennsylvania [Mr. GEKAS], and I would ask the gentleman if he would answer a question.

Mr. GEKAS. Mr. Speaker, if the gentleman will yield, I would be happy to.

Mr. REED. Mr. Speaker, how is watercraft to be defined?

Mr. GEKAS. A watercraft is a buoyant craft operated by a person in the water—as an aircraft is an airborne craft operated by a person in the air or in the act of taking off or landing.

As I have said, our intent is to protect the public from intoxicated operators of watercraft and aircraft. It matters not whether the watercraft is a motorboat, a personal watercraft, a barge, a canoe, a kayak, a rowboat or whatever, or whether the aircraft is jet propelled, or propeller driven, or a glider or a hang glider—you name it. There is no requirement that the watercraft or aircraft be powered by an engine. Under this legislation, it is the unlawful operation of a watercraft or aircraft by an intoxicated operator resulting in death or personal injury that gives rise to a nondischargeable debt.

Mr. REED. I thank the gentleman.

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

Mr. GEKAS. Mr. Speaker, I want to thank the gentleman from Michigan

[Mr. EHLERS] for the initiative that he displayed in bringing this matter to the conclusion that it has found today, and I ask the Members to extend their support to the current legislation.

Ms. DELAURO. Mr. Speaker, I rise in strong support of H.R. 234, the Boating and Aviation Safety Act. The bill amends Federal bankruptcy law to ensure financial responsibility for individuals who cause deaths or injuries by operation of a boat or aircraft while under the influence of drugs or alcohol. Specifically, the measure prohibits bankruptcy courts from discharging an individual's debts for wrongful death or injuries if caused by the individual's operation of a motor vehicle, boat, or aircraft while intoxicated.

This legislation is extremely important to residents of my district, many of whom live on the shoreline of the Long Island Sound. Boating accidents are an unfortunate reality on a highly active waterway. As the summer boating season begins, it is essential to provide the victims of preventable boating accidents the same recourse for reckless piloting of boats on our waters as any victim of an accident in a car. This important legislation would extend the bankruptcy law that pertains to operators of motor vehicles to operators of boats and aircraft. This is a matter of fairness.

While some bankruptcy courts have used a broad interpretation of the motor vehicle to include operators of aircraft and boats in cases of injury or death to others due to intoxication, some have not. In order to ensure justice to the victims of boating accidents and their families we must pass this measure today.

We must send a strong message to boat operators: If you drink and operate a boat you are going to face the same harsh punishment that you would if you drink and drive. I strongly support this bill and urge its immediate adoption.

Mr. GEKAS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. GEKAS] that the House suspend the rules and pass the bill, H.R. 234, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

□ 1530

ADMINISTRATIVE DISPUTE RESOLUTION ACT OF 1996

Mr. GEKAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2977) to reauthorize alternative means of dispute resolution in the Federal administrative process, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2977

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 "Administrative Dispute Resolution Act of 1996".

SEC. 2. AMENDMENT TO DEFINITIONS.

Section 571 of title 5, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking "in lieu of an adjudication as defined in section 551(7) of this title,";

(B) by striking "settlement negotiations,"; and

(C) by striking "and arbitration" and inserting "arbitration, and use of ombudsmen"; and

(2) in paragraph (8)—

(A) in subparagraph (B) by striking "decision," and inserting "decision,"; and

(B) by striking the matter following subparagraph (B).

SEC. 3. AMENDMENTS TO CONFIDENTIALITY PROVISIONS.

(a) LIMITATION OF CONFIDENTIALITY APPLICATION TO COMMUNICATION.—Section 574(a) of title 5, United States Code, is amended in the matter before paragraph (1) by striking "any information concerning".

(b) ALTERNATIVE CONFIDENTIALITY PROCEDURES.—Section 574(d) of title 5, United States Code, is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) To qualify for the exemption established under subsection (j), an alternative confidential procedure under this subsection may not provide for less disclosure than the confidential procedures otherwise provided under this section."

(c) EXEMPTION FROM DISCLOSURE BY STATUTE.—Section 574(j) of title 5, United States Code, is amended by striking "This section" and inserting "This section (other than subsection (a))".

SEC. 4. AMENDMENT TO REFLECT THE CLOSURE OF THE ADMINISTRATIVE CONFERENCE.

(a) PROMOTION OF ADMINISTRATIVE DISPUTE RESOLUTIONS.—Section 3(a)(1) of the Administrative Dispute Resolution Act (5 U.S.C. 581 note; Public Law 101-552; 104 Stat. 2736) is amended by striking "the Administrative Conference of the United States and".

(b) COMPILATION OF INFORMATION.—

(1) IN GENERAL.—Section 582 of title 5, United States Code, is repealed.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 5, United States Code, is amended by striking the item relating to section 582.

(c) FEDERAL MEDIATION AND CONCILIATION SERVICE.—Section 203(f) of the Labor Management Relations Act, 1947 (29 U.S.C. 173(f)) is amended by striking "the Administrative Conference of the United States and".

SEC. 5. AMENDMENTS TO SUPPORT SERVICE PROVISION.

Section 583 of title 5, United States Code, is amended by inserting "State, local, and tribal governments," after "other Federal agencies,".

SEC. 6. AMENDMENTS TO THE CONTRACT DISPUTES ACT.

Section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605) is amended—

(1) in subsection (d) by striking the second sentence and inserting: "The contractor shall certify the claim when required to do so as provided under subsection (c)(1) or as otherwise required by law."; and

(2) in subsection (e) by striking the first sentence.

SEC. 7. AMENDMENTS ON ACQUIRING NEUTRALS.

(a) EXPEDITED HIRING OF NEUTRALS.—

(1) COMPETITIVE REQUIREMENTS IN DEFENSE AGENCY CONTRACTS.—Section 2304(c)(3)(C) of title 10, United States Code, is amended by striking "agency, or" and inserting "agency, or to procure the services of an expert or neutral for use".

(2) COMPETITIVE REQUIREMENTS IN FEDERAL CONTRACTS.—Section 303(c)(3)(C) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(3)(C)), is amended by striking "agency, or" and inserting "agency, or to procure the services of an expert or neutral for use".

(b) REFERENCES TO THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES.—Section 573 of title 5, United States Code, is amended—

(1) by striking subsection (c) and inserting the following:

"(c) In consultation with other appropriate Federal agencies and professional organizations experienced in matters concerning dispute resolution, the Federal Mediation and Conciliation Service shall—

"(1) encourage and facilitate agency use of alternative means of dispute resolutions; and

"(2) develop procedures that permit agencies to obtain the services of neutrals on an expedited basis.";

(2) in subsection (e) by striking "on a roster established under subsection (c)(2) or a roster maintained by other public or private organizations, or individual".

SEC. 8. PERMANENT AUTHORIZATION OF THE ALTERNATIVE DISPUTE RESOLUTION PROVISIONS OF TITLE 5, UNITED STATES CODE.

The Administrative Dispute Resolution Act (Public Law 101-552; 104 Stat. 2747; 5 U.S.C. 581 note) is amended by striking section 11.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Subchapter IV of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 584. Authorization of appropriations

"There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subchapter."

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 5, United States Code, is amended by inserting after the item relating to section 583 the following:

"584. Authorization of appropriations."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. GEKAS] and the gentleman from Rhode Island [Mr. REED] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2977 and urge its adoption by the House. The Administrative Dispute Resolution Act was signed into law by President Bush back in 1990. From what we were able to discern over the 5 years of its operation, it did a world of good.

This administrative resolution syndrome is one in which Federal agencies are given an additional tool to try to settle disputes that might arise between agencies or between an agency and a contractor, shall we say, a government contractor, or a private citizens group, or anyone who runs into and becomes embroiled in a dispute with a Federal agency. Hence, the administrative procedure that was set up