

all parties equally. H.R. 1084, as drafted, requires serious analysis and amendment by this committee.

Section 3, as drafted, departs from the 1997 Volunteer Protection Act by shielding not only the volunteer pilot from liability but also the staff, mission coordinator, officer, or director of the nonprofit organization. This expansion of protection is far too broad to justify the proposed benefits it intends to confer. An injured party has a right to bring a claim for recovery of damages against some principal of the nonprofit organization or responsible party, and the Courts should retain discretion as to whether it will hear the matter.

Congress should legislate when necessary, especially in areas of the law that affect individuals' right to sue for damages. To date, there has been no reported civil liability case filed against a volunteer pilot or against a volunteer pilot organization. Furthermore, 43 states, which include Texas, have passed legislation that deals with volunteer liability. Therefore, this Committee has no immediate need to consider this legislation and can better spend its time working on legislation to implement the recommendations of the 9/11 Commission or other similar legislative agendas.

Therefore, I would have offered two amendments. I would have offered an amendment that would have narrowed the scope of the liability protection given to volunteers of nonprofit pilot organizations to cover persons within the aircraft only. The rights of the bystander who is not inside the aircraft and who might be injured through the negligence of the pilot should be preserved given that no compelling justification has been given to include those outside the aircraft, from relief.

In addition, the appropriate scope of this legislation should be the volunteer-injured person for policy reasons. One of the purported purposes of this legislation is to encourage continued service to individuals in rural areas or who do not have the financial means to receive this service otherwise.

The proposed language of my "bystander" amendment would have clarified and narrowed the scope of this legislation.

I also planned to offer an amendment that would prevent perpetrators of hate crimes in the last 5 years (as defined in the Hate Crime Statistics Act) from receiving the benefits of this legislation. This Act defines "hate crimes" as those which "manifest prejudice based on race, religion, sexual orientation, disability or ethnicity."

In 1991, the FBI documented a total of 4,558 hate crimes, reported from nearly 2,800 police departments in 32 states. The FBI's most recent HCSA report, for 1996, documented 8,759 hate crimes reported to the FBI by 11,355 agencies across the country.

Because the incidence of hate crimes is so large and an aircraft has been demonstrated to be a highly effective instrumentality of terrorist offenses, no one convicted of a hate crime should be allowed to benefit under this legislation or a pilot.

While I have reservations about certain provisions of this proposal, I recognize the benefits that it can bring to injured parties. Therefore, I ask that my colleagues support this legislation.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

This bill is narrowly drawn and is different from the other bills because vic-

tims of negligence will have recourse. It is similar to Good Samaritan State laws that immunize volunteers but fails to immunize them from automobile accidents because there is an expectation that the automobile will have insurance. So victims of the negligence will have recourse.

This bill requires insurance so victims, either on the plane or on the ground, will have recourse against the insurance policy but not against the volunteer organization. That is an appropriate balance, and I support the legislation.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I think we should make it very clear that this bill is narrowly drawn. There is liability to the volunteer pilot for willful or criminal misconduct, gross negligence, reckless misconduct or conscious flagrant indifference to the rights and safety of the individual that is harmed by the volunteer. Anything that rises above ordinary negligence, there is no immunity involved.

I guess I would be remiss if I did not express my concern that there have been allegations that passing this bill will increase the risk of terrorism. The volunteer pilots who fly these important missions are carefully screened professionals. They undergo background checks that are above and beyond those that are required for licensure as a pilot, and many of the pilots who do volunteer their services are commercial pilots when they are being paid. I think that the checks that a terrorist could slip through are so severe that the chances of that happening really do not exist at all.

I take great umbrage at the notion that the passage of this bill, which provides a limited immunity from liability, opens the door, even a crack, to increased risk of terrorism in the airways. I would hope that the House would reject this notion by passing this bill overwhelmingly.

Mr. CONYERS. Mr. Speaker, I cannot support H.R. 1084, the "Volunteer Pilot Organization Protection Act" for the following reasons: First, it undoes the balance achieved in the Volunteer Protection Act by specifically exempting pilots and aircraft carriers from liability; second, it not only applies to pilots, but also to staff, mission coordinators, officers and directors of volunteer pilot organizations, and referring agencies, whether for profit or not-for-profit; third, it would leave innocent victims without recourse in some situations by reducing the standard of care applicable to pilots; fourth, it does nothing to tackle the real problem, which is the insurance industry's failure to offer insurance to the volunteer pilot organizations; finally, it is poorly drafted and includes loopholes that would insulate international terrorist organizations from liability and subjects innocent bystanders to harm without any recourse.

H.R. 1084 flies in the face of the Volunteer Protection Act, a bill Congress passed into law

after 8 years of debate extending over 5 Congresses. The Volunteer Protection Act was carefully deliberated and negotiated, but this bill wipes the slate clean by giving volunteer pilots protection from liability despite the fact that the Volunteer Protection Act specifically excluded that category of volunteers from protection.

Under the Volunteer Protection Act, pilots and those operating aircraft were specifically left out of the liability exemption because of the highly dangerous nature of the activity and the fact that States require these pilots to have insurance. This bill undoes that and exempts pilots from liability.

Moreover, it goes further than the Volunteer Protection Act was willing to go by giving this exemption to not only the pilots, but also to staff, mission coordinators, officers and directors of volunteer pilot organizations, and referring agencies, whether for profit or not-for-profit. In the Volunteer Protection Act, Congress made sure that it was only the volunteers being protected.

Finally, H.R. 1084 does nothing to tackle the real problem, which is the insurance industry's failure to offer insurance to the volunteer pilot organizations. In testimony we heard on this bill, it was suggested that these nonprofit volunteer pilot organizations need liability protection because they can't get insurance. If this is the case, why not have a bill that requires insurance agencies to offer insurance to these organizations? Why not that instead of exempting everyone under the sun from liability?

This bill establishes national policy specifically allowing certain pilots to operate their aircraft negligently and still escape liability. And by immunizing both the negligent pilot and the organization that arranges and provides the transportation, this bill will in many cases leave the victims of an air tragedy—and their surviving families—with no means of seeking compensation for their loss. Congress should not turn its back on the victims of air tragedies.

For these reasons, I cannot support passage of this bill.

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

The SPEAKER pro tempore (Mr. OSE). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 1084, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, on that, I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on questions previously postponed. Votes will be taken in the following order:

H. Res. 766, by the yeas and nays;
Motions to suspend the rules and
pass:

H.R. 3369, by the yeas and nays;

H.R. 1787, by the yeas and nays;

H.R. 1084, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

PROVIDING FOR CONSIDERATION OF H.R. 4571, LAWSUIT ABUSE REDUCTION ACT OF 2004

The SPEAKER pro tempore. The pending business is the vote on the adoption of House Resolution 766 on which further proceedings were postponed earlier today.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on resolution on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 228, nays 165, not voting 40, as follows:

[Roll No. 444]

YEAS—228

Aderholt	Ehlers	Latham
Akin	Emerson	LaTourette
Alexander	English	Leach
Bachus	Everett	Lewis (CA)
Baker	Feeney	Lewis (KY)
Barrett (SC)	Ferguson	Linder
Bartlett (MD)	Flake	LoBiondo
Barton (TX)	Foley	Lucas (KY)
Bass	Forbes	Lucas (OK)
Biggert	Fossella	Manzullo
Bilirakis	Franks (AZ)	Marshall
Bishop (UT)	Frelinghuysen	Matheson
Blunt	Gallely	McCotter
Boehner	Garrett (NJ)	McCrery
Bonilla	Gerlach	McHugh
Bono	Gibbons	McKeon
Boozman	Gilchrest	McNulty
Boyd	Gillmor	Mica
Bradley (NH)	Gingrey	Miller (FL)
Brady (TX)	Goode	Miller (MI)
Brown (SC)	Goodlatte	Miller, Gary
Brown-Waite,	Granger	Moore
Ginny	Graves	Moran (KS)
Burgess	Green (WI)	Moran (VA)
Burns	Gutknecht	Murphy
Burr	Hall	Musgrave
Burton (IN)	Harris	Myrick
Buyer	Hart	Nethercutt
Calvert	Hastings (WA)	Neugebauer
Camp	Hayes	Ney
Cantor	Hayworth	Northup
Capito	Hefley	Norwood
Carter	Hensarling	Nunes
Castle	Herger	Nussle
Chabot	Hobson	Obey
Chocola	Hoekstra	Osborne
Coble	Holden	Ose
Cole	Hostettler	Otter
Collins	Hulshof	Pascarell
Cooper	Hyde	Paul
Cox	Isakson	Pearce
Cramer	Israel	Pence
Crane	Issa	Peterson (MN)
Crenshaw	Jenkins	Peterson (PA)
Cubin	Johnson (CT)	Petri
Culberson	Johnson (IL)	Pickering
Cunningham	Johnson, Sam	Pitts
Davis (CA)	Jones (NC)	Platts
Davis (TN)	Keller	Pombo
Davis, Jo Ann	Kelly	Porter
Davis, Tom	Kennedy (MN)	Portman
Deal (GA)	Kildee	Putnam
DeLay	King (IA)	Radanovich
DeMint	King (NY)	Ramstad
Diaz-Balart, L.	Kingston	Regula
Diaz-Balart, M.	Kirk	Rehberg
Doolittle	Kline	Renzi
Dreier	Knollenberg	Reynolds
Duncan	Kolbe	Rogers (AL)
Dunn	LaHood	Rogers (MI)

Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)

Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey

Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Wickert
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. HINOJOSA. Mr. Speaker, on rollcall No. 444, had I been present, I would have voted "no."

NONPROFIT ATHLETIC ORGANIZA- TION PROTECTION ACT OF 2003

The SPEAKER pro tempore (Mr. OSE). The pending business is the question of suspending the rules and passing the bill, H.R. 3369.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3369 on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 217, nays 176, not voting 40, as follows:

[Roll No. 445]

YEAS—217

Aderholt	Doolittle	Knollenberg
Akin	Dreier	Kolbe
Alexander	Duncan	LaHood
Bachus	Edwards	Latham
Baker	Ehlers	LaTourette
Barrett (SC)	Emerson	Leach
Bartlett (MD)	English	Lewis (CA)
Barton (TX)	Everett	Lewis (KY)
Bass	Feeney	Linder
Biggert	Ferguson	LoBiondo
Bilirakis	Flake	Lucas (KY)
Bishop (GA)	Foley	Lucas (OK)
Bishop (UT)	Forbes	Matheson
Blunt	Fossella	McCotter
Boehner	Franks (AZ)	McCrery
Bonilla	Frelinghuysen	McHugh
Bono	Gallely	McKeon
Boozman	Garrett (NJ)	Mica
Boyd	Gerlach	Miller (FL)
Bradley (NH)	Gibbons	Miller (MI)
Brady (TX)	Gilchrest	Miller, Gary
Brown (SC)	Gillmor	Moran (KS)
Brown-Waite,	Gingrey	Murphy
Ginny	Goode	Musgrave
Burgess	Goodlatte	Myrick
Burns	Granger	Nethercutt
Burr	Graves	Neugebauer
Burton (IN)	Green (WI)	Ney
Buyer	Gutknecht	Northup
Calvert	Hall	Norwood
Camp	Harris	Nunes
Cantor	Hart	Nussle
Capito	Hastings (WA)	Osborne
Carson (OK)	Hayes	Ose
Carter	Hayworth	Oxley
Case	Hefley	Pearce
Castle	Hensarling	Pence
Chabot	Herger	Peterson (PA)
Chandler	Herseth	Petri
Chocola	Hobson	Pickering
Coble	Hoekstra	Pitts
Cole	Holden	Platts
Collins	Hostettler	Pombo
Cox	Hulshof	Porter
Cramer	Hyde	Portman
Crane	Isakson	Putnam
Crenshaw	Jenkins	Quinn
Cubin	Johnson (CT)	Radanovich
Culberson	Johnson (IL)	Ramstad
Cunningham	Johnson, Sam	Regula
Davis (TN)	Jones (NC)	Rehberg
Davis, Jo Ann	Keller	Renzi
Davis, Tom	Kelly	Reynolds
Deal (GA)	Kennedy (MN)	Rogers (AL)
DeLay	King (IA)	Rogers (MI)
DeMint	Kingston	Ros-Lehtinen
Diaz-Balart, L.	Kirk	Royce
Diaz-Balart, M.	Kline	Ryan (WI)

NAYS—165

Abercrombie
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Costello
Cummings
Davis (AL)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon

NOT VOTING—40

Ackerman
Ballenger
Beauprez
Blackburn
Boehlert
Bonner
Cannon
Clay
Clyburn
Conyers
Crowley
Engel
Gephardt
Goss
Greenwood
Hastings (FL)
Hinojosa
Hoeffel
Houghton
Hunter
Istook
Johnson, E. B.
Kaptur
Kennedy (RI)
Klecza
Langevin
McInnis
Owens

Oxley
Pryce (OH)
Quinn
Rogers (KY)
Rohrabacher
Schrock
Serrano
Slaughter
Tauzin
Towns
Velazquez
Whitfield

□ 1222

Mr. WYNN, Ms. ESHOO, and Mr. THOMPSON of California changed their vote from "yea" to "nay."

Mr. MOORE changed his vote from "nay" to "yea."