

enforcement action. Small businesses under the bill are defined as those with no more than 100 employees and a maximum \$7 million in net worth.

More than any of the other bills, H.R. 742 poses the greatest threat to worker safety and health. OSHA, as is almost every other Federal agency, is already required by law to pay attorneys' fees and costs in any proceeding in which the agency's charge is not substantially justified. H.R. 742 singles out OSHA, alone among all Federal agencies, to require it to pay attorneys' fees and costs in any proceeding in which it does not win, regardless of why it lost and notwithstanding the fact that the position of the agency was substantially justified. In effect, unless the agency can guarantee that it will win every case it brings, H.R. 742 punishes the OSHA for trying to enforce the law. The OSH Act does not afford workers a private right of action. If OSHA fails to enforce the law workers have no other means of doing so.

In summary, this bill, as would all the other OSHA bills considered today, would impede the enforcement of worksite safety and health provisions at the very time when more and more Americans have identified safety as one of their foremost concerns. According to a poll conducted in April by NBC and the Wall Street Journal, 84 percent of Americans want Congress to pass legislation that ensures greater workplace safety and health. Supporting this bill would take us in exactly the opposite direction.

Mr. CONYERS. Mr. Speaker, today, I express strong opposition to H.R. 742, the Occupational Safety Health Small Employer Access to Justice Act.

This fee shifting legislation before us is really a wolf in sheep's clothing. It is dangerous to our workers, overbroad, and unnecessary.

The bill is dangerous because it creates an incentive for employers to litigate with OSHA rather than to correct any safety flaws in the workplace. Since OSHA was created in 1970, its mission has been clear: "to assure so far as possible every working man and woman in the nation safe and healthful working conditions." Unfortunately, H.R. 742 will undermine that goal and penalize OSHA for any instance in which it attempts to safeguard worker safety and loses the case even for technical reasons.

The bill is overbroad because it applies to any company with less than 100 employees, regardless of their revenues or their safety record. Currently, over 6.5 million private sector establishments fall into this category, more than 97 percent of all employers. These companies employ more than 55 million workers. Many of these businesses have millions if not billions of dollars in annual revenues, and have no business being covered by a "small business" bill.

The bill is unnecessary because this Committee has not received a shred of evidence that OSHA has pursued unwarranted litigation or abused its prosecutorial discretion. To the contrary, more than sixty percent of OSHA citations resulted in settlements, and OSHA wins nearly four out of five cases that make it to the Federal appellate level.

Moreover, employers are already entitled to the recovery of legal fees under the Equal Access to Justice Act. That law specifies that the government must pay the prevailing party's fees and costs in any situation in which the government's position was not "substantially

justified." This offers more than sufficient incentive to prevent OSHA from overstepping its authority.

So we have before us an unnecessary and unwarranted bill, that, punishes an effective agency, and places our workers in danger. I urge Members to reject this measure.

Mr. BLUMENSUER. Mr. Speaker, this Congress has repeatedly undermined protections for the American workforce, shifting emphasis from employees to employers. Just like the identical bills introduced last year, the four bills brought to the House floor today are further examples that hinder the efficacy of the Occupational Safety and Health Administration (OSHA), taking away protections from the workers that need them most, and shielding businesses from government oversight.

As of late, Congress' hostility towards workers' rights has been widespread. Recently, I decided to oppose the Central American Free Trade Agreement (CAFTA) because it does not do enough to ensure adequate and fair labor laws for workers in foreign countries. Now today, Congress is trying to roll back significant worker protections that were put in place for our workers here at home.

Rather than "reform," the fact of the matter is that these four pieces of legislation weaken OSHA and undermine Congress's original intent when OSHA was enacted in 1970. Americans deserve a safe and healthy workplace. Limiting OSHA, the agency created to ensure workers receive these basic rights, will do nothing to advance the cause.

The SPEAKER pro tempore (Mr. WALDEN of Oregon). All time for debate has expired.

Pursuant to House Resolution 351, the bill is considered read for amendment, and the previous question is ordered.

The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OWENS. 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, 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, the Chair will now put each question on which further proceedings were postponed earlier today in the following order:

H.R. 739, by the yeas and nays;

H.R. 740, by the yeas and nays;

H.R. 741, by the yeas and nays; and

H.R. 742, 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.

OCCUPATIONAL SAFETY AND HEALTH SMALL BUSINESS DAY IN COURT ACT OF 2005

The SPEAKER pro tempore. The pending business is the question of the passage of the bill, H.R. 739, on which further proceedings were postponed earlier.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 256, nays 164, not voting 13, as follows:

[Roll No. 369]

YEAS—256

Aderholt	Ferguson	Mack
Akin	Fitzpatrick (PA)	Manzullo
Alexander	Flake	Marchant
Bachus	Foley	Marshall
Baird	Forbes	Matheson
Baker	Ford	McCaul (TX)
Barrett (SC)	Fortenberry	McCotter
Bartlett (MD)	Fossella	McCreery
Barton (TX)	Foxx	McHenry
Bass	Franks (AZ)	McHugh
Bean	Frelinghuysen	McIntyre
Beauprez	Galleghy	McKeon
Biggert	Garrett (NJ)	McMorris
Bilirakis	Gerlach	Mica
Bishop (GA)	Gibbons	Miller (MI)
Bishop (UT)	Gilchrest	Miller, Gary
Blackburn	Gillmor	Mollohan
Blunt	Gingrey	Moran (KS)
Boehler	Gohmert	Murphy
Boehner	Gonzalez	Musgrave
Bonilla	Goode	Neugebauer
Bonner	Goodlatte	Ney
Bono	Gordon	Northup
Boozman	Granger	Norwood
Boren	Graves	Nunes
Boustany	Green (WI)	Nussle
Boyd	Gutknecht	Osborne
Bradley (NH)	Hall	Otter
Brady (TX)	Harman	Oxley
Brown (SC)	Harris	Paul
Brown-Waite,	Hart	Pearce
Ginny	Hastings (WA)	Pence
Burgess	Hayes	Peterson (PA)
Burton (IN)	Hayworth	Petri
Buyer	Hefley	Pickering
Calvert	Hensarling	Pitts
Camp	Herger	Platts
Cannon	Herseth	Poe
Cantor	Hobson	Porter
Capito	Hoekstra	Price (GA)
Carter	Hostettler	Pryce (OH)
Case	Hulshof	Putnam
Castle	Hunter	Radanovich
Chabot	Hyde	Rahall
Chocola	Inglis (SC)	Ramstad
Coble	Issa	Regula
Cole (OK)	Istook	Reberg
Conaway	Jenkins	Reichert
Cooper	Jindal	Renzi
Costa	Johnson (CT)	Reynolds
Cramer	Johnson (IL)	Rogers (AL)
Crenshaw	Johnson, Sam	Rogers (KY)
Cubin	Jones (NC)	Rogers (MI)
Cuellar	Keller	Rohrabacher
Culberson	Kelly	Ros-Lehtinen
Cunningham	Kennedy (MN)	Royce
Davis (FL)	King (IA)	Ryan (WI)
Davis (KY)	King (NY)	Ryun (KS)
Davis (TN)	Kingston	Salazar
Davis, Jo Ann	Kirk	Saxton
Davis, Tom	Kline	Schwarz (MI)
Deal (GA)	Knollenberg	Sensenbrenner
DeLay	Kolbe	Sessions
Dent	Kuhl (NY)	Shaw
Diaz-Balart, L.	LaHood	Shays
Diaz-Balart, M.	Latham	Sherwood
Doolittle	LaTourette	Shimkus
Drake	Leach	Shuster
Dreier	Lewis (CA)	Simmons
Duncan	Lewis (KY)	Simpson
Edwards	Linder	Skelton
Ehlers	Lipinski	Smith (NJ)
Emerson	LoBiondo	Smith (TX)
English (PA)	Lucas	Soderl
Everett	Lungren, Daniel	Souder
Feeney	E.	Stearns

Sullivan Tiberi Weller
 Sweeney Turner Westmoreland
 Tancredo Udall (CO) Whitfield
 Tanner Upton Wicker
 Taylor (MS) Velázquez Wilson (NM)
 Taylor (NC) Walden (OR) Wilson (SC)
 Terry Walsh Wolf
 Thomas Wamp Wynn
 Thornberry Weldon (FL) Young (AK)
 Tiahrt Weldon (PA) Young (FL)

NAYS—164

Ackerman Holden Oliver
 Allen Holt Ortiz
 Andrews Honda Owens
 Baca Hooley Pallone
 Baldwin Hoyer Pascrell
 Barrow Inslee Pastor
 Becerra Israel Payne
 Berkley Jackson (IL) Pelosi
 Berman Jackson-Lee Peterson (MN)
 Berry (TX) Pomeroy
 Bishop (NY) Jefferson Price (NC)
 Blumenauer Johnson, E. B. Rangel
 Boswell Kanjorski Reyes
 Boucher Kaptur Ross
 Brady (PA) Kennedy (RI) Rothman
 Brown (OH) Kildee Roybal-Allard
 Butterfield Kilpatrick (MI) Ruppersberger
 Capps Kind Rush
 Capuano Kucinich Ryan (OH)
 Cardoza Langevin Sabo
 Carnahan Lantos Sánchez, Linda
 Carson Larsen (WA) T.
 Chandler Larson (CT) Sanchez, Loretta
 Clay Lee Sanders
 Cleaver Levin Schakowsky
 Clyburn Lewis (GA) Schiff
 Costello Lofgren, Zoe Schwartz (PA)
 Crowley Lowey Scott (GA)
 Cummings Lynch Scott (VA)
 Davis (AL) Maloney Serrano
 Davis (CA) Markey Sherman
 Davis (IL) Matsui Slaughter
 DeFazio McCarthy Smith (WA)
 DeGette McCollum (MN) Snyder
 Delahunt McDermott Solis
 DeLauro McGovern Spratt
 Dicks McKinney Stark
 Dingell McNulty Strickland
 Doggett Meehan Stupak
 Doyle Meek (FL) Tauscher
 Emanuel Meeks (NY) Thompson (CA)
 Engel Melancon Thompson (MS)
 Eshoo Menendez Tierney
 Etheridge Michaud Udall (NM)
 Evans Millender Van Hollen
 Farr McDonald Visclosky
 Fattah Miller (NC) Wasserman
 Filner Miller, George Schultz
 Frank (MA) Moore (KS) Waters
 Green, Al Moore (WI) Watson
 Green, Gene Moran (VA) Watt
 Grijalva Murtha Waxman
 Gutierrez Nadler Weiner
 Hastings (FL) Napolitano Wexler
 Higgins Neal (MA) Woolsey
 Hinchey Oberstar Wu

NOT VOTING—13

Abercrombie Hinojosa Pombo
 Brown, Corrine Jones (OH) Shadegg
 Cardin Miller (FL) Towns
 Conyers Myrick
 Cox Obey

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WALDEN of Oregon) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1821

Messrs. GEORGE MILLER of California, BERMAN, and ORTIZ changed their vote from “yea” to “nay.”

Mr. MOLLOHAN changed his vote from “nay” to “yea.”

So the bill was passed.

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. 369, had I been present, I would have voted “no.”

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION EFFICIENCY ACT OF 2005

The SPEAKER pro tempore. The pending business is the question of the passage of the bill, H.R. 740, on which further proceedings were postponed earlier today.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill 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 234, nays 185, not voting 14, as follows:

[Roll No. 370]

YEAS—234

Aderholt Ferguson Lungren, Daniel
 Akin Fitzpatrick (PA) E.
 Alexander Flake Mack
 Bachus Foley Manzullo
 Baker Forbes Marchant
 Barrett (SC) Fortenberry Matheson
 Bartlett (MD) Fossella McCaul (TX)
 Barton (TX) Fox McCotter
 Bass Franks (AZ) McCrery
 Beauprez Frelinghuysen McHenry
 Biggert Gallegly McHugh
 Bilirakis Garrett (NJ) McKeon
 Bishop (UT) Gerlach McMorris
 Blackburn Gibbons Mica
 Blunt Gilchrest Miller (MI)
 Boehlert Gillmor Miller, Gary
 Boehner Greiner Moran (KS)
 Bonilla Gohmert Murphy
 Bonner Goode Musgrave
 Bono Goodlatte Neugebauer
 Boozman Gordon Ney
 Boren Granger Northup
 Boustany Graves Norwood
 Boyd Green (WI) Nunes
 Bradley (NH) Gutknecht Nussle
 Brady (TX) Hall Osborne
 Brown (SC) Harris Otter
 Brown-Waite, Hart Oxley
 Ginny Hastings (WA) Paul
 Burgess Hayes Pearce
 Burton (IN) Hayworth Pence
 Buyer Hefley Peterson (PA)
 Calvert Hensarling Petri
 Camp Herger Pickering
 Cannon Hobson Pitts
 Cantor Hoekstra Platts
 Capito Hostetler Poe
 Carter Hulshof Porter
 Case Hunter Price (GA)
 Castle Hyde Pryce (OH)
 Chabot Inglis (SC) Putnam
 Chocola Issa Radanovich
 Coble Istook Ramstad
 Cole (OK) Jenkins Regula
 Conaway Jindal Rehberg
 Cox Johnson (CT) Reichert
 Cramer Johnson (IL) Renzi
 Crenshaw Johnson, Sam Reynolds
 Cubin Jones (NC) Rogers (AL)
 Cuellar Keller Rogers (KY)
 Culberson Kelly Rogers (MI)
 Cunningham Kennedy (MN) Rohrabacher
 Davis (KY) King (IA) Ros-Lehtinen
 Davis, Jo Ann King (NY) Royce
 Davis, Tom Kingston Ryan (WI)
 Deal (GA) Kirk Ryun (KS)
 DeLay Kline Saxton
 Dent Knollenberg Schwarzh (MI)
 Diaz-Balart, L. Kolbe Sensenbrenner
 Diaz-Balart, M. Kuhl (NY) Sessions
 Doolittle LaHood Shaw
 Drake Latham Shays
 Dreier LaTourette Sherwood
 Duncan Leach Shimkus
 Ehlers Lewis (CA) Shuster
 Emerson Lewis (KY) Simmons
 English (PA) Linder Simpson
 Everett LoBiondo Smith (NJ)
 Feeney Lucas Smith (TX)

Sodrel Thornberry
 Souder Tiahrt
 Stearns Tiberi
 Sullivan Turner
 Sweeney Upton
 Tancredo Walden (OR)
 Taylor (MS) Walsh
 Taylor (NC) Wamp
 Terry Weldon (FL)
 Thomas Weldon (PA)

NAYS—185

Ackerman Hastings (FL) Neal (MA)
 Allen Herseth Oberstar
 Andrews Higgins Olver
 Baca Hinchey Ortiz
 Baird Hinojosa Owens
 Baldwin Holden Pallone
 Barrow Holt Pascrell
 Bean Honda Pastor
 Becerra Hooley Payne
 Berkley Hoyer Pelosi
 Berman Inslee Peterson (MN)
 Berry Israel Pomeroy
 Bishop (GA) Jackson (IL) Price (NC)
 Bishop (NY) Jackson-Lee Rahall
 Blumenauer (TX) Reyes
 Boswell Jefferson Ross
 Boucher Johnson, E. B. Rothman
 Brady (PA) Kanjorski Roybal-Allard
 Brown (OH) Kaptur Ruppersberger
 Butterfield Kennedy (RI) Rush
 Capps Kildee Ryan (OH)
 Capuano Kilpatrick (MI) Sabo
 Cardoza Kind Salazar
 Carnahan Kucinich Sánchez, Linda
 Carson Langevin T.
 Chandler Lantos Sanchez, Loretta
 Clay Larsen (WA) Sanders
 Cleaver Levin Schakowsky
 Clyburn Lewis (GA) Schiff
 Costello Lofgren, Zoe Schwartz (PA)
 Crowley Lowey Scott (GA)
 Cummings Lynch Scott (VA) Scott (VA)
 Davis (AL) Maloney Serrano
 Davis (CA) Markey Sherman
 Davis (IL) Matsui Slaughter
 DeFazio McCarthy Smith (WA) Snyder
 DeGette McCollum (MN) Solis
 Delahunt McDermott Stark
 DeLauro McGovern Strickland
 Dicks McKinney Stupak
 Dingell McNulty Tauscher
 Doggett Meehan Thompson (CA)
 Doyle Meek (FL) Thompson (MS)
 Edwards Emanuel Tierney
 Emanuel Meeks (NY) Udall (CO)
 Engel Melancon Udall (NM)
 Eshoo Menendez Van Hollen
 Etheridge Michaud Velázquez
 Evans Millender Visclosky
 Farr McDonald Wasserman
 Fattah Miller (NC) Schultz
 Filner Miller, George Waters
 Ford Mollohan Watson
 Frank (MA) Moore (KS) Waxman
 Gonzalez Moore (WI) Weiner
 Green, Al Moran (VA) Wexler
 Green, Gene Murtha Woolsey
 Grijalva Nadler Wu
 Harman Napolitano Wynn

NOT VOTING—14

Abercrombie Jones (OH) Rangel
 Brown, Corrine Miller (FL) Shadegg
 Cardin Myrick Towns
 Conyers Obey Watt
 Gutierrez Pombo

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1828

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.