

where a person gained weight as a result of the food industry breaking a State or Federal law. I remember in 2002, when individuals filed a lawsuit against McDonald's alleging that the fast food chain had made them overweight and unhealthy.

I remember thinking that people should take responsibility for their own eating habits. But it is no longer just one suit against one company. Now there are suits against all types of the 900,000 restaurants in the food industry from small local eateries to giant fast food chains.

We must set a limit as to what litigation is allowed. A nonfrivolous claim should proceed, but a suit dictating the food choices of Americans should be stopped before it is even filed.

The reality is that restaurant meals will change according to what people prefer to eat. In recent years we have seen fast food chains add more healthy choices, like salad and fruit, to their menus, but people should have the freedom to eat what they want.

□ 1130

Mr. Chairman, we should encourage personal responsibility and healthy eating in our society, but we should not encourage lawsuits that blame others for our own choices and that could bankrupt entire industries. Because Americans should have the freedom to eat what they want and because we should take responsibility for our own actions, I support the passage of the Personal Responsibility in Food Consumption Act.

Mr. CANNON. Mr. Chairman, how much time remains?

The Acting CHAIRMAN (Mr. PUTNAM). The gentleman from Utah has 2 minutes remaining.

Mr. CANNON. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I simply ask the question, in this bill consumers are left vulnerable, and I would ask the gentleman would he not work with me in this amendment to ensure that they are not left vulnerable as we are protecting our fast-food industry?

Mr. CANNON. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Utah.

Mr. CANNON. I am not sure when we would work together on the amendment. I suppose perhaps in conference we could work on the issue, but I am loath to commit the chairman to that process.

Ms. JACKSON-LEE of Texas. I thank the gentleman. I just want to acknowledge that the bill does not protect consumers, and I ask Members to support my amendment.

Mr. CANNON. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) will be postponed.

The Acting CHAIRMAN. The Committee will rise informally.

The SPEAKER pro tempore (Mr. TERRY) assumed the Chair.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 1886. An act to authorize the transfer of naval vessels to certain foreign recipients.

The SPEAKER pro tempore. The Committee will resume its sitting.

PERSONAL RESPONSIBILITY IN FOOD CONSUMPTION ACT OF 2005

The Committee resumed its sitting.

The Acting CHAIRMAN (Mr. PUTNAM). It is now in order to consider amendment No. 3 printed in House Report 109-249.

AMENDMENT NO. 3 OFFERED BY MR. FILNER

Mr. FILNER. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. FILNER:

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.

The Acting CHAIRMAN. Pursuant to House Resolution 494, the gentleman from California (Mr. FILNER) and the gentleman from Utah (Mr. CANNON) each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. FILNER).

Mr. FILNER. Mr. Chairman, the purpose of this amendment today is twofold: one, to protect young children and, two, to force better accountability from the fast food industry.

My amendment exempts those 8 years of age and under from the provisions of this bill as it relates to fast food restaurants.

Mr. Chairman, in 2001 the U.S. Surgeon General proclaimed childhood obesity a health issue rivaling cigarette smoking. The Surgeon General further stated that the rate of overweight children in America doubled in the past 20 years and tripled among its

adolescents. But apparently few here in Washington seem to have taken notice or cared, and predictably rates have continued to rise across the country.

Today, one in three children is overweight. Yes, Mr. Chairman, I said one in three, almost 35 percent. And what has been Congress's response to the growing epidemic? Has it provided more funding for obesity awareness or tried to implement programs to improve nutrition in schools? No. Instead, Congress brings forwards a bill to immunize fast food companies. Where is the logic?

Those supporting the bill talk about choice, the freedom to eat. Well, we are talking about young children and, of course, we want them to eat correctly, healthy, and that is not the primary responsibility of the fast food industry. Childhood obesity is best tackled at home through improved parental involvement, increased physical exercise, better diet and restraint from eating.

However, as a parent, as a grandparent, as a former educator, I know that these practices alone when we are dealing with young children are insufficient. We will never control this rising epidemic without greater accountability from the food industry.

Congress is headed in the wrong direction with this bill which removes any and all incentives from the food industry to improve their products for children. Congress has allowed the greed of big corporations to come before the need of our children. Today, the younger generation faces a litany of health issues that generations before just never did. Heart disease, high blood pressure, hypertension, joint problems, asthma, diabetes and cancer are on the increase with these young children; and a steady diet of fast food is the last thing they need. Unfortunately, fast food restaurants are bombarding our children with advertisements that encourage overconsumption of unhealthy eating choices.

The average child views 20,000 television commercials every year. That is about 55 a day. More disturbingly, the commercials for candy, snacks, sugared cereals and other food with poor nutritional content far out-number commercials for more healthy food choices. So it is not just a matter of individual responsibility, of individual choice when we are talking about young children under 8.

Studies indicate that these children are more susceptible to advertising and even less likely to understand the purpose of this advertising. So why is so much advertising at home done during the cartoon hours? It is no coincidence that major fast food chains routinely run their advertisements during this time. Experts in this field unequivocally state that the fear of litigation and regulation prompts the industry to rethink how it markets and sells food to children. This has been evidenced by some of the recent changes made within the industry.

Unfortunately, the bill as presently written forecloses the opportunity to

hold the industry accountable and thus puts any future improvements in jeopardy, assuring continued high rates of childhood obesity, leaving me to wonder whether we in Congress are here to represent the people or big business.

The bill is entitled Personal Responsibility in Food Consumption Act. Personal responsibility is a two-way street: both the consumer and the executives of the industry, both should act in a personally responsible manner. So I ask my colleagues to join me in supporting this amendment to hold fast food companies accountable and to protect our young children.

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

Mr. CANNON. Mr. Chairman, I yield myself such time as I may consume.

The gentleman makes a valid point that we have a lot of obese children. I think it is actually more like 40 percent in some recent studies I have seen. This is a terrible problem, but I urge the Members to defeat this amendment. It was defeated by voice vote last year, and it should be defeated again this year.

The gentleman from California (Mr. FILNER) also talks about the accountability of the food industry; but this amendment tells parents that if they are not responsible for their children's eating, they can become millionaires. This amendment manages to exploit children and discourages parents from exercising parental responsibility all at the same time. It literally would hold food companies liable when parents buy their kids a six-pack of kid meals every day for 8 years. Adopting this amendment would turn the Personal Responsibility in Food Consumption Act into the Parent Irresponsibility Act.

Even the ultra-liberal Los Angeles Times has stated this is wrong, saying in an editorial: "If kids are chowing down to excess on junk food, aren't their parents responsible for cracking down? And if parents and other grown-ups overindulge, isn't it their problem, not that of the purveyors of fast food? Why boost their food bills because of illegal jousting? People shouldn't get stuffed, but this line of litigation should."

Even our best obesity doctors realize that this amendment is another sad assault on the concept of parental responsibility. As Dr. Jana Klauer, a fellow at the New York City Obesity Research Center of St. Luke's Roosevelt Hospital has said, "I just wonder where were the parents when kids were having these McDonald's breakfasts every morning. Were they incapable of pouring a bowl of cereal and some milk?"

Let us do what we did last year and defeat this parental irresponsibility amendment by voice vote.

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

Mr. FILNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, my friend from Utah (Mr. CANNON) should be writing adver-

tisements for the fast food industry. Throwing out red herrings, probably which would not give us obesity, about families becoming millionaires and all this stuff. It is just a side show.

We are talking about young children. Sure, they ought to make the right choice and, sure, their parents ought to make the right choices; but the pressure is on them through television. Parents cannot always be there. The schools are bringing in the fast food restaurants so they can make some more money and they encourage it. And lastly and most importantly, the advertising that is aimed at these children: Where is the responsibility for the adults who are running these advertisements? They are aimed at our children.

Mr. CANNON. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I urge my colleagues to defeat this amendment. There is a problem in America. There is no question but that there is a problem. We do not solve that problem by shifting responsibility to corporations. It would be good if corporations did perfect things, but we live in an imperfect world where parents have the ability to turn off the television, parents have the ability to teach their children what to eat and how to eat well. And, interestingly, food that is better for you actually costs less.

Parents have the ability to deal with these issues in ways that this Congress and industry cannot do. I urge my colleagues to reject this amendment.

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

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. FILNER).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. FILNER. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California (Mr. FILNER) will be postponed.

It is now in order to consider amendment No. 4 printed in House Report 109-249.

AMENDMENT NO. 4 OFFERED BY MR. SCOTT OF VIRGINIA

Mr. SCOTT of Virginia. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. SCOTT of Virginia:

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.

The Acting CHAIRMAN. Pursuant to House Resolution 494, the gentleman from Virginia (Mr. SCOTT) and the gentleman from Utah (Mr. CANNON) each will control 5 minutes.

The Chair recognizes the gentleman from Virginia (Mr. SCOTT).

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

Mr. Chairman, we have apparently decided to try these kinds of cases on the floor of the House where politics and popularity will be considered, even financial contributions will be allowed, rather than have those cases and special interests relegated to the judicial branch where they will be facing unbiased judges and juries and relegated to the same laws that apply to everybody else. But if we are going to try the cases, we ought to at least limit the impact of the bill to the fast food rhetoric that we have heard.

This bill, unfortunately, covers not only fast food lawsuits but also litigation involving consumer protection when obesity or weight gain may be one of the elements of the case.

Now, every single State has laws on the books to protect its consumers. Every State has laws to protect consumers from misleading practices and each attorney general has the power to enforce these laws. But unfortunately as written, the bill will prevent State attorneys general from enforcing those laws. It will not just stop the individual fast food lawsuits that my colleagues have been discussing, but because a person who may be a plaintiff is defined in the bill to include governmental agencies, it will prevent States from getting injunctions, cease and desist orders, or imposing fines against those who endanger consumers.

It is important to note that not only money damages are precluded by the bill. Rather, the bill refers to damages, penalties, injunctive or declaratory relief, restitution or other relief, all are prohibited forms of relief that will no longer be available to State attorneys general if this bill passes without my amendment.

The exception for a "knowing" violation is not enough. State deceptive practices are just like the Federal Trade Commission Act. They allow civil enforcement actions whether or not the defendant willfully or knowingly violated the law. In fact, food labeling and deceptive practices have often exacted strict liability, that is, if the government can get an injunction whether the person was intentionally or knowingly in violation.

Mr. Chairman, my State of Virginia has the Consumer Protection Act. It prohibits misrepresenting that goods or services have certain qualities, characteristics, ingredients, uses or benefits that they do not have, and any other conduct which similarly creates a likelihood of confusion or misunderstanding. A court may order an injunction or restitution to injured parties even if the violation was unintentional.

In fact, Virginia is not alone. At least 12 other States have specifically adopted the Uniform Deceptive Trade Practices Act, section 3, which says that intentional deceptive action is not necessary to get injunctive relief.

□ 1145

At least 23 other States have similar standards.

So, Mr. Chairman, my amendment that I present today will address that problem in the bill. It will ensure that attorneys general and State agencies can put an end to mislabeling, to deceptive practices, to false advertising, and other consumer fraud within the borders of the State. Whatever we think of the individual fast food lawsuits, we should not prohibit State attorneys general from enforcing States laws and protecting their citizens.

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

Mr. CANNON. Mr. Chairman, I yield myself such time as I may consume.

This gutting amendment was defeated on the House floor last year by a vote of 241 to 177, and it should be defeated again this year.

Lawsuits relating to obesity and weight gain are wrong no matter who brings them. If private claims are frivolous and should be blocked, then we should not encourage States to bring them either. This bill only applies to lawsuits arising out of or related to obesity and weight gain.

State consumer protection statutes are not intended to cover these kinds of claims. In fact, not a single State consumer protection law allows a State agency to sue for damages because someone got fat from eating too much. However, because the amendment implies State consumer protection laws do allow lawsuits in which the claim is obesity or weight gain, courts may well read it to grant all State agencies new powers to use their State consumer protection laws to seek damages against the food industry for obesity-related claims. That is directly contrary to the purpose of this bill. It would not be right to allow States to use their consumer protection laws in ways they cannot use them now, namely, to sue the food industry for obesity-related claims. Consequently, this amendment should be defeated.

In any case, section 4(5)(b) of H.R. 544 makes it clear that obesity-related lawsuits can be brought by anyone who can prove he suffered harm as a result of a violation of State or Federal law, including laws that prohibit deceptive or misleading advertising, by showing he individually and justifiably relied on such deceptive or misleading advertising and that such reliance was the proximate cause of the injury.

So the bill itself already allows lawsuits against bad actors while preserving the concept of personal responsibility. The amendment does not do that, it should be defeated, and I urge my colleagues to vote against this amendment.

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

Mr. SCOTT of Virginia. Mr. Chairman, in closing let me just say that, as the gentleman from Arkansas, who is a physician, indicated, weight gain can be caused by contamination or other problems, even if that contamination was unknowing. Under this bill, the attorney general would not be able to get an injunction. We should trust our States attorneys general and consumer protection agencies to do the right thing and not prohibit them from protecting our citizens.

Mr. Chairman, I would hope the amendment would be adopted.

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

Mr. CANNON. Mr. Chairman, in closing, let me just say that we have consumer protection laws. This bill is not intended to expand those laws. It is not intended to put restaurants out of business. It is not intended to shift responsibility from individuals and from parents. It is about personal responsibility, and I urge opposition to this amendment.

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

The Acting CHAIRMAN (Mr. PUTNAM). The question is on the amendment offered by the gentleman from Virginia (Mr. SCOTT).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Virginia (Mr. SCOTT) will be postponed.

It is now in order to consider amendment No. 5 printed in House Report 109-249.

AMENDMENT NO. 5 OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. WAXMAN:
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.

The Acting CHAIRMAN. Pursuant to House Resolution 494, the gentleman from California (Mr. WAXMAN) and the gentleman from Utah (Mr. CANNON) each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, those who support this bill argue that food manufacturers should be sheltered from lawsuits

claiming that their products cause someone to become obese. I can understand their reasoning, because there is a sense of personal responsibility involved. But what my amendment would do is to limit that language so it is not so broad as to include what are called "dietary supplements," because some of these products are not like food. They are not reviewed by the FDA. They are not even subject to FDA intervention, unless they can show real harm being done, and we have had examples of ephedra and andro that have been withdrawn from the market because they caused serious injury, or DHEA, which is a steroid precursor.

The bill authors would say that they want to protect from lawsuits when people say they have gained weight or there is obesity or health conditions associated with a person's weight gain or obesity. Imagine you are overweight and suffer from high blood pressure because you are overweight, and you decide to try losing weight by taking a dietary supplement product. But what you do not know is that the product you are taking contains a potentially dangerous stimulant; and instead of helping you lose weight, the product causes your blood pressure to go even higher and makes you really sick. If this bill passed, you could not sue the dietary supplement company even if the product did not have a warning label; even if the companies received thousands of adverse event reports that they have kept hidden; even if a professional medical society and experts have concluded that the product is dangerous; and even if the company has never tested the product to see if it is safe.

Removing the threat of liability for dangerous dietary supplements would be a grave mistake. Despite evidence that supplements containing ephedra are dangerous and have caused heart attacks or strokes or death, it took the FDA years to act to take higher-dose ephedra supplements off the market. In the meantime, some dietary supplement companies stopped making ephedra products because of the mounting litigation. Without having to take responsibility for their products, manufacturers could be free to sell dangerous substances to the public. The threat of a lawsuit could have a real impact here, and it is not one simply of personal responsibility.

We are seeing now a new generation of weight-loss products marketed as dietary supplements that have stimulant ingredients that may be similar to ephedra. According to a recent study, these new products may raise blood pressure and heart rate, making them potentially dangerous particularly to those people who already have heart disease. However, it is perfectly legal for a dietary supplement manufacturer to sell these products without testing to see if they are safe and without warning consumers of potential adverse effects.

This bill, as it is drafted, is a license for reckless behavior by dietary supplement manufacturers. I do not know if that is what the authors intended; I tend to think they probably did not look at that issue. It allows them to sell dangerous products to Americans without ever having to take responsibility in a court of law, and our amendment would close the dietary supplement loophole. I urge my colleagues to support it.

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

Mr. CANNON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment is substantially the same as the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE), which was defeated on the House floor last year by a vote of 166 to 250, and it should be defeated again this year.

This amendment must be defeated because it would gut the bill. This amendment, if adopted, would allow anyone to eat as many health bars and drink as many diet shakes as they wanted and then sue the makers of the health bars and the diet shakes for millions of dollars for making them fat when the health bar and diet shake manufacturers had done absolutely nothing wrong.

The term "dietary supplement," as defined in 21 U.S.C. can include just about any food imaginable. It is defined in 21 U.S.C. 321(ff) as "a product intended to supplement the diet that bears or contains one or more of the following ingredients," including "a vitamin or mineral." Do we really want to encourage lawsuits by people who get fat because they choose to eat too much food that happens to meet this definition? Of course not. And that is why this amendment must be defeated.

The same concept of personal responsibility should apply to anyone who chooses to eat too many health bars or diet shakes, or other similar products, just as it should be applied to anyone else.

If you want to destroy every company that sells products that help keep our waistlines trim by allowing them to be sued out of existence, then vote for this amendment. But if you want to help combat the obesity problem in America, vote down this gutting amendment and preserve the concept of personal responsibility.

Allowing the types of lawsuits this amendment would allow flatly contradicts the advice of our Nation's leading nutritionists. Listen to the insightful words of Dr. Gerard Musante, a clinical psychologist with training at Duke University Medical Center, who has worked for more than 30 years with thousands of obese people. He is the founder of Structure House, a residential weight-loss facility in Durham, North Carolina. He said the following at a Senate hearing on this legislation:

"Lawsuits are pointing fingers at the food industry in an attempt to curb the Nation's obesity epidemic. These law-

suits do nothing but enable consumers to feel powerless in a battle for maintaining one's own personal health. The truth is, we as consumers have control over the food choices we make, and we must issue our better judgment when making these decisions. Negative lifestyle choices cause obesity, not a trip to the fast food restaurant or a cookie high in trans fat.

"Through working with obese patients, I have learned that the worst thing one can do is blame an outside force to get themselves 'off the hook,' to say it is not their fault and that they are a victim. Congress has rightly recognized the danger of allowing Americans to continue blaming others for the obesity epidemic. It is imperative that we prevent lawsuits from being filed against any industry for answering consumer demands. The fact that we are addressing the issue here today is a step in the right direction."

Even the chairman of the American Council For Fitness and Nutrition, Susan Finn, has written that "Although obesity is a serious health threat to millions of Americans, lawsuits and fingerprinting are not realistic solutions. If you are obese, you don't need a lawyer, you need to see your doctor, a nutritionist and a physical trainer. Playing the courtroom blame game won't make anyone thinner or healthier."

Section 4(5)(b) of H.R. 554 makes it clear that obesity-related lawsuits can be brought by anyone who can prove he has suffered harm as a result of a violation of State or Federal law, including laws that prohibit deceptive or misleading advertising, by showing they individually and justifiably relied on such deceptive or misleading advertising and such reliance was the proximate cause of their injury. So if a manufacturer of a health bar or a diet shake lies concerning the calorie content of the food, and someone relies on that false statement and suffers injury, the person can sue the manufacturer under this legislation.

But let us not encourage people to sue makers of health bars and diet shakes because they choose to eat too many of them and get fat. I urge my colleagues to defeat this amendment.

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

Mr. WAXMAN. Mr. Chairman, I yield myself such time as I may consume.

I know that the argument on the other side is that we want people to take personal responsibility, but is it fair to say that there is personal responsibility when a company hides thousands of serious adverse effects, as was the case with a company that had a product with ephedra in it; or when a company does not warn about its risks; when companies know about dangers and do not market their product responsibly?

We are not talking about in this situation a food product that may be heavy in fat or may have cholesterol or whatever. People should expect in eating

foods generally recognized as safe that if they abuse their eating habits they are responsible for it. But with a dietary supplement, if the manufacturer withholds this information about the risks, and there is no warning whatsoever when the manufacturer knows there should be, then it seems to me we are giving up the responsibility of the manufacturer to warn and taking people who are harmed not because they did not act responsibly and then saying to them they are out of luck.

I would think this is not a good argument that we have heard on the other side, and I would hope Members would make this exception. A food supplement, a dietary supplement in the form of a pill or some other process is like a drug, and I do not think we would want people to be subjected to no lawsuit that is legitimate if the drug has never been approved and never warned about by the manufacturer. So I ask support of the amendment.

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

Mr. CANNON. Mr. Chairman, I yield myself such time as I may consume.

The gentleman is talking about various kinds of supplements. He mentioned ephedra and other supplements to help people lose weight. That is a substantial distinction here. If a person buys a supplement and there has been misleading advertising or the manufacturer knows of adverse effects and does not communicate those, and if that constitutes a violation of law, a lawsuit is not prohibited by this legislation. This legislation is going the other way and saying you cannot sue people if you get fat because you make wrong choices, as opposed to you have had some kind of injury or illness because of a misadvertised or otherwise inappropriate utilization of a supplement.

□ 1200

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. CANNON. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, the gentleman raises an interesting point that it would be a violation of law. A lot of times these are not violations of law because there are no laws that pertain.

Mr. CANNON. Reclaiming my time, we are not trying to change the whole world of consumer law here, we are only trying to change one aspect of it. If the gentleman is concerned about, and I know the gentleman has great concern about the effect of supplements like Ephedra which have largely been abandoned by the industry, that is something we ought to be considering, but not in the context of this legislation. I urge my colleagues to reject this amendment.

The Acting CHAIRMAN (Mr. TERRY). The question is on the amendment offered by the gentleman from California (Mr. WAXMAN).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. WAXMAN. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California (Mr. WAXMAN) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order:

Amendment No. 2 by Ms. JACKSON-LEE OF TEXAS.

Amendment No. 3 by Mr. FILNER of California.

Amendment No. 4 by Mr. SCOTT of Virginia.

Amendment No. 5 by Mr. WAXMAN of California.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 2 OFFERED BY MS. JACKSON-LEE OF TEXAS

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 67, noes 357, not voting 9, as follows:

[Roll No. 529]

AYES—67

Berkley	Honda	Pascrell
Brady (PA)	Jackson (IL)	Pastor
Brown (OH)	Jackson-Lee	Payne
Butterfield	(TX)	Pelosi
Capuano	Johnson, E. B.	Rush
Carnahan	Jones (OH)	Sánchez, Linda
Carson	Kilpatrick (MI)	T.
Clay	Kucinich	Sanders
Cleaver	Langevin	Schakowsky
Crowley	Larson (CT)	Scott (VA)
Cummings	Lee	Serrano
DeFazio	Markey	Slaughter
Delahunt	McDermott	Stark
Doggett	McKinney	Thompson (MS)
Farr	McNulty	Visclosky
Fattah	Meehan	Wasserman
Filner	Millender-	Schultz
Green, Al	McDonald	Waters
Green, Gene	Moore (WI)	Watson
Grijalva	Nadler	Watt
Gutierrez	Napolitano	Wexler
Higgins	Obey	Woolsey
Hinchey	Owens	Wynn
Hinojosa	Pallone	

NOES—357

Abercrombie	Baldwin	Biggert
Ackerman	Barrett (SC)	Bilirakis
Aderholt	Barrow	Bishop (GA)
Akin	Bartlett (MD)	Bishop (NY)
Alexander	Barton (TX)	Bishop (UT)
Allen	Bass	Blackburn
Andrews	Bean	Blumenauer
Baca	Beauprez	Blunt
Bachus	Becerra	Boehler
Baird	Berman	Boehner
Baker	Berry	Bonilla

Bonner	Green (WI)	Moore (KS)	Thompson (CA)	Van Hollen	Westmoreland
Bono	Gutknecht	Moran (KS)	Thornberry	Velázquez	Whitfield
Boozman	Hall	Moran (VA)	Tiahrt	Walden (OR)	Wicker
Boren	Harman	Murphy	Tiberi	Walsh	Wilson (NM)
Boucher	Harris	Murtha	Tierney	Wamp	Wilson (SC)
Boustany	Hart	Musgrave	Towns	Waxman	Wolf
Boyd	Hastings (FL)	Neal (MA)	Turner	Weiner	Wu
Bradley (NH)	Hastings (WA)	Neugebauer	Udall (CO)	Weldon (FL)	Young (AK)
Brady (TX)	Hayes	Ney	Udall (NM)	Weldon (PA)	Young (FL)
Brown (SC)	Hayworth	Northup	Upton	Weller	
Brown, Corrine	Hefley	Norwood			
Brown-Waite,	Hensarling	Nunes			
Ginny	Herger	Nussle	Boswell	Edwards	Lewis (GA)
Burgess	Herseth	Oberstar	Davis (FL)	Feeney	Myrick
Burton (IN)	Hobson	Olver	Dingell	Keller	Roybal-Allard
Buyer	Hoekstra	Ortiz			
Calvert	Holden	Osborne			
Camp	Holt	Otter			
Cannon	Hooley	Oxley			
Cantor	Hostettler	Paul			
Capito	Hoyer	Pearce			
Capps	Hulshof	Pence			
Cardin	Hunter	Peterson (MN)			
Cardoza	Hyde	Peterson (PA)			
Carter	Inglis (SC)	Petri			
Case	Inslee	Pickering			
Castle	Israel	Pitts			
Chabot	Issa	Platts			
Chandler	Istook	Poe			
Choccola	Jefferson	Pombo			
Clyburn	Jenkins	Pomeroy			
Coble	Jindal	Porter			
Cole (OK)	Johnson (CT)	Price (GA)			
Conaway	Johnson (IL)	Price (NC)			
Conyers	Johnson, Sam	Pryce (OH)			
Cooper	Jones (NC)	Putnam			
Costa	Kanjorski	Radanovich			
Costello	Kaptur	Rahall			
Cramer	Kelly	Ramstad			
Crenshaw	Kennedy (MN)	Rangel			
Cubin	Kennedy (RI)	Regula			
Cuellar	Kildee	Rehberg			
Culberson	Kind	Reichert			
Cunningham	King (IA)	Renzi			
Davis (AL)	King (NY)	Reyes			
Davis (CA)	Kingston	Reynolds			
Davis (IL)	Kirk	Rogers (AL)			
Davis (KY)	Kline	Rogers (KY)			
Davis (TN)	Knollenberg	Rogers (MI)			
Davis, Jo Ann	Kolbe	Rohrabacher			
Davis, Tom	Kuhl (NY)	Ros-Lehtinen			
Deal (GA)	LaHood	Ross			
DeGette	Lantos	Rothman			
DeLauro	Larsen (WA)	Royce			
DeLay	Latham	Ruppersberger			
Dent	LaTourette	Ryan (OH)			
Diaz-Balart, L.	Leach	Ryan (WI)			
Diaz-Balart, M.	Levin	Ryun (KS)			
Dicks	Lewis (CA)	Sabo			
Doolittle	Lewis (KY)	Salazar			
Doyle	Linder	Sanchez, Loretta			
Drake	Lipinski	Saxton			
Dreier	LoBiondo	Schiff			
Duncan	Lofgren, Zoe	Schmidt			
Ehlers	Lowey	Schwartz (PA)			
Emanuel	Lucas	Schwartz (MI)			
Emerson	Lungren, Daniel	Scott (GA)			
Engel	E.	Sensenbrenner			
English (PA)	Lynch	Sessions			
Eshoo	Mack	Shadegg			
Etheridge	Maloney	Shaw			
Evans	Manzullo	Shays			
Everett	Marchant	Sherman			
Ferguson	Marshall	Sherwood			
Fitzpatrick (PA)	Matheson	Shimkus			
Flake	Matsui	Shuster			
Foley	McCarthy	Simpsons			
Forbes	McCaul (TX)	Simpson			
Ford	McCollum (MN)	Skelton			
Fortenberry	McCotter	Smith (NJ)			
Fossella	McCrery	Smith (TX)			
Foxx	McGovern	Smith (WA)			
Frank (MA)	McHenry	Snyder			
Franks (AZ)	McHugh	Sodrel			
Frelinghuysen	McIntyre	Solis			
Gallely	McKeon	Souder			
Garrett (NJ)	McMorris	Spratt			
Gerlach	Meek (FL)	Stearns			
Gibbons	Meeks (NY)	Strickland			
Gilchrist	Melancon	Stupak			
Gillmor	Menendez	Sullivan			
Gingrey	Mica	Sweeney			
Gohmert	Michaud	Tancredo			
Gonzalez	Miller (FL)	Tanner			
Goode	Miller (MI)	Tauscher			
Goodlatte	Miller (NC)	Taylor (MS)			
Gordon	Miller, Gary	Taylor (NC)			
Granger	Miller, George	Terry			
Graves	Mollohan	Thomas			

Thompson (CA)	Van Hollen	Westmoreland
Thornberry	Velázquez	Whitfield
Tiahrt	Walden (OR)	Wicker
Tiberi	Walsh	Wilson (NM)
Tierney	Wamp	Wilson (SC)
Towns	Waxman	Wolf
Turner	Weiner	Wu
Udall (CO)	Weldon (FL)	Young (AK)
Udall (NM)	Weldon (PA)	Young (FL)
Upton	Weller	

NOT VOTING—9

Boswell	Edwards	Lewis (GA)
Davis (FL)	Feeney	Myrick
Dingell	Keller	Roybal-Allard

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (Mr. TERRY) (during the vote). Members are advised there are 2 minutes left in this vote.

□ 1228

Messrs. BARRETT of South Carolina, KINGSTON, WAXMAN, Ms. SOLIS, Mrs. NORTHUP, Messrs. NEAL of Massachusetts, LEVIN, RANGEL, SMITH of Texas, GEORGE MILLER of California, HOLT, Ms. SCHWARTZ of Pennsylvania, Mrs. MCCARTHY, Mr. CONYERS, and Mr. HASTINGS of Florida changed their vote from “aye” to “no.”

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 3 OFFERED BY MR. FILNER

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. FILNER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 129, noes 298, not voting 6, as follows:

[Roll No. 530]

AYES—129

Abercrombie	Doggett	Kilpatrick (MI)
Ackerman	Doyle	Kucinich
Andrews	Emanuel	Lantos
Baldwin	Engel	Larson (CT)
Becerra	Etheridge	Lee
Berman	Evans	Levin
Bishop (NY)	Farr	Lipinski
Blumenauer	Fattah	Lofgren, Zoe
Brady (PA)	Filner	Lowey
Brown (OH)	Gonzalez	Maloney
Brown, Corrine	Green, Al	Markey
Butterfield	Green, Gene	Matsui
Capps	Grijalva	McCarthy
Capuano	Gutierrez	McDermott
Cardin	Hastings (FL)	McGovern
Cardoza	Higgins	McKinney
Carnahan	Hinchey	McNulty
Carson	Holt	Meehan
Chandler	Honda	Meek (FL)
Clay	Hoyer	Meeks (NY)
Cleaver	Israel	Menendez
Conyers	Jackson (IL)	Miller (NC)
Costello	Jackson-Lee	Miller, George
Crowley	(TX)	Mollohan
Cuellar	Jefferson	Moore (WI)
Cummings	Johnson, E. B.	Moran (VA)
Davis (CA)	Jones (OH)	Musgrave
Delahunt	Kanjorski	Nadler
DeLauro	Kaptur	Napolitano
Dicks	Kennedy (RI)	Oberstar
Dingell	Kildee	Obey

Olver	Sánchez, Linda	Thompson (MS)	Sherwood	Tancredo	Walsh	Lipinski	Obey	Sherman
Owens	T.	Tierney	Shimkus	Tanner	Wamp	Lofgren, Zoe	Olver	Skelton
Pallone	Sanders	Udall (NM)	Shuster	Tauscher	Wasserman	Lowey	Ortiz	Slaughter
Pastor	Schakowsky	Van Hollen	Simmons	Taylor (MS)	Schultz	Lynch	Owens	Smith (WA)
Payne	Schiff	Velázquez	Simpson	Taylor (NC)	Weldon (FL)	Maloney	Pallone	Snyder
Pelosi	Schwartz (PA)	Waters	Skelton	Terry	Weldon (PA)	Markey	Pascrell	Solis
Price (NC)	Scott (VA)	Watson	Smith (NJ)	Thomas	Weller	Marshall	Pastor	Spratt
Rahall	Serrano	Watt	Smith (TX)	Thompson (CA)	Westmoreland	Matsui	Paul	Stark
Rangel	Sherman	Waxman	Smith (WA)	Thornberry	Whitfield	McCarthy	Payne	Strickland
Rush	Slaughter	Weiner	Snyder	Tiahrt	Wicker	McCollum (MN)	Pelosi	Stupak
Ryan (OH)	Solis	Wexler	Soder	Tiberi	Wilson (NM)	McDermott	Pomeroy	Tauscher
Sabo	Stark	Woolsey	Souder	Towns	Wilson (SC)	McGovern	Price (NC)	Taylor (MS)
	Stupak	Wu	Spratt	Turner	Wolf	McIntyre	Rahall	Thompson (MS)
			Stearns	Udall (CO)	Wynn	McKinney	Rangel	Tierney
			Strickland	Upton	Young (AK)	McNulty	Reyes	Towns
			Sullivan	Visclosky	Young (FL)	Meehan	Rohrabacher	Udall (CO)
			Sweeney	Walden (OR)		Meek (FL)	Ross	Udall (NM)
						Meeks (NY)	Rothman	Van Hollen

NOES—298

Aderholt	Everett	Mack	Boswell	Keller	Myrick	Aderholt	Emerson	Leach
Akin	Feeney	Manzullo	Davis (FL)	Lewis (GA)	Roybal-Allard	Akin	English (PA)	Lewis (CA)
Alexander	Ferguson	Marchant				Alexander	Everett	Lewis (KY)
Allen	Fitzpatrick (PA)	Marshall				Bachus	Feeney	Linder
Baca	Flake	Matheson				Baker	Ferguson	LoBiondo
Bachus	Foley	McCaul (TX)				Barrett (SC)	Flake	Lucas
Baird	Forbes	McCollum (MN)				Barrow	Foley	Lungren, Daniel
Baker	Ford	McCotter				Bartlett (MD)	Forbes	E.
Barrett (SC)	Fortenberry	McCrery				Barton (TX)	Fortenberry	Mack
Barrow	Fossella	McHenry				Bass	Fossella	Manzullo
Bartlett (MD)	Fox	McHugh				Beauprez	Fox	Marchant
Barton (TX)	Frank (MA)	McIntyre				Biggart	Franks (AZ)	Matheson
Bass	Franks (AZ)	McKeon				Bilirakis	Frelinghuysen	McCaul (TX)
Bean	Frelinghuysen	McMorris				Bishop (UT)	Gallegly	McCotter
Beauprez	Gallegly	Melancon				Blackburn	Garrett (NJ)	McCrery
Berkley	Garrett (NJ)	Mica				Blunt	Gibbons	McHenry
Berry	Gerlach	Michaud				Boehrlert	Gilchrest	McHugh
Biggart	Gibbons	Millender-				Boehner	Gillmor	McKeon
Bilirakis	Gilchrest	McDonald				Bonilla	Gingrey	McMorris
Bishop (GA)	Gillmor	Miller (FL)				Bonner	Gohmert	Melancon
Bishop (UT)	Gingrey	Miller (MI)				Bono	Goode	Mica
Blackburn	Gohmert	Miller, Gary				Boozman	Goodlatte	Miller (FL)
Blunt	Goode	Moran (KS)				Boren	Gordon	Miller (MI)
Boehrlert	Goodlatte	Murphy				Boustany	Granger	Miller, Gary
Boehner	Gordon	Murtha				Boyd	Graves	Moran (KS)
Bonilla	Granger	Neal (MA)				Bradley (NH)	Green (WI)	Murphy
Bonner	Graves	Neugebauer				Brady (TX)	Gutknecht	Musgrave
Bono	Green (WI)	Ney				Brown (SC)	Hall	Neugebauer
Boozman	Gutknecht	Northup				Brown-Waite,	Harris	Ney
Boren	Hall	Norwood				Ginny	Hastings (WA)	Northup
Boucher	Harman	Nunes				Burgess	Hayes	Norwood
Boustany	Harris	Nussle				Buyer	Hayworth	Nunes
Boyd	Hart	Ortiz				Calvert	Hefley	Osborne
Bradley (NH)	Hastings (WA)	Osborne				Camp	Hensarling	Otter
Brady (TX)	Hayes	Oxley				Cannon	Herger	Oxley
Brown (SC)	Hayworth	Pascrell				Cantor	Herseth	Pearce
Brown-Waite,	Hefley	Paul				Capito	Hinoyosa	Pence
Ginny	Hensarling	Pearce				Carter	Hobson	Pence
Burgess	Herger	Pence				Capito	Hoekstra	Peterson (MN)
Burton (IN)	Herseth	Peterson (MN)				Cramer	Hostettler	Peterson (PA)
Buyer	Hinojosa	Peterson (PA)				Crenshaw	Hulshof	Petri
Calvert	Hobson	Petri				Cubin	Hunter	Petri
Camp	Hoekstra	Pickering				Culberson	Hulshof	Pickering
Cannon	Holden	Pitts				Cunningham	Hunter	Pitts
Cantor	Holden	Platts				Davis (AL)	Hyde	Pitts
Capito	Hookey	Poe				Davis (IL)	Inglis (SC)	Platts
Carter	Hostettler	Pombo				Davis (KY)	Inslee	Poe
Carter	Hulshof	Pomeroy				Davis (TN)	Issa	Pombo
Case	Hunter	Porter				Davis, Jo Ann	Istook	Porter
Castle	Hyde	Price (GA)				Davis, Tom	Jenkins	Price (GA)
Chabot	Inglis (SC)	Pryce (OH)				Deal (GA)	Jindal	Pryce (OH)
Choccola	Inslee	Putnam				DeFazio	Jindal	Putnam
Clyburn	Issa	Radanovich				DeGette	Johnson (CT)	Radanovich
Coble	Istook	Ramstad				DeLay	Johnson (IL)	Ramstad
Cole (OK)	Jenkins	Regula				Dent	Johnson, Sam	Regula
Conaway	Jindal	Reichart				Diaz-Balart, L.	Jones (NC)	Regula
Cooper	Johnson (CT)	Reynolds				Diaz-Balart, M.	Kelly	Rehberg
Costa	Johnson (IL)	Ross				Doolittle	Kennedy (MN)	Rehberg
Cramer	Johnson, Sam	Rothman				Drake	King (IA)	Reichart
Crenshaw	Jones (NC)	Royce				Dreier	King (NY)	Reynolds
Cubin	Jones (NC)	Ruppersberger				Duncan	Kingston	Rogers (AL)
Culberson	Kelly	Ryan (WI)				Edwards	Kirk	Rogers (KY)
Cunningham	Kennedy (MN)	Ryun (KS)				Ehlers	Kline	Rogers (MI)
Davis (AL)	Kind	Salazar				Emerson	Knollenberg	Ros-Lehtinen
Davis (IL)	King (IA)	Sanchez, Loretta				English (PA)	Kolbe	Royce
Davis (KY)	King (NY)	Saxton				Eshoo	Kuhl (NY)	Ryan (WI)
Davis (TN)	Kingston	Schmidt					LaHood	Ryun (KS)
Davis, Jo Ann	Kirk	Schwarz (MI)					Latham	
Davis, Tom	Klaine	Scott (GA)					LaTourette	
Deal (GA)	Knollenberg	Senenbrenner						
DeFazio	Kolbe	Sessions						
DeGette	Kuhl (NY)	Shadegg						
DeLay	LaHood	Shaw						
DeLay	Langevin	Shays						
Dent	Larsen (WA)							
Diaz-Balart, L.	Latham							
Diaz-Balart, M.	LaTourette							
Doolittle	Leach							
Drake	Lewis (CA)							
Dreier	Lewis (KY)							
Duncan	Linder							
Edwards	LoBiondo							
Ehlers	Lucas							
Emerson	Lungren, Daniel							
English (PA)	E.							
Eshoo	Lynch							

NOT VOTING—6

Boswell
Davis (FL)

Keller
Lewis (GA)

Myrick
Roybal-Allard

ANNOUNCEMENT BY THE ACTING CHAIRMAN
The Acting CHAIRMAN (Mr. TERRY)
(during the vote). Members are advised
there are 2 minutes remaining in this
vote.

□ 1236

So the amendment was rejected.
The result of the vote was announced
as above recorded.

AMENDMENT NO. 4 OFFERED BY MR. SCOTT OF
VIRGINIA

The Acting CHAIRMAN. The pending
business is the demand for a recorded
vote on the amendment offered by the
gentleman from Virginia (Mr. SCOTT)
on which further proceedings were
postponed and on which the ayes pre-
vailed by voice vote.

The Clerk will redesignate the
amendment.

The Clerk redesignated the amend-
ment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded
vote has been demanded.

A recorded vote was ordered.
The Acting CHAIRMAN. This will be
a 5-minute vote.

The vote was taken by electronic de-
vice, and there were—ayes 192, noes 234,
not voting 7, as follows:

[Roll No. 531]

AYES—192

Abercrombie	Costello	Gutierrez	Aderholt	Emerson	Leach
Ackerman	Crowley	Harman	Akin	English (PA)	Lewis (CA)
Allen	Cuellar	Hastings (FL)	Alexander	Everett	Lewis (KY)
Andrews	Cummings	Herseth	Bachus	Feeney	Linder
Baca	Cunningham	Higgins	Baker	Ferguson	LoBiondo
Baird	Davis (AL)	Hinchev	Barrow	Flake	Lucas
Baldwin	Davis (CA)	Hinojosa	Bartlett (MD)	Foley	Lungren, Daniel
Bean	Davis (IL)	Holden	Barton (TX)	Forbes	E.
Becerra	DeFazio	Holt	Fortenberry	Fortenberry	Mack
Berkley	DeGette	Honda	Fossella	Fossella	Manzullo
Berman	Delahunt	Hooley	Fox	Fox	Marchant
Berry	DeLauro	Hoyer	Franks (AZ)	Franks (AZ)	Matheson
Bishop (GA)	Dicks	Israel	Frelinghuysen	Frelinghuysen	McCaul (TX)
Bishop (NY)	Dingell	Jackson (IL)	Gallegly	Gallegly	McCotter
Blumenauer	Doggett	Jackson-Lee	Garrett (NJ)	Garrett (NJ)	McCrery
Boucher	Doyle	(TX)	Gibbons	Gibbons	McHenry
Brady (PA)	Duncan	Jefferson	Gilchrest	Gilchrest	McHugh
Brown (OH)	Emanuel	Johnson, E. B.	Gillmor	Gingrey	McKeon
Brown, Corrine	Engel	Jones (OH)	Gingrey	Gohmert	McMorris
Butterfield	Eshoo	Jones (OH)	Gohmert	Melancon	Melancon
Capps	Etheridge	Kanjorski	Goode	Mica	Mica
Capuano	Evans	Kaptur	Goodlatte	Miller (FL)	Miller (FL)
Cardin	Farr	Kennedy (RI)	Gordon	Miller (MI)	Miller, Gary
Carnahan	Fattah	Kildee	Granger	Miller, Gary	Moran (KS)
Carson	Filner	Kilpatrick (MI)	Graves	Moran (KS)	Murphy
Case	Fitzpatrick (PA)	Kind	Green (WI)	Murphy	Musgrave
Chandler	Ford	Kucinich	Gutknecht	Musgrave	Neugebauer
Clay	Frank (MA)	Langevin	Hall	Neugebauer	Ney
Cleaver	Gerlach	Lantos	Harris	Ney	Northup
Clyburn	Gonzalez	Larsen (WA)	Hart	Northup	Norwood
Conyers	Green, Al	Larson (CT)	Hastings (WA)	Norwood	Nunes
Cooper	Green, Gene	Lee	Hayes	Nunes	Nussle
Costa	Grijalva	Levin	Hayworth	Nussle	Osborne
			Hefley	Osborne	Otter
			Hensarling	Oxley	Pearce
			Herger	Pearce	Pence
			Hobson	Pence	Peterson (MN)
			Hoekstra	Peterson (MN)	Peterson (PA)
			Hostettler	Peterson (PA)	Petri
			Hulshof	Petri	Pickering
			Hunter	Pickering	Pitts
			Hyde	Pitts	Platts
			Inglis (SC)	Platts	Pombo
			Issa	Pombo	Porter
			Istook	Porter	Price (GA)
			Jenkins	Price (GA)	Pryce (OH)
			Jindal	Pryce (OH)	Putnam
			Johnson (CT)	Putnam	Radanovich
			Johnson (IL)	Radanovich	Ramstad
			Johnson, Sam	Ramstad	Regula
			Jones (NC)	Regula	Rehberg
			Kelly	Rehberg	Reichart
			Kennedy (MN)	Reichart	Reynolds
			King (IA)	Reynolds	Rogers (AL)
			King (NY)	Rogers (AL)	Rogers (KY)
			Kingston	Rogers (MI)	Ros-Lehtinen
			Kirk	Ros-Lehtinen	Royce
			Klaine	Royce	Ryan (WI)
			Knollenberg	Ryan (WI)	Ryun (KS)
			Kolbe	Ryun (KS)	
			Kuhl (NY)		
			LaHood		
			Latham		
			LaTourette		

NOES—234

Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Smith (NJ)
Smith (TX)
Sodrel

NOT VOTING—7

Boswell
Davis (FL)
Keller

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1246

Mr. CARDOZA changed his vote from “aye” to “no.”

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 5 OFFERED BY MR. WAXMAN

The Acting CHAIRMAN (Mr. TERRY). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. WAXMAN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 177, noes 247, not voting 9, as follows:

[Roll No. 532]

AYES—177

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldwin
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Brown-Waite,
 Ginny
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Chandler
Clay
Cleaver
Clyburn
Conyers
Costa
Costello
Crowley

Cummings
Davis (CA)
Davis (IL)
Davis, Tom
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Fitzpatrick (PA)
Ford
Frank (MA)
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Higgins
Hinchev
Hinojosa
Holt
Honda

Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

Simpson

Meehan
Meek (FL)
Meeks (NY)
Melancon
Mendez
Michaud
Millender-
 McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Oliver
Ortiz
Owens
Pallone
Pascarell
Pastor
Payne
Pelosi

Aderholt
Akin
Alexander
Bachus
Baird
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Case
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cooper
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cunningham
Davis (AL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeFazio
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson

NOES—247

English (PA)
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fortenberry
Fossella
Foxy
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hobson
Hoekstra
Holden
Hostetler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jackson-Lee
 (TX)
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach

Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sanchez, Linda
 T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis

Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel
 E.
Mack
Manzullo
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Murtha
Musgrave
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions

Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Smith (NJ)
Smith (TX)
Sodrel
Souders
Spratt
Stearns

NOT VOTING—9

Boswell
Davis (FL)
Keller

Lewis (GA)
Maloney
Marchant

Myrick
Roybal-Allard
Simpson

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (during the vote). Members are advised there are 2 minutes left in this vote.

□ 1253

So the amendment was rejected. The result of the vote was announced as above recorded.

The Acting CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The Acting CHAIRMAN. Under the rule, the committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LATHAM) having assumed the chair, Mr. TERRY, Acting Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 554) to prevent legislative and regulatory functions from being usurped by civil liability actions brought or continued against food manufacturers, marketers, distributors, advertisers, sellers, and trade associations for claims of injury relating to a person’s weight gain, obesity, or any health condition associated with weight gain or obesity, pursuant to House Resolution 494, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the 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. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 306, nays 120, not voting 7, as follows:

[Roll No. 533]

YEAS—306

Aderholt	Fitzpatrick (PA)	McHenry
Akin	Flake	McHugh
Alexander	Foley	McIntyre
Baca	Forbes	McKeon
Bachus	Ford	McMorris
Baird	Fortenberry	McNulty
Baker	Fossella	Meek (FL)
Barrett (SC)	Fox	Meeks (NY)
Barrow	Franks (AZ)	Melancon
Bartlett (MD)	Frelinghuysen	Menendez
Barton (TX)	Gallely	Mica
Bass	Garrett (NJ)	Michaud
Bean	Gerlach	Millender-
Beauprez	Gibbons	McDonald
Berkley	Gilchrest	Miller (FL)
Berry	Gillmor	Miller (MI)
Biggert	Gingrey	Miller, Gary
Bilirakis	Gohmert	Moore (KS)
Bishop (GA)	Goode	Moran (KS)
Bishop (UT)	Goodlatte	Moran (VA)
Blackburn	Gordon	Murphy
Blunt	Granger	Musgrave
Boehlert	Graves	Neugebauer
Boehner	Green (WI)	Ney
Bonilla	Green, Gene	Northup
Bonner	Gutknecht	Norwood
Bono	Hall	Nunes
Boozman	Harman	Nussle
Boren	Harris	Obey
Boucher	Hart	Ortiz
Boustany	Hastings (WA)	Osborne
Boyd	Hayes	Otter
Bradley (NH)	Hayworth	Oxley
Brady (TX)	Hefley	Pearce
Brown (SC)	Hensarling	Pence
Brown, Corrine	Herger	Peterson (MN)
Brown-Waite,	Herseth	Peterson (PA)
Ginny	Higgins	Petri
Burgess	Hinojosa	Pickering
Burton (IN)	Hobson	Pitts
Buyer	Hoekstra	Platts
Calvert	Holden	Poe
Camp	Hoolley	Pombo
Cannon	Hostettler	Pomeroy
Cantor	Hulshof	Porter
Capito	Hunter	Price (GA)
Cardoza	Hyde	Putnam
Carter	Inglis (SC)	Radanovich
Castle	Issa	Ramstad
Chabot	Istook	Regula
Chocola	Jenkins	Rehberg
Clay	Jindal	Reichert
Clyburn	Johnson (CT)	Renzi
Coble	Johnson (IL)	Reyes
Cole (OK)	Johnson, Sam	Reynolds
Conaway	Jones (NC)	Rogers (AL)
Cooper	Kelly	Rogers (KY)
Costa	Kennedy (MN)	Rogers (MI)
Cramer	Kind	Rohrabacher
Crenshaw	King (IA)	Ros-Lehtinen
Cubin	King (NY)	Ross
Cuellar	Kingston	Royce
Culberson	Kirk	Ruppersberger
Cunningham	Kline	Ryan (OH)
Davis (AL)	Knollenberg	Ryan (WI)
Davis (IL)	Kolbe	Ryun (KS)
Davis (KY)	Kuhl (NY)	Salazar
Davis (TN)	LaHood	Sanchez, Loretta
Davis, Jo Ann	Langevin	Saxton
Davis, Tom	Larsen (WA)	Schmidt
Deal (GA)	Larson (CT)	Schwarz (MI)
DeFazio	Latham	Scott (GA)
DeLay	LaTourette	Sensenbrenner
Dent	Leach	Sessions
Diaz-Balart, L.	Lewis (CA)	Shadegg
Diaz-Balart, M.	Lewis (KY)	Shaw
Dicks	Linder	Shays
Dingell	Lipinski	Sherwood
Doolittle	LoBiondo	Shimkus
Doyle	Lucas	Shuster
Drake	Lungren, Daniel	Simmons
Dreier	E.	Simpson
Duncan	Lynch	Skelton
Edwards	Mack	Slaughter
Ehlers	Manzullo	Smith (NJ)
Emanuel	Marchant	Smith (TX)
Emerson	Marshall	Smith (WA)
English (PA)	Matheson	Sodrel
Everett	McCaul (TX)	Souder
Feeney	McCotter	Spratt
Ferguson	McCrery	Stearns

Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt

Tiberi
Towns
Turner
Udall (CO)
Upton
Velázquez
Walden (OR)
Walsh
Wamp
Wasserman
Schultz
Weldon (FL)
Weldon (PA)

Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from Texas (Mr. BONILLA).

The motion was agreed to.

MOTION TO INSTRUCT OFFERED BY MS. DELAURO

Ms. DELAURO. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Ms. DELAURO of Connecticut moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill, H.R. 2744, be instructed to:

1. Recede to the Senate on Section 785 of the Senate amendment, and

2. Agree to a provision that restricts, within the scope of conference, the availability of funds to reimburse administrative costs under the Food Stamp Act of 1977 to a State agency based on the percentage of the costs (other than costs for issuance of benefits or nutrition education) obtained under contract.

□ 1315

The SPEAKER pro tempore (Mr. TERRY). Pursuant to clause 7 of rule XXII, the gentlewoman from Connecticut (Ms. DELAURO) and the gentleman from Texas (Mr. BONILLA) each will control 30 minutes.

The Chair recognizes the gentlewoman from Connecticut (Ms. DELAURO).

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

Mr. Speaker, I rise to offer this motion to instruct. This motion will instruct House conferees for the fiscal year 2006 agricultural appropriations bill to insist that none of the funds made available by this or any other act be used to close or relocate a county or local Farm Service Agency office until the Secretary of Agriculture has determined the cost effectiveness of such closures.

It would also set a limit on the funds available for States to contract out work being carried out under the Food Stamp Act of 1977.

I want to first say that it has been a pleasure working with the gentleman from Texas (Mr. BONILLA) and his talented staff to put together the fiscal year 2006 agricultural appropriations bill, doing the best we could with very limited resources.

Under the circumstances, it is a bill that I was proud of, my first as ranking minority member of this subcommittee. I also want to thank the gentleman from Wisconsin (Mr. OBEY).

Mr. Speaker, I join with my colleagues to offer a motion that would in essence codify the decision announced yesterday by the U.S. Department of Agriculture to shelve its so-called FSA Tomorrow Plan, a plan that would have closed 713 of the Farm Service Agency's 2,351 offices across America, including two in my State of Connecticut. Had the plan gone into effect, more than a quarter of FSA's total field offices would have closed at a

NAYS—120

Abercrombie	Hastings (FL)
Ackerman	Hinchey
Allen	Holt
Andrews	Honda
Baldwin	Hoyer
Becerra	Inslee
Berman	Israel
Bishop (NY)	Jackson (IL)
Blumenauer	Jackson-Lee
Brady (PA)	(TX)
Brown (OH)	Jefferson
Butterfield	Johnson, E. B.
Capps	Jones (OH)
Capuano	Kanjorski
Cardin	Kaptur
Carman	Kennedy (RI)
Carson	Kildee
Case	Kilpatrick (MI)
Chandler	Kucinich
Cleaver	Lantos
Conyers	Lee
Costello	Levin
Crowley	Lofgren, Zoe
Cummings	Lowe
Davis (CA)	Maloney
DeGette	Markey
Delahunt	Matsui
DeLauro	McCarthy
Doggett	McCollum (MN)
Engel	McDermott
Eshoo	McGovern
Etheridge	McKinney
Evans	Meehan
Farr	Miller (NC)
Fattah	Miller, George
Filner	Mollohan
Frank (MA)	Moore (WI)
Gonzalez	Murtha
Green, Al	Nadler
Grijalva	Napolitano
Gutierrez	Neal (MA)

NOT VOTING—7

Boswell	Lewis (GA)	Roybal-Allard
Davis (FL)	Mryrick	
Keller	Pryce (OH)	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1314

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION TO GO TO CONFERENCE ON H.R. 2744, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

Mr. BONILLA. Mr. Speaker, pursuant to clause 1 of rule XXII, and by direction of the Committee on Appropriations, I move to take from the Speaker's table the bill (H.R. 2744) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes, with a Senate