

section extends coverage of Part A, Title II of the CAA to the Library of Congress. The section acknowledges the existing process utilized by covered employees of the Library and gives those employees choice of whether to continue to use the LOC internal grievance procedures if they choose.

Sec. 303. Clarification of Coverage of Employees of Helsinki and China Commissions. The section extends covered employee status to employees of the above Commissions. The section establishes employing office status for the Commissions, which is contingent on whether the House or Senate maintains the Chairmanship. Section 303 also sets out the process for approving the disposition of claims against the Commissions as employing offices. The section also extends coverage to the Office of Technology Assistance and the John C. Stennis Public Service Training and Development Center.

Sec. 304. Training and Education Programs of Other Employing Offices. Section 304 directs the legislative branch agencies to establish programs of training and education for covered employees on the rights and protections under the CAA.

Sec. 305. Renaming Office of Compliance as Office of Congressional Workplace Rights. This section renames OOC as the Office of Congressional Workplace Rights.

#### TITLE IV—EFFECTIVE DATE

Sec. 401. Effective Date. The section specifies the amendments made in this Act are effective 180 days after enactment. In addition, the bill specifies that nothing in the Act or amendment is intended to impact current proceedings.

#### INTRODUCTION AND REFERRAL

On February 5, 2018, Representative Gregg Harper of Mississippi introduced H.R. 4924, the Congressional Accountability Act of 1995 Reform Act, which was referred to the Committee on House Administration.

#### HEARINGS

On November 14, 2017 and December 7, 2017, the Committee held an oversight hearing to review the policies, procedures, and mechanisms to address sexual harassment in the Congressional workplace.

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

In compliance with House Rule XIII, clause 3(c)(1), the Committee states that the findings and recommendations of the Committee, based on oversight activities under House Rule X, clause 2(b)(1), are incorporated into the general discussion section of this report.

Ms. LOFGREN. Mr. Speaker, I rise today in strong support of H.R. 4924, the Congressional Accountability Act of 1995 Reform Act.

This bill would bring much-needed reforms to the process available to congressional employees for filing workplace complaints and ensure a more equitable and transparent process.

Under the new process, employees who file a complaint would have the choice to enter into mediation instead of being required to do so, as is currently the case. Employees should not be forced into mandatory mediation, especially with an employer against whom they have raised allegations of sexual harassment or other types of discrimination. This bill also eliminates the thirty-day “cooling off” period currently mandated by the CAA.

Filing a workplace complaint can be harrowing for employees, and having no choice but to face the employer or colleague against whom they have filed the complaint may deter employees from going through with it. That is why the protections in this bill from

retaliation by the employing office for requesting remote work or paid leave by an employee who has a filed a complaint are so important.

Unpaid interns, fellows, and detailees in Congressional offices should not be more vulnerable to workplace harassment and discrimination than their congressional staff colleagues. This bill would extend coverage of the rights and protections established under the CAA to these groups.

The bill also requires that a climate survey be conducted of all offices covered by the CAA, each Congress, regarding the workplace environment, including sexual harassment. Collecting information, anonymously, from staff will help us determine whether the reforms we hope in this bill are serving their purpose or if modifications are needed.

H.R. 4924 is the culmination of bipartisan work on the part of House Administration Committee Chairman HARPER and Ranking Member BRADY, and my fellow members on the Committee, as well as the leadership of my colleague Rep. JACKIE SPEIER, who has championed the issue of fighting sexual harassment on the Hill. I want to thank them all for working collaboratively on this legislation.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. HARPER) that the House suspend the rules and pass the bill, H.R. 4924.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### REQUIRING ADOPTION OF ANTI-HARASSMENT AND ANTI-DISCRIMINATION POLICIES FOR HOUSE OFFICES

Mr. HARPER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 724) requiring each employing office of the House of Representatives to adopt an anti-harassment and anti-discrimination policy for the office's workplace, establishing the Office of Employee Advocacy to provide legal assistance and consultation to employees of the House regarding procedures and proceedings under the Congressional Accountability Act of 1995, and for other purposes.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 724

*Resolved,*

#### SECTION 1. MANDATORY ANTI-HARASSMENT AND ANTI-DISCRIMINATION POLICIES FOR HOUSE OFFICES.

(a) **REQUIRING OFFICES TO ADOPT POLICY.**—Each employing office of the House of Representatives under the Congressional Accountability Act of 1995 shall adopt an anti-harassment and anti-discrimination policy for the office's workplace.

(b) **REGULATIONS.**—Not later than June 1, 2018, the Committee on House Administration shall promulgate regulations to carry out this section, and shall ensure that such regulations are consistent with the requirements of the Congressional Accountability Act of 1995, the Code of Official Conduct

under rule XXIII of the Rules of the House of Representatives, and other relevant laws, rules, and regulations.

#### SEC. 2. OFFICE OF EMPLOYEE ADVOCACY.

(a) **ESTABLISHMENT.**—There is established in the Office of the Chief Administrative Officer of the House of Representatives the Office of Employee Advocacy (hereafter in this section referred to as the “Office”).

(b) **FUNCTIONS.**—

(1) **LEGAL ASSISTANCE, CONSULTATION, AND REPRESENTATION.**—Subject to subsection (c), the Office shall carry out the following functions:

(A) Providing legal assistance and consultation to covered employees of the House under the Congressional Accountability Act of 1995 regarding the procedures of such Act and the procedures applicable to civil actions arising under such Act, including—

(i) the roles and responsibilities of the Office of Compliance, the Office of the House Employment Counsel, and similar authorities;

(ii) any proceedings conducted under such Act;

(iii) the authority of the Office of Compliance to compel cooperation and testimony under investigations and proceedings conducted under title IV of such Act; and

(iv) the employee's duties relating to such proceedings, including the responsibility to testify.

(B) Providing legal assistance and representation—

(i) in personal civil legal matters related to a covered employee's initiation of or participation in proceedings under title IV of such Act (other than a civil action filed under section 408 of such Act); and

(ii) in any proceedings of the Office of Compliance, the Committee on Ethics of the House of Representatives (including the Office of Congressional Ethics), or any other administrative or judicial body related to the alleged violations of such Act which are the subject of the proceedings initiated by the covered employee, or the proceedings in which the covered employee participates, under title IV of such Act.

(C) Operating a hotline through which covered employees of the House under such Act may contact the Office.

(2) **AUTHORITY TO PROVIDE ASSISTANCE IN ANY JURISDICTION.**—Notwithstanding any law regarding the licensure of attorneys, an attorney who is employed by the Office and is authorized to provide legal assistance and representation under this section is authorized to provide that assistance and representation in any jurisdiction, subject to such regulations as may be prescribed by the Office.

(3) **NATURE OF RELATIONSHIP.**—The relationship between the Office and an employee to whom the Office provides legal assistance, consultation, and representation under this section shall be the relationship between an attorney and client.

(4) **PROHIBITING ACCEPTANCE OF AWARD OF ATTORNEY FEES OR OTHER COSTS.**—The Office may not accept any award of attorney fees or other litigation expenses and costs under any hearing or civil action brought under the Congressional Accountability Act of 1995.

(5) **PROHIBITING ASSISTANCE IN OTHER MATTERS OR PROCEEDINGS.**—The Office may not provide any legal assistance, consultation, or representation with respect to any matter or proceeding which does not arise under the Congressional Accountability Act of 1995.

(c) **PROHIBITING PROVISION OF ASSISTANCE UPON FILING OF CIVIL ACTION.**—If a covered employee of the House files a civil action with respect to an alleged violation of the Congressional Accountability Act of 1995, as provided in section 408 of such Act, the Office

may not provide assistance under this section to the employee with respect to investigations or proceedings under such Act in connection with such alleged violation at any time after the employee files such action.

(d) **DIRECTOR.**—

(1) **APPOINTMENT.**—The Office shall be headed by a Director who shall be appointed by the Chief Administrative Officer of the House of Representatives.

(2) **QUALIFICATIONS; NONPARTISANSHIP OF POSITION.**—The individual appointed as Director shall be a lawyer who is admitted to practice before the United States District Court for the District of Columbia and who has experience in representing employees in workplace discrimination cases.

(3) **COMPENSATION.**—The Director shall be paid at an annual rate established by the Chief Administrative Officer.

(4) **REMOVAL.**—The Director may be removed by the Chief Administrative Officer only for cause.

(e) **OTHER PERSONNEL.**—Subject to regulations of the Committee on House Administration and with the approval of the Chief Administrative Officer, the Director may appoint and fix the compensation of such additional personnel as the Director determines to be necessary to carry out the functions of the Office.

(f) **NONPARTISANSHIP OF POSITIONS.**—The Director and the other personnel of the Office shall be appointed without regard to political affiliation and solely on the basis of fitness to perform the duties of the position.

### **SEC. 3. FUNCTIONS OF OFFICE OF HOUSE EMPLOYMENT COUNSEL.**

(a) **FUNCTIONS DESCRIBED.**—The Office of the House Employment Counsel established under the Office of the Clerk of the House of Representatives shall carry out all of the functions which the Office carried out as of the date of the enactment of this Act, including the following:

(1) Providing legal assistance and representation to employing offices of the House with respect to proceedings under the Congressional Accountability Act of 1995 which are brought by covered employees of the House under such Act.

(2) Providing employing offices of the House with confidential advice and counseling regarding compliance with employment laws.

(3) Providing training to managers and employees regarding employment law compliance.

(b) **NO EFFECT ON PENDING PROCEEDINGS.**—Nothing in this section may be construed to affect any proceeding to which the Office is a party that is pending on the date of the enactment of this Act, including any suit to which the Office is a party that is commenced prior to such date.

### **SEC. 4. REQUIRING INCLUSION OF CERTIFICATIONS ON PAYROLL AUTHORIZATION FORMS OF HOUSE OF REPRESENTATIVES OF NO CONNECTION BETWEEN PAYROLL ACTIONS AND AWARDS AND SETTLEMENTS UNDER CONGRESSIONAL ACCOUNTABILITY ACT OF 1995.**

(a) **REQUIRING INCLUSION OF CERTIFICATION ON FORMS.**—The Chief Administrative Officer of the House of Representatives shall incorporate, as part of the Payroll Authorization Form used by an office of the House to register the appointment of an employee to the office or a salary adjustment or title change with respect to an employee of the office—

(1) a certification to be made by the authorizing official of the office that the appointment, salary adjustment, or title change is not made to pay a settlement or award in connection with conduct prohibited under the Congressional Accountability Act of 1995; and

(2) in the case of an office of a Member of the House, a certification by the Member that any amounts in the Members' Representational Allowance for the office which may be used to carry out the appointment, salary adjustment, or title change are not being used to pay a settlement or award in connection with conduct prohibited under such Act.

(b) **REQUIRING CERTIFICATION AS CONDITION OF PROCESSING PAYROLL ACTION.**—The Chief Administrative Officer may not process any Payroll Authorization Form with respect to an office of the House if the Form does not include the certifications required with respect to that office under subsection (a).

### **SEC. 5. SEXUAL HARASSMENT AS VIOLATION OF HOUSE CODE OF OFFICIAL CONDUCT.**

Clause 9 of rule XXIII of the Rules of the House of Representatives is amended by striking "such individual," and inserting "such individual, including by committing an act of sexual harassment against such individual,".

### **SEC. 6. SEXUAL RELATIONSHIPS BETWEEN HOUSE MEMBERS AND EMPLOYEES AND UNWELCOME SEXUAL ADVANCES AS VIOLATION OF HOUSE CODE OF OFFICIAL CONDUCT.**

Rule XXIII of the Rules of the House of Representatives is amended—

(1) by redesignating clause 18 as clause 19; and

(2) by inserting after clause 17 the following new clause:

"18.(a) A Member, Delegate, or Resident Commissioner may not engage in a sexual relationship with any employee of the House who works under the supervision of the Member, Delegate, or Resident Commissioner. This paragraph does not apply with respect to any relationship between two people who are married to each other.

"(b) A Member, Delegate, Resident Commissioner, officer, or employee of the House may not engage in unwelcome sexual advances or conduct towards another Member, Delegate, Resident Commissioner, officer, or employee of the House.

"(c) In this clause, the term 'employee' includes an applicant for employment, a paid or unpaid intern (including an applicant for an internship), a detailee, and an individual participating in a fellowship program."

### **SEC. 7. EFFECT OF INITIATION OF PROCEEDINGS UNDER CONGRESSIONAL ACCOUNTABILITY ACT OF 1995 ON AUTHORITY OF OFFICE OF CONGRESSIONAL ETHICS TO CONSIDER ALLEGATIONS.**

The Office of Congressional Ethics may not initiate or continue any investigation of an allegation of a violation of law made applicable to employing offices of the House of Representatives under part A of title II of the Congressional Accountability Act of 1995, or make any recommendations regarding such an allegation, if a covered employee initiates proceedings with respect to the alleged violation under title IV of such Act.

The **SPEAKER** pro tempore. Pursuant to the rule, the gentleman from Mississippi (Mr. **HARPER**) and the gentleman from Pennsylvania (Mr. **BRADY**) each will control 20 minutes.

The Chair recognizes the gentleman from Mississippi.

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

Mr. Speaker, this is the second measure before us today. The House resolution makes a number of administrative reforms to the House, including requiring each employing office of the House to adopt antiharassment and anti-discrimination policies for the office's

workplace; establishing within the Chief Administrative Officer an Office of Employee Advocacy who will provide legal consultation, representation, and assistance to House employees; and directing Members to certify that the Members' Representational Allowance is not being used to settle or pay an award under the Congressional Accountability Act.

In addition, the resolution makes a number of changes to the Code of Official Conduct that, together, will strengthen the House's policies on sexual harassment.

The House resolution is a critical piece of the comprehensive reform package needed to strengthen the policies, procedures, and mechanisms to guard against and respond to sexual harassment claims in the congressional workplace. I encourage my colleagues to support this important resolution.

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

Mr. **BRADY** of Pennsylvania. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution continues the work we started and the legislation we just considered. It makes much-needed improvements to how the House operates.

It requires every office to have an antiharassment and antidiscrimination policy. It provides legal counsel for our House employees who need assistance in fighting harassment in their offices. It strengthens our Code of Conduct, the ethics rules we live by, to make clear that this kind of behavior will not be tolerated, and it bans the use of the MRA for paying settlements.

I encourage my colleagues to support this legislation.

Again, I would like to thank my chairman for his cooperation. As always, we work together. As you can see, when we work together, we get things done.

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

Mr. **HARPER**. Mr. Speaker, I want to certainly thank the ranking member, Mr. **BRADY**, for the great bipartisan work and his friendship in making this possible to get these important things done.

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

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. **HARPER**) that the House suspend the rules and agree to the resolution, H. Res. 724.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

**AUTHORIZING THE USE OF EMANCIPATION HALL IN THE CAPITOL VISITOR CENTER FOR AN EVENT TO CELEBRATE THE 200TH ANNIVERSARY OF THE BIRTH OF FREDERICK DOUGLASS**

Mr. HARPER. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of House Concurrent Resolution 102, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

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

There was no objection.

The text of the concurrent resolution is as follows:

**H. CON. RES. 102**

*Resolved by the House of Representatives (the Senate concurring),*

**SECTION 1. USE OF EMANCIPATION HALL FOR EVENT TO CELEBRATE 200TH ANNIVERSARY OF BIRTH OF FREDERICK DOUGLASS.**

(a) AUTHORIZATION.—Emancipation Hall in the Capitol Visitor Center is authorized to be used on February 14, 2018, for an event to celebrate the 200th anniversary of the birth of Frederick Douglass.

(b) PREPARATIONS.—Physical preparations for the conduct of the ceremony described in subsection (a) shall be carried out in accordance with such conditions as may be prescribed by the Architect of the Capitol.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

**COMMON SENSE NUTRITION DISCLOSURE ACT OF 2017**

Mr. UPTON. Mr. Speaker, pursuant to House Resolution 725, I call up the bill (H.R. 772) to amend the Federal Food, Drug, and Cosmetic Act to improve and clarify certain disclosure requirements for restaurants and similar retail food establishments, and to amend the authority to bring proceedings under section 403A, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 725, the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce, printed in the bill, is adopted, and the bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

**H.R. 772**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

*This Act may be cited as the “Common Sense Nutrition Disclosure Act of 2017”.*

**SEC. 2. AMENDING CERTAIN DISCLOSURE REQUIREMENTS FOR RESTAURANTS AND SIMILAR RETAIL FOOD ESTABLISHMENTS.**

(a) IN GENERAL.—Section 403(q)(5)(H) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(q)(5)(H)) is amended—

(1) in subclause (ii)—

(A) in item (I)(aa), by striking “the number of calories contained in the standard menu item, as usually prepared and offered for sale” and inserting “the number of calories contained in the whole standard menu item, or the number of servings (as reasonably determined by the restaurant or similar retail food establishment) and number of calories per serving, or the number of calories per the common unit division of the standard menu item, such as for a multiserving item that is typically divided before presentation to the consumer”;

(B) in item (II)(aa), by striking “the number of calories contained in the standard menu item, as usually prepared and offered for sale” and inserting “the number of calories contained in the whole standard menu item, or the number of servings (as reasonably determined by the restaurant or similar retail food establishment) and number of calories per serving, or the number of calories per the common unit division of the standard menu item, such as for a multiserving item that is typically divided before presentation to the consumer”;

(C) by adding at the end the following flush text:

“In the case of restaurants or similar retail food establishments where the majority of orders are placed by customers who are off-premises at the time such order is placed, the information required to be disclosed under items (I) through (IV) may be provided by a remote-access menu (such as a menu available on the internet) as the sole method of disclosure instead of on-premises writings.”;

(2) in subclause (iii)—

(A) by inserting “either” after “a restaurant or similar retail food establishment shall”; and

(B) by inserting “or comply with subclause (ii)” after “per serving”;

(3) in subclause (iv)—

(A) by striking “For the purposes of this clause” and inserting the following:

“(I) IN GENERAL.—For the purposes of this clause”;

(B) by striking “and other reasonable means” and inserting “or other reasonable means”; and

(C) by adding at the end the following:

“(II) PERMISSIBLE VARIATION.—If the restaurant or similar food establishment uses such means as the basis for its nutrient content disclosures, such disclosures shall be treated as having a reasonable basis even if such disclosures vary from actual nutrient content, including but not limited to variations in serving size, inadvertent human error in formulation or preparation of menu items, variations in ingredients, or other reasonable variations.”;

(4) by amending subclause (v) to read as follows:

“(v) MENU VARIABILITY AND COMBINATION MEALS.—The Secretary shall establish by regulation standards for determining and disclosing the nutrient content for standard menu items that come in different flavors, varieties, or combinations, but which are listed as a single menu item, such as soft drinks, ice cream, pizza, doughnuts, or children’s combination meals. Such standards shall allow a restaurant or similar retail food establishment to choose whether to determine and disclose such content for the whole standard menu item, for a serving or common unit division thereof, or for a serving or common unit division thereof accompanied by the number of servings or common unit divisions in the whole standard menu item. Such standards shall allow a restaurant or similar retail food establishment to determine and disclose such content by using any of the following methods: ranges, averages, individual labeling of flavors or components, or labeling of one preset standard build. In addition to such methods, the Secretary may allow the use of other methods, to be determined by the Secretary, for which there is a reasonable basis (as such term is defined in subclause (iv)(II)).”;

(5) in subclause (x)—

(A) by striking “Not later than 1 year after the date of enactment of this clause, the Secretary shall promulgate proposed regulations to carry out this clause.” and inserting “Not later than 1 year after the date of enactment of the Common Sense Nutrition Disclosure Act of 2017, the Secretary shall issue proposed regulations to carry out this clause, as amended by such Act. Final regulations to carry out this clause, including any regulations promulgated before the date of enactment of the Common Sense Nutrition Disclosure Act of 2017, shall not take effect until such compliance date as shall be specified by the Secretary in the regulations promulgated pursuant to the Common Sense Nutrition Disclosure Act of 2017.”; and

(B) by adding at the end the following:

“(IV) CERTIFICATIONS.—Restaurants and similar retail food establishments shall not be required to provide certifications or similar signed statements relating to compliance with the requirements of this clause.”;

(6) by amending subclause (xi) to read as follows:

“(xi) DEFINITIONS.—In this clause:

“(I) MENU; MENU BOARD.—The term ‘menu’ or ‘menu board’ means the one listing of items which the restaurant or similar retail food establishment reasonably believes to be, and designates as, the primary listing from which customers make a selection in placing an order. The ability to order from an advertisement, coupon, flyer, window display, packaging, social media, or other similar writing does not make the writing a menu or menu board.

“(II) PRESET STANDARD BUILD.—The term ‘preset standard build’ means the finished version of a menu item most commonly ordered by consumers.

“(III) STANDARD MENU ITEM.—The term ‘standard menu item’ means a food item of the type described in subclause (i) or (ii) of subparagraph (5)(A) with the same recipe prepared in substantially the same way with substantially the same food components that—

“(aa) is routinely included on a menu or menu board or routinely offered as a self-service food or food on display at 20 or more locations doing business under the same name; and

“(bb) is not a food referenced in subclause (vii).”;

(7) by adding at the end the following:

“(xii) OPPORTUNITY TO CORRECT VIOLATIONS.—Any restaurant or similar retail food establishment that the Secretary determines is in violation of this clause shall have 90 days after receiving notification of the violation to correct the violation. The Secretary shall take no enforcement action, including the issuance of any public letter, for violations that are corrected within such 90-day period.”.

(b) NATIONAL UNIFORMITY.—Section 403A(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343-1(b)) is amended by striking “may exempt from subsection (a)” and inserting “may exempt from subsection (a) (other than subsection (a)(4))”.

**SEC. 3. LIMITATION ON LIABILITY FOR DAMAGES ARISING FROM NONCOMPLIANCE WITH NUTRITION LABELING REQUIREMENTS.**

Section 403(q)(5)(H) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(q)(5)(H)), as amended by section 2, is further amended by adding at the end the following:

“(xiii) LIMITATION ON LIABILITY.—A restaurant or similar retail food establishment shall not be liable in any civil action in Federal or State court (other than an action brought by the United States or a State) for any claims arising out of an alleged violation of—

“(I) this clause; or

“(II) any State law permitted under section 403A(a)(4).”.

The SPEAKER pro tempore. The bill shall be debatable for 1 hour equally divided and controlled by the chair and