

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

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|-----------------|------------------|---------------|
| 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 | McCrery |
| 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 |