

Oversight and the Courts on the dangers that obesity lawsuits pose for small businesses. Mr. Reaves gave compelling testimony about the catastrophic effects that such a lawsuit could have on him and his 196 employees. He then noted an even more insidious cost of obesity lawsuits:

But beyond the costs of defending a potential suit and the risks to my business that go along with it, there are other significant and detrimental effects. For instance, the mere threat of such a suit can have a direct impact on the cost of insuring my business. Insurance companies have acknowledged that they are watching these lawsuits very closely, and they recognize that this litigation is very much a factor in how they may price future liability products for food companies.

Mr. Reaves' testimony is especially important, because it highlights the fact that much more is at stake in the obesity lawsuit debate than the transfer of huge monetary sums from businesses to wealthy trial lawyers. If the mere threat of these lawsuits is not removed, then economic ripples will negatively impact every sector of the food industry. Even the ordinary consumer will feel this impact in the form of higher retail prices.

These lawsuits may even have the perverse effect of exacerbating the problems of overweight Americans. By trying to assign responsibility for overeating to food producers and sellers, the obesity lawsuit movement may be actively discouraging the kind of personal responsibility needed for Americans to develop healthier eating habits.

Let me be clear: This bill is not intended to minimize the problem of overeating. In fact, overweight Americans need to design healthier lifestyles for themselves and their children. America is blessed with an abundant, affordable food supply and an overwhelming number of food choices. With so many food choices, some of us overdo it.

That overindulgence, combined with an underindulgence of exercise, can have negative health consequences. But most of us take responsibility for the amount and the type of food we put in our mouth, and we accept the consequences of these decisions.

Unfortunately, some personal injury lawyers are now trying to convince Americans with expanding waistlines that someone else is to blame for their weight problem. This is precisely the wrong message to send to Americans who may be struggling with their weight.

Dr. Gerard J. Musante is an adjunct professor at Duke University and founder of Structure House, a well-known and highly respected residential weight loss center in Durham, North Carolina. Dr. Musante has testified before a Senate Judiciary subcommittee that he was concerned about the message sent to overweight Americans by litigation related to obesity.

Dr. Musante's viewpoint on this issue is worth our full attention. Specifically, he testified that:

Lawsuits are pointing fingers at the food industry in an attempt to curb the nation's

obesity epidemic. These lawsuits 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. Certainly we live in a litigious society. Our understanding of psychological issues tells us that when people feel frustrated and powerless, they lash out and seek reasons for their perceived failure. They feel the victim and look for the deep pockets to pay. Unfortunately, this has become part of our culture, but the issue is far too comprehensive to lay blame on any single food marketer or manufacturer. These industries should not be demonized for providing goods and services demanded by our society.

Dr. Musante is absolutely right, and this bill is designed to ensure that an individual's eating habits do not become the province of our already overcrowded judicial system.

The bill is narrowly tailored to apply only to frivolous lawsuits seeking to shift responsibility for unhealthy lifestyle choices. It acknowledges that weight gain and its consequences have numerous interrelated causes, including genetic factors, physical activity, and other lifestyle choices unrelated to consumption of food manufactured or sold by a specific restaurant or corner store.

It is not intended to limit a plaintiff's ability to pursue legal action against food manufacturers or sellers who are found to be engaged in wrongdoing. In fact, let me be clear about what this bill will not do:

It would not affect lawsuits against food manufacturers or sellers that knowingly and willfully violate Federal or State statutes applicable to the manufacture or sale of food. This means that suits based on knowing misrepresentations regarding nutritional information or other statements would not be precluded by this bill.

It would not apply to lawsuits for breach of contract or express warranty.

It would not apply to claims relating to "adulterated" food or provide immunity to restaurants that improperly store, handle, or prepare food leading to an illness.

It would not apply to claims stemming from the use of dietary supplements.

In short, it will not provide widespread legal immunity for the food industry. It only provides protection from abusive lawsuits by people seeking to blame someone else for their poor eating habits.

I should mention that in the 109th Congress, the House voted on similar legislation. That bill, entitled the "Personal Responsibility in Food Consumption Act," passed the House on October 19, 2005, by the overwhelming margin of 306-120.

In our overly litigious society, this bill delivers an important message about personal responsibility. Americans have the freedom to make choices about the food they want to eat, and

those choices cannot be litigated away. Frivolous lawsuits are not a substitute for the considered judgment of legislatures and regulatory agencies about the best ways to encourage healthy lifestyles that include a proper diet and exercise.

I hope my colleagues will join me in taking an important step to preserve common sense in the judicial system.

HONORING OUR ARMED FORCES

PRIVATE FIRST CLASS KATIE SOENKSEN

Mr. GRASSLEY. Mr. President, it is with deep sadness that I announce to the Senate that one of Iowa's own, PFC Katie Soenksen of Davenport, has given her life in service to her country in Iraq. My thoughts and prayers are with her parents, Mary Ann and Ronald Soenksen, her brother and sister, and all her family and friends as they grieve her loss. Katie is one of many members of her extended family who have served their country in the military, and she felt a calling to military service. She even visited her former high school, Davenport North, to recruit for the Army. She joined the Army knowing full well what sacrifices she might be asked to make, but she believed in what she was doing and in her mission in Iraq. Katie kept in regular contact with her family and reported about the tremendous good she and her fellow soldiers were doing to make better the lives of everyday Iraqis. Certainly the Iraqi citizens whose lives she helped to improve, as well as all Americans, whose security she has helped ensure, owe her a tremendous debt of gratitude. Our Nation is truly blessed to have such citizens as Katie Soenksen who are prepared to make the ultimate sacrifice for our freedom, and I am proud to call her an Iowan. Words cannot adequately express the thanks owed to her and her family, who feel her loss so deeply. Her ashes will now rest alongside her fellow patriots at the National Cemetery on Arsenal Island, and her soul is no doubt in heaven.

GENETIC TESTING

Mr. OBAMA. Mr. President, I wish to comment about an amendment that I offered to the bill, S. 1082, that the Senate passed on Wednesday.

Researchers and clinicians continue to make significant advancements in personalized medicine. The ability to diagnose, evaluate disease susceptibility, and provide medical treatment at an individual level is made possible by powerful tools such as genetic testing, an essential component of personalized medicine. Given the complex nature of genetic testing, I am pleased that my amendment, No. 1041, to the bill was accepted. This amendment provides for a study by the highly regarded Institute of Medicine, which will give independent, renowned, and respected experts in genetics,