To amend the Federal Food, Drug, and Cosmetic Act with respect to liability under State and local requirements respecting devices.

IN THE HOUSE OF REPRESENTATIVES

Mr. Pallone (for himself and Mr. Waxman) introduced the following bill; which was referred to the Committee on ______________________

A BILL

To amend the Federal Food, Drug, and Cosmetic Act with respect to liability under State and local requirements respecting devices.

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 “Medical Device Safety Act of 2008”.

SEC. 2. LIABILITY UNDER STATE AND LOCAL REQUIREMENTS RESPECTING DEVICES.

(a) AMENDMENT.—Section 521 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360k) is amended by adding at the end the following:
“(c) No Effect on Liability Under State Law.—Nothing in this section shall be construed to modify or otherwise affect any action for damages or the liability of any person under the law of any State.”.

(b) Effective Date.—The amendment made by subsection (a) shall—

(1) take effect as if included in the enactment of the Medical Device Amendments of 1976 (Public Law 94-295); and

(2) apply to any civil action pending or filed on or after the date of enactment of this Act.