

The Protecting America's Workers Act

Fulfilling the Promise of Safe Jobs for All Workers.

Nearly four decades ago, Congress enacted the Occupational Safety and Health Act of 1970, promising American workers the right to a safe job. While progress has been made since the OSH Act was passed, the toll of workplace injuries, illnesses and fatalities remains still enormous. Each year thousands of workers are killed and millions more injured or diseased because of their jobs.

Unlike most other federal safety and health laws, the OSH Act has never been updated. There are major gaps and weaknesses in the job safety law. Millions of state and local public employees, flight attendants and other workers lack OSHA coverage and protections. Penalties for serious and willful violations of the law are weak, even in cases where workers are killed or injured. Protections for workers who report hazards or job injuries are inadequate, and workers' rights to participate in OSHA enforcement actions are limited.

The Protecting America's Workers Act (PAWA) - H.R. 2067 and S. 1580 would update and strengthen the OSH Act and provide workers stronger job safety rights and protections. Specifically, here is what PAWA would do:

- **Provide Coverage Under the OSH Act to State and Local Public Sector Workers, Federal Workers and Other Workers Who Lack Full OSHA Protection.** PAWA would extend the OSH Act and existing job safety protections to all state and local public employees, federal workers and millions of other workers who are inadequately covered by other laws. For state and local public employees, states could adopt a state OSHA plan to cover these workers, and if not, federal OSHA would apply. For federal workers, PAWA would extend full OSHA protections including penalties for federal agencies that violate the job safety law. For flight attendants and other workers whose safety and health has fallen between the cracks, the Secretary of Labor could extend OSHA coverage. If another federal agency failed to provide protections as effective as OSHA.
- **Increase OSHA Civil and Criminal Penalties for Job Safety Violations.** The bill would raise penalties for OSHA violations to \$12,000 for serious violations and \$120,00 for willful and repeat violations. For violations resulting in worker deaths, new higher penalties would be set and include a mandatory minimum, so fines could not be reduced to a slap on the wrist, as now is the case. Criminal violations of the OSH Act would be made a felony, instead of a misdemeanor,

and be expanded to cover cases that involve serious bodily injuries, not just worker deaths.

- **Prohibit the Use of "Unclassified" Violations and Require Correction of Hazards While Employer Contests of Violations are Pending.** PAWA would ban the practice of issuing violations as "unclassified" which employers have sought to keep from having a record of serious, willful and repeat OSHA violations which may count against them in litigation or contract awards. PAWA would also require that employers correct violations, even if they contest citations or penalties, to make sure that workers are protected while the employer's contest is reviewed, which is not required under the current law.
- **Enhance Whistleblower Protections for Workers Who Raise Job Safety Concerns and Report Injuries or Illnesses.** PAWA strengthens the OSH Act's Section 11 (c) anti-discrimination protections. It provides workers the right to pursue their case if OSHA fails to act in a timely fashion and writes into the law a worker's right to refuse unsafe work. The bill makes clear that employers cannot retaliate against a worker for reporting a job injury or illness and it requires regulations to be issued that prohibit the establishment of any employer policies or practices that discourage or discriminate against workers for reporting injuries and illnesses.
- **Expand Worker and Union Rights in OSHA Inspections and Enforcement Cases.** PAWA requires that workers be paid for the time spent participating in OSHA inspections. The bill expands workers' and unions' rights in enforcement proceedings by providing them the right to contest the classification of violations and proposed penalties, not just the abatement date, as is now the case. In addition, workers and unions are given the right to object to modifications of citations that have been issued and to ask OSHA and the Review Commission to review these objections.
- **Provide Victims of Job Injuries and Illnesses and Family Members the Right to be Heard in OSHA Investigations.** PAWA would give workers who have been injured or made ill, the right to meet with OSHA investigators, receive copies of any citations and to be heard before any settlements are reached. In cases where a worker is killed or incapacitated, the bill gives family members the right to participate on the worker's behalf.

What You Can Do

Forty years after the passage of the Occupational Safety and Health Act, its time to update and strengthen the job safety law. Contact your members of Congress and urge them to support and co-sponsor the Protecting America's Workers Act (H.R. 2067, S.1580) to provide all workers the safety and health protections they need and deserve.

Prepared by: AFL-CIO Safety and Health, January 2010