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## Fact Sheet: Support Legislation to Protect the Safety and Health of America's Workers (H.R. 5663)

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# Fact Sheet: Support Legislation to Protect the Safety and Health of America's Workers (H.R. 5663)

## **Abstract**

[Excerpt] The nation's job safety laws were enacted 40 years ago. The Occupational Safety and Health Act (OSHA) has never been updated. Penalties are weak even in cases where workers are killed, the government's enforcement tools are limited and protections for workers who raise job safety concerns are woefully inadequate.

Legislation has been introduced in the Congress to prevent future disasters and protect the safety and health of miners and other workers. H.R. 5663 strengthens the Mine Safety and Health Act and Occupational Safety and Health Act, the nation's primary job safety laws. The bill – the “Miner Safety and Health Act of 2010” - provides for stepped up enforcement and tougher penalties for employers who flagrantly violate the law and enhances the protection of miners and workers who speak out about job hazards, report injuries and exercise their rights. The mine safety provisions address problems identified after the Upper Big Branch disaster, including increased oversight, enforcement and penalties for mines with a pattern of violations. The provisions to strengthen the OSH Act come from H.R. 2067 – the Protecting America's Workers Act – legislation introduced last year and the subject of numerous Congressional hearings.

## **Keywords**

legislation, safety, health, Occupational Safety and Health Act (OSHA), Miner Safety and Health Act of 2010, union, AFL-CIO, workers, employment

## **Comments**

### **Suggested Citation**

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## Support Legislation to Protect the Safety and Health of America's Workers (H.R. 5663)

This year has been deadly for America's workers. Major disasters at the Upper Big Branch Mine, the Tesoro Refinery in Washington State, the Deepwater Horizon oil rig and other workplaces have claimed dozens and dozens of workers' lives. Too many employers – including Massey Energy and BP-- have put profits and production ahead of worker safety.

In 2008, more than 5,200 workers were killed on the job and millions more were injured or diseased because of their jobs. Every day, an average of 14 workers die from job injuries, never to return home to their loved ones and families.

The nation's job safety laws were enacted 40 years ago. The Occupational Safety and Health Act (OSH Act) has never been updated. Penalties are weak even in cases where workers are killed, the government's enforcement tools are limited and protections for workers who raise job safety concerns are woefully inadequate.

Legislation has been introduced in the Congress to prevent future disasters and protect the safety and health of miners and other workers. H.R. 5663 strengthens the Mine Safety and Health Act and Occupational Safety and Health Act, the nation's primary job safety laws. The bill – the "Miner Safety and Health Act of 2010" - provides for stepped up enforcement and tougher penalties for employers who flagrantly violate the law and enhances the protection of miners and workers who speak out about job hazards, report injuries and exercise their rights. The mine safety provisions address problems identified after the Upper Big Branch disaster, including increased oversight, enforcement and penalties for mines with a pattern of violations. The provisions to strengthen the OSH Act come from H.R. 2067 – the Protecting America's Workers Act – legislation introduced last year and the subject of numerous Congressional hearings. Specifically, H.R. 5663 would:

- **Increase OSHA and MSHA Civil and Criminal Penalties for Serious Job Safety Violations.** The bill would raise penalties for OSHA violations to \$12,000 for serious violations and \$120,000 for willful and repeat violations. An employer's history of violations under both federal and state OSHA plans would be the basis for 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 too often is the case now. The current median OSHA penalty assessed for worker fatalities is only \$5,000. 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. Individual corporate officers and directors could be held criminally liable for knowing violations of the law.

For MSHA, the bill would increase the maximum penalty for mine safety violations that are “significant and substantial” to \$150,000. Criminal violations of the Mine Act would be a felony and corporate officers, directors, mine operators and their agents could be held civilly and criminally liable for knowing violations.

- **Require Correction of Hazards While Employer Contests of Serious OSHA Violations are Pending.** H.R. 5663 would require that employers fix serious violations, even if they are challenging OSHA citations, to make sure that workers are protected. This is already required under MSHA. Employers could seek a stay of this abatement requirement on an expedited basis if they can demonstrate that workers’ safety and health will not be adversely affected.
- **Strengthen MSHA’s Enforcement for Mines with a Pattern of Violations.** Mines with a pattern of significant and substantial violations, withdrawal orders or other significant safety and health problems that exceeded thresholds set by MSHA would be subject to increased enforcement. These mines would be required to withdraw miners from the mine until conditions were improved and be subject to increased mandatory inspections and enhanced penalties while on a pattern status. Additional training of miners, the establishment of a safety and health management program and other measures could also be required.

H.R. 5663 would also give MSHA stronger enforcement tools for all mines including the authority to seek injunctions to stop practices that constitute a continuing hazard to miners and subpoena power to seek testimony and documents in investigations.

- **Enhance Whistleblower Protections for Workers Who Raise Job Safety Concerns and Report Injuries or Illnesses.** H.R. 5663 strengthens the OSH Act’s Section 11 (c) anti-discrimination protections which are now 40 years old. It brings protections under the OSHA law into line with other whistleblower statutes by streamlining procedures, providing for preliminary reinstatement and allowing workers to pursue their case if OSHA fails to act in a timely fashion. It makes clear that an employer cannot retaliate against a worker for reporting a job injury, illness or hazard.

The bill writes into both the OSHA and MSHA laws a worker’s and miner’s right to refuse unsafe work.

For the Mine Act, H.R. 5663 would add new civil penalties for retaliation against miners and criminal penalties for knowing retaliation against miners who report hazards to government officials.

- **Provide Victims of Job Injuries and Illnesses and Family Members the Right to be Heard in OSHA Investigations.** The bill 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. It requires OSHA to designate a family liaison for each area office to keep victims informed of investigations and to assist them in exercising their rights.

## **What You Can Do**

Workplace disasters and serious workplace hazards are claiming the lives, limbs and health of too many workers. The job safety and health laws must be strengthened to hold employers accountable, to give OSHA and MSHA stronger enforcement tools and to protect workers who exercise their rights. Contact your members of Congress and urge them to support and co-sponsor H.R. 5663 to provide all workers the safety and health protections they need and deserve.

**Prepared by: AFL-CIO Safety and Health, July 2010**