

119TH CONGRESS
1ST SESSION

H. R. 3036

To amend the Occupational Safety and Health Act of 1970 to expand coverage under the Act, to increase protections for whistleblowers, to increase penalties for high gravity violations, to adjust penalties for inflation, to provide rights for victims or their family members, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 2025

Mr. COURTNEY (for himself, Mr. SCOTT of Virginia, Ms. OMAR, Ms. BONAMICI, and Mr. NORCROSS) introduced the following bill; which was referred to the Committee on Education and Workforce

A BILL

To amend the Occupational Safety and Health Act of 1970 to expand coverage under the Act, to increase protections for whistleblowers, to increase penalties for high gravity violations, to adjust penalties for inflation, to provide rights for victims or their family members, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Protecting America’s Workers Act”.

- 1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—COVERAGE OF PUBLIC EMPLOYEES, AUTHORIZED EMPLOYEE REPRESENTATIVES, VOLUNTARY EMERGENCY RESPONDERS, AND APPLICATION OF ACT

- Sec. 101. Coverage of public employees.
 Sec. 102. Authorized employee representatives.
 Sec. 103. Application of Act.

TITLE II—INCREASING WHISTLEBLOWER PROTECTIONS

- Sec. 201. Enhanced protections from retaliation.

TITLE III—IMPROVING REPORTING, INSPECTION, AND ENFORCEMENT

PART A—DUTIES AND STANDARDS

- Sec. 301. General duty of employers.
 Sec. 302. Occupational safety and health standards.

PART B—INSPECTIONS, INVESTIGATIONS, AND RECORDKEEPING

- Sec. 311. Posting of employee rights.
 Sec. 312. Employer reporting of work-related injuries, illness, deaths, and hospitalizations; prohibition on discouraging employee reporting.
 Sec. 313. No loss of employee pay for inspections.
 Sec. 314. Investigations of fatalities and significant incidents.
 Sec. 315. Recordkeeping.

PART C—CITATIONS

- Sec. 321. Period for issuance of a citation.
 Sec. 322. Prohibition on unclassified citations.

PART D—RIGHTS OF VICTIMS AND FAMILIES

- Sec. 331. Rights of Victims and Families.

PART E—PROCEDURE FOR ENFORCEMENT

- Sec. 341. Right to contest citations and penalties.
 Sec. 342. Correction of serious, willful, or repeated violations pending contest and procedures for a stay.
 Sec. 343. Inaction by the Review Commission.
 Sec. 344. Conforming amendments.

PART F—PENALTIES

- Sec. 351. Civil penalties.
 Sec. 352. Criminal penalties.
 Sec. 353. Prejudgment interest.

TITLE IV—STATE PLANS

Sec. 401. Concurrent enforcement authority and review of State occupational safety and health plans.

Sec. 402. Evaluation of repeated violations in State plans.

TITLE V—NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY
AND HEALTH

Sec. 501. Health hazard evaluations by the National Institute for Occupational Safety and Health.

Sec. 502. Training and employee education.

TITLE VI—EFFECTIVE DATE

Sec. 601. Effective date.

1 TITLE I—COVERAGE OF PUBLIC
2 EMPLOYEES, AUTHORIZED
3 EMPLOYEE REPRESENTA-
4 TIVES, VOLUNTARY EMER-
5 GENCY RESPONDERS, AND
6 APPLICATION OF ACT

7 SEC. 101. COVERAGE OF PUBLIC EMPLOYEES.

8 (a) IN GENERAL.—Section 3(5) of the Occupational
9 Safety and Health Act of 1970 (29 U.S.C. 652(5)) is
10 amended by striking “but does not include” and all that
11 follows through the period at the end and inserting “in-
12 cluding the United States, a State, or a political subdivi-
13 sion of a State.”.

14 (b) CONSTRUCTION.—Nothing in this Act shall be
15 construed to affect the application of section 18 of the Oc-
16 cupational Safety and Health Act of 1970 (29 U.S.C.
17 667).

1 **SEC. 102. AUTHORIZED EMPLOYEE REPRESENTATIVES.**

2 Section 3 of the Occupational Safety and Health Act
3 of 1970 (29 U.S.C. 652) is amended by adding at the end
4 the following:

5 “(15) AUTHORIZED EMPLOYEE REPRESENTA-
6 TIVE.—The term ‘authorized employee representa-
7 tive’—

8 “(A) means any person or organization
9 that for the purposes of this Act represents not
10 less than one employee at an establishment, fac-
11 tory, plant, construction site, or other work-
12 place, or other environment where work is per-
13 formed by an employee for an employer; and

14 “(B) includes a representative authorized
15 by employees, a representative of employees, or
16 any other representative of an employee under
17 this Act.”.

18 **SEC. 103. APPLICATION OF ACT.**

19 Section 4(b) of the Occupational Safety and Health
20 Act of 1970 (29 U.S.C. 653(b)(1)) is amended—

21 (1) by redesignating paragraphs (2), (3), and
22 (4) as paragraphs (5), (6), and (7), respectively; and

23 (2) by striking paragraph (1) and inserting the
24 following:

25 “(1) If a Federal agency has promulgated and is en-
26 forcing a standard or regulation affecting occupational

1 safety or health of some or all of the employees within
2 that agency's regulatory jurisdiction, and the Secretary
3 determines that such a standard or regulation as promul-
4 gated and the manner in which the standard or regulation
5 is being enforced provides protection to those employees
6 that is at least as effective as the protection provided to
7 those employees by this Act and the Secretary's enforce-
8 ment of this Act, the Secretary may publish a certification
9 notice in the Federal Register. The notice shall set forth
10 that determination and the reasons for the determination
11 and certify that the Secretary has ceded jurisdiction to
12 that Federal agency with respect to the specified standard
13 or regulation affecting occupational safety or health. In
14 determining whether to cede jurisdiction to a Federal
15 agency, the Secretary shall seek to avoid duplication of,
16 and conflicts between, health and safety requirements.
17 Such certification shall remain in effect unless and until
18 rescinded by the Secretary.

19 “(2) The Secretary shall, by regulation, establish pro-
20 cedures by which any person who may be adversely af-
21 fected by a decision of the Secretary certifying that the
22 Secretary has ceded jurisdiction to another Federal agency
23 pursuant to paragraph (1) may petition the Secretary to
24 rescind a certification notice under such paragraph. Upon
25 receipt of such a petition, the Secretary shall investigate

1 the matter involved and shall, not later than 90 days after
2 the receipt of the petition, publish a decision with respect
3 to the petition in the Federal Register.

4 “(3) Any person who may be adversely affected by—

5 “(A) a decision of the Secretary certifying that
6 the Secretary has ceded jurisdiction to another Fed-
7 eral agency pursuant to paragraph (1); or

8 “(B) a decision of the Secretary denying a peti-
9 tion to rescind such a certification notice under
10 paragraph (1),

11 may, not later than 60 days after such decision is pub-
12 lished in the Federal Register, file a petition challenging
13 such decision with the United States Court of Appeals for
14 the circuit in which such person resides or such person
15 has a principal place of business, for judicial review of
16 such decision. A copy of the petition shall be forthwith
17 transmitted by the clerk of the court to the Secretary. The
18 Secretary’s decision shall be set aside if found to be arbi-
19 trary, capricious, an abuse of discretion, or otherwise not
20 in accordance with law.

21 “(4) Nothing in this Act shall apply to working condi-
22 tions covered by the Federal Mine Safety and Health Act
23 of 1977 (30 U.S.C. 801 et seq.).”.

1 **TITLE II—INCREASING**
2 **WHISTLEBLOWER PROTECTIONS**

3 **SEC. 201. ENHANCED PROTECTIONS FROM RETALIATION.**

4 (a) EMPLOYEE ACTIONS.—Section 11(c)(1) of the
5 Occupational Safety and Health Act of 1970 (29 U.S.C.
6 660(c)(1)) is amended—

7 (1) by striking “discharge” and all that follows
8 through “because such” and inserting the following:
9 “discharge or cause to be discharged, or in any man-
10 ner discriminate against or cause to be discriminated
11 against, any employee because—

12 “(A) such”;

13 (2) by striking “this Act or has” and inserting
14 the following: “this Act;

15 “(B) such employee has”;

16 (3) by striking “in any such proceeding or be-
17 cause of the exercise” and inserting the following:
18 “before Congress or in any Federal or State pro-
19 ceeding related to safety or health;

20 “(C) such employee has refused to violate any
21 provision of this Act; or

22 “(D) of the exercise”; and

23 (4) by inserting before the period at the end the
24 following: “, including the reporting of any injury,
25 illness, or unsafe condition to the employer, agent of

1 the employer, safety and health committee involved,
2 or employee safety and health representative in-
3 volved”.

4 (b) PROHIBITION OF RETALIATION.—Section 11(c)
5 of such Act (29 U.S.C. 660(c)) is amended by striking
6 paragraph (2) and inserting the following:

7 “(2) PROHIBITION OF RETALIATION.—(A) No person
8 shall discharge, or cause to be discharged, or in any man-
9 ner discriminate against, or cause to be discriminated
10 against, an employee for refusing to perform the employ-
11 ee’s duties if the employee has a reasonable apprehension
12 that performing such duties would result in serious injury
13 to, or serious impairment of the health of, the employee
14 or other employees.

15 “(B) For purposes of subparagraph (A), the cir-
16 cumstances causing the employee’s good-faith belief that
17 performing such duties would pose a safety or health haz-
18 ard shall be of such a nature that a reasonable person,
19 under the circumstances confronting the employee, would
20 conclude that there is such a hazard. In order to qualify
21 for protection under this paragraph, the employee, when
22 practicable, shall have communicated or attempted to com-
23 municate the safety or health concern to the employer and
24 have not received from the employer a response reasonably
25 calculated to allay such concern.”.

1 (c) PROCEDURE.—Section 11(c) of such Act (29
2 U.S.C. 660(c)) is amended by striking paragraph (3) and
3 inserting the following:

4 “(3) COMPLAINT.—Any employee who believes that
5 the employee has been discharged, disciplined, or other-
6 wise discriminated against by any person in violation of
7 paragraph (1) or (2) may seek relief for such violation
8 by filing a complaint with the Secretary under paragraph
9 (5).

10 “(4) STATUTE OF LIMITATIONS.—

11 “(A) IN GENERAL.—An employee may take the
12 action permitted by paragraph (3) not later than
13 180 days after the later of—

14 “(i) the date on which an alleged violation
15 of paragraph (1) or (2) occurs; or

16 “(ii) the date on which the employee knows
17 or should reasonably have known that such al-
18 leged violation occurred.

19 “(B) REPEAT VIOLATION.—Except in cases
20 when the employee has been discharged, a violation
21 of paragraph (1) or (2) shall be considered to have
22 occurred on the last date an alleged repeat violation
23 occurred.

24 “(5) INVESTIGATION.—

1 “(A) IN GENERAL.—An employee may, within
2 the time period required under paragraph (4)(A),
3 file a complaint with the Secretary alleging a viola-
4 tion of paragraph (1) or (2). If the complaint alleges
5 a prima facie case, the Secretary shall conduct an
6 investigation of the allegations in the complaint,
7 which—

8 “(i) shall include—

9 “(I) interviewing the complainant;

10 “(II) providing the respondent an op-
11 portunity to—

12 “(aa) submit to the Secretary a
13 written response to the complaint; and

14 “(bb) meet with the Secretary to
15 present statements from witnesses or
16 provide evidence; and

17 “(III) providing the complainant an
18 opportunity to—

19 “(aa) receive any statements or
20 evidence provided to the Secretary;

21 “(bb) meet with the Secretary;
22 and

23 “(cc) rebut any statements or
24 evidence; and

1 “(ii) may include issuing subpoenas for the
2 purposes of such investigation.

3 “(B) DECISION.—Not later than 90 days after
4 the filing of the complaint, the Secretary shall—

5 “(i) determine whether reasonable cause
6 exists to believe that a violation of paragraph
7 (1) or (2) has occurred; and

8 “(ii) issue a decision granting or denying
9 relief.

10 “(6) PRELIMINARY ORDER FOLLOWING INVESTIGA-
11 TION.—If, after completion of an investigation under
12 paragraph (5)(A), the Secretary finds reasonable cause to
13 believe that a violation of paragraph (1) or (2) has oc-
14 curred, the Secretary shall issue a preliminary order pro-
15 viding relief authorized under paragraph (14) at the same
16 time the Secretary issues a decision under paragraph
17 (5)(B). If a de novo hearing is not requested within the
18 time period required under paragraph (7)(A)(i), such pre-
19 liminary order shall be deemed a final order of the Sec-
20 retary and is not subject to judicial review.

21 “(7) HEARING.—

22 “(A) REQUEST FOR HEARING.—

23 “(i) IN GENERAL.—A de novo hearing on
24 the record before an administrative law judge
25 may be requested—

1 “(I) by the complainant or respondent
2 within 30 days after receiving notification
3 of a decision granting or denying relief
4 issued under paragraph (5)(B) or a pre-
5 liminary order under paragraph (6), re-
6 spectively;

7 “(II) by the complainant within 30
8 days after the date the complaint is dis-
9 missed without investigation by the Sec-
10 retary under paragraph (5)(A); or

11 “(III) by the complainant within 120
12 days after the date of filing the complaint,
13 if the Secretary has not issued a decision
14 under paragraph (5)(B).

15 “(ii) REINSTATEMENT ORDER.—The re-
16 quest for a hearing shall not operate to stay
17 any preliminary reinstatement order issued
18 under paragraph (6).

19 “(B) PROCEDURES.—

20 “(i) IN GENERAL.—A hearing requested
21 under this paragraph shall be conducted expedi-
22 tiously and in accordance with rules established
23 by the Secretary for hearings conducted by ad-
24 ministrative law judges.

1 “(ii) SUBPOENAS; PRODUCTION OF EVI-
2 DENCE.—In conducting any such hearing, the
3 administrative law judge may issue subpoenas.
4 The respondent or complainant may request the
5 issuance of subpoenas that require the deposi-
6 tion of, or the attendance and testimony of, wit-
7 nesses and the production of any evidence (in-
8 cluding any books, papers, documents, or re-
9 cordings) relating to the matter under consider-
10 ation.

11 “(iii) DECISION.—The administrative law
12 judge shall issue a decision not later than 90
13 days after the date on which a hearing was re-
14 quested under this paragraph and promptly no-
15 tify, in writing, the parties and the Secretary of
16 such decision, including the findings of fact and
17 conclusions of law. If the administrative law
18 judge finds that a violation of paragraph (1) or
19 (2) has occurred, the judge shall issue an order
20 for relief under paragraph (14). If review under
21 paragraph (8) is not timely requested, such
22 order shall be deemed a final order of the Sec-
23 retary that is not subject to judicial review.

24 “(8) ADMINISTRATIVE APPEAL.—

1 “(A) IN GENERAL.—Not later than 30 days
2 after the date of notification of a decision and order
3 issued by an administrative law judge under para-
4 graph (7), the complainant or respondent may file,
5 with objections, an administrative appeal with an ad-
6 ministrative review body designated by the Secretary
7 (referred to in this paragraph as the ‘review board’).

8 “(B) STANDARD OF REVIEW.—In reviewing the
9 decision and order of the administrative law judge,
10 the review board shall affirm the decision and order
11 if it is determined that the factual findings set forth
12 therein are supported by substantial evidence and
13 the decision and order are made in accordance with
14 applicable law.

15 “(C) DECISIONS.—If the review board grants
16 an administrative appeal, the review board shall
17 issue a final decision and order affirming or revers-
18 ing, in whole or in part, the decision under review
19 by not later than 90 days after receipt of the admin-
20 istrative appeal. If it is determined that a violation
21 of paragraph (1) or (2) has occurred, the review
22 board shall issue a final decision and order providing
23 relief authorized under paragraph (14). Such deci-
24 sion and order shall constitute final agency action
25 with respect to the matter appealed.

1 “(9) SETTLEMENT IN THE ADMINISTRATIVE PROC-
2 ESS.—

3 “(A) IN GENERAL.—At any time before
4 issuance of a final order, an investigation or pro-
5 ceeding under this subsection may be terminated on
6 the basis of a settlement agreement entered into by
7 the parties.

8 “(B) PUBLIC POLICY CONSIDERATIONS.—Nei-
9 ther the Secretary, an administrative law judge, nor
10 the review board conducting a hearing under this
11 subsection shall accept a settlement that contains
12 conditions conflicting with the rights protected under
13 this Act or that are contrary to public policy, includ-
14 ing a restriction on a complainant’s right to future
15 employment with employers other than the specific
16 employers named in a complaint.

17 “(10) INACTION BY THE REVIEW BOARD OR ADMIN-
18 ISTRATIVE LAW JUDGE.—

19 “(A) IN GENERAL.—The complainant may
20 bring a de novo action described in subparagraph
21 (B) if—

22 “(i) an administrative law judge has not
23 issued a decision and order within the 90-day
24 time period required under paragraph
25 (7)(B)(iii); or

1 “(ii) the review board has not issued a de-
2 cision and order within the 90-day time period
3 required under paragraph (8)(C).

4 “(B) DE NOVO ACTION.—Such de novo action
5 may be brought at law or equity in the United
6 States district court for the district where a violation
7 of paragraph (1) or (2) allegedly occurred or where
8 the complainant resided on the date of such alleged
9 violation. The court shall have jurisdiction over such
10 action without regard to the amount in controversy
11 and to order appropriate relief under paragraph
12 (14). Such action shall, at the request of either
13 party to such action, be tried by the court with a
14 jury.

15 “(11) JUDICIAL REVIEW.—

16 “(A) TIMELY APPEAL TO THE COURT OF AP-
17 PEALS.—Any party adversely affected or aggrieved
18 by a final decision and order issued under this sub-
19 section may obtain review of such decision and order
20 in the United States Court of Appeals for the circuit
21 where the violation, with respect to which such final
22 decision and order was issued, allegedly occurred or
23 where the complainant resided on the date of such
24 alleged violation. To obtain such review, a party
25 shall file a petition for review not later than 60 days

1 after the final decision and order was issued. Such
2 review shall conform to chapter 7 of title 5, United
3 States Code. The commencement of proceedings
4 under this subparagraph shall not, unless ordered by
5 the court, operate as a stay of the final decision and
6 order.

7 “(B) LIMITATION ON COLLATERAL ATTACK.—
8 An order and decision with respect to which review
9 may be obtained under subparagraph (A) shall not
10 be subject to judicial review in any criminal or other
11 civil proceeding.

12 “(12) ENFORCEMENT OF ORDER.—If a respondent
13 fails to comply with an order issued under this subsection,
14 the Secretary or the complainant on whose behalf the
15 order was issued may file a civil action for enforcement
16 in the United States district court for the district in which
17 the violation was found to occur to enforce such order.
18 If both the Secretary and the complainant file such action,
19 the action of the Secretary shall take precedence. The dis-
20 trict court shall have jurisdiction to grant all appropriate
21 relief described in paragraph (14).

22 “(13) BURDENS OF PROOF.—

23 “(A) CRITERIA FOR DETERMINATION.—In mak-
24 ing a determination or adjudicating a complaint pur-
25 suant to this subsection, the Secretary, administra-

1 tive law judge, review board, or a court may deter-
2 mine that a violation of paragraph (1) or (2) has oc-
3 curred only if the complainant demonstrates that
4 any conduct described in paragraph (1) or (2) with
5 respect to the complainant was a contributing factor
6 in the adverse action alleged in the complaint.

7 “(B) PROHIBITION.—Notwithstanding subpara-
8 graph (A), a decision or order that is favorable to
9 the complainant shall not be issued in any adminis-
10 trative or judicial action pursuant to this subsection
11 if the respondent demonstrates by clear and con-
12 vincing evidence that the respondent would have
13 taken the same adverse action in the absence of such
14 conduct.

15 “(14) RELIEF.—

16 “(A) ORDER FOR RELIEF.—If the Secretary,
17 administrative law judge, review board, or a court
18 determines that a violation of paragraph (1) or (2)
19 has occurred, the Secretary, administrative law
20 judge, review board, or court, respectively, shall have
21 jurisdiction to order all appropriate relief, including
22 injunctive relief, compensatory and exemplary dam-
23 ages, including—

24 “(i) affirmative action to abate the viola-
25 tion;

1 “(ii) reinstatement without loss of position
2 or seniority, and restoration of the terms,
3 rights, conditions, and privileges associated with
4 the complainant’s employment, including oppor-
5 tunities for promotions to positions with equiva-
6 lent or better compensation for which the com-
7 plainant is qualified;

8 “(iii) compensatory and consequential
9 damages sufficient to make the complainant
10 whole (including back pay, prejudgment inter-
11 est, and other damages); and

12 “(iv) expungement of all warnings, rep-
13 rimands, or derogatory references that have
14 been placed in paper or electronic records or
15 databases of any type relating to the actions by
16 the complainant that gave rise to the unfavor-
17 able personnel action, and, at the complainant’s
18 direction, transmission of a copy of the decision
19 on the complaint to any person whom the com-
20 plainant reasonably believes may have received
21 such unfavorable information.

22 “(B) ATTORNEYS’ FEES AND COSTS.—If the
23 Secretary or an administrative law judge, review
24 board, or court grants an order for relief under sub-
25 paragraph (A), the Secretary, administrative law

1 judge, review board, or court, respectively, shall as-
2 sess, at the request of the employee against the em-
3 ployer—

4 “(i) reasonable attorneys’ fees; and

5 “(ii) costs (including expert witness fees)
6 reasonably incurred, as determined by the Sec-
7 retary, administrative law judge, review board,
8 or court, respectively, in connection with bring-
9 ing the complaint upon which the order was
10 issued.

11 “(15) PROCEDURAL RIGHTS.—The rights and rem-
12 edies provided for in this subsection may not be waived
13 by any agreement, policy, form, or condition of employ-
14 ment, including by any pre-dispute arbitration agreement
15 or collective bargaining agreement.

16 “(16) SAVINGS.—Nothing in this subsection shall be
17 construed to diminish the rights, privileges, or remedies
18 of any employee who exercises rights under any Federal
19 or State law or common law, or under any collective bar-
20 gaining agreement.

21 “(17) ELECTION OF VENUE.—

22 “(A) IN GENERAL.—An employee of an em-
23 ployer who is located in a State that has a State
24 plan approved under section 18 may file a complaint

1 alleging a violation of paragraph (1) or (2) by such
2 employer with—

3 “(i) the Secretary under paragraph (5); or

4 “(ii) a State plan administrator in such
5 State.

6 “(B) REFERRALS.—If—

7 “(i) the Secretary receives a complaint
8 pursuant to subparagraph (A)(i), the Secretary
9 shall not refer such complaint to a State plan
10 administrator for resolution; or

11 “(ii) a State plan administrator receives a
12 complaint pursuant to subparagraph (A)(ii), the
13 State plan administrator shall not refer such
14 complaint to the Secretary for resolution.”.

15 (d) RELATION TO ENFORCEMENT.—Section 17(j) of
16 such Act (29 U.S.C. 666(j)) is amended by inserting be-
17 fore the period the following: “, including the history of
18 violations under section 11(c)”.

19 **TITLE III—IMPROVING REPORT-** 20 **ING, INSPECTION, AND EN-** 21 **FORCEMENT**

22 **PART A—DUTIES AND STANDARDS**

23 **SEC. 301. GENERAL DUTY OF EMPLOYERS.**

24 Section 5 of the Occupational Safety and Health Act
25 of 1970 (29 U.S.C. 654(a)(1)) is amended—

1 (1) in subsection (a), by amending paragraph
2 (1) to read as follows:

3 “(1) shall furnish employment and a place of
4 employment that are free from recognized hazards
5 that are causing or are likely to cause death or seri-
6 ous physical harm and that the employer creates or
7 controls or to which the employer exposes any em-
8 ployee of the employer or any other person per-
9 forming work at the place of employment; and”; and

10 (2) by adding at the end the following new sub-
11 section:

12 “(c) Each employee or other person exposed to a haz-
13 ard in violation of subsection (a) may constitute a separate
14 violation.”.

15 **SEC. 302. OCCUPATIONAL SAFETY AND HEALTH STAND-**
16 **ARDS.**

17 Section 6 of the Occupational Safety and Health Act
18 of 1970 (29 U.S.C. 655) is amended—

19 (1) in subsection (a)—

20 (A) by striking “Without regard” and in-
21 serting “(1) Without regard”;

22 (B) by striking “chapter 5” and inserting
23 “chapters 5 and 6”;

24 (C) by striking “shall, as soon as prac-
25 ticable” and inserting the following: “shall—

1 “(A) as soon as practicable”;

2 (D) by striking “In the” and inserting the
3 following:

4 “(2) In the”;

5 (E) by striking “designated employees.”
6 and inserting “designated employees; and”;

7 (F) by adding after paragraph (1) (as des-
8 ignated by subparagraph (A)) the following:

9 “(B) not later than 2 years after the effec-
10 tive date of section 601(a) of the Protecting
11 America’s Workers Act, by rule update any na-
12 tional consensus standard that has been pro-
13 mulgated or incorporated by reference pursuant
14 to this subsection, except that such a standard
15 shall not be updated pursuant to this subpara-
16 graph, if—

17 “(i) the standard has been superseded
18 by a standard promulgated pursuant to
19 subsection (b); or

20 “(ii) the Secretary determines such
21 update would not result in improved health
22 or safety for specifically designated em-
23 ployees.”; and

24 (G) in paragraph (2) (as designated by
25 subparagraph (D)), by inserting “including na-

1 tional consensus standards, or in the event of a
 2 consolidation of national consensus standards,”
 3 after “conflict among any such standards,”;
 4 and

5 (2) by adding at the end the following:

6 “(h) No standard, rule, or regulation promulgated
 7 under this Act shall reduce the protection afforded by an
 8 existing health or safety standard, rule, regulation, or na-
 9 tional consensus standard.”.

10 **PART B—INSPECTIONS, INVESTIGATIONS, AND**
 11 **RECORDKEEPING**

12 **SEC. 311. POSTING OF EMPLOYEE RIGHTS.**

13 Section 8(c)(1) of the Occupational Safety and
 14 Health Act of 1970 (29 U.S.C. 657(c)(1)) is amended by
 15 adding at the end the following new sentence: “Such regu-
 16 lations shall include provisions requiring employers to post
 17 for employees information on the protections afforded
 18 under section 11(c).”.

19 **SEC. 312. EMPLOYER REPORTING OF WORK-RELATED INJU-**
 20 **RIES, ILLNESS, DEATHS, AND HOSPITALIZA-**
 21 **TIONS; PROHIBITION ON DISCOURAGING EM-**
 22 **PLOYEE REPORTING.**

23 Section 8(c)(2) of such Act (29 U.S.C. 657(c)(2)) is
 24 amended by adding at the end the following: “Such regula-
 25 tions shall contain the following:

1 “(A) A requirement that employers promptly
2 notify the Secretary of any work-related death or
3 work-related injury or illness that results in the in-
4 patient hospitalization of any employee for medical
5 treatment, amputation, or loss of an eye.

6 “(B) A prohibition on the adoption or imple-
7 mentation by employers of policies or practices that
8 have the effect of discouraging accurate record-
9 keeping and the reporting of work-related injuries or
10 illnesses by any employee, or in any manner dis-
11 criminates or provides for adverse action against any
12 employee for reporting a work-related injury or ill-
13 ness.

14 “(C) A requirement that, at a minimum, em-
15 ployers subject to the requirements of sections
16 1904.41 and 1902.7(d) of title 29, Code of Federal
17 Regulations (as amended by the final regulations of
18 the Department of Labor published in the Federal
19 Register on May 12, 2016 (81 Fed. Reg. 29624 et
20 seq.)) shall, on at least an annual basis, electroni-
21 cally report to the Secretary information from the
22 records of work-related deaths, injuries, and illnesses
23 required to be made and maintained under this
24 paragraph, which shall include the information re-
25 quired to be made and maintained in accordance

1 with such sections 1904.41 and 1902.7(d), and a re-
2 quirement that the Secretary make such reports
3 available to the public in a searchable format.

4 “(D) A requirement that each site-controlling
5 employer keep, maintain, and make available a site
6 log for all recordable injuries and illnesses occurring
7 for any employee at each work site for which the
8 employer is the site-controlling employer, including
9 employees of the site-controlling employer and others
10 who are performing work at such site (including
11 independent contractors). For purposes of this sub-
12 paragraph, the term ‘site-controlling employer’
13 means the employer that has primary control over a
14 work site at which employees of more than one em-
15 ployer work, such as by hiring or coordinating the
16 work of other employers working at the site.”.

17 **SEC. 313. NO LOSS OF EMPLOYEE PAY FOR INSPECTIONS.**

18 Section 8(e) of such Act (29 U.S.C. 657(e)) is
19 amended by inserting after the first sentence the fol-
20 lowing: “Time spent by an employee participating in or
21 aiding any such inspection shall be deemed to be hours
22 worked and no employee shall suffer any loss of wages,
23 benefits, or other terms and conditions of employment for
24 having participated in or aided any such inspection.”.

1 **SEC. 314. INVESTIGATIONS OF FATALITIES AND SIGNIFI-**
2 **CANT INCIDENTS.**

3 Section 8 of such Act (29 U.S.C. 657), as amended
4 by sections 311 through 313, is further amended by add-
5 ing at the end the following new subsection:

6 “(i) INVESTIGATION OF FATALITIES AND SERIOUS
7 INCIDENTS.—

8 “(1) IN GENERAL.—The Secretary shall inves-
9 tigate any significant incident or an incident result-
10 ing in death that occurs in a place of employment.

11 “(2) EVIDENCE PRESERVATION.—If a signifi-
12 cant incident or an incident resulting in death oc-
13 curs in a place of employment, the employer shall
14 promptly notify the Secretary of the incident in-
15 volved and shall take appropriate measures to pre-
16 vent the destruction or alteration of any evidence
17 that would assist in investigating the incident. The
18 appropriate measures required by this paragraph do
19 not prevent an employer from taking action on a
20 worksite to prevent injury to employees or substan-
21 tial damage to property or to avoid disruption of es-
22 sential services necessary to public safety, provided
23 that if an employer takes such action, the employer
24 shall notify the Secretary of the action in a timely
25 fashion.

26 “(3) DEFINITIONS.—In this subsection:

1 “(A) INCIDENT RESULTING IN DEATH.—

2 The term ‘incident resulting in death’ means an
3 incident that results in the death of an em-
4 ployee.

5 “(B) SIGNIFICANT INCIDENT.—The term
6 ‘significant incident’ means an incident that re-
7 sults in the in-patient hospitalization of 2 or
8 more employees for medical treatment.”.

9 **SEC. 315. RECORDKEEPING.**

10 (a) RULE REQUIRED.—Not later than 180 days after
11 the date of enactment of this Act, the Occupational Safety
12 and Health Administration shall issue a final rule amend-
13 ing its recordkeeping regulations under section 8(c) of the
14 Occupational Safety and Health Act of 1970 (29 U.S.C.
15 657(c)) to clarify that—

16 (1) the duty to make and maintain accurate
17 records of work-related injuries and illnesses is an
18 ongoing obligation;

19 (2) the duty to make and maintain such records
20 continues for as long as the employer is required to
21 keep records of the recordable injury or illness; and

22 (3) such duty does not expire solely because the
23 employer fails to create the necessary records when
24 first required to do so.

1 (b) AUTHORIZATION.—Subsection (a) shall be consid-
2 ered a specific authorization by Congress in accordance
3 with section 801(b)(2) of title 5, United States Code, with
4 respect to the issuance of a new recordkeeping rule.

5 **PART C—CITATIONS**

6 **SEC. 321. PERIOD FOR ISSUANCE OF A CITATION.**

7 Section 9(c) of the Occupational Safety and Health
8 Act of 1970 (29 U.S.C. 658(c)) is amended by adding at
9 the end the following: “For purposes of this subsection,
10 a violation continues to occur for as long as an employer
11 has not satisfied the requirements, rules, standards, or-
12 ders, and regulations referenced in subsection (a).”.

13 **SEC. 322. PROHIBITION ON UNCLASSIFIED CITATIONS.**

14 Section 9 of the Occupational Safety and Health Act
15 of 1970 (29 U.S.C. 658) is further amended by adding
16 at the end the following:

17 “(d) No citation for a violation of this Act may be
18 issued, modified, or settled under this section without a
19 designation enumerated in section 17 with respect to such
20 violation.”.

21 **PART D—RIGHTS OF VICTIMS AND FAMILIES**

22 **SEC. 331. RIGHTS OF VICTIMS AND FAMILIES.**

23 The Occupational Safety and Health Act of 1970 (29
24 U.S.C. 651 et seq.) is amended by inserting after section
25 9 (29 U.S.C. 658) the following:

1 **“SEC. 9A. VICTIMS’ RIGHTS.**

2 “(a) RIGHTS BEFORE THE SECRETARY.—A victim or
3 the representative of a victim, shall be afforded the right,
4 with respect to an inspection or investigation conducted
5 under section 8 to—

6 “(1) meet with the Secretary regarding the in-
7 spection or investigation conducted under such sec-
8 tion before the Secretary’s decision to issue a cita-
9 tion or take no action;

10 “(2) receive, at no cost, a copy of any citation
11 or report, issued as a result of such inspection or in-
12 vestigation, at the same time as the employer re-
13 ceives such citation or report;

14 “(3) be informed of any notice of contest or ad-
15 dition of parties to the proceedings filed under sec-
16 tion 10(c); and

17 “(4) be provided notification of the date and
18 time or any proceedings, service of pleadings, and
19 other relevant documents, and an explanation of the
20 rights of the employer, employee and employee rep-
21 resentative, and victim to participate in proceedings
22 conducted under section 10(c).

23 “(b) RIGHTS BEFORE THE COMMISSION.—Upon re-
24 quest, a victim or representative of a victim shall be af-
25 farded the right with respect to a work-related bodily in-
26 jury or death to—

1 “(1) be notified of the time and date of any
2 proceeding before the Commission;

3 “(2) receive pleadings and any decisions relat-
4 ing to the proceedings; and

5 “(3) be provided an opportunity to appear and
6 make a statement in accordance with the rules pre-
7 scribed by the Commission.

8 “(c) MODIFICATION OF CITATION.—Before entering
9 into an agreement to withdraw or modify a citation issued
10 as a result of an inspection or investigation of an incident
11 under section 8, the Secretary shall notify a victim or rep-
12 resentative of a victim and provide the victim or represent-
13 ative of a victim with an opportunity to appear and make
14 a statement before the parties conducting settlement nego-
15 tiations. In lieu of an appearance, the victim or represent-
16 ative of the victim may elect to submit a letter to the Sec-
17 retary and the parties.

18 “(d) SECRETARY PROCEDURES.—The Secretary shall
19 establish procedures—

20 “(1) to inform victims of their rights under this
21 section; and

22 “(2) for the informal review of any claim of a
23 denial of such a right.

24 “(e) COMMISSION PROCEDURES AND CONSIDER-
25 ATIONS.—The Commission shall—

1 “(1) establish procedures relating to the rights
2 of victims to be heard in proceedings before the
3 Commission; and

4 “(2) in rendering any decision, provide due con-
5 sideration to any statement or information provided
6 by any victim before the Commission.

7 “(f) FAMILY LIAISONS.—The Secretary shall des-
8 ignate at least 1 employee at each area office of the Occu-
9 pational Safety and Health Administration to serve as a
10 family liaison to—

11 “(1) keep victims informed of the status of in-
12 vestigations, enforcement actions, and settlement ne-
13 gotiations; and

14 “(2) assist victims in asserting their rights
15 under this section.

16 “(g) DEFINITION.—In this section, the term ‘victim’
17 means—

18 “(1) an employee, including a former employee,
19 who has sustained a work-related injury or illness
20 that is the subject of an inspection or investigation
21 conducted under section 8; or

22 “(2) a family member (as further defined by
23 the Secretary) of a victim described in paragraph
24 (1), if—

1 “(A) the victim dies as a result of an inci-
 2 dent that is the subject of an inspection or in-
 3 vestigation conducted under section 8; or

4 “(B) the victim sustains a work-related in-
 5 jury or illness that is the subject of an inspec-
 6 tion or investigation conducted under section 8,
 7 and the victim because of incapacity cannot rea-
 8 sonably exercise the rights under this section.”.

9 **PART E—PROCEDURE FOR ENFORCEMENT**

10 **SEC. 341. RIGHT TO CONTEST CITATIONS AND PENALTIES.**

11 Section 10(c) of the Occupational Safety and Health
 12 Act of 1970 (29 U.S.C. 659(c)) is amended—

13 (1) in the first sentence—

14 (A) by inserting after “that he intends to
 15 contest a citation issued under section (9)” the
 16 following: “(or a modification of a citation
 17 issued under this section)”;

18 (B) by inserting after “the issuance of a
 19 citation under section 9” the following: “(in-
 20 cluding a modification of a citation issued
 21 under such section)”; and

22 (C) by inserting after “files a notice with
 23 the Secretary alleging” the following: “that the
 24 citation fails properly to designate the violation

1 as serious, willful, or repeated, that the pro-
 2 posed penalty is not adequate, or”;

3 (2) by inserting after the first sentence, the fol-
 4 lowing: “The pendency of a contest before the Com-
 5 mission shall not bar the Secretary from inspecting
 6 a place of employment or from issuing a citation
 7 under section 9.”; and

8 (3) by amending the last sentence—

9 (A) by inserting “employers and” after
 10 “Commission shall provide”; and

11 (B) by inserting “, and notification of any
 12 modification of a citation” before the period at
 13 the end.

14 **SEC. 342. CORRECTION OF SERIOUS, WILLFUL, OR RE-**
 15 **PEATED VIOLATIONS PENDING CONTEST AND**
 16 **PROCEDURES FOR A STAY.**

17 Section 10 of the Occupational Safety and Health Act
 18 of 1970 (29 U.S.C. 659) is further amended by adding
 19 at the end the following:

20 “(d) CORRECTION OF SERIOUS, WILLFUL, OR RE-
 21 PEATED VIOLATIONS PENDING CONTEST AND PROCE-
 22 DURES FOR A STAY.—

23 “(1) PERIOD PERMITTED FOR CORRECTION OF
 24 SERIOUS, WILLFUL, OR REPEATED VIOLATIONS.—

25 For each violation which the Secretary designates as

1 serious, willful, or repeated, the period permitted for
2 the correction of the violation shall begin to run
3 upon receipt of the citation.

4 “(2) FILING OF A MOTION OF CONTEST.—The
5 filing of a notice of contest by an employer—

6 “(A) shall not operate as a stay of the pe-
7 riod for correction of a violation designated as
8 serious, willful, or repeated; and

9 “(B) may operate as a stay of the period
10 for correction of a violation not designated by
11 the Secretary as serious, willful, or repeated.

12 “(3) CRITERIA AND RULES OF PROCEDURE FOR
13 STAYS.—

14 “(A) MOTION FOR A STAY.—An employer
15 that receives a citation alleging a violation des-
16 ignated as serious, willful, or repeated and that
17 files a notice of contest to the citation asserting
18 that the time set for abatement of the alleged
19 violation is unreasonable or challenging the ex-
20 istence of the alleged violation may file with the
21 Commission a motion to stay the period for the
22 abatement of the violation.

23 “(B) CRITERIA.—In determining whether
24 a stay should be issued on the basis of a motion
25 filed under subparagraph (A), the Commission

1 may grant a stay only if the employer has dem-
2 onstrated—

3 “(i) a substantial likelihood of success
4 on the areas contested under subparagraph
5 (A); and

6 “(ii) that a stay will not adversely af-
7 fect the health and safety of workers.

8 “(C) RULES OF PROCEDURE.—The Com-
9 mission shall develop rules of procedure for con-
10 ducting a hearing on a motion filed under sub-
11 paragraph (A) on an expedited basis. At a min-
12 imum, such rules shall provide:

13 “(i) That a hearing before an admin-
14 istrative law judge shall occur not later
15 than 15 days following the filing of the
16 motion for a stay (unless extended at the
17 request of the employer), and shall provide
18 for a decision on the motion not later than
19 15 days following the hearing (unless ex-
20 tended at the request of the employer).

21 “(ii) That a decision of an administra-
22 tive law judge on a motion for stay is ren-
23 dered on a timely basis.

24 “(iii) That if a party is aggrieved by
25 a decision issued by an administrative law

1 judge regarding the stay, such party has
2 the right to file an objection with the Com-
3 mission not later than 5 days after receipt
4 of the administrative law judge's decision.
5 Within 10 days after receipt of the objec-
6 tion, a Commissioner, if a quorum is seat-
7 ed pursuant to section 12(f), shall decide
8 whether to grant review of the objection.
9 If, within 10 days after receipt of the ob-
10 jection, no decision is made on whether to
11 review the decision of the administrative
12 law judge, the Commission declines to re-
13 view such decision, or no quorum is seated,
14 the decision of the administrative law
15 judge shall become a final order of the
16 Commission. If the Commission grants re-
17 view of the objection, the Commission shall
18 issue a decision regarding the stay not
19 later than 30 days after receipt of the ob-
20 jection. If the Commission fails to issue
21 such decision within 30 days, the decision
22 of the administrative law judge shall be-
23 come a final order of the Commission.

24 “(iv) For notification to employees or
25 representatives of affected employees of re-

1 quests for such hearings and shall provide
 2 affected employees or representatives of af-
 3 fected employees an opportunity to partici-
 4 pate as parties to such hearings.”.

5 **SEC. 343. INACTION BY THE REVIEW COMMISSION.**

6 Section 10 of the Occupational Safety and Health Act
 7 of 1970 (29 U.S.C. 659), as amended by sections 341 and
 8 342, is further amended by adding at the end the fol-
 9 lowing:

10 “(e) INACTION BY REVIEW COMMISSION.—

11 “(1) IN GENERAL.—A decision or order issued
 12 by an administrative law judge of the Commission
 13 for which a petition for review has been filed in a
 14 timely manner, and for which 1 year after the Com-
 15 mission has accepted such petition and directed that
 16 such petition be reviewed by the Commission, the
 17 Commission has failed to issue a final decision or
 18 order because the Commission lacks a quorum—

19 “(A) shall be deemed a final decision or
 20 order of the Commission; and

21 “(B) may be appealed pursuant to section
 22 11(a).

23 “(2) EXCEPTION.—Paragraph (1) shall not
 24 apply with respect to motions to stay filed under
 25 subsection (d)(3).”.

1 **SEC. 344. CONFORMING AMENDMENTS.**

2 (a) VIOLATIONS DESIGNATED AS SERIOUS, WILL-
3 FUL, OR REPEATED.—The first sentence of section 10(b)
4 of the Occupational Safety and Health Act of 1970 (29
5 U.S.C. 659(b)) is amended by inserting “, with the excep-
6 tion of violations designated as serious, willful, or re-
7 peated,” after “(which period shall not begin to run”.

8 (b) JUDICIAL REVIEW.—The first sentence of section
9 11(a) of the Occupational Safety and Health Act of 1970
10 (29 U.S.C. 660(a)) is amended—

11 (1) by inserting “(or the failure of the Commis-
12 sion, including an administrative law judge, to make
13 a timely decision on a petition for a stay or other
14 review)” after “an order”;

15 (2) by striking “subsection (c)” and inserting
16 “subsection (c), (d), or (e)”; and

17 (3) by inserting “(or in the case of a petition
18 from a final Commission order regarding a stay
19 under section 10(d), 15 days)” after “sixty days”.

20 (c) FAILURE TO CORRECT VIOLATIONS.—Section
21 17(d) of the Occupational Safety and Health Act of 1970
22 (29 U.S.C. 666(d)) is amended to read as follows:

23 “(d) Any employer who fails to correct a violation
24 designated by the Secretary as serious, willful, or repeated
25 and for which a citation has been issued under section 9(a)
26 within the period permitted for its correction (and a stay

1 has not been issued by the Commission under section
 2 10(d)) may be assessed a civil penalty of not more than
 3 \$7,000 for each day during which such failure or violation
 4 continues. Any employer who fails to correct any other vio-
 5 lation for which a citation has been issued under section
 6 9(a) of this title within the period permitted for its correc-
 7 tion (which period shall not begin to run until the date
 8 of the final order of the Commission in the case of any
 9 review proceeding under section 10 initiated by the em-
 10 ployer in good faith and not solely for delay of avoidance
 11 of penalties) may be assessed a civil penalty of not more
 12 than \$7,000 for each day during which such failure or vio-
 13 lation continues.”.

14 **PART F—PENALTIES**

15 **SEC. 351. CIVIL PENALTIES.**

16 (a) IN GENERAL.—Section 17 of the Occupational
 17 Safety and Health Act of 1970 (29 U.S.C. 666) is further
 18 amended—

19 (1) in subsection (a)—

20 (A) by striking “\$70,000” and inserting
 21 “\$700,000”;

22 (B) by striking “\$5,000” and inserting
 23 “\$50,000”; and

24 (C) by adding at the end the following: “In
 25 determining whether a violation is repeated, the

1 Secretary or the Commission shall consider the
2 employer's history of violations under this Act
3 and under State occupational safety and health
4 plans established under section 18.”;

5 (2) in subsection (b), by striking “\$7,000” and
6 inserting “\$70,000”;

7 (3) in subsection (c), by striking “\$7,000” and
8 inserting “\$15,625”;

9 (4) in subsection (d), as amended by section
10 344(c), by striking “\$7,000” inserting “\$70,000”;

11 (5) by redesignating subsections (e) through (i)
12 and subsections (j) through (l), as subsections (f)
13 through (j) and subsections (l) through (n), respec-
14 tively; and

15 (6) in subsection (j) (as so redesignated) by
16 striking “\$7,000” and inserting “\$15,625”.

17 (b) INFLATION ADJUSTMENT.—Section 17 of such
18 Act (29 U.S.C. 666), as amended by subsection (a), is fur-
19 ther amended by inserting after subsection (d) the fol-
20 lowing:

21 “(e) Amounts provided under this section for civil
22 penalties shall be adjusted by the Secretary once each
23 year, not later than January 15 of such year, to account
24 for the percentage increase or decrease in the Consumer
25 Price Index for all urban consumers during such period,

1 consistent with the requirements of the Federal Civil Pen-
2 alties Inflation Adjustment Act of 1990 (28 U.S.C. 2461
3 note).”.

4 **SEC. 352. CRIMINAL PENALTIES.**

5 (a) IN GENERAL.—Section 17 of the Occupational
6 Safety and Health Act of 1970 (29 U.S.C. 666) (as
7 amended by section 351) is further amended—

8 (1) by amending subsection (f) (as redesignated
9 by section 351(a)(5)) to read as follows:

10 “(f)(1) Any employer who knowingly violates any
11 standard, rule, or order promulgated under section 6 of
12 this Act, or of any regulation prescribed under this Act,
13 and that violation caused or significantly contributed to
14 the death of any employee, shall, upon conviction, be pun-
15 ished by a fine in accordance with title 18, United States
16 Code, or by imprisonment for not more than 10 years, or
17 both, except that if the conviction is for a violation com-
18 mitted after a first conviction of such person under this
19 subsection or subsection (i), punishment shall be by a fine
20 in accordance title 18, United States Code, or by imprison-
21 ment for not more than 20 years, or by both.

22 “(2) For the purpose of this subsection, the term ‘em-
23 ployer’ means, in addition to the definition contained in
24 section 3 of this Act, any officer or director.”;

1 (2) by amending subsection (g) (as redesignated
2 by section 351(a)(5)) to read as follows:

3 “(g) Unless otherwise authorized by this Act, any
4 person that knowingly gives, causes to give, or attempts
5 to give or cause to give, advance notice of any inspection
6 conducted under this Act with the intention of impeding,
7 interfering with, or adversely affecting the results of such
8 inspection, shall be fined under title 18, United States
9 Code, imprisoned for not more than 5 years, or both.”;

10 (3) in subsection (h) (as redesignated by section
11 351(a)(5)), by striking “fine of not more than
12 \$10,000, or by imprisonment for not more than six
13 months,” and inserting “fine in accordance with title
14 18, United States Code, or by imprisonment for not
15 more than 5 years,”; and

16 (4) by inserting after subsection (j) (as redesignated by section 351(a)(5)) the following:

17 “(k)(1) Any employer who knowingly violates any
18 standard, rule, or order promulgated under section 6, or
19 any regulation prescribed under this Act, and that viola-
20 tion caused or significantly contributed to serious bodily
21 harm to any employee but does not cause death to any
22 employee, shall, upon conviction, be punished by a fine in
23 accordance with title 18, United States Code, or by impris-
24 onment for not more than 5 years, or by both, except that
25

1 if the conviction is for a violation committed after a first
2 conviction of such person under this subsection or sub-
3 section (e), punishment shall be by a fine in accordance
4 with title 18, United States Code, or by imprisonment for
5 not more than 10 years, or by both.

6 “(2) For the purpose of this subsection, the term ‘em-
7 ployer’ means, in addition to the definition contained in
8 section 3 of this Act, any officer or director.

9 “(3) For purposes of this subsection, the term ‘seri-
10 ous bodily harm’ means bodily injury or illness that in-
11 volves—

12 “(A) a substantial risk of death;

13 “(B) protracted unconsciousness;

14 “(C) protracted and obvious physical disfigure-
15 ment; or

16 “(D) protracted loss or impairment, either tem-
17 porary or permanent, of the function of a bodily
18 member, organ, or mental faculty.”.

19 (b) JURISDICTION FOR PROSECUTION UNDER STATE
20 AND LOCAL CRIMINAL LAWS.—Such section 17 (29
21 U.S.C. 666) is further amended by adding at the end the
22 following:

23 “(o) Nothing in this Act shall preclude a State or
24 local law enforcement agency from conducting criminal

1 prosecutions in accordance with the laws of such State or
 2 locality.”.

3 **SEC. 353. PREJUDGMENT INTEREST.**

4 Section 17(n) of the Occupational Safety and Health
 5 Act of 1970 (29 U.S.C. 666(n)) (as redesignated by sec-
 6 tion 351(a)(5)) is amended by adding at the end the fol-
 7 lowing: “Pre-final order interest on such penalties shall
 8 begin to accrue on the date the party contests a citation
 9 issued under this Act, and shall end upon the issuance
 10 of the final order. Such pre-final order interest shall be
 11 calculated at the current underpayment rate determined
 12 by the Secretary of the Treasury pursuant to section 6621
 13 of the Internal Revenue Code of 1986, and shall be com-
 14 pounded daily. Post-final order interest shall begin to ac-
 15 crue 30 days after the date a final order of the Commis-
 16 sion or the court is issued, and shall be charged at the
 17 rate of 8 percent per year.”.

18 **TITLE IV—STATE PLANS**

19 **SEC. 401. CONCURRENT ENFORCEMENT AUTHORITY AND**
 20 **REVIEW OF STATE OCCUPATIONAL SAFETY**
 21 **AND HEALTH PLANS.**

22 Section 18 of the Occupational Safety and Health Act
 23 of 1970 (29 U.S.C. 668) is amended—

24 (1) by amending subsection (f) to read as fol-
 25 lows:

1 “(f)(1) The Secretary shall, on the basis of reports
2 submitted by the State agency and the Secretary’s own
3 inspections, make a continuing evaluation of the manner
4 in which each State that has a plan approved under this
5 section is carrying out such plan. Such evaluation shall
6 include an assessment of whether the State continues to
7 meet the requirements of subsection (c) of this section and
8 any other criteria or indices of effectiveness specified by
9 the Secretary in regulations. Whenever the Secretary
10 finds, on the basis of such evaluation, that in the adminis-
11 tration of the State plan there is a failure to comply sub-
12 stantially with any provision of the State plan (or any as-
13 surance contained therein), the Secretary shall make an
14 initial determination of whether the failure is of such a
15 nature that the plan should be withdrawn or whether the
16 failure is of such a nature that the State should be given
17 the opportunity to remedy the deficiencies, and provide no-
18 tice of the Secretary’s findings and initial determination.

19 “(2) If the Secretary makes an initial determination
20 to reassert and exercise concurrent enforcement authority
21 while the State is given an opportunity to remedy the defi-
22 ciencies, the Secretary shall afford the State an oppor-
23 tunity for a public hearing within 15 days of such request,
24 provided that such request is made not later than 10 days
25 after Secretary’s notice to the State. The Secretary shall

1 review and consider the testimony, evidence, or written
2 comments, and not later than 30 days following such hear-
3 ing, make a determination to affirm, reverse, or modify
4 the Secretary's initial determination to reassert and exer-
5 cise concurrent enforcement authority under sections 8, 9,
6 10, 13, and 17 with respect to standards promulgated
7 under section 6 and obligations under section 5(a). Fol-
8 lowing such a determination by the Secretary, or in the
9 event that the State does not request a hearing within the
10 timeframe set forth in this paragraph, the Secretary may
11 reassert and exercise such concurrent enforcement author-
12 ity, while a final determination is pending under para-
13 graph (3) or until the Secretary has determined that the
14 State has remedied the deficiencies as provided under
15 paragraph (4). Such determination shall be published in
16 the Federal Register. The procedures set forth in section
17 18(g) shall not apply to a determination by the Secretary
18 to reassert and exercise such concurrent enforcement au-
19 thority.

20 “(3) If the Secretary makes an initial determination
21 that the plan should be withdrawn, the Secretary shall
22 provide due notice and the opportunity for a hearing. If
23 based on the evaluation, comments, and evidence, the Sec-
24 retary makes a final determination that there is a failure
25 to comply substantially with any provision of the State

1 plan (or any assurance contained therein), he shall notify
2 the State agency of the withdrawal of approval of such
3 plan and upon receipt of such notice such plan shall cease
4 to be in effect, but the State may retain jurisdiction in
5 any case commenced before the withdrawal of the plan in
6 order to enforce standards under the plan whenever the
7 issues involved do not relate to the reasons for the with-
8 drawal of the plan.

9 “(4) If the Secretary makes a determination that the
10 State should be provided the opportunity to remedy the
11 deficiencies, the Secretary shall provide the State an op-
12 portunity to respond to the Secretary’s findings and the
13 opportunity to remedy such deficiencies within a time pe-
14 riod established by the Secretary, not to exceed 1 year.
15 The Secretary may extend and revise the time period to
16 remedy such deficiencies, if the State’s legislature is not
17 in session during this 1-year time period, or if the State
18 demonstrates that it is not feasible to correct the defi-
19 ciencies in the time period set by the Secretary, and the
20 State has a plan to correct the deficiencies within a rea-
21 sonable time period. If the Secretary finds that the State
22 agency has failed to remedy such deficiencies within the
23 time period specified by the Secretary and that the State
24 plan continues to fail to comply substantially with a provi-

1 sion of the State plan, the Secretary shall withdraw the
2 State plan as provided for in paragraph (3).”; and

3 (2) by adding at the end the following new sub-
4 section:

5 “(i) Not later than 18 months after the date of enact-
6 ment of this subsection, and again 5 years thereafter, the
7 Comptroller General shall complete and issue a review of
8 the effectiveness of State plans to develop and enforce
9 safety and health standards to determine if they are at
10 least as effective as the Federal program and to evaluate
11 whether the Secretary’s oversight of State plans is effec-
12 tive. The Comptroller General’s evaluation shall assess—

13 “(1) the effectiveness of the Secretary’s over-
14 sight of State plans, including the indices of effec-
15 tiveness used by the Secretary;

16 “(2) whether the Secretary’s investigations in
17 response to Complaints About State Plan Adminis-
18 tration (CASPA) are adequate, whether significant
19 policy issues have been identified by headquarters
20 and corrective actions are fully implemented by each
21 State;

22 “(3) whether the formula for the distribution of
23 funds described in section 23(g) to State programs
24 is fair and adequate; and

1 “(4) whether State plans are as effective as the
2 Federal program in preventing occupational injuries,
3 illnesses and deaths, and investigating discrimina-
4 tion complaints, through an evaluation of at least 20
5 percent of approved State plans, and which shall
6 cover—

7 “(A) enforcement effectiveness, including
8 handling of fatalities, serious incidents and
9 complaints, compliance with inspection proce-
10 dures, hazard recognition, verification of abate-
11 ment, violation classification, citation and pen-
12 alty issuance, including appropriate use of will-
13 ful and repeat citations, and employee involve-
14 ment;

15 “(B) inspections, the number of pro-
16 grammed health and safety inspections at pri-
17 vate and public sector establishments, and
18 whether the State targets the highest hazard
19 private sector work sites and facilities in that
20 State;

21 “(C) budget and staffing, including wheth-
22 er the State is providing adequate budget re-
23 sources to hire, train and retain sufficient num-
24 bers of qualified staff, including timely filling of
25 vacancies;

1 “(D) administrative review, including the
2 quality of decisions, consistency with Federal
3 precedent, transparency of proceedings, deci-
4 sions and records are available to the public,
5 adequacy of State defense, and whether the
6 State appropriately appeals adverse decisions;

7 “(E) anti-discrimination, including whether
8 discrimination complaints are processed in a
9 timely manner, whether supervisors and inves-
10 tigators are properly trained to investigate dis-
11 crimination complaints, whether a case file re-
12 view indicates merit cases are properly identi-
13 fied consistent with Federal policy and proce-
14 dure, whether employees are notified of their
15 rights, and whether there is an effective process
16 for employees to appeal the dismissal of a com-
17 plaint;

18 “(F) program administration, including
19 whether the State’s standards and policies are
20 at least as effective as the Federal program and
21 are updated in a timely manner, and whether
22 National Emphasis Programs that are applica-
23 ble in such States are adopted and implemented
24 in a manner that is at least as effective as the
25 Federal program;

1 “(G) whether the State plan satisfies the
 2 requirements for approval set forth in this sec-
 3 tion and its implementing regulations; and

4 “(H) other such factors identified by the
 5 Comptroller General, or as requested by the
 6 Committee on Education and Workforce of the
 7 House of Representatives or the Committee on
 8 Health, Education, Labor, and Pensions of the
 9 Senate.”.

10 **SEC. 402. EVALUATION OF REPEATED VIOLATIONS IN**
 11 **STATE PLANS.**

12 Section 18(c) of the Occupational Safety and Health
 13 Act of 1970 (29 U.S.C. 668(c)) is amended—

14 (1) in paragraph (7), by striking “, and” and
 15 inserting a comma;

16 (2) in paragraph (8), by striking the period at
 17 the end and inserting “, and”; and

18 (3) by adding after paragraph (8) the following
 19 new paragraph:

20 “(9) provides that in determining whether a
 21 violation is repeated, the State shall consider the
 22 employer’s violations within the State, in conjunction
 23 with the employer’s history of violations under other
 24 States’ occupational safety and health plans ap-
 25 proved by the Secretary and the employer’s history

1 of violations in those States where the Secretary has
2 jurisdiction under this Act, in a manner that is at
3 least as effective as provided under section 17.”.

4 **TITLE V—NATIONAL INSTITUTE**
5 **FOR OCCUPATIONAL SAFETY**
6 **AND HEALTH**

7 **SEC. 501. HEALTH HAZARD EVALUATIONS BY THE NA-**
8 **TIONAL INSTITUTE FOR OCCUPATIONAL**
9 **SAFETY AND HEALTH.**

10 Section 20(a)(6) of the Occupational Safety and
11 Health Act of 1970 (29 U.S.C. 669(a)(6)) is amended by
12 striking the second sentence and inserting the following:
13 “The Secretary shall determine following a written request
14 by any employer, authorized representative of current or
15 former employees, physician, other Federal agency, or
16 State or local health department, specifying with reason-
17 able particularity the grounds on which the request is
18 made, whether any substance normally found in the place
19 of employment has potentially toxic effects in such con-
20 centrations as used or found or whether any physical
21 agents, equipment, or working condition found or used has
22 potentially hazardous effects; and shall submit such deter-
23 mination both to employers and affected employees as
24 soon as possible.”.

1 **SEC. 502. TRAINING AND EMPLOYEE EDUCATION.**

2 Paragraph (1) of section 21(c) of the Occupational
3 Safety and Health Act of 1970 (29 U.S.C. 670(c)) is
4 amended to read as follows: “(1) provide for the establish-
5 ment and supervision of programs for the education and
6 training of employers and employees in the recognition,
7 avoidance, and prevention of unsafe or unhealthful work-
8 ing conditions, and employee rights and employer respon-
9 sibilities under this Act, which shall include grant pro-
10 grams to provide grants for nonprofit organizations (in-
11 cluding grants to develop or expand the capacity of such
12 organizations to provide safety and health training, edu-
13 cation, and related assistance to the targeted audiences,
14 grants for the training of employees and employers on oc-
15 cupational safety and health hazards of particular concern
16 or for particular industries, or groups of workers at high
17 risk of injury, illness, or exposure to hazards, and grants
18 for the development of training materials on particular
19 topics), and”.

20 **TITLE VI—EFFECTIVE DATE**

21 **SEC. 601. EFFECTIVE DATE.**

22 (a) GENERAL RULE.—Except as provided for in sub-
23 section (b), this Act and the amendments made by this
24 Act shall take effect on the date that is 90 days after the
25 date of the enactment of this Act.

1 (b) EXCEPTION FOR STATES AND POLITICAL SUB-
2 DIVISIONS.—The following are exceptions to the effective
3 date described in subsection (a):

4 (1) A State that has a State plan approved
5 under section 18 of the Occupational Safety and
6 Health Act of 1970 (29 U.S.C. 667) shall amend its
7 State plan to conform with the requirements of this
8 Act and the amendments made by this Act not later
9 than 12 months after the date of the enactment of
10 this Act. The Secretary of Labor may extend the pe-
11 riod for a State to make such amendments to its
12 State plan by not more than 12 months, if the
13 State’s legislature is not in session during the 12-
14 month period beginning with the date of the enact-
15 ment of this Act. Such amendments to the State
16 plan shall take effect not later than 90 days after
17 the adoption of such amendments by such State.

18 (2) This Act and the amendments made by this
19 Act shall take effect on the date that is 36 months
20 after the date of the enactment of this Act with re-
21 spect to a workplace of a State, or a political sub-
22 division of a State, that does not have a State plan
23 approved under such section 18 (29 U.S.C. 667).

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