
EDUCATION & LABOR COMMITTEE

Congressman George Miller, Chairman

Tuesday, April 28, 2009
Press Office, 202-226-0853

Chairman Miller Statement at Committee Hearing On “*Are OSHA’s Penalties Adequate to Deter Health and Safety Violations?*”

WASHINGTON, D.C. – *Below are the prepared remarks of U.S. Rep. George Miller (D-CA), chairman of the House Education and Labor Committee, for a committee hearing on “Are OSHA’s Penalties Adequate to Deter Health and Safety Violations?.”*

The Committee on Education and Labor meets this morning to explore whether current penalties are adequate to protect the health and safety of American workers.

This hearing is fitting as we recognize Workers’ Memorial Day today. This day honors of the thousands of workers who fall sick, are injured or killed each year due to hazardous conditions on the job.

The landmark Occupational Safety and Health Act became law in 1970, opening the door to safer and healthier workplaces for millions of workers.

In the nearly forty years of its existence, the Act’s protections have saved hundreds of thousands of lives and millions more have avoided exposure to preventable illnesses and injuries.

I applaud the hard work of those Occupational Safety and Health Administration employees who ensure that workers can return home to their families safe and healthy after their shift.

However, over the last few decades, evidence suggests that we have seen an erosion of the workplace protections guaranteed by the OSH Act.

The erosion of OSHA’s effectiveness was particularly acute during the last several years.

Beginning in the last Congress, this committee and Ms. Woolsey’s subcommittee conducted a systematic examination of OSHA and the agency’s ability to adequately protect workers.

Since assuming the majority, we have held at least 15 hearings into workplace health and safety issues; most often issues regarding the failure of the last administration to properly protect American workers.

We found that well documented hazards, like exposure to a chemical that causes popcorn lung disease and combustible dust dangers, as well as basic regulatory work like updating construction standards, were not being addressed.

In fact, OSHA's regulatory function shut down. The Bush administration promulgated only one significant health and safety standard during its tenure. And that was under court order.

Additionally, we found that enforcement tools were left on the shelf at times.

These facts uncovered by this committee show that the last eight years have left OSHA significantly weakened.

OSHA has the ability to reverse some of these problems with new leadership. That's why I am confident that Labor Sec. Hilda Solis will be able to get the agency back on a firm footing.

But good leadership alone may not be enough to sufficiently protect workers' health and safety. Long overdue reforms to the OSH Act are needed.

Last week, Representative Woolsey introduced the Protecting America's Workers Act. The bill will update OSHA penalties, strengthen whistleblower protections, and ensure that bad employers are held accountable.

This legislation is vital to improving worker health and safety.

Today's hearing will examine the adequacy of OSHA penalties. We will look at whether Congress should modernize and strengthen penalties against those that put Americans at unnecessary risk while at work.

Penalties under the OSH Act were last updated in 1990 and were not indexed for inflation.

And, these penalties for failing to protect workers pale in comparison to the penalties for failing to protect animals or the environment generally.

While both civil and criminal penalties are available under the OSH Act, criminal prosecutions of egregious violations of the law are only possible when a willful violation leads to the death of a worker.

Even then, no matter how bad an employer acted, killing a worker is only a class B misdemeanor.

Even maliciously harassing a wild burro under the Federal Wild Horses and Burros Act can bring twice as much prison time as killing a worker after willfully violating the law.

While the law currently provides comparatively low penalties for health and safety violations, those penalties often get lower. Unscrupulous employers often avoid being held accountable for their actions by negotiating the fines down or away altogether.

This is exactly what happened on the Las Vegas strip during a particularly dangerous year and a half where 12 workers died on construction sites.

George Cole testified before our committee last June on how Project City Center in Las Vegas negotiated away all the penalties for violating safety rules in private that directly resulted in the death of his brother-in-law.

This is an outrageous example, but negotiating away egregious violations is not uncommon we will hear today.

Penalties are the key enforcement mechanism under the OSH Act. They must be real. They must be meaningful. They must function to deter violations. They must get people's attention.

And, these enforcement mechanisms must not be a mere cost of doing business.

Today we will hear testimony on the need to update and modernize that key enforcement mechanism under the OSH Act.

Before introducing the witnesses, I first want to recognize the Committee's ranking Republican, Mr. McKeon, for purposes of his opening statement.

###