

EDUCATION & LABOR COMMITTEE

Congressman George Miller, Chairman

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**Chairman Miller Statement at Committee Markup of H.R. 5663, the
“Miner Safety and Health Act of 2010”**

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 mark-up of H.R. 5663, the “Miner Safety and Health Act of 2010”*

We meet this morning to consider urgently needed legislation to address serious, life threatening flaws in our nation’s workplace safety and health laws.

Since the April disaster at Upper Big Branch, the committee has received substantial testimony from miners and their families, representatives of coal miners, state and federal officials, and independent experts.

All of them urged us to take decisive action to reform our nation’s mine safety laws.

For those who still doubt the need for reform, we learned only last week of additional alleged misconduct at the Upper Big Branch Mine.

NPR reported that a Massey electrician was ordered by the company to circumvent a methane detector installed on a continuous mining machine last February, in violation of the law.

If true, this is unconscionable.

H.R. 5663, which will be re-named the Robert C. Byrd Miner Safety and Health Act, makes comprehensive, common-sense reforms to strengthen our nation’s mine safety laws.

First, the bill addresses the broken pattern of violation provisions, developed in the wake of the 1976 Scotia Mine disaster

Unfortunately, this more than three-decades old provision is riddled with loopholes and delays that allow unscrupulous coal mine operators to abuse the law.

Massey Energy’s Upper Big Branch mine is a clear example of this.

The Upper Big Branch mine was subject to 515 violations and 54 withdrawal orders in 2009.

And yet, because it regularly contested a substantial number of citations to avoid the pattern designation, it evaded MSHA's more stringent enforcement regime.

Thus, while the mine corrected unsafe conditions when confronted by MSHA inspectors, it repeatedly slipped back into a pattern of non-compliance.

This legislation will set clear, yet fair criteria to identify mines with significant safety problems, in a way that cannot be gamed by operators.

Second, the bill gives miners additional protections against retaliation if they speak up about dangerous conditions.

Stanley "Goose" Stewart testified last week about the persistent fear and intimidation faced by workers from Massey management at Upper Big Branch.

These are the same fears the media reported that workers on the Deepwater Horizon had when confronted with dangerous working conditions.

That is why the Miner Safety and Health Act will empower workers to speak up about safety concerns by strengthening whistleblower protections, and give miners the right to refuse to work in unsafe conditions.

We need to recognize that special protections are needed for workers in cases where the work is "inherently dangerous" and pressure by company executives is intense, especially given the huge economic incentive to produce more coal at all costs.

That is why this bill will ensure that management has good cause for dismissing an underground coal miner.

Companies should not be able to retaliate against workers who raise legitimate concerns about safety under the pretext that they are not doing their job.

Third, the bill gives MSHA additional powers to shut down a mine and provide meaningful sanctions against those who interfere or impede MSHA's inspections by giving advance notice.

Finally, H.R. 5663 strengthens a badly outdated Occupational Safety and Health Act.

Every day, 14 workers don't come home from work. While they don't make headlines like trapped miners do, their lives and limbs are no less valuable.

Under the bill, civil penalties will be increased for the second time in 40 years and indexed to inflation like nearly every other federal law.

Strong whistleblower protections in this legislation granted to miners will be extended to all workers.

And the requirement that employers abate health and safety hazards pending an appeal will be extended to all workplaces, not just mines.

In the last three and a half years, we have held at least 24 hearings examining problems with our nation's worker health and safety laws.

Many sectors within the mining industry, the Department of Labor, NIOSH, workers, families, academics, and state officials have provided valuable assistance in shaping the bill, and the substitute amendment that I will be offering shortly.

None of us who went to Beckley can forget the pleas of the family members and miners.

Witness after witness sent the same message –we have to do more to protect our nation's coal miners.

We cannot ignore the commitment we made to the families of Aracoma, Sago, Crandall Canyon, Darby, to never forget the sacrifice of their loved ones, and to honor their memory with mine safety laws we can all be proud of.

Families should not live in fear that their loved one will not come home from their shift. It is our job to ensure that they have a safe workplace.

I urge my colleagues to support this important legislation.

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