

**EDUCATION & LABOR COMMITTEE**

**Congressman George Miller, Chairman**

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Press Office, 202-226-0853

**Chairman Miller Statement at Committee Hearing On “H.R. 5663, the Miner Safety and Health Act”.**

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 “H.R. 5663, the Miner Safety and Health Act”.*

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We meet today to consider urgent legislation to address serious flaws in our nation’s mine safety laws.

These flaws became devastatingly obvious on April 5th when a massive explosion ripped through Upper Big Branch Mine in West Virginia, killing 29 miners.

It is simply unacceptable for mine workers to die or be injured in preventable accidents.

It is unacceptable for mine companies to game the mine laws to avoid protecting their employees.

It is unacceptable that mine workers across the nation live in fear of their jobs if they raise safety issues at work.

And it is unacceptable that that mine workers are not given the most updated safety technology and training to protect their health and safety.

While it will take months to determine the precise cause of the Upper Big Branch explosion, we already understand the disastrous results when a mine owner operates on the margins of safety in order to put more coal on the belt.

Further study and investigation isn’t needed to understand the result when workers’ voices are silenced by fear of retaliation for speaking out on safety problems.

And, we know the consequences for safety when an operator repeatedly disregarded safety and do everything to avoid tougher oversight.

Miners die.

This message was clear when we travelled to Beckley, West Virginia to hear from miners and family of miners who lost loved ones on April 5th.

The testimony was chilling. What we heard was how an outlaw mine company that valued production over the lives of human beings.

We heard how miners would get sick because there wasn't enough oxygen.

We heard how widespread fear and intimidation has paralyzed miners from demanding management fix serious problems.

And, we learned how a federal agency lacked the resources and legal authority to fix these chronic problems.

In 2009, Massey's Upper Big Branch mine was cited 515 times for serious violations, including 54 orders to evacuate the mine due to urgent safety concerns.

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

In the weeks before the explosion, MSHA closed the mine seven times, six times for failures related to improper mine ventilation.

Despite this pattern of serious violations, there was little MSHA could do to get Massey to turn this operation around.

The millions of dollars in proposed fines over the years didn't work.

Dozens of temporary closure orders didn't work.

And, it seems, complaints that miners were not getting enough air below didn't work either.

The Upper Big Branch mine is the perfect example of how current law is inadequate, especially for those operations that do everything to flout the law.

H.R. 5663, the Miner Safety and Health Act, will fix these problems that have allowed some mine owners to operate on the margins of safety without being held accountable.

Among other provisions, the legislation will revamp the broken 'pattern of violations' sanctions so that our nation's most dangerous mine operations are able to improve safety quickly.

Furthermore, responding to serious concerns raised in Beckley, the Miner Safety and Health Act will empower workers to speak up about safety concerns strengthening whistleblower protections.

The bill will eliminate incentives for owners to appeal violations regardless of merit and ensure overdue penalties are paid promptly.

The bill will give MSHA additional powers to shut down a mine when there is a continuing threat to the health and safety of miners.

Also, recognizing that some mine operators may bide their time to retaliate against whistleblowers, the bill will ensure that underground coal miners are dismissed if the employer has just cause.

Finally, the bill will guarantee that basic protections are available in all workplaces.

Workers should have basic workplace protections no matter if they work in a mine extracting coal or at an oil refinery handling explosive chemicals.

In two dozen hearings over three-and-a-half years, this committee has not only examined gaps in mine safety, but also the significant shortcomings with the Occupational Safety and Health Act.

I want to thank Congresswoman Woolsey for leading the effort to reform the OSH Act. Your legislative work in the Workforce Protections Subcommittee has made a clear case for strong action. That is why, under the legislation, all workers will have to strong whistleblower protections. Not just miners.

For the second time in four decades, criminal and civil penalties will be increased and those penalties will be indexed to inflation.

Lastly, employers will have to fix safety problems more quickly, even pending appeal. Unlike mine safety laws, other workplaces are allowed to put off fixing many hazards found while the violation is appealed.

I would like to thank all those members of the House, Senate and the administration who have worked for weeks putting this legislation together.

In particular, I want to recognize the leadership of a United States Senator Robert Byrd who has been one of the coal miner's best allies in Washington. Senator Byrd was personally involved making decisions on this bill up to the last week of his life.

Recognizing the importance of Senator Byrd's legacy to our nation's miners and workers, I intend to change the name of the legislation to the Robert C. Byrd Miner Safety and Health Act of 2010.

After the 2006 Sago and Aracoma tragedies, Senator Byrd said that "if we are truly a moral nation...[then those] moral values must be reflected in government agencies that are charged with protecting the lives of our citizens."

I agree.

Finally, this bill responds to the promise I made to families paying the ultimate price for a job our nation depends on. That promise was to do everything in my power to prevent similar tragedies.

I believe that this bill is our best chance to fulfill the promise made to the families of Aracoma, Sago, Darby, Crandall Canyon and Upper Big Branch.

I thank all the witnesses for joining us today and I look forward to your testimony.

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