

AFL-CIO

LEGISLATIVE ALERT

February 27, 2017

Dear Representative:

The AFL-CIO urges you to oppose H. J. Res 83, a Congressional Review Act Resolution of Disapproval that would repeal an Occupational Safety and Health Administration (OSHA) rule that clarifies an employer's responsibility to maintain accurate records of serious work-related injuries and illnesses. This resolution will make it impossible for OSHA to ensure that injury and illness records are complete and accurate and undermine workplace health and safety.

The rule, issued in December 2016, is in response to a court decision that limited enforcement of OSHA's injury recordkeeping regulations to a six month period – a dramatic departure from OSHA's 40 year policy and practice. The six month restriction makes it impossible for OSHA to enforce the Act's injury recordkeeping requirements, since OSHA does not have the resources to conduct regular inspections of even the most hazardous workplaces. Indeed, currently federal OSHA is only able to inspect workplaces on average, only once every 140 years. The new rule creates no new obligations on employers. It simply makes clear that employers have a responsibility to maintain accurate injury and illness records for 5 years and during this time can be held accountable for violations if records are not complete and accurate.

The collection of complete and accurate information on work-related injuries and illnesses is a cornerstone of the Occupational Safety and Health Act of 1970. The Act directs the Secretary of Labor to "prescribe regulations requiring employers to maintain accurate records of, and make periodic reports on, work-related deaths, injuries and illnesses other than minor injuries." Since the early 1970's, OSHA has required employers in the more hazardous industries to keep these records and make reports to the Department of Labor. These records form the basis of the Bureau of Labor Statistics' (BLS) work-related injury and illness statistics which are used to identify high-risk industries and occupations and emerging problems and to track progress. OSHA relies on the records to target its enforcement and compliance assistance activities to dangerous workplaces. And the records are used by employers, workers and unions at the workplace to identify hazardous conditions and take corrective action to prevent future injuries and exposures.

To ensure the accuracy of this critical information, throughout its entire history, under every administration, OSHA enforced injury recordkeeping requirements by reviewing the last five years of an employer's records. This comprehensive assessment allowed the agency to identify widespread underreporting by some employers, which was masking serious injuries and hazards. OSHA was able to take strong enforcement action which brought about changes in injury recordkeeping practices, but also led to significant safety and health improvements to address hazards and prevent future injuries.

Without the new rule, it will be impossible for OSHA to effectively enforce recordkeeping requirements and assure that injury and illness records are complete and accurate. In the absence of enforcement, there is no question that the underreporting of injuries, already a widespread problem, will get much worse, undermining safety and health and putting workers in danger.

The AFL-CIO asks you to stand up for the safety and health of American workers and to reject H.J. Res 83.

Sincerely,

A handwritten signature in black ink, appearing to read "William Samuel".

William Samuel, Director
Government Affairs Department

American Federation of Labor and Congress of Industrial Organizations

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