



VIA FACSIMILE

July 12, 2005

TO ALL MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES

Dear Representative:

On behalf of the 1.4 million members of the United Food and Commercial Workers International Union (UFCW), I am writing to express our strong opposition to the four bills that threaten workplace health and safety—H.R. 739, H.R. 740, H.R. 741, and H.R. 742, scheduled for a floor vote today.

Contrary to claims that these are limited measures to address business concerns, a number of the provisions are far reaching and significantly weaken the Occupation Safety and Health Administration's (OSHA) ability to carry out its core mission; keeping workers safe. In fact, this is a dangerous package of measures that fails to contribute to the enhancement of worker safety and health protections, thereby threatening workplace health and safety—while exclusively benefiting employers and making enforcement of the Occupation Safety and Health Act (OSHAct) more difficult.

H.R. 741, the Occupational Safety and Health Independent Review of OSHA Citations Act, would overturn a 1991 Supreme Court decision that found that deference should be given to the Secretary of Labor as the official responsible for enforcing the OSHAct. The bill would change the act to give deference to the OSHA Review Commission. This modification to the act would merely take away the authority held by the Secretary of Labor in bringing cases to the Court of Appeals and the Supreme Court. The Secretary of Labor has much greater experience and expertise regarding the interpretation of safety and health standards and regulations than the Commission. The Secretary develops the rules and is responsible for their broad application. Giving deference to the Commission would create an incentive for challenges to the Secretary's rules and interpretations, undermining the Secretary's policymaking and enforcement functions.

H.R. 742, the Occupational Safety and Health Small Employer Access to Justice Act, would require taxpayers to pay the legal cost of small employers (fewer than 100 employees and up to \$7 million net worth) who prevail in any administrative or enforcement case brought by OSHA, regardless of whether the action was substantially justified. By expanding the existing Equal Access to Justice Act, this proposal would have a chilling effect on OSHA enforcement and standard setting by increasing potential litigation costs to taxpayers.

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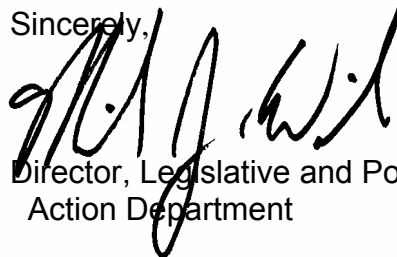
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H.R. 740, the Occupational Safety and Health Review Commission Efficiency Act, seeks to increase the number of members on the Commission from three persons to five, and requires that all members must be attorneys. It also seeks to allow members whose terms have expired to continue serving on the Commission until a successor is confirmed. This unnecessary expansion in the membership of the Commission will only succeed in permitting the current Administration to stack the Review Commission with business-friendly appointees. In addition, the requirement that the commissioners be attorneys will not only clearly exclude qualified and committed persons from serving, it focuses purely on the legal aspects of the Commission's work, and not the other important backgrounds and experiences—such as safety and health—that members bring to the Commission.

H.R. 739, the Occupational Safety and Health Small Business Day in Court Act, seeks to excuse employers who miss the fifteen-day time frame in which they must respond to OSHA citations and failure to abate notices. There is no reason to make a statutory change as current practice allows the Commission to review missed deadlines and to examine each situation on a case-by-case basis. By contrast, H.R. 739 allows for cases to be moved along in an inefficient and costly manner, with blanket permission to ignore the regulatory time frame. This bill will lead to more missed deadlines, decreased enforcement, and increased hazardous workplaces.

In sum, these legislative initiatives are a tremendous detriment to the lives of American workers in that they undermine the policies and procedures that have served our nation for over 30 years. As conceived more than 30 years ago when Congress first enacted OSHA Act, American workers deserve a safe and healthy workplace, and the full protection of the Occupational Safety and Health Act. For these reasons, UFCW strongly opposes H.R. 739, H.R. 740, H.R. 741 and H.R. 742, and we strongly urge you to vote against them.

Sincerely,



Director, Legislative and Political
Action Department

MJW/TDF:dpw