

112th Congress Mine Safety Accountability and Improved Protection Act (H.R. 3697) Representative Shelley Moore Capito (WV-02)

Streamline the Citation Appeals Process

- **Conferences** – Reinstates the conference process MSHA previously utilized to improve the safety and health of our miners by providing operators ample opportunity to discuss safety and health issues with inspectors.
 - After ending the conference process MSHA conducted a Pilot of pre-assessment safety and health conferences from August 31, 2010, through November 30, 2010. The Pilot proved successful and on December 1, 2011, MSHA announced that it will be reinstating the conference process on a district by district basis based upon available resources. This provision will provide national regulatory certainty and will ensure that MSHA does not end the important and effective conference process in the future.
- **Challenging Revocation of Plans** – Mine plan disputes between the operator and MSHA must be swiftly resolved by the Commission.

Improve Implementation of Mine Safety & Health Regulation

- **Miner Representative** – Requires miners to designate a representative of their choosing, much like they would beneficiaries for a 401(k) or life insurance policy. The legislation provides that the closest relative of any miner who has not designated a representative may act as a designated representative should the miner be entrapped. The provision gives operators 60 days after enactment to comply.
- **Significant & Substantial Violations** – Adopts the “substantial probability” language from the Occupational Safety and Health Act to better highlight conditions and practices that pose the greatest potential to cause injury or illness.
- **Pattern of Violations** – This bill amends section 104(e) of the Mine Safety Health Act to create a statutory system that is consistent with MSHA’s current POV process.
 - If MSHA determines that an operator has a possible POV based upon the initial screening criteria (same criteria as proposed by MSHA), and receives an S&S violation within 90 days of the notification, the operator will be placed into POV status. Once in POV status the operator has the opportunity to be removed from POV status due to mitigating circumstances. Operators also have the opportunity to challenge placement in POV through an expedited process.
 - MSHA is specifically permitted to establish different criteria for different types of mines.
 - Upon placement in POV status all miners must be removed while MSHA conducts a complete inspection of the mine. Operators are required to submit a remediation plan to MSHA and disagreements between MSHA and the operator will be settled through an expedited review conducted by the Mine Safety and Health Review Commission.
 - After placement in POV, MSHA must evaluate the performance of the POV operator every 90 days to determine if it meets required rates of citations for such S&S violations, if operators fail to attain these benchmarks then MSHA may re-impose the withdrawal order and require modification of the remediation plan.
 - POV status may be terminated after 180 days if the operator meets certain benchmarks for the rate of S&S citations.
 - The POV sections do not apply for a period of 12 months following a purchaser’s acquisition of a mine.
- **National Mine Safety Board** – Establishes the National Mine Safety Board, a completely separate independent federal agency, to investigate report on and make recommendations for the prevention of future mining disasters. The Board would be tasked with investigating accidents where three or more deaths occur. The Board is given subpoena power and would be responsible for reviewing the activities of MSHA, state regulators, and operators.

- **Subpoena Authority** – MSHA would be granted the authority to subpoena documents and testimony in the investigation of fatalities on mine property.

Consistent Application of the Law

- **Annual Inspector Training** – Requires increased annual training and review for inspectors.
- **MSHA Staffing Needs** – Requires MSHA to report to Congress on the need for additional inspectors to carryout and fulfill promises made to protect our miners.
- **Scholarships** – The legislation will expand the education scholarship program to promote those mining disciplines in the greatest need.

Hold Violators Accountable

- **Civil and Criminal Penalties** – Increases penalties, both financial sanctions and jail time, for violations of the law.
- **Advance Notice Penalties** – Increases penalties for advance notice given with the intent of interfering with an inspection with a fine and up to 5 years in prison.
- **Civil and Criminal Liability of Officers, Directors, and Agents** – If an operator violates a law or regulation related to mine safety, any director, officer, or agent who willfully authorized, ordered, or carried out such violation or any policy or practice that contributed to the occurrence of a fatality shall be subject to the same civil and criminal penalties that may be imposed upon a person under Section 110 of the Federal Mine Safety and Health Act.
- **Civil and Criminal Penalties for False Statements and Representations** – Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained, upon conviction, may be punished by a fine of not more than \$50,000, or by imprisonment for not more than five years, or both. The fine was previously a maximum of \$10,000 and five years imprisonment. This provision is designed to deter operators from keeping books and records that contain false statements or representations.

Create a Safer Working Environment

- **Hours of Inspection** – Extends mine inspections so they are conducted in the evenings and during weekends.
- **Whistleblower Protections** – Empowers miners to speak out on mine safety standards by protecting them from loss of pay or retaliation.
- **Training**- Allows MSHA to require a miner receive additional training beyond what is otherwise required by law if an operator has shown a history of inadequately training its miners.

Fiscally Responsible

- **Budget Neutrality** – This legislation is fiscally responsible and is designed to be budget neutral.