

106TH CONGRESS
1ST SESSION

H. R. 1438

To amend the Occupational Safety and Health Act of 1970.

IN THE HOUSE OF REPRESENTATIVES

APRIL 15, 1999

Mr. BALLENGER (for himself, Mr. HALL of Texas, and Mr. STENHOLM) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend the Occupational Safety and Health Act of 1970.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Safety and Health
5 Audit Promotion Act of 1999”.

6 **SEC. 2. SAFETY AND HEALTH AUDIT REPORT.**

7 Section 8(c) of the Occupational Safety and Health
8 Act of 1970 (29 U.S.C. 657(c)) is amended by adding at
9 the end the following:

10 “(4)(A)(i) Records, reports, or other information ob-
11 tained or prepared in connection with safety and health

1 audits conducted by or for the employer shall not be re-
2 quired to be disclosed in any inspection, investigation, or
3 enforcement proceeding pursuant to this Act except as
4 provided in clause (ii). Such records, reports, or other in-
5 formation may be disclosed in the course of an inspection,
6 investigation, or enforcement proceeding to the extent that
7 the employer expressly authorizes the disclosure.

8 “(ii) Such records, reports, or other information may
9 be required to be disclosed to the extent that—

10 “(I) the record, report, or other information is
11 sought as part of a criminal proceeding or fatality
12 investigation; or

13 “(II) the record, report, or other information is
14 sought for purposes of establishing the cause of a
15 particular alleged violation, but only if the Secretary
16 establishes, on evidence independent of such records,
17 reports, or other information, that the condition or
18 practice of the employer is not in compliance with
19 the requirements of this Act for which such record,
20 report, or other information was prepared or ob-
21 tained.

22 “(iii) Any record, report, or other information dis-
23 closed pursuant to subclause (II) of clause (ii) shall be
24 admissible as evidence in any civil or administrative pro-
25 ceeding only to the extent that the Secretary establishes

1 that the employer has not acted in good faith with respect
2 to the audit for which such record, report, or other infor-
3 mation was prepared or obtained.

4 “(B) As used in subparagraph (A)—

5 “(i) the term “safety and health audit” means
6 an evaluation of one or more conditions, practices,
7 processes, operations, or facilities or management
8 systems related to such conditions, practices, proc-
9 esses, operations, or facilities that is designed to
10 identify and prevent noncompliance with this Act or
11 hazards or potential hazards to workers. Such term
12 does not include medical records or records of em-
13 ployee exposure to potentially toxic materials or
14 records of work-related death, injuries, or illnesses
15 required to be maintained under this subsection;

16 “(ii) the term “good faith” means that the em-
17 ployer has undertaken an appropriate process of
18 abating noncompliance, hazards, or potential haz-
19 ards identified by the audit which may include a
20 phased schedule of actions.”.

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