

116TH CONGRESS
2D SESSION

S. 3710

To require the Secretary of Labor to promulgate an emergency temporary standard to protect miners of coal or other mines from occupational exposure to SARS-CoV-2, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 13, 2020

Mr. MANCHIN (for himself, Mr. DURBIN, Mr. Kaine, Mr. Jones, Mr. Brown, Mr. Casey, Mrs. Capito, and Mr. Warner) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To require the Secretary of Labor to promulgate an emergency temporary standard to protect miners of coal or other mines from occupational exposure to SARS-CoV-2, and for other purposes.

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 “COVID-19 Mine
5 Worker Protection Act”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act, the terms “coal or other mine”, “miner”,
3 and “operator” have the meanings given the terms in sec-
4 tion 3 of the Federal Mine Safety and Health Act of 1977
5 (30 U.S.C. 802).

6 **SEC. 3. EMERGENCY TEMPORARY AND PERMANENT STAND-**
7 **ARDS.**

8 (a) EMERGENCY TEMPORARY STANDARD.—

9 (1) IN GENERAL.—In consideration of the grave
10 risk presented by COVID–19 and the need to
11 strengthen protections for miners, pursuant to sec-
12 tion 101(b) of the Federal Mine Safety and Health
13 Act of 1977 (30 U.S.C. 811(b)) and notwithstanding
14 the provisions of law and the Executive order listed
15 in paragraph (4), not later than 7 days after the
16 date of enactment of this Act, the Secretary of
17 Labor shall promulgate an emergency temporary
18 health or safety standard to protect miners from oc-
19 cupational exposure to SARS–CoV–2.

20 (2) OPERATOR REQUIREMENTS.—The standard
21 promulgated under paragraph (1) shall require oper-
22 ators to provide to miners the necessary personal
23 protective equipment, ancillary medical supplies, and
24 other applicable supplies determined necessary by
25 the Secretary to reduce and limit exposure to
26 SARS–CoV–2 in coal or other mines.

1 (3) EXTENSION OF STANDARD.—Notwith-
 2 standing paragraphs (2) and (3) of section 101(b) of
 3 the Federal Mine Safety and Health Act of 1977
 4 (30 U.S.C. 811(b)), the emergency temporary health
 5 or safety standard promulgated under this sub-
 6 section shall be in effect until the date on which the
 7 final standard promulgated under subsection (b) is
 8 in effect.

9 (4) INAPPLICABLE PROVISIONS OF LAW AND
 10 EXECUTIVE ORDER.—The requirements of chapter 6
 11 of title 5, United States Code (commonly referred to
 12 as the “Regulatory Flexibility Act”), subchapter I of
 13 chapter 35 of title 44, United States Code (com-
 14 monly referred to as the “Paperwork Reduction
 15 Act”), the Unfunded Mandates Reform Act of 1995
 16 (2 U.S.C. 1501 et seq.), and Executive Order 12866
 17 (58 Fed. Reg. 190; relating to regulatory planning
 18 and review), as amended, shall not apply to the
 19 standard promulgated under this subsection.

20 (b) PERMANENT STANDARD.—Not later than 24
 21 months after the date of enactment of this Act, the Sec-
 22 retary of Labor shall promulgate a final standard—

23 (1) to protect miners from occupational expo-
 24 sure to infectious pathogens, including novel patho-
 25 gens; and

1 (2) that shall be effective and enforceable in the
2 same manner and to the same extent as a standard
3 promulgated under section 101(a) of the Federal
4 Mine Safety and Health Act of 1977 (30 U.S.C.
5 811(a)).

6 (c) REQUIREMENTS.—Each standard promulgated
7 under this section shall include—

8 (1) the incorporation of guidelines issued by the
9 Centers for Disease Control and Prevention, the Na-
10 tional Institute for Occupational Safety and Health,
11 and the Occupational Safety and Health Administra-
12 tion that are designed to prevent the transmission of
13 infectious agents in occupational settings; and

14 (2) a requirement for the recording and report-
15 ing of all work-related COVID–19 infections and
16 deaths as set forth in part 50 of title 30, Code of
17 Federal Regulations (as in effect on the date of en-
18 actment of this Act).

19 (d) ANTI-RETALIATION.—

20 (1) POLICY.—Each standard promulgated
21 under this section shall require operators to adopt a
22 policy prohibiting the discrimination and retaliation
23 described in paragraph (2) by any person (including
24 an agent of the operator).

1 (2) PROHIBITION.—No operator (including an
2 agent of the operator) shall discriminate or retaliate
3 against a miner for—

4 (A) reporting to the operator or to a local,
5 State, or Federal Government agency—

6 (i) a violation of a standard promul-
7 gated pursuant to this Act; or

8 (ii) a good faith concern about a
9 workplace infectious disease hazard;

10 (B) seeking assistance or intervention from
11 the operator or a local, State, or Federal Gov-
12 ernment agency with respect to such a report;
13 or

14 (C) voluntary use of personal protective
15 equipment with a higher level of protection than
16 is provided by the operator, if the operator de-
17 termines that use of such personal protective
18 equipment will not in itself create a hazard.

19 (3) ENFORCEMENT.—This subsection shall be
20 enforced in the same manner and to the same extent
21 as any standard promulgated under section 101 of
22 the Federal Mine Safety and Health Act of 1977
23 (30 U.S.C. 811).

1 **SEC. 4. SURVEILLANCE, TRACKING, AND INVESTIGATION**
2 **OF MINING-RELATED CASES OF COVID-19.**

3 The Secretary of Labor, acting through the Assistant
4 Secretary for Mine Safety and Health and in coordination
5 with the Director of the Centers for Disease Control and
6 Prevention and the Director of the National Institute for
7 Occupational Safety and Health, shall—

8 (1) collect and analyze case reports, including
9 information on the work status, occupation, and in-
10 dustry classification of an individual, and other data
11 on COVID-19, to identify and evaluate the extent,
12 nature, and source of COVID-19 among miners and
13 the prevalence of COVID-19 among miners with
14 previous symptoms of pneumoconiosis;

15 (2) investigate, as appropriate, individual cases
16 of COVID-19 among such miners to evaluate the
17 source of exposure and adequacy of infection and ex-
18 posure control programs and measures;

19 (3) provide regular periodic reports on COVID-
20 19 among such miners to the public; and

21 (4) based on such reports and investigations,
22 make recommendations on needed actions or guid-
23 ance to protect such miners from COVID-19.

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