

LET'S PROTECT WORKERS ACT

LABOR ENFORCEMENT TO SECURELY (LET'S) PROTECT WORKERS ACT

Section 1. Short Title

The title of the bill is the *Labor Enforcement to Securely Protect Workers Act*, or *LET'S Protect Workers Act*.

Section 2. Improved Protection for Workers and Children Through Meaningful Civil Penalties

(a) *Increasing Civil Monetary Penalties for Employers that Violate Child Labor Laws.* This subsection increases civil monetary penalties (CMPs) for a violation of child labor provisions of the *Fair Labor Standards Act of 1938* (FLSA). Currently, the FLSA authorizes a maximum civil penalty of (1) \$11,000 for each violation, at a current inflation-adjusted amount of \$15,629, and (2) \$50,000 for violations resulting in serious injury or death, currently inflation-adjusted to \$71,031. This subsection increases those maximums and sets new minimums: (1) a minimum of \$1,500 and a maximum of \$150,000 for most child labor violations, and (2) a minimum of \$7,000 and a maximum of \$700,000 for violations resulting in serious injury or death. This subsection does not change the provision in current law for doubling the civil penalty for child labor violations that cause serious injury or death and were repeated or willful.

(b) *Increasing Civil Monetary Penalties for Employers that Violate Wage Laws.* If an employer commits a violation of provisions relating to minimum wages, overtime, or tip theft under the FLSA, the current statutory maximum CMP is \$1,100. Since tip theft was added more recently to the law than minimum wage and overtime, the inflation-adjusted values for these violations vary widely: the inflation-adjusted minimum wage and overtime CMP maximum is \$2,451, compared to \$1,373 for tip theft. This subsection would increase and equalize CMPs for tip theft and minimum wage and overtime violations, for a maximum CMP of \$25,000 for each violation or \$50,000 for repeated or willful violations. This subsection also sets a maximum of \$2,500 for recordkeeping violations.

(c) *Increasing Civil Monetary Penalties for Employers that Violate Health and Safety Laws.* This subsection raises CMPs for employers that violate occupational health and safety requirements under the *Occupational Safety and Health Act of 1970* (OSH Act). Currently, the OSH Act authorizes (1) a minimum CMP of \$5,000 and a maximum of \$70,000 for each willful violation, currently inflation-adjusted to \$11,524 and \$161,323, respectively; (2) a maximum of \$70,000, at an inflation-adjusted level of \$161,323, for repeated violations, and (3) a maximum of \$7,000, presently at an inflation-adjusted amount of \$16,131, for serious, other than serious, and posting requirement violations. The law also authorizes a maximum CMP of \$7,000, adjusted to \$16,131 for inflation, each day an employer fails to correct or abate a violation.

This subsection increases those minimum and maximum penalties: (1) a minimum of \$60,000 and a maximum of \$800,000 for willful violations; (2) a maximum of \$800,000 for repeated violations; (3) a maximum of \$80,000 for serious violations and each day the employer fails to abate a violation, and (4) a maximum of \$40,000 for other than serious and posting requirement violations.

(d) *Increasing Civil Monetary Penalties for Employers that Violate Farmworker Safety Laws.* The current maximum CMP for violations of the *Migrant and Seasonal Agriculture Worker Protect Act* is \$1,000, or a 2024 inflation-adjusted value of \$3,047. This subsection increases the maximum to \$30,000 for each violation.

(e) *Increasing Civil Monetary Penalties for Employers that Violate Mine Safety and Black Lung Benefit Laws.* This subsection amends the *Federal Mine Safety and Health Act of 1977 (Mine Act)* to increase the maximum and sets a new minimum CMP for employers that fail to pay black lung benefits to miners from a ceiling of \$1,000 for each day, currently at an inflation-adjusted value of \$3,558, to a maximum of \$50,000 and a minimum of \$5,000.

It also establishes new penalties and consequences for mine safety scofflaws:

- It amends the *Mine Act* so that any operator who is put on notice for having a pattern of violations and later commits a new violation will be assessed heightened CMPs, set at the lesser of (1) double the CMP amount that would otherwise be assessed or (2) the maximum CMP.
- It creates new consequences for mine operators who fail to pay their CMPs. It amends the *Mine Act* to give operators in arrears an opportunity to enter a payment plan. Those who remain delinquent in their payments could be subject to an order to withdraw all but the most essential personnel from the mine until they come into compliance with their obligation to pay CMPs.
- It sets new penalties for retaliation that increase for repeat violators. It amends the *Mine Act* to establish CMPs at a minimum of \$10,000 and a maximum of \$100,000 for operators who retaliate against miners who pursue their rights under the *Mine Act*. The minimum and maximum CMPs would double for subsequent retaliation violations.

(f) *Civil Monetary Penalties for Employers that Violate Family and Medical Leave Laws.* This subsection establishes, for the first time, a CMP of up to \$25,000 for retaliating against workers pursuing their rights under the *Family and Medical Leave Act of 1993 (FMLA)*. It also increases the maximum CMP for willfully violating notice requirements from \$100, current inflation-adjusted amount of \$211, to \$2,500. Finally, it establishes a new CMP for recordkeeping violations at a maximum of \$2,500.

Section 3. Enforcement of Certain Requirements for Employee Health Plans

Civil Monetary Penalties for Violations of Parity in Health Care Coverage of Mental Health and Substance Use Disorder Benefits. This section authorizes the Secretary of Labor to impose CMPs on group health plan sponsors, plan administrators, service providers, and issuers for violations of provisions of the *Employee Retirement Income Security Act* that were added by the *Mental Health Parity and Addiction Equity Act (MHPAEA)*. MHPAEA prohibits large group health plans and issuers that provide mental health and substance use disorder (MH/SUD) services from imposing financial requirements or treatment limitations that are more restrictive than the predominant financial requirements or treatment limitations applied to substantially all covered medical and surgical benefits.

This section reflects a [2017 recommendation](#) made by the President's Commission on Combatting Drug Addiction and the Opioid Crisis, a bipartisan group chaired by then-Governor Chris Christie (R-NJ) under President Trump, that DOL be granted enforcement authority to impose monetary penalties for parity violations.

Section 4. Improving Workplace Democracy Through Civil Monetary Penalties

Civil Monetary Penalties for Violations of Rights to Organize and Collectively Bargain. This section provides that if an employer commits a violation of employees' rights under the *National Labor Relations Act* (NLRA), then the employer shall be subject to a civil penalty not to exceed \$50,000, though the National Labor Relations Board (NLRB) may double that penalty in any case where the employer has committed another such violation in the previous 5 years and where such penalty involves discharge or serious economic harm.

In determining the size of such a penalty, the NLRB may consider the gravity of the violation, the impact of the violation on the employee, the size of the employer, the history of any previous violations, and the public interest. The NLRB may, under certain circumstances, hold officers or directors of an employer personally liable and assess a civil penalty against them. This is consistent with the *Protecting the Right to Organize (PRO) Act*.

Section 5. Securing Workers' Rights Through Responsible Recordkeeping and Notice to Employees

(a) This subsection closes a loophole that lets employers off the hook for failing to maintain required injury and illness records if the violation is not discovered within six months.

It amends section 9(c) of the *OSH Act* to restore an interpretation of employer recordkeeping violations that lasted from the 1970s up until a 2012 D.C. Circuit Court of Appeals decision. Prior to this case, the Occupational Safety and Health Administration (OSHA) had interpreted recordkeeping and reporting violations as continuing violations: that is, every day an employer failed to make or maintain a record during the 5-year record retention period was a violation, and the 6-month statute of limitations would not count down until the end of the 5-year period. The D.C. Circuit ruled, however, that the 6-month statute of limitations counts down as of the last date that the employer must record or report an injury or fatality (which is seven days after receiving information that a reportable or recordable event occurred). Under this decision, an employer escapes liability for a violation 6 months after failing to record a required event, thus bypassing the five-year retention period. In 2021, the [Government Accountability Office](#) (GAO) found that a decrease in recordkeeping citations over a 15-year period coincided with this court decision. Likely reduced compliance, GAO warned, threatens to impact OSHA's ability to strategically target enforcement resources.

The Obama Administration promulgated a rule to close this loophole, but that rule was nullified by the Trump Administration and Republican Congress using the *Congressional Review Act*. Therefore, this subsection also explicitly authorizes OSHA to reissue that rule.

(b) This subsection amends the FLSA's recordkeeping requirements to align with the amendments made by subsection (a) under this section, which clarifies that a violation of recordkeeping requirements occurs until an employer complies with a regulation or order under the FLSA or the end of the three-year record retention period.

(c) This subsection directs the Secretary to issue a final rule within 180 days of enactment to amend agency regulations consistent with the amendments made by this section.

Section 6. Effective Dates; Application

The amendments made by Sections 2, 3, and 4 shall take effect on January 1, 2025, and the amendments made by Section 5 shall take effect on the date of enactment.