

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1661

To amend the Occupational Safety and Health Act of 1970 to provide for uniform warnings on personal protective equipment for occupational use, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 16 (legislative day, NOVEMBER 2), 1993

Mr. DURENBERGER (for himself and Mr. PELL) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

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## A BILL

To amend the Occupational Safety and Health Act of 1970 to provide for uniform warnings on personal protective equipment for occupational use, 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 “Worker Protection  
5 Warnings Act of 1993”.

6 **SEC. 2. REFERENCE.**

7 Whenever in this Act an amendment or repeal is ex-  
8 pressed in terms of an amendment to, or repeal of, a sec-  
9 tion or other provisions, the reference shall be considered

1 to be made to a section or other provision of the Occupa-  
2 tional Safety and Health Act of 1970 (29 U.S.C. 651  
3 et seq.).

4 **SEC. 3. FINDINGS.**

5 The Congress finds that—

6 (1) the absence of uniform warnings for per-  
7 sonal protective equipment for occupational use risks  
8 causes confusion among employers and their employ-  
9 ees concerning the proper use and limitations of  
10 such equipment and increases worker exposure to  
11 workplace injuries and illnesses from lack of proper  
12 worker training and consequent misuse of such  
13 equipment; and

14 (2) the absence of Federal standards specifying  
15 warnings for personal protective equipment for occu-  
16 pational uses leaves questions as to the adequacy of  
17 such warnings to be determined by different and fre-  
18 quently inconsistent State requirements, prohibi-  
19 tions, and court decisions, placing an undue burden  
20 on interstate commerce in such equipment.

21 **SEC. 4. STATEMENT OF PURPOSE.**

22 It is the purpose of this Act to—

23 (1) increase workplace safety by enhancing em-  
24 ployer and employee understanding of the proper use  
25 and limits of personal protective equipment for occu-

1       pational use through occupational safety and health  
2       standards that establish specific coherent and effec-  
3       tive uniform warnings for such equipment; and

4               (2) expressly preempt the application of any  
5       State standards, requirements, or prohibitions,  
6       whether established by statute, regulation, court de-  
7       cisions or otherwise, in any determination of the  
8       adequacy of such uniform warnings.

9       **SEC. 5. UNIFORM WARNINGS FOR PERSONAL PROTECTIVE**  
10                               **EQUIPMENT FOR OCCUPATIONAL USE.**

11       Section 6 (29 U.S.C. 655) is amended by adding at  
12       the end the following new subsection:

13       “(h)(1) Not later than 12 months after the date of  
14       enactment of this subsection, the Secretary, in consulta-  
15       tion with the Director of the National Institute of Occupa-  
16       tional Safety and Health, shall issue a final regulation es-  
17       tablishing, as occupational safety and health standards,  
18       uniform warnings for personal protective equipment for  
19       occupational use.

20       “(2) For purposes of this Act—

21               “(A) the term ‘personal protective equipment’  
22       means equipment intended for use by workers in a  
23       workplace subject to this Act to protect the eyes,  
24       face, head, hearing, extremities, or respiratory tract  
25       from workplace hazards or to function as protective

1 clothing, as a protective shield or barrier, as per-  
2 sonal fall arrest or ladder safety devices, or as safety  
3 and health monitoring and instrumentation devices;  
4 and

5 “(B) the term ‘warning’ means any statement  
6 that—

7 “(i) directs or describes one or more ac-  
8 tions, procedures, or prohibitions relating to the  
9 use of personal protective equipment; and

10 “(ii) if not complied with, may result in  
11 personal injury or death to the user of the  
12 equipment.

13 “(3) Each standard promulgated under paragraph  
14 (1) shall prescribe the full text of each warning described  
15 in such paragraph and the means by which the manufac-  
16 turer or other seller of the personal protective equipment  
17 shall communicate each such warning to the employer  
18 using such equipment.

19 “(4) Each standard issued under paragraph (1) for  
20 personal protective equipment shall—

21 “(A) require the employer to communicate each  
22 prescribed warning to each employee using the per-  
23 sonal protective equipment, and to train, educate  
24 and instruct each such employee in—

1           “(i) the proper use of such personal protec-  
2           tive equipment;

3           “(ii) how each such warning applies in  
4           such employer’s workplace and such employee’s  
5           work environment; and

6           “(iii) the consequences of failing to observe  
7           each such warning;

8           “(B) become effective 6 months after the date  
9           on which such standards is published in the Federal  
10          Register; and

11          “(C) exempt from coverage under such stand-  
12          ard warnings for personal protective equipment  
13          placed in interstate commerce by its manufacturer  
14          before the date such standard becomes effective un-  
15          less such manufacturer or other seller of such equip-  
16          ment communicates the prescribed warnings to the  
17          employer using the equipment as required in such  
18          standard.

19          “(5) The Secretary, in promulgating standards pur-  
20          suant to paragraph (1), shall consider such factors as the  
21          experience of manufacturers using particular warnings  
22          and the means of communication of such warnings, as well  
23          as the opinions of workers, human factors experts, the Na-  
24          tional Institute of Occupational Safety and Health, and  
25          other experts as to the effectiveness of such warnings and

1 respective means of communication. Information on such  
2 factors and opinions shall be submitted as written data  
3 and comments during submission under subsection (b)(2)  
4 of this section.”.

5 **SEC. 6. PREEMPTION.**

6 (a) IN GENERAL.—Section 4 (29 U.S.C. 653) is  
7 amended by adding at the end the following:

8 “(c) Nothing in this section shall be construed to ne-  
9 gate the intent of Congress to occupy or regulate the en-  
10 tire field of warnings for personal protective equipment for  
11 occupational use.”.

12 (b) OTHER STANDARDS.—Section 18 (29 U.S.C.  
13 667) is amended by adding at the end the following new  
14 subsection:

15 “(i)(1) After an occupational safety and health stand-  
16 ard issued under section 6(h) becomes effective, no State,  
17 or political subdivision of a State, may, by legislation, reg-  
18 ulation, court decision, or otherwise establish or continue  
19 in effect, any standard, requirement, or prohibition for  
20 any personal protective equipment which has the force and  
21 effect of law which is different from, or in addition to,  
22 any requirement set forth in any occupational safety and  
23 health standard promulgated by the Secretary under sec-  
24 tion 6(h).

1       “(2) Notwithstanding the provisions of subsection  
2 (c)(2), the Secretary may not approve a plan submitted  
3 by a State under subsection (b), or any modification there-  
4 of, if such plan includes any requirement that is different  
5 from, or is in addition to, any requirement set forth in  
6 any occupational safety and health standard promulgated  
7 by the Secretary under section 6(h).”.

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