

103^D CONGRESS
2^D SESSION

S. 1793

To provide an exemption from citation by the Secretary of Labor under the Occupational Safety and Health Act to employers of individuals who perform rescues of individuals in imminent danger as a result of a life threatening accident, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 25, 1994

Mr. KEMPTHORNE introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

A BILL

To provide an exemption from citation by the Secretary of Labor under the Occupational Safety and Health Act to employers of individuals who perform rescues of individuals in imminent danger as a result of a life threatening accident, 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 “Heroic Efforts to Res-
5 cue Others Act” (HERO Act).

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) existing Occupational Safety and Health
2 Administration regulations require the issuance of a
3 citation to an employer in a circumstance in which
4 an employee of such employer has voluntarily acted
5 in a heroic manner to rescue individuals from immi-
6 nent harm during work hours;

7 (2) application of such regulations to employers
8 in such circumstance causes hardships to those em-
9 ployers who are responsible for employees who per-
10 form heroic acts to save individuals from imminent
11 harm;

12 (3) strict application of such regulations in such
13 circumstance penalizes employers as a result of the
14 time lost and legal fees incurred to defend against
15 such citations; and

16 (4) in order to save employers the cost of un-
17 necessary enforcement an exemption from the issu-
18 ance of a citation to an employer under certain situ-
19 ations related to such circumstance is appropriate.

20 **SEC. 3. CITATIONS.**

21 Section 9 of the Occupational Safety and Health Act
22 (29 U.S.C. 658) is amended by adding at the end the fol-
23 lowing new subsection:

1 “(d)(1) No citation may be issued under this section
2 with respect to a rescue by an employer’s employee of an
3 individual in imminent harm unless—

4 “(A)(i) such employee is designated by the em-
5 ployee’s employer for service on a rescue team; and

6 “(ii) the employer fails to provide protection of
7 the safety and health of such employee, including
8 failing to provide rescue equipment or providing in-
9 adequate personal protective equipment;

10 “(B)(i) such employee is directed by the em-
11 ployee’s employer to perform rescue activities in the
12 course of carrying out the employee’s job duties; and

13 “(ii) the employer fails to provide protection of
14 the safety and health of such employee, including
15 failing to provide rescue equipment or providing in-
16 adequate personal protective equipment; or

17 “(C)(i) such employee—

18 “(I) is employed in a workplace that re-
19 quires such employee to carry out duties that
20 are directly related to a workplace operation
21 where the likelihood of life-threatening acci-
22 dents is foreseeable, such as a workplace oper-
23 ation where employees are located in confined
24 spaces or trenches, handle hazardous waste, re-

1 spond to emergency situations, or perform exca-
2 vations or construction over water;

3 “(II) has no occupational responsibility to
4 rescue such an individual; and

5 “(III) voluntarily elects to rescue such an
6 individual; and

7 “(ii) the employer fails to provide training to
8 such employee prior to the assignment of such em-
9 ployee to such workplace operation on the recogni-
10 tion of the hazards inherent in a rescue effort and
11 the risks to a potential rescuer who is not trained
12 in rescue operations.

13 “(2) For purposes of this subsection, the term ‘immi-
14 nent harm’ means the existence of any condition or prac-
15 tice that could reasonably be expected to cause death or
16 serious physical harm before such condition or practice
17 can be abated.”.

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