

# Union Calendar No. 419

105<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 2869

[Report No. 105-731]

To amend the Occupational Safety and Health Act of 1970 to exempt safety and health assessments, audits, and reviews conducted by or for an employer from enforcement action under such Act.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 7, 1997

Mr. BALLENGER (for himself, Mr. HALL of Texas, Mr. STENHOLM, Mr. NORWOOD, Mr. BARRETT of Nebraska, Mr. PAUL, Mr. DELAY, Mr. BOB SCHAFFER of Colorado, Mr. HOEKSTRA, Mr. GRAHAM, Mr. ISTOOK, Mr. FAWELL, Mr. GREENWOOD, and Mr. BOEHNER) introduced the following bill; which was referred to the Committee on Education and the Workforce

SEPTEMBER 18, 1998

Additional sponsors: Mr. GOODLING, Mr. PETERSON of Pennsylvania, Mr. HAYWORTH, Mr. HEFLEY, Mr. DEAL of Georgia, Mr. DOOLITTLE, Mr. WICKER, Mr. BONILLA, Mr. PETRI, Mr. PICKERING, Mr. MCINTOSH, Mr. KNOLLENBERG, and Mr. SCARBOROUGH

SEPTEMBER 18, 1998

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

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## A BILL

To amend the Occupational Safety and Health Act of 1970 to exempt safety and health assessments, audits, and

reviews conducted by or for an employer from enforcement action under such Act.

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. EMPLOYER SAFETY AND HEALTH ASSESS-**  
4 **MENTS, AUDITS, AND REVIEWS.**

5 Section 8(b) of the Occupational Safety and Health  
6 Act of 1970 (29 U.S.C. 657(b)) is amended by adding at  
7 the end the following: “Records, reports, or other informa-  
8 tion prepared in connection with safety and health assess-  
9 ments, audits, or reviews conducted by or for the em-  
10 ployer, except to the extent such assessments are pre-  
11 scribed under section 6(b)(7), shall not be required to be  
12 disclosed in any inspection, investigation, or enforcement  
13 proceeding pursuant to this Act.”.

14 **SECTION 1. SHORT TITLE.**

15 *This Act may be cited as the “Self-Audit Promotion*  
16 *Act of 1998”.*

17 **SEC. 2. EMPLOYER SAFETY AND HEALTH ASSESSMENTS, AU-**  
18 **DITS, AND REVIEWS.**

19 *Section 8(b) of the Occupational Safety and Health*  
20 *Act of 1970 (29 U.S.C. 657(b)) is amended by adding “(1)”*  
21 *before “In making” and by adding at the end the following:*  
22 *“Records, reports, or other information obtained or pre-*  
23 *pared in connection with safety and health assessments, au-*  
24 *dits, or reviews conducted by or for the employer shall not*

1 *be required to be disclosed in any inspection, investigation,*  
2 *or enforcement proceeding pursuant to this Act, except as*  
3 *provided in paragraph (2). Such records, reports, or other*  
4 *information may be disclosed in the course of an inspection,*  
5 *investigation, or enforcement proceeding to the extent that*  
6 *the owner or operator of the facility expressly authorizes*  
7 *the disclosure.*

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

10               “(A) *the record, report, or information is sought*  
11 *as part of a criminal proceeding; or*

12               “(B) *the record, report, or information is sought*  
13 *for purposes of establishing the cause of, or an em-*  
14 *ployer’s actual knowledge of, a particular alleged vio-*  
15 *lation, but only if—*

16                       “(i) *the Secretary establishes, on evidence*  
17 *independent of such records, reports, or informa-*  
18 *tion, that a condition or practice of the employer*  
19 *is not in compliance with the requirements of*  
20 *this Act; and*

21                       “(ii) *the employer has not undertaken good*  
22 *faith efforts to address items identified in the as-*  
23 *essment, audit, or review, or initiated a process*  
24 *to abate hazards or potential hazards identified*  
25 *in the assessment, audit, or review.*

1       “(3) For purposes of this subsection, the term ‘health  
2 and safety assessments, audits, or reviews’ means an eval-  
3 uation of 1 or more processes, operations, or facilities or  
4 of management systems related to such processes, oper-  
5 ations, or facilities that is designed to identify and prevent  
6 noncompliance with this Act and hazards or potential haz-  
7 ards to employees. The records, reports, and information  
8 subject to paragraph (1) do not include medical records or  
9 records of employee exposure to potentially toxic materials  
10 or harmful physical agents, or records of work-related  
11 deaths, injuries, and illnesses required to be maintained  
12 under this section.”.



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