

United States Senate

May 21, 2020

The Honorable Eugene Scalia
Secretary
U.S. Department of Labor
200 Constitution Avenue NW
Washington, D.C. 20210

Dear Secretary Scalia:

We write with an urgent request for clear, enforceable workplace safety standards and guidance to address the specific risks of COVID-19 infection, including an Emergency Temporary Standard (ETS) for infectious disease.

Frontline workers have kept essential businesses open during the course of this pandemic, making personal sacrifices to provide food, healthcare, and other critical services to the rest of the country. Many of these workers have faced unsafe conditions, such as inadequate personal protective equipment, insufficient social distancing, and pressure to come to work even when feeling sick. [USA Today 5/6/20; Wash. Post 4/25/20]

As the number of confirmed COVID-19 cases and fatalities continues to rise, the federal government has an obligation to set clear, enforceable, mandatory standards for businesses to follow and provide guidance on how workplaces can best keep workers safe—particularly as states relax stay-at-home orders and allow additional businesses to open. This is a task for the federal government, not the states. Nationwide standards provide much-needed certainty for the public and employers, regardless of where they are located. This is particularly important for employers with locations in multiple states and is clearly essential in the face of an international pandemic caused by a virus that does not respect state borders.

To date, however, the Occupational Safety and Health Administration (OSHA) has not issued enforceable health and safety standards related to COVID-19. It is unreasonable that months into this pandemic, there is no clear standard employers must follow to protect their workers—and that workers' safety is left up to sporadic, inadequate, and voluntary workplace policies.

Some businesses have expressed concern that the absence of uniform workplace health and safety requirements may expose them to lawsuits because of COVID-19 infections. At a recent Senate Judiciary Committee hearing, business and labor representatives agreed that enforceable federal standards would both protect workers and give employers certainty about the rules they must follow, and protect employers who follow the rules from liability. As one witness explained, if businesses “follow these kinds of guidelines, then they’re protected from liability.” [5/12/20 SJC Hr’g]

The federal government must fulfill its obligation to set clear and consistent workplace safety standards for employers across the country. We therefore request that OSHA immediately issue an ETS for infectious disease. The ETS should include clear, science-based requirements developed in consultation with the Centers for Disease Control and Prevention and its National Institute for Occupational Safety and Health.

Thank you for your attention to this important request.

Sincerely,



DIANNE FEINSTEIN
United States Senator



PATTY MURRAY
United States Senator