

HR 2768

S-MINER Act

Congress: 110 (2007–2009, Ended)

Chamber: House

Policy Area: Labor and Employment

Introduced: Jun 19, 2007

Current Status: Received in the Senate and Read twice and referred to the Committee on Health, Education, Labor, and

Latest Action: Received in the Senate and Read twice and referred to the Committee on Health, Education, Labor, and Pensions. (Jan 22, 2008)

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Sponsor

Name: Rep. Miller, George [D-CA-7]

Party: Democratic • **State:** CA • **Chamber:** House

Cosponsors (24 total)

Cosponsor	Party / State	Role	Date Joined
Rep. Bishop, Timothy H. [D-NY-1]	D · NY		Jun 19, 2007
Rep. Chandler, Ben [D-KY-6]	D · KY		Jun 19, 2007
Rep. Hare, Phil [D-IL-17]	D · IL		Jun 19, 2007
Rep. Holt, Rush [D-NJ-12]	D · NJ		Jun 19, 2007
Rep. Kucinich, Dennis J. [D-OH-10]	D · OH		Jun 19, 2007
Rep. Mollohan, Alan B. [D-WV-1]	D · WV		Jun 19, 2007
Rep. Murtha, John P. [D-PA-12]	D · PA		Jun 19, 2007
Rep. Payne, Donald M. [D-NJ-10]	D · NJ		Jun 19, 2007
Rep. Rahall, Nick J., II [D-WV-3]	D · WV		Jun 19, 2007
Rep. Sarbanes, John P. [D-MD-3]	D · MD		Jun 19, 2007
Rep. Woolsey, Lynn C. [D-CA-6]	D · CA		Jun 19, 2007
Rep. Yarmuth, John A. [D-KY-3]	D · KY		Jun 19, 2007
Rep. Grijalva, Raúl M. [D-AZ-7]	D · AZ		Jul 24, 2007
Rep. Shea-Porter, Carol [D-NH-1]	D · NH		Jul 24, 2007
Rep. Space, Zachary T. [D-OH-18]	D · OH		Sep 18, 2007
Rep. Sánchez, Linda T. [D-CA-39]	D · CA		Sep 20, 2007
Rep. Sutton, Betty [D-OH-13]	D · OH		Sep 20, 2007
Rep. Abercrombie, Neil [D-HI-1]	D · HI		Sep 24, 2007
Rep. Delahunt, William D. [D-MA-10]	D · MA		Sep 24, 2007
Rep. DeLauro, Rosa L. [D-CT-3]	D · CT		Sep 24, 2007
Rep. Arcuri, Michael A. [D-NY-24]	D · NY		Oct 3, 2007
Rep. Berman, Howard L. [D-CA-28]	D · CA		Oct 3, 2007
Rep. Clarke, Yvette D. [D-NY-11]	D · NY		Oct 30, 2007
Rep. Matheson, Jim [D-UT-2]	D · UT		Oct 30, 2007

Committee Activity

Committee	Chamber	Activity	Date
Education and Workforce Committee	House	Discharged from	Sep 7, 2007
Health, Education, Labor, and Pensions Committee	Senate	Referred To	Jan 22, 2008

Subjects & Policy Tags

Policy Area:

Labor and Employment

Related Bills

Bill	Relationship	Last Action
110 HRES 918	Procedurally related	Jan 16, 2008: Motion to reconsider laid on the table Agreed to without objection.
110 S 1655	Related bill	Jun 19, 2007: Read twice and referred to the Committee on Health, Education, Labor, and Pensions.

Supplemental Mine Improvement and New Emergency Response Act of 2007 or the S-MINER Act - (Sec. 4) Amends the Federal Mine Safety and Health Act of 1977 (Mine Act) to require emergency response plans, to be in approved status, to: (1) provide for, within 120 days after enactment of this Act, a post communication system between underground and surface personnel and an electronic tracking system permitting surface personnel to locate persons trapped underground that utilizes a system at least as effective as a leaky feeder or wireless mesh type communication and tracking system currently in use in the industry; and (2) be revised to incorporate new technology that the National Institute for Occupational Safety and Health (NIOSH) certifies can be added to the existing system to improve its ability to facilitate post-accident communication with, or tracking of, miners. Requires such systems to be enhanced physically, electronically, or redundantly to improve their survivability in the event of a mine disaster.

Prohibits miners from being disciplined based on information obtained from an electronic communications and tracking system.

Provides that the requirement that a plan provide for supplies of breathable air for individuals trapped underground may not be satisfied by the placement of an order within a company for future delivery of a portable refuge chamber or other means of providing such emergency supplies of breathable air. Requires the Secretary of Labor to issue interim final regulations, consistent with the design criteria recommended by NIOSH, requiring each emergency response plan to provide for the installation of portable rescue chambers or refuge shelters carved out of the mine working and sealed with bulkheads. Requires a portable refuge chamber to be installed and maintained within 500 feet of the nearest working face in each working section of an underground coal mine.

Amends the Mine Improvement and New Emergency Response Act of 2006 to repeal provisions concerning standards relating to the sealing of abandoned areas in mines. Requires the Secretary to: (1) inspect seals during construction to ensure the mine operator is complying with the seal plan; and (2) issue rules regarding approval, design, construction, inspection, maintenance and monitoring of underground coal mine seals. Requires such regulations to provide that: (1) seal sampling pipes shall be composed of materials that minimize the risk of transmitting any electrical charge and no conductive materials may be used to line boreholes within three feet of the surface; and (2) an action plan for sealing and repair be established that will include specific actions the mine operator will take to protect miners immediately after sealing or repair takes place, which shall be reviewed by the Mine Safety and Health Administration (MSHA); and (3) methane pressures behind seals required to be monitored shall be maintained in such a manner as to ensure that normal pressure variations that can be reasonable anticipated in the area of the seal do not bring the methane-air mixture into an appropriate safety range surrounding the known explosive range of such mixtures.

Directs the Secretary to: (1) publish interim final regulations to enhance the survivability of underground mine ventilation controls; (2) require that stoppings be constructed in a specified manner.

Requires: (1) NIOSH to issue recommendations as to whether changes to rock dusting requirements are necessary to ensure an equivalent level of protection in light of any changes to the size and composition of coal dust since these requirements were established; and (2) the Secretary to take appropriate action, including the issuance of an emergency temporary standard if warranted, to respond to such recommendations.

Requires the Secretary to publish, within 90 days, interim final rules to revise the requirements for flame resistant conveyor belts to ensure that they meet NIOSH's most recent recommendations and are designed to limit smoke and toxic emissions. Exempts conveyor belts that: (1) were ordered, in a mine's inventory, or installed prior to enactment of

this Act or that were ordered after enactment if the Secretary certifies that the mine operator was unable to obtain a belt meeting such requirements; or (2) have been in use for more than five years and have been inspected annually by a certified professional to ensure they are free from visible defects that could cause failure or possible ignition.

Requires the Secretary, no later than June 20, 2008, to revise belt air regulations to require that belt haulage entries not be used to ventilate active working places in coal mines, regardless of the date opened. Authorizes the Secretary to agree to a modification of such requirement if the mine operator: (1) establishes that significant safety constraints require such usage; and (2) agrees to comply with criteria established by the Secretary that includes the conditions recommended by the Technical Study Panel.

Requires: (1) mine operators to be required to implement a communication program at each of their facilities to ensure that each person entering the operation is made aware at the start of that person's shift of the current conditions of the mine and of that person's specific worksite; (2) operators' agents who are responsible for ensuring safe and healthful working conditions to communicate with those replacing them on the conditions they observed during their shift, including conditions that are abnormal or hazardous; (3) oncoming agents, prior to entering the mine or other workplace, to meet with all members of their crew and inform them of the general conditions at the operation and in their work area; and (4) such agents, in the event an operation is idle prior to the start of a shift, to meet with the individuals who were responsible for examining the mine to obtain the necessary information.

Requires an operator of an underground mine to install atmospheric monitoring systems in underground areas where miners normally work and travel that provide real-time information regarding carbon monoxide levels, and that can withstand explosions and fires.

Requires each miner who is working alone for part of a shift to be equipped with a multi-gas detector that measures current levels of methane, oxygen, and carbon monoxide.

Requires the National Academy of Sciences to submit to the Secretary and to Congress recommendations on: (1) actions that need to be taken to strengthen existing law to ensure that miners are protected from the risks of lightning strikes near a mine; (2) adopting existing technology to the mining environment to minimize such risks; and (3) research needed for improved technology.

Requires the Secretary to ensure the appropriate use of roof screen in belt entries, travel roads, and designated intake and return escapeways. Sets forth regulations concerning roof screening requirements and barrier reduction or pillar extraction plans. Requires an operator to have a current and approved reduction or extraction plan, or both, before performing reduction or extraction activities. Directs the Secretary to approve such plans only if they: (1) provide adequate protection and minimize the risks for miners engaged in such activity, reflecting engineering analysis, computer simulations, and consultations with technical experts; and (2) comply with requirements that may be adopted by the Secretary for such activities, including requirements related to the depth of the mine, geology of the mine, mine height and methods, and emergency response capabilities. Requires a copy of such plan to be provided to representatives of miners and authorizes such representatives to provide comments to the Secretary, who is required to respond. Requires the Secretary, before approving reduction or extraction plans for depths below 1,500 feet and in mines with a history of mountain bumps, to establish a special internal review process that requires: (1) operators to notify MSHA before commencement of operations to ensure miners are trained; and (2) the Secretary to observe such operations for a sufficient period of time to ensure that the mine operator is complying with the plan. Authorizes the Secretary to preclude or halt the commencement of such operations when the safety of the miners comes into question.

Requires NIOSH to submit to the Secretary and Congress recommendations for: (1) actions to strengthen existing requirements to ensure that miners are protected from ground control hazards, including the special hazards associated with barrier reduction and pillar extraction; (2) adopting existing technology to the mining environment to improve miner protections during barrier reduction and pillar extraction, during mining at depths below 1,000 feet, and during secondary mining of coal resources; and (3) research needed for improved technology to improve miner protections during such operations.

Requires the Secretary to: (1) establish a self-contained self-rescuers inspection program to randomly remove and test samples of each model of self-rescue device used in an underground coal mine in order to ensure that such devices are working in accordance with approved criteria; (2) require a manufacturer of a self-rescue device and the mine operator who owns a device to contact the Secretary immediately upon notification of any potential problem with such devices and to provide notice to the representative of miners at the affected operation; and (3) notify immediately operators of underground coal mines if the Secretary detects or is advised of problems with such devices.

Applies the regulations concerning conveyor belts in underground coal mines to conveyor belts and seals of abandoned areas in underground metal and nonmetal mines.

Applies the regulations concerning the approval, design, construction, inspection, maintenance, and monitoring of underground coal mine seals to seals in underground metal and nonmetal mines which have been classified by the Secretary as a category I, III, or V mine because they naturally emit defined quantities of methane.

Requires the Secretary to establish an advisory committee on regulations applicable to underground metal and nonmetal mines.

Sets forth priorities for MSHA's approval center.

Requires NIOSH to give priority in its research to specified technologies that could help miners in an emergency.

(Sec. 5) Requires the Secretary to establish a Master Inspector program to provide incentives for employees to serve as inspectors.

Establishes, within the Office of the Inspector General of the Department of Labor, the position of Miner Ombudsman, whose duties shall include ensuring that the rights of miners are upheld and that miners' complaints are kept confidential. Authorizes appropriations. Provides for a fine for a pattern of violations of health or safety standards. Requires the Secretary to withdraw miners from a mine when any pattern of violations has been determined to exist until the violations have been corrected and the operator has agreed to abide by a plan approved by the MSHA to ensure that such a pattern will not recur. Provides for a civil penalty for operators who retaliate against miners who report safety and health violations.

Requires the Secretary to establish: (1) an advisory committee to make recommendations on whether the Mine Act should provide for federal licensing of mines and mine personnel to ensure that those engaged in mining activities are not frequent violators of safety and health requirements; and (2) a national registry of violators.

(Sec. 6) Requires the Secretary to establish: (1) a central communications emergency call center within the Mine Safety and Health Administration; (2) maps on the Department of Labor's website showing the locations of operating and abandoned mines; and (3) a repository for preserving a digital archive of mining maps to be accessible on such website.

Requires a mine operator to notify the Secretary of reportable events that include: (1) a fire not required to be reported

more promptly; (2) a sudden change in mine atmospheric conditions in a sealed area; (3) a coal or rock outburst that causes the withdrawal of miners; or (4) other events that need to be reported within one hour in order for the Secretary to determine if the working conditions in the mine are safe.

Requires regulations concerning mine rescue teams to provide for uniform credentials and coordination with local emergency response personnel.

Amends the Occupational Safety and Health Act of 1970 to require NIOSH to research advanced drilling and special technologies required for safety or rescue in mining more than 1,500 in depth.

Requires the Secretary to establish guidelines for rescue operations that will: (1) establish clear lines of authority within MSHA for such operations; (2) establish clear lines of demarcation so private sector and state responders can properly implement their responsibilities; and (3) be appropriate for rescue in various types of conditions reasonably likely to be encountered, addressing such factors as the depth of the mining, ground stability, ground slope, remoteness from major roads, surface ownership and access problems, and the availability of necessary communications linkages.

Requires an operator, if the Secretary supervises and directs rescue and recovery activities in the operator's mine, to comply with the Secretary's requests to facilitate such activities, including the provision of equipment and personnel. Considers failure of the operator to comply with such requests as an egregious violation of such Act.

Requires the Secretary to: (1) designate a full-time permanent MSHA employee to serve as a Family Liaison to act as the primary communicator with the families of trapped miners throughout the rescue operation; (2) direct MSHA to be responsive to request from families of miners for information relating to the accident and to waive document production fees; and (3) designate a representative of the Secretary with specified qualifications to serve as the primary communicator with the press and the public.

Requires rescue efforts for trapped miners to continue as long as there is any possibility that miners are alive, unless such efforts pose a serious danger to rescue or other workers. Requires the decision to cease a rescue to be made by the Secretary's representative.

Requires the Secretary, for accident and incident investigations under the Mine Act, to determine: (1) why the accident or incident occurred; (2) whether civil or criminal requirements were violated and, if so, to issue citations and penalties and make recommendations to avoid recurrence; and (3) whether the conduct or lack thereof of MSHA personnel contributed to the accident or incident. Requires an independent investigation for accidents or incidents involving multiple serious injuries or deaths or multiple entrapments. Provides for the establishment of rules on the procedures that will be used to investigate such accidents and incidents. Requires the Secretary to report on the implementation of recommendations issued by independent investigation teams in the preceding five years.

(Sec. 7) Requires coal mine operators to maintain the concentration of respirable dust in the mine atmosphere during each shift at or below a time-weighted average of one milligram (currently, 2) of respirable dust per cubic meter of air averaged over 10 hours or its dose-equivalent for a shorter or longer period of time. Requires: (1) the Secretary to regularly sample respirable dust in coal mines in order to determine compliance with the respirable dust standard; (2) miners to be equipped with a personal dust monitor; and (3) miners to be permitted to adjust their work activities whenever necessary to keep their exposure to respirable coal dust below the permitted concentration. Authorizes appropriations to the Secretary for the purchase of personal dust monitors.

Sets forth concentration and exposure limits and sampling and respiratory equipment requirements regarding respirable

silica dust in the mine atmosphere.

(Sec. 8) Requires: (1) NIOSH to annually forward to the Secretary its Recommended Exposure Limits (RELs) for chemical and other hazards to which miners may be exposed; and (2) the Secretary to adopt the RELs as the Permissible Exposure Limits (PELs) for application in the mining industry. Authorizes the Secretary to: (1) review the feasibility of any PEL before placing it into effect upon the petition from miners or mine operators that provides credible evidence that feasibility may be an issue for the industry as a whole; (2) make necessary adjustments to PELs following public notice and comment, provided that the adjusted standard is as protective as is feasible and that the PEL shall go into effect if the adjustments are not completed within one year; and (3) defer implementation of safety and health standards and to request that NIOSH recommend a sufficiently detailed REL upon the petition from miners or mine operators that provides credible evidence that an REL issued by NIOSH lacks the specificity required to serve as a PEL.

Decreases the permitted limit for coal dust. Requires the Secretary of Health and Human Services and the Secretary to conduct compliance sampling (currently, mine operators conduct the sampling). Requires the use of the NIOSH developed and certified personal dust monitor for sampling. Requires underground miners to be equipped with such monitors. Establishes a limit for silica dust in underground mines and makes respiratory equipment available to persons that have been exposed to respirable dust or silica at specified levels. Provides that the use of respirators shall not be substituted for environmental control measures. Requires operators to report to the Secretary on the conditions in the active workings of a coal mine.

Requires MSHA to adopt the Occupational Safety and Health Administration (OSHA) standard for hazardous asbestos.

Requires the Secretary to apply the provisions of the interim final rule of October 3, 2000, concerning hazard communication in lieu of the final rule of June 21, 2002, until there is additional rulemaking pursuant to the requirements of the Mine Act.

Requires the Secretary to study and report on policies designed to deal with substance abuse by miners, including the causes, nature, and extent of such abuse, its impact on mine safety and health, best practices for treatment, rehabilitation, and substance abuse testing policies, and the adequacy of state laws and approaches. Authorizes the Secretary to establish a program within MSHA to provide for substance abuse testing of miners, as well as rehabilitation and treatment of miners suffering from substance abuse, if, as a result of the study, the Secretary determines it to be feasible and effective.

Authorizes the Secretary to award grants to entities and programs for the purpose of providing rehabilitation services to current and former miners suffering from mental health impairments, including drug addiction and substance abuse issues, which may have been caused or exacerbated by their work as miners. Requires the Secretary to ensure that such funds are directed to those regions of the country most in need of such assistance. Authorizes appropriations.

(Sec. 9) Establishes in the Treasury the Mine Safety Program Fund for inspections and investigations of occurrences in coal or other mines relating to health or safety.

Actions Timeline

- **Jan 22, 2008:** Received in the Senate and Read twice and referred to the Committee on Health, Education, Labor, and Pensions.
- **Jan 16, 2008:** Rule H. Res. 918 passed House.
- **Jan 16, 2008:** Considered under the provisions of rule H. Res. 918. (consideration: CR H45-75; text of measure as reported in House: CR H54-60)
- **Jan 16, 2008:** Rule provides for consideration of H.R. 2768 with 1 hour of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. Measure will be considered read. Specified amendments are in order. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 or rule XXI. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Education and Labor.
- **Jan 16, 2008:** House resolved itself into the Committee of the Whole House on the state of the Union pursuant to H. Res. 918 and Rule XVIII.
- **Jan 16, 2008:** The Speaker designated the Honorable Luis V. Gutierrez to act as Chairman of the Committee.
- **Jan 16, 2008:** GENERAL DEBATE - The Committee of the Whole proceeded with one hour of general debate on H.R. 2768.
- **Jan 16, 2008:** DEBATE - Pursuant to the provisions of H.Res. 918, the Committee of the Whole proceeded with 10 minutes of debate on the George Miller(CA) amendment.
- **Jan 16, 2008:** POSTPONED PROCEEDINGS - At the conclusion of debate on the George Miller(CA) amendment, the Chair put the question on adoption of the amendment and by voice vote, announced that the noes had prevailed. Mr. George Miller(CA) demanded a recorded vote and the Chair postponed further proceedings on the question of adoption of the amendment until later in the legislative day.
- **Jan 16, 2008:** DEBATE - Pursuant to the provisions of H.Res. 918, the Committee of the Whole proceeded with 10 minutes of debate on the Boucher amendment.
- **Jan 16, 2008:** POSTPONED PROCEEDINGS - At the conclusion of debate on the Boucher amendment, the Chair put the question on adoption of the amendment and by voice vote, announced that the ayes had prevailed. Mr. George Miller(CA) demanded a recorded vote and the Chair postponed further proceedings on the question of adoption of the amendment until later in the legislative day.
- **Jan 16, 2008:** DEBATE - Pursuant to the provisions of H.Res. 918, the Committee of the Whole proceeded with 10 minutes of debate on the Ellsworth amendment.
- **Jan 16, 2008:** POSTPONED PROCEEDINGS - At the conclusion of debate on the Ellsworth amendment, the Chair put the question on adoption of the amendment and by voice vote, announced that the ayes had prevailed. Mr. George Miller(CA) demanded a recorded vote and the Chair postponed further proceedings on the question of adoption of the amendment until later in the legislative day.
- **Jan 16, 2008:** DEBATE - Pursuant to the provisions of H.Res. 918, the Committee of the Whole proceeded with 30 minutes of debate on the Wilson(SC) amendment in the nature of a substitute.
- **Jan 16, 2008:** POSTPONED PROCEEDINGS - At the conclusion of debate on the Wilson(SC) amendment in the nature of a substitute, the Chair put the question on adoption of the amendment and by voice vote, announced that the noes had prevailed. Mr. Wilson(SC) demanded a recorded vote and the Chair postponed further proceedings on the question of adoption of the amendment until later in the legislative day.
- **Jan 16, 2008:** The House rose from the Committee of the Whole House on the state of the Union to report H.R. 2768.
- **Jan 16, 2008:** The previous question was ordered pursuant to the rule. (consideration: CR H73)
- **Jan 16, 2008:** The House adopted the amendments en gross as agreed to by the Committee of the Whole House on the state of the Union.
- **Jan 16, 2008:** Mr. Souder moved to recommit with instructions to Education and Labor. (consideration: CR H73; text: CR H73)
- **Jan 16, 2008:** DEBATE - The House proceeded with 10 minutes of debate on the Souder motion to recommit with instructions. The instructions contained in the motion seek to require the bill to be reported back to the House promptly with an amendment inserting a new section regarding substance abuse testing.
- **Jan 16, 2008:** The previous question on the motion to recommit with instructions was ordered without objection. (consideration: CR H74-75)
- **Jan 16, 2008:** On motion to recommit with instructions Failed by recorded vote: 197 - 217 (Roll no. 9).
- **Jan 16, 2008:** Passed/agreed to in House: On passage Passed by the Yeas and Nays: 214 - 199 (Roll no. 10).

- **Jan 16, 2008:** Motion to reconsider laid on the table Agreed to without objection.
- **Jan 16, 2008:** On passage Passed by the Yeas and Nays: 214 - 199 (Roll no. 10).
- **Jan 16, 2008:** The Clerk was authorized to correct section numbers, punctuation, and cross references, and to make other necessary technical and conforming corrections in the engrossment of H.R. 2768.
- **Jan 15, 2008:** Rules Committee Resolution H. Res. 918 Reported to House. Rule provides for consideration of H.R. 2768 with 1 hour of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. Measure will be considered read. Specified amendments are in order. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 or rule XXI. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Education and Labor.
- **Nov 15, 2007:** Reported (Amended) by the Committee on Education and Labor. H. Rept. 110-457.
- **Nov 15, 2007:** Placed on the Union Calendar, Calendar No. 280.
- **Oct 31, 2007:** Committee Consideration and Mark-up Session Held.
- **Oct 31, 2007:** Ordered to be Reported (Amended) by the Yeas and Nays: 26 - 18.
- **Sep 7, 2007:** Subcommittee on Workforce Protections Discharged.
- **Jul 24, 2007:** Referred to the Subcommittee on Workforce Protections.
- **Jun 20, 2007:** Sponsor introductory remarks on measure. (CR E1347)
- **Jun 19, 2007:** Introduced in House
- **Jun 19, 2007:** Referred to the House Committee on Education and Labor.