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Wrongful Death Accountability Act

Eleven years ago, in DeFuniak Springs, Florida, nineteen year old Patrick Hayes died instantly when 60 tons of corn collapsed on top of him. His father, Ron, from Fairhope, Alaska, has been trying ever since to give tangible meaning to his son's death by doing all in his power to convince Congress that it should give prosecutors the right to bring criminal cases against employers for "wilfull" neglect causing death in the workplace.

Ron Hayes was in Washington this week to lobby for a [proposal](#) by Sens. Jon Corzine, D-N.J. and Edward Kennedy, D-Mass. that would do just that. Their Wrongful Death Accountability Act would criminalize wilfull neglect that results in death and allow prison terms of up to ten years upon conviction. Currently, conviction carries a misdemeanor penalty of up to six months in prison.

Not suprisingly, the administration and republican leaders are dead against the Corzine-Kennedy proposal. Commerce Secretary Donald Evans called it "*just another policy to destroy jobs.*" While, in a statement that may come to haunt him someday, House Majority Leader Tom DeLay, R-Texas, said the proposal would be "*the worst thing that you could do - telling a small business person that they could go to prison over an OSHA violation.*" Well, as noted above, they already can.

More than likely, the Corzine-Kennedy bill will fail to pass. After all, OSHA points out that workplace deaths in America have been falling over the years. But how many deaths are acceptable. And should employers be held harmless for their wilfull negligence resulting in death on the job?

Congress Urged to Make Workplace Deaths Due to Employer Negligence a Felony

A man whose son was killed 11 years ago in a gruesome workplace accident in Florida urged Congress this week to give prosecutors the threat of felony convictions against employers whose neglect for federal safety rules causes a death.

Ron Hayes, a Fairhope, Ala., resident who in December ended his two-year term on the advisory panel overseeing the Occupational Safety and Health Administration, was in Washington to lobby for a proposal by Sens. Jon Corzine, D-N.J. and Edward Kennedy, D-Mass.

In past visits, Hayes has blasted what he calls lax oversight by OSHA and the Department of Labor. On Tuesday, the eve of Worker Memorial Day, his focus was less on oversight than enforcement - a potential 10-year prison term for violators who are "willfully" responsible for the death of a worker. That crime now is a misdemeanor, carrying up to six months in prison - a term which Hayes says only one person has served in 33 years.

"We cannot go another year," Hayes said. "We cannot see the bodies pile up like (an) accordion because no one is helping us. I promise you until this bill is passed, until we start seeing prosecution, OSHA is going to disappoint and betray family after family after family. We've got to stop it."

Hayes has been an outspoken critic of workplace safety rules since 1993, when his 19-year-old son, Patrick, suffocated beneath 60 tons of corn at the Showell Farms plant in DeFuniak Springs, Fla. Hayes often was frustrated by the lack of information he got from OSHA about the investigation into his son's death.

At a news conference, Hayes and the senators argued that there are more protections for animals under the Endangered Species Act than for people under workplace negligence laws.

John Henshaw, OSHA's assistant secretary, said workplace fatalities dropped 6.6 percent in 2002 according to the most recent data. He said that marks the lowest percentage ever recorded.

"OSHA's ongoing efforts are helping make workers safer than ever before," Henshaw said.

Corzine said he would push his Wrongful Death Accountability Act this year, perhaps by trying to tag it onto an Internet taxation bill under review.

"We may even have reasonable rules, but if they're not enforced and there's no power behind the enforcement action, nothing can happen," Corzine said.

Republicans, including Sens. Richard Shelby and Jeff Sessions of Alabama have been resistant to some of the stringent guidelines sought by Hayes. Sessions' spokesman, Mike Brumas, said he supports a Republican version of the bill that isn't as far-reaching. Shelby's spokeswoman, Virginia Davis, said Shelby believes OSHA already has plenty of regulations at its disposal.

"If there is evidence that OSHA has been remiss in carrying out their mission, then Congress should promptly investigate the allegations rather than rushing to a quick legislative fix," Davis said.

Commerce Secretary Donald Evans called the Corzine-Kennedy proposal "just another policy to destroy jobs." House Majority Leader Tom DeLay, R-Texas, said the proposal would be "the worst thing that you could do - telling a small business person that they could go to prison over an OSHA violation."

In an investigative series on workplace deaths, The New York Times last year found 1,242 cases between 1982 and 2002 in which OSHA concluded workers had died because of "willful" safety violations by employers. OSHA sought prosecution on 93 percent of those cases. There were only 11 convictions.

"America shouldn't be the one country in the world that in order to be competitive and have a strong economy, we have an unsafe workplace," Kennedy said. "That is completely unacceptable."

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