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**STATEMENT OF EDWARD M. KENNEDY ON CREATING INCENTIVES FOR
SAFER WORKPLACES AND MEANINGFUL ROLES FOR VICTIMS AND THEIR
FAMILIES**

United States Senate Health, Education, Labor, and Pensions Committee

As Entered into the Record

This morning our committee takes up the important issue of protecting the workplace safety and health of the hard-working men and women of America. I commend Senator Murray for holding this hearing and for her leadership on this major issue.

Twenty years ago, workplace safety advocates and families of employees killed on the job launched Workers Memorial Day—a day of remembrance and advocacy. Their goal was to express their grief over lost friends, coworkers and loved ones, and to encourage more effective action to avoid these senseless losses. Since the first observance of Workers Memorial Day, however, almost 125,000 men and women have been killed on the job, an average of almost 6,000 a year. Clearly, we must do much more to protect hard-working Americans.

In President Obama and Vice President Biden we have leaders who are committed to worker safety. When he was on the HELP Committee, then-Senator Obama built a record of making workplace safety and health a priority. As President, he is continuing that commitment. He and Secretary Solis have stated they intend to make protecting workers on the job a top priority at the Department of Labor.

As the Executive Branch does its part, so too must we do ours. Enacting of the Occupational Safety and Health Act in 1970 was a major step in guaranteeing the basic right of workers to be safe on the job. Since the law was signed, however, we have not substantially amended it to improve worker protections.

We have, however, learned much in the 40 years since OSHA was enacted and it is long past time to use this knowledge to make significant reforms. We know that many workers are left out of the Act's protections, and expanded coverage is essential. We know that whistleblowers are indispensable in bringing safety problems to light, but they won't come forward unless they have strong protections. A HELP Committee report last year showed that even when employers' violations of the Act result in workers killed on the job, the employers often walk away with just a slap on the wrist. Clearly, civil and criminal penalties should be increased.

Today's hearing will focus on the needs of families and the contribution they can make to improve the OSHA process. Tammy Miser, one of today's witnesses, will share first-hand how the OSHA process fails victims and their families. Tammy lost her brother Shawn in 2003 in an explosion at the Hayes Lemmerz manufacturing plant in Huntington, Indiana.

His death was an immense tragedy for Tammy and her family. But in the true spirit of Workers Memorial Day, Tammy's grief spurred her to action. She has become a tireless advocate for others who have lost family members on the job. She stands up and speaks out for the rights of workers to come home safely at the end of each day. She has touched many lives and we're grateful to her for testifying today.

Tammy and families like hers have an important contribution to make after a workplace accident, but the law gives them no right to participate in OSHA procedures. All too often, the first contact by families with OSHA comes after a case is closed. By then, the citations have been written and the penalties have been assessed, frequently, the family is not sure about what actually happened to their loved one or to the employer who was responsible.

That's not right. Victims and their families deserve better. No one cares more about a workplace fatality than the family of the worker who died. Yet, of all the parties involved — they are the only ones who don't have a seat at the table.

It's also not good policy. Victims and their families often have valuable information about what happened and why. They may know that workers had complained about unsafe conditions, or that certain supervisors or managers were cutting corners. When victims, families, and their representatives are left out of the process, this critical information is lost. Including victims and their families and representatives is good for them, and it also may also save the lives of other workers.

These inadequacies in the law need to be corrected, and only Congress can do it. That's why we've introduced the Protecting America's Workers Act in the past, and I plan to introduce it again. The principal reform in the bill will give workers and their families and representatives a seat at the table. It also includes sensible reforms to ensure that victims and their families have a right to talk to OSHA before a citation issues, to obtain copies of important documents, to be informed about their rights, and to have an opportunity to have their voices heard before OSHA accepts a settlement that lets an employer off the hook for violations.

Our committee is committed to the right of all Americans to a safe workplace. I look forward to working with members of our committee and the Administration, to make the process better — in memory of those who we've lost and in honor of the hardworking Americans who deserve real protecting.

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