To establish criminal penalties for failing to inform and warn of serious dangers.

**A BILL**

To establish criminal penalties for failing to inform and warn of serious dangers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

**SECTION 1. CRIMINAL PENALTIES.**

(a) In General.—Part I of title 18, United States Code, is amended by inserting after chapter 101 the following:

"CHAPTER 101A—REPORTING STANDARDS"
“§ 2081. Definitions

“In this chapter—

“(1) the term ‘appropriate Federal agency’ means an agency with jurisdiction over a covered product, covered service, or business practice;

“(2) the term ‘business entity’ means a corporation, company, association, firm, partnership, sole proprietor, or other business entity;

“(3) the term ‘business practice’ means a method or practice of—

“(A) manufacturing, assembling, designing, researching, importing, or distributing a covered product;

“(B) conducting, providing, or preparing to provide a covered service; or

“(C) otherwise carrying out business operations relating to covered products or covered services;

“(4) the term ‘covered product’ means a product manufactured, assembled, designed, researched, imported, or distributed by a business entity that enters interstate commerce;

“(5) the term ‘covered service’ means a service conducted or provided by a business entity that enters interstate commerce;
“(6) the term ‘responsible corporate officer’
means a person who—

“(A) is an employer, director, or officer of
a business entity;

“(B) has the responsibility and authority,
by reason of his or her position in the business
entity and in accordance with the rules or prac-
tice of the business entity, to acquire knowledge
of any serious danger associated with a covered
product (or component of a covered product),
covered service, or business practice of the busi-
ness entity; and

“(C) has the responsibility, by reason of
his or her position in the business entity, to
communicate information about the serious
danger to—

“(i) an appropriate Federal agency;

“(ii) employees of the business entity;

or

“(iii) individuals, other than employ-
ees of the business entity, who may be ex-
posed to the serious danger;

“(7) the term ‘serious bodily injury’ means an
impairment of the physical condition of an indi-
vidual, including as a result of trauma, repetitive motion, or disease, that—

“(A) creates a substantial risk of death; or

“(B) causes—

“(i) serious permanent disfigurement;

“(ii) unconsciousness;

“(iii) extreme pain; or

“(iv) permanent or protracted loss or impairment of the function of any bodily member, organ, bodily system, or mental faculty;

“(8) the term ‘serious danger’ means a danger, not readily apparent to a reasonable person, that the normal or reasonably foreseeable use of, or the exposure of an individual to, a covered product, covered service, or business practice has an imminent risk of causing death or serious bodily injury to an individual; and

“(9) the term ‘warn affected employees’ means take reasonable steps to give, to each individual who is exposed or may be exposed to a serious danger in the course of work for a business entity, a description of the serious danger that is sufficient to make the individual aware of the serious danger.
§ 2082. Failure to inform and warn

“(a) REQUIREMENT.—After acquiring actual knowledge of a serious danger associated with a covered product (or component of a covered product), covered service, or business practice of a business entity, a business entity and any responsible corporate officer with respect to the covered product, covered service, or business practice, shall—

“(1) as soon as practicable and not later than 24 hours after acquiring such knowledge, verbally inform an appropriate Federal agency of the serious danger, unless the business entity or responsible corporate officer has actual knowledge that an appropriate Federal agency has been so informed;

“(2) not later than 15 days after acquiring such knowledge, inform an appropriate Federal agency in writing of the serious danger;

“(3) as soon as practicable, warn affected employees in writing, unless the business entity or responsible corporate officer has actual knowledge that affected employees have been so warned; and

“(4) as soon as practicable, inform individuals, other than affected employees, who may be exposed to the serious danger of the serious danger if such individuals can reasonably be identified.

“(b) PENALTY.—
“(1) IN GENERAL.—Whoever knowingly violates subsection (a) shall be fined under this title, imprisoned for not more than 5 years, or both.

“(2) PROHIBITION OF PAYMENT BY BUSINESS ENTITIES.—If a final judgment is rendered and a fine is imposed on an individual under this subsection, the fine may not be paid, directly or indirectly, out of the assets of any business entity on behalf of the individual.

“(c) CIVIL ACTION TO PROTECT AGAINST RETALIATION.—

“(1) PROHIBITION.—It shall be unlawful to knowingly discriminate against any person in the terms or conditions of employment, in retention in employment, or in hiring because the person informed a Federal agency, warned employees, or informed other individuals of a serious danger associated with a covered product, covered service, or business practice, as required under this section.

“(2) ENFORCEMENT ACTION.—

“(A) IN GENERAL.—A person who alleges discharge or other discrimination by any person in violation of paragraph (1) may seek relief under paragraph (3), by—
“(i) filing a complaint with the Secretary of Labor; or

“(ii) if the Secretary has not issued a final decision within 180 days of the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, bringing an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

“(B) PROCEDURE.—

“(i) IN GENERAL.—An action under subparagraph (A)(i) shall be governed under the rules and procedures set forth in section 42121(b) of title 49.

“(ii) EXCEPTION.—Notification made under section 42121(b)(1) of title 49 shall be made to the person named in the complaint and to the employer.

“(iii) BURDENS OF PROOF.—An action brought under subparagraph (A)(ii) shall be governed by the legal burdens of
proof set forth in section 42121(b) of title 49.

“(iv) Statute of limitations.—An action under subparagraph (A) shall be commenced not later than 180 days after the date on which the violation occurs, or after the date on which the employee became aware of the violation.

“(v) Jury trial.—A party to an action brought under subparagraph (A)(ii) shall be entitled to trial by jury.

“(3) Remedies.—

“(A) In general.—An employee prevailing in any action under paragraph (2)(A) shall be entitled to all relief necessary to make the employee whole.

“(B) Compensatory damages.—Relief for any action under subparagraph (A) shall include—

“(i) reinstatement with the same seniority status that the employee would have had, but for the discrimination;

“(ii) the amount of back pay, with interest; and
“(iii) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

“(4) Rights retained by employee.—Nothing in this subsection shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law, or under any collective bargaining agreement.

“(5) Nonenforceability of certain provisions waiving rights and remedies or requiring arbitration of disputes.—

“(A) Waiver of rights and remedies.—The rights and remedies provided for in this subsection may not be waived by any agreement, policy form, or condition of employment, including by a predispute arbitration agreement.

“(B) Predispute arbitration agreements.—No predispute arbitration agreement shall be valid or enforceable, if the agreement requires arbitration of a dispute arising under this subsection.
§ 2083. Relationship to existing law

“(a) RIGHTS TO INTERVENE.—Nothing in this chapter shall be construed to limit the right of any individual or group of individuals to initiate, intervene in, or otherwise participate in any proceeding before a regulatory agency or court, nor to relieve any regulatory agency, court, or other public body of any obligation, or affect its discretion to permit intervention or participation by an individual or a group or class of consumers, employees, or citizens in any proceeding or activity.

“(b) RULE OF CONSTRUCTION.—Nothing in this chapter shall be construed to—

“(1) increase the time period for informing of a serious danger or other harm under any other provision of law; or

“(2) limit or otherwise reduce the penalties for any violation of Federal or State law under any other provision of law.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 101 the following:

“101A. Reporting standards ................................................................. 2081”.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date that is 1 year after the date of enactment of this Act.