



Philadelphia Area Project on Occupational Safety and Health
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TESTIMONY OF
THE PHILADELPHIA AREA PROJECT
ON OCCUPATIONAL SAFETY & HEALTH.
PHILAPOSH
BEFORE THE JOINT HOUSE JUDICIARY
AND
LABOR RELATIONS COMMITTEES
CONCERNING WORKPLACE HEALTH & SAFETY AND H.B. 916
THURSDAY, OCTOBER 26TH, 1989

SUBMITTED BY

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Product liability is the main force to cause product safety.

Workers injured on UNREASONABLY DANGEROUS PRODUCTS must not be stripped of the Common Law Right to sue culpable, unethical manufacturers.

An unreasonably dangerous product is one that contains a risk of injury that could be eliminated or reduced by reasonable accident prevention measures. The courts have held that reasonable accident prevention measures are those which are both economically and technologically feasible. We agree 100 percent. We beg you respected representatives to also consider also what is ethically feasible.

It is unethical to expect Pennsylvanians to pay for the harm caused by out of state manufacturers of unreasonably dangerous products.

Out of state manufacturers and unethical Pennsylvania based manufacturers would obviously rather we pay for the harm caused by their unreasonably dangerous products.

Why should Pennsylvania workers suffer physically, mentally, and economically when they get injured and sick on unreasonably dangerous products?

Why should the spouse and family members of the seriously injured and sick workers suffer mentally and economically when their loved one is needlessly injured or sickened on unreasonably dangerous products?

Occupational injury and disease leads to family problems. Divorce is a common result. Why should Pennsylvanians pay for the cost of social worker services, psychologists, psychiatrists and other counselors? Why should our school counselors be burdened with the task of caring for students whose lives have been disrupted because of the physical pain, mental stress and economic hardship that results when a parent is seriously injured or sickened on the job?

Psychiatrists and psychologists have consistently found that the greatest stress-linked mental disorders are affected most severely by life changing events such as major personal injury or illness, loss of job, and major financial change. Sexual dysfunction and divorce are common consequences of this stress. Families are shattered.

The manufacturers of unreasonably dangerous products would rather we Pennsylvanians pay for the social and economic consequences of occupational injury and disease rather than allowing our tort system to respond to this injustice.

Very shortly, I will show some slides of unreasonably dangerous equipment that caused serious injury and death to Pennsylvania workers. I was unable to obtain graphics to demonstrate the results of chemicals which caused reproductive damage. Mutagens and teratogens cause birth defects. Some workers who are exposed to mutagens and teratogens are operating room personnel in hospitals exposed to anesthetic gases; workers in foundries, battery manufacturers, chemical workers, construction workers, and many others exposed to lead; agricultural workers exposed to pesticides; X-ray technicians, radiologists, dental technicians, etc. exposed to radiation. Manufacturers very, very rarely warn of mutagenic and teratogenic effects of their chemicals. They very rarely do research to determine at what levels these chemicals will cause reproductive damage. Their products are unreasonably dangerous unless people know the full extent of the harm to which they are exposed. Until employers fully recognize the dangers of the chemicals they purchase and until workers fully recognize the danger they are exposed to, this harm will continue. The basis of toxic tort is almost always the failure to warn the purchaser and user of the dangerous effects of the chemicals and methods to control their exposure. Children with birth defects are a great emotional burden on their parents as well as a great economic burden on school systems, mental health facilities, etc. Don't take away from parents the right to sue for the injustice of being exposed to chemicals which caused birth defects in their children when they were not given the opportunity to know what damage could result from their exposures. Manufacturers are reluctant to perform research into mutagenic and teratogenic effects of chemicals. They are reluctant to warn people that these results are likely among people of child-bearing age. They will not do so unless they are forced to pay for the consequences of their conduct.

1. A baker lost two fingers while reaching in to feel the dough being mixed in this dough mixer. An interlocked barrier guard should cover this area. However, as it is in this photo, it complies with the manufacturer's standards as well as the OSHA standards. This is an unreasonably dangerous product because a simple interlocked barrier guard could reduce the risk of injury. European manufacturers equip their vertical dough mixers with interlocked barrier guards. Our manufacturers haven't been sued enough to give them the economic incentive to protect our workers.
2. This shows a block making machine with many unguarded parts. The next slide is a close up of one of the reciprocating parts.
3. This part moves in and out. A worker lost three fingers when trying to lubricate it. It should be fully enclosed with a remote lubricating system as suggested many years ago by the National Safety Council. This machine was manufactured in the 1970's. The National Safety Council

recommended remote lubricating methods well before this machine was manufactured. This machine was manufactured in violation of OSHA standards.

4. This machine was also manufactured in violation of OSHA standards in the 1980's. A woman lost the use of her arm while trying to feed this machine. The manufacturer settled this case for \$200,000. The woman has very little use of her dominant arm. She is 28 years old. She was very angry with such a small settlement. She is permanently - totally disabled.
5. A worker was squirted with scalding hot water in the face when attempting to operate this hose. The nozzle is not conspicuous as to which end the stream will come from.
6. A worker's foot was crushed when the load jumped out of the hook when a shaft broke above. The hook should be equipped with a safety latch at its throat to prevent the load from slipping out. In the construction industry, hooks are almost always equipped with safety catches. In factories, they are almost never equipped with safety catches. Until manufacturers supplying hooks on overhead cranes, hoists, etc. are sued, they won't provide safety catches in factories.
7. This is a taffy mixer. It was rebuilt by a machine rebuilding company in violation of OSHA standards. A worker lost an arm when his shirt got entangled with one of the rotating shafts.
8. A worker fell while gaining access to this cab. He was disabled for over one year. He still suffers pain from his back injury.
9. Another manufacturer has recognized this hazard and installed guardrails to prevent this type of injury. Product liability brings product safety.
10. This is a forklift truck. The operator stands in the compartment on the right hand side. One manufacturer has had over 1,000 operators have their feet crushed when the vehicle is in reverse and the brakes fail. The worker's foot becomes crushed between the truck and the object that it strikes. When the operator lifts his right foot, the brake is applied. When the operator lifts his right foot, it is necessarily outside of the compartment. The instructions say never have your feet outside of the compartment. This is impossible. Side entry trucks are manufactured by some manufacturers whose side entry design eliminates this hazard. The product shown is unreasonably dangerous. This manufacturer still manufactures trucks that are essentially identical to this.

11. The company that sold the forklift trucks to this employer sold them with standard forks. It is unreasonably dangerous to handle the loads in this factory with standard forks. Special load attachment devices are designed to handle this type of load. This load fell on a young woman and she is now a paraplegic. The sellers of equipment should be sure that it is appropriate for the use that the employer will put it to. The employer didn't know there were devices to safely handle these loads.
12. This cabinet tipped over and crushed a worker when he opened the two top drawers. It was top heavy. It should have been designed so that he could only open one drawer at a time. It also should have been designed so that it was tapered with regard to the depth of each drawer. That is, so the deeper drawers are on the bottom to preclude the possibility of dangerously changing the center of gravity.
13. The black and yellow striped mechanism moves in a vertical direction. It was descending and crushed a worker's head. He was fatally injured. The guard was put on after the accident. This machine was sold by the manufacturer in 1983. It violates OSHA standards. However, there are no particular industry standards related to this machine.
14. This is a conveying system in a stone quarry.
15. The rectangular device just above center is a magnet to pick up tramp iron from the conveyor. A worker climbed up on the conveyor with a crowbar to remove the metal which had adhered to the magnet. The operator of the conveyor didn't realize he was on there. He started up the conveyor and the worker was crushed. He is now a quadraplegic. The manufacturer of the magnet should have had a device to de-energize the magnet. The manufacturer of the conveyor should have had an alarm system to announce to the worker a warning sound to alert him that the conveyor was about to start.
16. Foundry workers are exposed to silica which causes silicosis. Many manufacturers of material containing silica fail to warn that it could cause permanent lung damage. When workers, their representatives and factory owners are acutely aware that a product is causing harm in their factory, they are more likely to reduce the exposures. However, manufacturers of silica containing material often fail to get the warning to the users. Incidentally, the primary reason that our society is now addressing the public health hazard created by asbestos is because juries have found it to be unfair for the asbestos industry to have hidden the information that they knew about the harm that asbestos can cause.

17. The recently passed right to know laws have helped workers know what they are being exposed to.
18. However, there are great deficiencies in the information that is supplied by manufacturers. It is extremely important that workers are able to hold these manufacturers responsible for giving misleading information.

I could list more than a dozen accidents where people suffered serious physical harm because the information given to the employer by the manufacturer with regard to safe ways to handle the chemicals was inadequate. Many of these workers are suing the manufacturers of the chemicals because of inadequate warnings. Don't take away their chance for some measure of economic justice.

The tort system can never fully compensate people who become paraplegics, quadraplegics, lose arms, suffer brain damage, suffer serious burns, have children with birth defects, etc. Nevertheless, the tort system is the greatest hope for giving economic incentive to the manufacturer of unreasonably dangerous products.

Please don't give these unscrupulous, unethical manufacturers a "free ride" on the backs of Pennsylvania workers and employers. If the perpetrator of the injustice is not held accountable, they will continue.

In our society the dominant motivator is the "bottom line". Our greatest hope to affect the "bottom line" is to speak the language of the unethical manufacturers - money.

It is "economic greed" and "license to kill", not social or economic justice that motivates the sponsors of this bill.

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