



May 2, 2024

To the Members of the United States Senate and House of Representatives:

The National Association of Wholesaler-Distributors (NAW) write to urge your opposition to the Warehouse Worker Protection Act. The legislation will have a devastating impact on the wholesale distribution industry, which is the backbone of the American supply chain and is deemed essential critical infrastructure. Congress should reject this ill-conceived and poorly written bill as it will have negative impacts on jobs and the U.S economy.

NAW represents the \$8 trillion wholesale distribution industry comprised of employers of all sizes, industry trade associations, partners, and stakeholders spanning all sectors of distribution. Our industry employs over 6 million workers in the United States accounting for approximately 1/3 of the U.S. GDP. There are more than 250,000 wholesale distribution companies that operate across North America, including all 50 states.

The Warehouse Worker Protection Act contains provisions that are flawed, costly and unnecessary. The bill would expand the Federal government by creating a new “Fairness and Transparency Office” within the Wage and Hour Division of the Department of Labor. The office would oversee new standards regarding quotas and workplace surveillance to micromanage warehousing and the distribution industry. The new quota standards will place significant burdens on all warehouse operations as the new standards apply to not just traditional quotas but any metrics used to determine productivity within a warehouse. The impact will be felt across the supply chain and severely and negatively impact consumers, who will face slowdowns and price increases. Noticeably missing from inclusion in this section is the United States Postal Service, demonstrating that the bill's authors understand the importance of these metrics for the Federal Government yet require separate burdensome and unworkable standards for the private sector.

Additionally, as drafted, the Fairness and Transparency Office inappropriately tips the scales in favor of union bosses at the expense of employers and employees. It does so by inviting representatives of labor organizations and worker advocacy groups to assist the agency when conducting investigations. This will not result in employers receiving neutral and fair investigations; instead, they will be used to mount big labor pressure campaigns with ulterior motives. The Warehouse Worker Protection Act's clear intention is to invite labor organizations and worker advocacy groups into roles that are completely inappropriate, turning the government into a political arbiter and abandoning its responsibility to prioritize safety and protect employers' due process rights. Not only is this unfair to employers, but it is also unfair to workers by exposing them to potential coercion or harassment by labor organizations.

In addition, the Warehouse Worker Protection Act seeks to amend the National Labor Relations Act (NLRA) by establishing a new unfair labor practice for an employer to impose a quota that “significantly discourages or prevents” an employee from exercising their rights under the NLRA.

**NATIONAL ASSOCIATION OF WHOLESALER-DISTRIBUTORS**

1325 G Street N.W., Suite 1000, Washington, DC 20005 • 202-872-0885 • FAX: 202-785-0586 • [www.naw.org](http://www.naw.org)

Under the bill, if an employer imposes a quota on an employee within 90 days of the employee exercising their rights under the NLRA, it establishes a presumption that the action is retaliation against the employee and in violation of the NLRA. This ties the hands of the employer who can be threatened by an unfair labor practice for using even the most basic metric in their warehouse to ensure company productivity and operations.

The Warehouse Worker Protection Act includes several provisions related to the Occupational Safety and Health Administration (OSHA). The most egregious provision is for OSHA to issue a rulemaking regulating ergonomics. Ergonomics is an incredibly complex issue of safety and health with a long history. In 2000, the Clinton Administration issued an ergonomics standard, which was later invalidated on a broad bipartisan basis using the Congressional Review Act (CRA). The reasons behind this bipartisan disapproval remain unchanged. The science around ergonomics is not settled, and it remains extremely difficult to determine if an employee's injury is a result of the workplace or a circumstance outside of the workplace. Additionally, an ergonomics standard would be extremely costly for employers as they would have to alter their warehouses and job duties in order to rectify a hazard that isn't well defined and doesn't have obvious remedies. The bipartisan actions to overturn the Clinton era ergonomics rule by a CRA prevents OSHA from making further rules in this space without Congressional authority. Since the rule was invalidated in 2001, there has been no significant findings or data to warrant a new standard. The inclusion of this provision in this bill is a blatant attempt to relitigate settled policy.

Furthermore, the bill fails to acknowledge that under OSHA's General Duty Clause (Section 5(a)(1) of the OSH Act), employers are required to provide a place of employment "free from recognized hazards that are causing or are likely to cause death or serious physical harm to employees." The General Duty Clause includes protecting employees from injuries related to ergonomics. A new ergonomics standard would, therefore, be unnecessary.

The Warehouse Worker Protection Act noticeably eliminates employer due process rights by forcing employers to abate "serious, willful or repeated" hazard citations before the employer has the opportunity to challenge the findings. This significant shift in policy puts the burden of proof on the employer. While the employer could file for a stay of the abatement period, the stay will only be granted if the employer can prove a "substantial likelihood of success" and that the stay will not adversely affect the health and safety of employees. The bill creates a standard that is nearly impossible for an employer to meet and denies employers their due process rights.

The wholesale distribution industry plays a vital role in the American economy, but this ill-conceived bill will cause irreparable harm to the industry and the U.S. economy. NAW urges Congress to reject this bill.

Sincerely,



Brian Wild  
Chief Government Relations Officer  
National Association of Wholesaler-Distributors