



May 2, 2024

Dear Senators and Representatives:

The Coalition for Workplace Safety¹ (CWS) writes to urge your opposition to the Warehouse Worker Protection Act, which includes several provisions related to the Occupational Safety and Health Administration (OSHA) that would have devastating consequences for workplaces across the country. Despite the bill's industry-specific title, the impact of the OSHA provisions will harm the economy nationwide.

The bill would require OSHA to issue a rulemaking regulating ergonomics for warehouse distribution centers. When OSHA issued a broad ergonomics standard at the conclusion of the Clinton administration, it was invalidated on a strong bipartisan basis via the Congressional Review Act. The bill also requires OSHA to issue a rulemaking requiring individuals trained in first aid in warehouse distribution centers. Finally, the bill undermines employers' due process rights for certain OSHA citations by forcing them to abate hazards before OSHA has proved they are guilty. For these reasons, CWS urges Congress to reject this bill.

The Warehouse Worker Protection Act requires OSHA to issue a new standard for ergonomic management for warehouse distribution centers. Ergonomics, however, is a complex and controversial area of workplace safety and health. The science around ergonomics, with regard to what level of exposure to various motions is hazardous, is not settled nor is it a simple task to determine if an employee injury is the result of the workplace or outside activities or circumstances. Moreover, an ergonomics regulation would force employers to face significant costs to alter work stations and job duties in accordance with a new standard. OSHA would, therefore, be attempting to regulate a hazard that is not well defined, where the remedies are speculative, and where causation is often the result of multiple factors outside the control of the employer, and this regulation would cost employers billions of dollars to comply.

The Warehouse Worker Protection Act also mandates that OSHA issue an expansive rulemaking requiring warehouse distribution centers to have individuals trained in first aid at every workplace. Many warehouse distribution centers already have appropriate first aid providers. The rule would also require covered employers to provide occupational medicine consultation services through a physician certified in occupational medicine. Compliance with this provision would be extremely difficult for employers in more rural or remote areas, and the cost of compliance with this rule would overwhelm many businesses, especially smaller entities with more limited resources.

Finally, the bill forces all employers to abate hazards for any "serious, willful, or repeated" citations before the employer has had an opportunity to challenge the findings, and it

¹ CWS is composed of associations and employers who believe in improving workplace safety through cooperation, assistance, transparency, clarity, and accountability. The CWS believes that workplace safety is everyone's concern. Improving safety can only happen when all parties – employers, employees, and OSHA – have a strong working relationship.



shortens the time period for that abatement. Taken together, the bill essentially denies employers their due process rights. Employers can file for a stay of the abatement period, but a stay will only be granted if the employer can prove that it has a “substantial likelihood of success” that the citation will be overturned and that the stay won’t adversely affect the workers’ health and safety. This burden of proof, by design, will be nearly impossible to meet.

The Warehouse Worker Protection Act is an ill-conceived bill that would have devastating consequences for the economy, the employer community, and the workers it is trying to protect. CWS urges Congress to reject this bill.

Sincerely,

The Coalition for Workplace Safety