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The Honorable Virginia Foxx
Committee on Education and the Workforce
United States House of Representatives
2176 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Bobby Scott
Committee on Education and the Workforce
United States House of Representatives
2101 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairwoman Foxx and Ranking Member Scott,

On behalf of NFIB, the nation's leading small business advocacy organization, I write to express serious opposition to H.R. 8639 the *Warehouse Worker Protection Act*. This legislation would impose onerous mandates and increase regulatory burdens for small businesses.

NFIB members annually rate "unreasonable government regulation" as one of the top concerns facing small businesses.¹ Unfortunately, the *Warehouse Worker Protection Act* would revive the Occupational Safety and Health Administration's (OSHA) ergonomics rule, which was nullified by Congress with bipartisan support in 2001 through the first successful use of the *Congressional Review Act*.²

In 2001, small businesses strongly opposed the ergonomics rule.³ At the time, it was estimated that the ergonomics rule would cost businesses \$129.4 billion in year-one and \$90 billion annually thereafter.⁴ Small businesses could not afford those onerous regulatory burdens in 2001 and they certainly will not be able to do so today.

The *Warehouse Worker Protection Act* is a grab bag of policies that will saddle small businesses with increased costs, red tape and compliance burdens. Below is a sample of provisions that will harm small businesses:

¹ Holly Wade & Andrew Heritage, *Small Business Problems & Priorities*, NFIB Research Center, August 2020, <https://assets.nfib.com/nfibcom/NFIB-Problems-and-Priorities-2020.pdf>.

² *Bush signs repeal of ergonomic rules into law*, Cable News Network, March 20, 2021, <https://edition.cnn.com/2001/ALLPOLITICS/03/20/bush.ergonomics/>

³ Sanitary Maintenance Editorial Staff, *OSHA Ergonomics Regulation Killed By Congress, Bush*, CleanLink, April 1, 2001, <https://www.cleanlink.com/sm/article/OSHA-Ergonomics-Regulation-Killed-By-Congress-Bush--496>.

⁴ Dana Bush & Trish Turner, *Senate fight brews over ergonomic regulations*, Cable News Network, March 2, 2001, <https://edition.cnn.com/2001/ALLPOLITICS/03/02/gop.job/>.

- Requires OSHA to promulgate a rule that would require employers to have an individual certified in first aid on site at all times. The new rulemaking requirement also requires small businesses to refer injured employees to a physician who is board-certified in occupational medicine. This requirement would be nearly impossible to implement in rural areas and lead to extensive travel for injured employees.
- Mandates a de facto ban on nearly all workplace productivity standards. This ban would do little to improve workplace health and safety but would create an absurd and unworkable mandate on small businesses. To implement this mandate, the bill expands the scope of the *National Labor Relations Act* to establish a new unfair labor practice for imposition of a quota, or workplace productivity standard.
- Mandates burdensome recordkeeping requirements on employers who track employee productivity, a substantial new requirement for small businesses that lack the infrastructure or resources to comply. Small businesses will be required to collect and maintain the data of all employees for the duration of an employee's tenure and three years following separation of employment. The bill also requires employers to make any and all data available to the Department of Labor upon request, without probable cause or warrant.
- Creates a "Quota Task Force" made up of union representatives and worker advocacy organizations. In part, the task force is responsible for assisting in the enforcement of the de facto workplace productivity standard ban, essentially deputizing biased union representatives to conduct enforcement actions typically conducted by the Department of Labor.

The *Warehouse Worker Protection Act* is a major problem for small businesses. At a time when small businesses rate inflation as the top problem they are facing, the new regulatory burdens mandated by this legislation would only compound these problems by adding more red tape and increasing operating costs for small businesses.⁵

NFIB opposes H.R. 8639 the *Warehouse Worker Protection Act* and urges Members of Congress to oppose this burdensome legislation.

Sincerely,



Dylan Rosnick
Principal, Federal Government Relations
NFIB

⁵ *Small Business Optimism Index*, Page 19, NFIB Research Center, March 2024, <https://www.nfib.com/surveys/small-business-economic-trends/>.