

# Warehouse Worker Protection Act Section-by-Section

## Senators Edward J. Markey, Tina Smith, and Bob Casey

### TITLE I—WAREHOUSE WORKER PROTECTIONS

#### SEC.101 WAREHOUSE WORKER PROTECTIONS

Amends the Fair Labor Standards Act of 1938 section 5 and section 8.

##### Section 5

Establishes Fairness and Transparency Division in the Wage and Hour Division of the Department of Labor with presidentially appointed Director. Establishes a bipartisan advisory board appointed by the Director and authorizes hiring of employees to competitive and civil service.

##### Section 8

Sets forth relevant definitions. Defines “quota” as a performance metric or target under which an employee is assigned to perform a quantified number of tasks or work at a specified speed, or under which employees are measured between time performing and not performing tasks. Defines covered employers as affecting commerce and employing covered employees at a warehousing facility. Defines covered employees as employees working at a warehousing facility and subject to a quota.

**Requires that warehouse employees subject to a quota(s) receive a written description of all quota(s) including what the quota is; what discipline or bonus may relate to the quota; and how the quota is monitored.** Requires covered employers who take adverse employment action against employees for their failure to meet a quota to provide the employee with a written explanation. Requires covered employers seeking to terminate employees subject to quotas to notify the worker with a human representative, except in the case of egregious misconduct. **Prohibits covered employers from requiring employees to meet a quota that prevents compliance with required meal or rest periods, health and safety laws, reasonable accommodations, or use of bathroom facilities;** is set in time increments shorter than one day; prevents employees from exercising rights under the National Labor Relations Act, other federal law, or an applicable collective bargaining agreement. Prevents employers from taking adverse employment action against an employee for failing to meet a quota that is prohibited; not properly noticed; based solely on the ranking of workers against each other; or is based on continuous time tracking. Sets forth data minimization and recordkeeping requirements for covered employers. Provides covered employees with 15 minutes of rest per 4 hours of work, which cannot be calculated as part of productive or unproductive time related to a quota. Prohibits retaliation toward employees exercising their rights under this section.

Establishes a task force of labor organizations and worker centers to develop strategies for labor organizations to assist in the enforcement of this section and to provide the Administrator with recommendations for implementing regulations related to the Act.

**Provides the Director with investigative authority. Sets forth civil monetary penalties for violations in the amount of not more than \$76,987 per violation, or \$769,870 per repeat violation.** Adds pecuniary harm and damages to Fair Labor Standards Act of 1938 right of action. Allows a covered employee to file a complaint of a violation and request a labor

organization representative to accompany inspectors on a related inspection. Requires the Secretary to open investigations into covered employers that have annual employer injury rates not less than 1.5 times the industry average; or when during a one-year period the Secretary receives not less than 5 credible complaints from one worksite or 10 credible complaints from multiple worksites operated by the covered employer. Makes invalid pre-dispute arbitration agreements or joint-action waivers with respect to claims under the Act. Waives certification in rule 23(a) of the Federal Rules of Civil Procedure for class actions.

### **SEC.102 REFERRAL OF COMPLAINTS**

Directs the Director and the Administrator of the Wage and Hour Division of the Department of Labor to enter a memorandum of understanding with the Assistant Secretary of Labor for Occupational Safety and Health to encourage referral of complaints and cross-training of inspectors. Encourages referral of complaints and cross-training of inspectors with EEOC, NIOSH, EPA, and other federal and state agencies that may inspect covered workplaces.

## **TITLE II—NATIONAL LABOR RELATIONS ACT**

### **SEC.201 AMENDMENTS TO NATIONAL LABOR RELATIONS ACT**

Amends section 8(a) of the National Labor Relations Act (29 U.S.C. 158) to **consider the imposition of a quota that significantly discourages or prevents organizing activity an unfair labor practice with a presumption of retaliation.** Amends section 2 of the National Labor Relations Act (29 U.S.C. 152) to include the definition of quota.

### **SEC.202 NATIONAL LABOR RELATIONS BOARD REPORT**

Directs the National Labor Relations Board to examine uses of quotas to deny worker rights under the National Labor Relations Act and report to Congress as often as practicable.

## **TITLE III—OCCUPATIONAL SAFETY AND HEALTH ACT STANDARDS**

### **SEC.301 STANDARD PROTECTING COVERED EMPLOYEES FROM OCCUPATIONAL RISK FACTORS CAUSING MUSCULOSKELETAL DISORDERS**

Directs the Department of Labor to propose and publish a standard pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 655) for ergonomic program management, including hazard identification, ergonomic job evaluations, hazard control, employee training, and medical management.

### **SEC.302 STANDARD FOR PROTECTING EMPLOYEES FROM DELAYS IN MEDICAL TREATMENT REFERRALS FOLLOWING INJURIES OR ILLNESSES**

Directs the Department of Labor to propose and publish a standard pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 655) for medical treatment referrals, wherein a person that is designated to render first aid refers employees without delay to a physician board certified in occupational medicine.

### **SEC.303. CORRECTION OF SERIOUS, WILLFUL, OR REPEATED VIOLATIONS PENDING CONTEST AND PROCEDURES FOR A STAY**

Amends Section 10 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655) to require employers to begin correcting serious, willful, or repeated violations upon receipt of a citation, and requires employers to continue the correction even if they file a motion of contest

on the citation. Sets forth criteria and rules of procedure for motions for a stay, allowing the Occupational Safety and Health Review Commission to grant stays when the employer has a substantial likelihood of success in the contest and the stay will not adversely affect the health and safety of employees. Sets a penalty each day a serious, willful, or repeated violation is not corrected.

#### **TITLE IV—MISCELLANEOUS PROVISIONS**

##### **SEC.401 SEVERABILITY**

Holds that if any provision of the Act is held unconstitutional, the remainder of the Act is not affected.

##### **SEC.402 PREEMPTION**

Holds that nothing in the Act should be construed to supersede or preempt state law or collective bargaining agreements that are more beneficial to covered employees.

##### **SEC.403 AUTHORIZATION OF APPROPRIATIONS**

Authorizes the appropriation of such sums as may be necessary to carry out the Act for each of the fiscal years 2025 through 2035.