

119TH CONGRESS  
1ST SESSION

# S. 2613

To establish protections for warehouse workers, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 31, 2025

Mr. MARKEY (for himself, Mr. HAWLEY, Mr. MARSHALL, Mr. SANDERS, Mr. PADILLA, Mr. BLUMENTHAL, Mr. WELCH, Ms. WARREN, Mr. MURPHY, and Ms. SMITH) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To establish protections for warehouse workers, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

### 3   **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Warehouse Worker  
5   Protection Act”.

### 6   **SEC. 2. TABLE OF CONTENTS.**

7       The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

#### TITLE I—WAREHOUSE WORKER PROTECTIONS

Sec. 101. Fairness and transparency office.

- Sec. 102. Warehouse worker protections.
- Sec. 103. Enforcement by the secretary of labor.
- Sec. 104. Referral of complaints.
- Sec. 105. Enforcement by the FTC.

## TITLE II—NATIONAL LABOR RELATIONS ACT

- Sec. 201. Amendments to National Labor Relations Act.
- Sec. 202. National Labor Relations Board report.

## TITLE III—OSHA STANDARDS

- Sec. 301. Standard protecting covered employees from occupational risk factors causing musculoskeletal disorders.
- Sec. 302. Standard for protecting covered employees from delays in medical treatment referrals following injuries or illnesses.
- Sec. 303. Correction of serious, willful, or repeated violations pending contest and procedures for a stay.
- Sec. 304. Definitions.

## TITLE IV—MISCELLANEOUS PROVISIONS

- Sec. 401. Severability.
- Sec. 402. Preemption.
- Sec. 403. Authorization of appropriations.

# 1    **TITLE I—WAREHOUSE WORKER** 2                                    **PROTECTIONS**

## 3    **SEC. 101. FAIRNESS AND TRANSPARENCY OFFICE.**

4            The Fair Labor Standards Act of 1938 is amended  
5 by inserting after section 4 (29 U.S.C. 204) the following:

### 6    **“SEC. 5. ESTABLISHMENT OF FAIRNESS AND TRANS-** 7                                    **PARENCY OFFICE.**

8            “(a) IN GENERAL.—There is established in the Wage  
9 and Hour Division of the Department of Labor the Fair-  
10 ness and Transparency Office.

11           “(b) DIRECTOR OF THE FAIRNESS AND TRANS-  
12 PARENCY OFFICE.—The President shall appoint a Direc-  
13 tor of the Fairness and Transparency Office to head the  
14 Fairness and Transparency Office.

1       “(c) EMPLOYEES AND ADVISORY BOARDS OF THE  
2 OFFICE.—

3               “(1) IN GENERAL.—The Director—

4                       “(A) may select, appoint, and employ,  
5 without regard to the provisions of sections  
6 3309 through 3318 of title 5, United States  
7 Code, individuals directly to positions in the  
8 competitive service, as defined in section 2102  
9 of such title, to carry out the duties of the Di-  
10 rector under this Act; and

11                      “(B) may fix the compensation of the indi-  
12 viduals described in subparagraph (A) without  
13 regard to chapter 51 and subchapter III of  
14 chapter 53 of title 5, United States Code, relat-  
15 ing to classification of positions and General  
16 Schedule pay rates, except that the rate of pay  
17 for such individuals may not exceed the rate  
18 payable for level V of the Executive Schedule  
19 under section 5316 of that title.

20               “(2) FAIRNESS AND TRANSPARENCY ADVISORY  
21 BOARD.—

22                      “(A) IN GENERAL.—The Director shall es-  
23 tablish a Fairness and Transparency Advisory  
24 Board to advise and consult on the exercise of

1 the functions of the Director under this Act and  
2 under the Warehouse Worker Protection Act.

3 “(B) COMPOSITION.—The Fairness and  
4 Transparency Advisory Board established under  
5 subparagraph (A) shall be composed of—

6 “(i) as the Director determines appro-  
7 priate, covered employers and covered em-  
8 ployees or representatives of covered em-  
9 ployers and covered employees; and

10 “(ii) at least one of each of the fol-  
11 lowing:

12 “(I) Worker protection experts.

13 “(II) Civil rights experts.

14 “(III) Health and safety experts.

15 “(IV) Workplace technology ex-  
16 perts.

17 “(V) Disability law experts.

18 “(VI) Representatives of labor  
19 organizations.

20 “(VII) Representatives of worker  
21 advocacy organizations.

22 “(C) APPOINTMENTS.—The Director  
23 shall—

1 “(i) appoint members to the advisory  
 2 board established under subparagraph (A);  
 3 and

4 “(ii) ensure a partisan balance in the  
 5 membership of the advisory board.

6 “(D) MEETINGS.—The advisory board es-  
 7 tablished under subparagraph (A) shall meet—

8 “(i) at the call of the Director; and

9 “(ii) not less than 2 times annually.

10 “(E) COMPENSATION AND TRAVEL EX-  
 11 PENSES.—A member of the Fairness and  
 12 Transparency Advisory Board established under  
 13 subparagraph (A) who is not an officer or em-  
 14 ployee of the Federal Government shall—

15 “(i) be entitled to receive compensa-  
 16 tion at a rate fixed by the Director while  
 17 attending meetings of the advisory board,  
 18 including travel time; and

19 “(ii) receive travel expenses, including  
 20 per diem in lieu of subsistence, in accord-  
 21 ance with applicable provisions under sub-  
 22 chapter I of chapter 57 of title 5, United  
 23 States Code.

24 “(F) EXEMPTION FROM THE FEDERAL AD-  
 25 VISORY COMMITTEE ACT.—The Fairness and

1 Transparency Advisory Board established under  
 2 subparagraph (A) shall be exempt from chapter  
 3 10 of title 5, United States Code (commonly  
 4 known as the ‘Federal Advisory Committee  
 5 Act’).

6 “(G) DEFINITIONS OF COVERED EM-  
 7 PLOYEE AND COVERED EMPLOYER.—In this  
 8 paragraph, the terms ‘covered employee’ and  
 9 ‘covered employer’ have the meanings given  
 10 such terms in section 102(a) of the Warehouse  
 11 Worker Protection Act.

12 “(3) USE OF VOLUNTARY SERVICES.—The Di-  
 13 rector may, as may from time to time be needed, use  
 14 any voluntary or uncompensated services.

15 “(4) ATTORNEYS.—Attorneys appointed under  
 16 this subsection or the Solicitor of Labor may appear  
 17 for and represent the Director in any litigation.

18 “(d) RULEMAKING.—

19 “(1) IN GENERAL.—The Secretary, acting  
 20 through the Director and the Administrator of the  
 21 Wage and Hour Office, may issue orders and guid-  
 22 ance or promulgate regulations as may be necessary  
 23 or appropriate to enable the Secretary to carry out  
 24 the purposes and objectives of the Warehouse Work-  
 25 er Protection Act, and to prevent evasions thereof.

1           “(2) CONSULTATION.—In issuing orders and  
 2           guidance or promulgating regulations under this  
 3           subsection, the Secretary, acting through the Direc-  
 4           tor and the Administrator of the Wage and Hour  
 5           Office, may consult with the Occupational Safety  
 6           and Health Administration and Federal agencies  
 7           that have jurisdiction over labor and employment  
 8           issues, including the Equal Employment Oppor-  
 9           tunity Commission, the National Labor Relations  
 10          Board, the National Mediation Board, and the Merit  
 11          Systems Protection Board.”.

12 **SEC. 102. WAREHOUSE WORKER PROTECTIONS.**

13          (a) DEFINITIONS.—In this section:

14           (1) ADVERSE EMPLOYMENT ACTION.—The term  
 15           “adverse employment action”, with respect to a cov-  
 16           ered employee, means a change by the covered em-  
 17           ployer of the covered employee in the compensation,  
 18           terms, conditions, or privileges of the job of the cov-  
 19           ered employee that, from the perspective of a rea-  
 20           sonable person, puts the covered employee in a ma-  
 21           terially adverse position than prior to the change, in-  
 22           cluding termination, a reduction in benefits, discipli-  
 23           nary action, demotion, promotion, transfer, imposi-  
 24           tion of a work schedule more burdensome to the cov-  
 25           ered employee, reduction of scheduled hours, adjust-

1       ment in ability for promotion, or other modifications  
 2       to compensation, terms, conditions, or privileges of  
 3       employment.

4           (2) AGGREGATED WORK SPEED DATA.—The  
 5       term “aggregated work speed data” means employee  
 6       work speed data that a covered employer has com-  
 7       bined, or collected together, in a summary or other  
 8       form so that the employee work speed data cannot,  
 9       at any point, be identified or linked with any specific  
 10      covered employee.

11          (3) COMMERCE.—The terms “commerce”,  
 12      “goods”, “enterprise”, “enterprise engaged in com-  
 13      merce or in the production of goods for commerce”  
 14      have the meanings given such terms in section 3 of  
 15      the Fair Labor Standards Act of 1938 (29 U.S.C.  
 16      203).

17          (4) COVERED FACILITY.—The term “covered  
 18      facility” means any warehouse distribution center  
 19      described in the North American Industry Classifica-  
 20      tion System code—

21                (A) 493, for warehousing and storage;

22                (B) 423, for merchant wholesalers, durable  
 23      goods;

24                (C) 424, for merchant wholesalers, non-  
 25      durable goods;



1 (D) 454110, for electronic shopping and  
2 mail-order houses; or

3 (E) 492110, for couriers and express deliv-  
4 ery services.

5 (5) COVERED EMPLOYEE.—The term “covered  
6 employee” means an employee who—

7 (A) is employed by an employer for the  
8 performance of work at a covered facility; and

9 (B) is subject to a quota while performing  
10 work at such covered facility.

11 (6) COVERED EMPLOYER.—

12 (A) IN GENERAL.—The term “covered em-  
13 ployer” means an employer that—

14 (i) is engaged in commerce, in the  
15 production of goods for commerce, or in an  
16 enterprise engaged in commerce or in the  
17 production of goods for commerce, includ-  
18 ing such an employer that is a contractor,  
19 subcontractor, temporary service firm,  
20 staffing agency, independent contractor,  
21 employee leasing entity, or similar entity;

22 (ii) employs a covered employee for  
23 the performance of work at a covered facil-  
24 ity; and

1 (iii) employs more than a total of 200  
2 employees (including on a full- or part-time  
3 basis) for the performance of work at all  
4 covered facilities owned or operated by the  
5 employer.

6 (B) RULE OF CONSTRUCTION.—For pur-  
7 poses of determining the number of employees  
8 under subparagraph (A)(iii), the total number  
9 of employees employed for the performance of  
10 work as described in such subparagraph shall  
11 include all employees of any affiliate of the em-  
12 ployer (as determined in accordance with sec-  
13 tion 121.103 of title 13, Code of Federal Regu-  
14 lations, as in effect on the date of enactment of  
15 this Act).

16 (7) DEFINED TIME PERIOD.—The term “de-  
17 fined time period” means any unit of time measure-  
18 ment equal to or less than one day, including hours,  
19 minutes, and seconds and any fraction thereof.

20 (8) DESIGNATED EMPLOYEE REPRESENTA-  
21 TIVE.—The term “designated employee representa-  
22 tive” means any representative designated by a cov-  
23 ered employee, including an employee representative  
24 that has a collective bargaining relationship with the  
25 covered employer of the covered employee.

1           (9) DIRECTOR.—The term “Director” means  
2           the Director of the Fairness and Transparency Of-  
3           fice established by section 5 of the Fair Labor  
4           Standards Act of 1938.

5           (10) EGREGIOUS MISCONDUCT.—The term  
6           “egregious misconduct”, with respect to a covered  
7           employee, means deliberate or grossly negligent con-  
8           duct that endangers the safety or well-being of the  
9           covered employee, co-workers of the covered em-  
10          ployer, customers, or other persons, including dis-  
11          crimination against or harassment of co-workers,  
12          customers, or other persons.

13          (11) EMPLOY; EMPLOYEE; EMPLOYER.—The  
14          terms “employ”; “employee”; and “employer” have  
15          the meanings given such terms in section 3 of the  
16          Fair Labor Standards Act of 1938 (29 U.S.C. 203).

17          (12) EMPLOYEE WORK SPEED DATA.—The  
18          term “employee work speed data” means informa-  
19          tion a covered employer collects, stores, analyzes, or  
20          interprets relating to the performance of work by a  
21          covered employee of the covered employer for a  
22          quota, including information with respect to the—

23                 (A) quantities of tasks performed by the  
24                 covered employee;

1 (B) quantities of items or materials han-  
2 dled or produced by the covered employee;

3 (C) rates or speeds of tasks performed by  
4 the covered employee;

5 (D) measurements or metrics of covered  
6 employee performance in relation to a quota; or

7 (E) time categorized with respect to the  
8 covered employee as performing tasks or not  
9 performing tasks.

10 (13) QUOTA.—The term “quota” means an ex-  
11 press or implied performance standard or perform-  
12 ance target, including such a standard or target  
13 used to rank or compare an employee in relation to  
14 the performance of another employee or in relation  
15 to the past performance of the employee, under  
16 which—

17 (A)(i) an employee is actually or effectively  
18 assigned, required, or expected within a defined  
19 time period (with or without any reasonable ac-  
20 commodation provided under Federal, State, or  
21 local law) to—

22 (I) perform—

23 (aa) a quantified number of  
24 tasks; or

1 (bb) at a specified produc-  
2 tivity speed; or

3 (II) handle or produce a quan-  
4 tified amount of material without a  
5 certain number of errors or defects;  
6 and

7 (ii) such assignment, requirement, or ex-  
8 pectation is measured at the individual or group  
9 level for such defined time period;

10 (B) actions by an employee are categorized  
11 and measured between time performing tasks  
12 and not performing tasks within a defined time  
13 period; or

14 (C) increments of time of a defined time  
15 period during which an employee is or is not  
16 doing a particular activity are measured, re-  
17 corded, or tallied.

18 (14) SIMILARLY SITUATED COVERED EM-  
19 PLOYEE.—The term “similarly situated covered em-  
20 ployee”, with respect to a covered employee, means  
21 another covered employee who holds the same job or  
22 responsibilities as the covered employee.

23 (15) TRIBAL GOVERNMENT.—The term “Tribal  
24 government” means the recognized governing body  
25 of an Indian Tribe.

1           (16) WORKPLACE SURVEILLANCE.—The term  
2       “workplace surveillance” means any employer sur-  
3       veillance (on- or off-duty) with respect to an em-  
4       ployee, including the detection, monitoring, intercep-  
5       tion, collection, exploitation, preservation, protection,  
6       transmission, or retention of data concerning activi-  
7       ties or communications with respect to the employee,  
8       including through the use of a product or service  
9       marketed, or that can be used, for such purposes,  
10      such as a computer, telephone, wire, radio, camera,  
11      sensor, electromagnetic, photoelectronic, handheld or  
12      wearable device, or photo-optical system.

13           (17) WORK STATION.—The term “work sta-  
14      tion” means the area of a covered facility within  
15      which a covered employee is assigned to perform  
16      tasks for the longest duration of time during a day.

17      (b) COMMUNICATION WITH COVERED EMPLOYEES  
18 REGARDING QUOTAS AND WORKPLACE SURVEILLANCE.—

19           (1) IN GENERAL.—On the later of the date a  
20      covered employee is hired by a covered employer or  
21      180 days after the date of enactment of this section,  
22      each covered employer shall provide to each covered  
23      employee of the covered employer—

1 (A) a written description of each quota to  
2 which the covered employee is subject, includ-  
3 ing—

4 (i) as applicable, the quantified num-  
5 ber of tasks to be performed or of mate-  
6 rials to be produced or handled, or other  
7 performance measure, within the defined  
8 time period, for the quota;

9 (ii) any potential discipline or adverse  
10 employment action that could result from  
11 failure to meet the quota;

12 (iii) how performance targets or per-  
13 formance standards for the quota are cal-  
14 culated;

15 (iv) whether there is any incentive or  
16 bonus program associated with meeting or  
17 exceeding the quota and, if applicable, how  
18 the incentive or bonus program operates;  
19 and

20 (v) how the quota is monitored, in-  
21 cluding a description of—

22 (I) what employee work speed  
23 data are being collected;

24 (II) how the employee work speed  
25 data are being collected, including a

1 description of any workplace surveil-  
2 lance technology used on the covered  
3 employee by the covered employer;

4 (III) where and when the em-  
5 ployee work speed data are being col-  
6 lected;

7 (IV) the frequency of the collec-  
8 tion;

9 (V) where the storage of the em-  
10 ployee work speed data is located;

11 (VI) the business purposes for  
12 which the employee work speed data  
13 are being used; and

14 (VII) as applicable, the identity  
15 of any third party—

16 (aa) used for such workplace  
17 surveillance;

18 (bb) to which data from  
19 such workplace surveillance is  
20 transferred; and

21 (cc) from which data of the  
22 covered individual is or may be  
23 purchased or acquired; and

24 (B) a written description of and training  
25 with respect to how the covered employee may



1 file a complaint regarding a violation of this  
2 section or a standard promulgated under title  
3 III of this Act.

4 (2) CHANGES TO QUOTA OR WORKPLACE SUR-  
5 VEILLANCE.—Each covered employer shall provide  
6 to any applicable covered employee an updated writ-  
7 ten description of any information provided under  
8 paragraph (1) not less than 2 business days before  
9 any changes with respect to such information are  
10 made.

11 (3) REQUIREMENTS FOR TAKING AN ADVERSE  
12 EMPLOYMENT ACTION ON QUOTA COMPLIANCE.—

13 (A) IN GENERAL.—A covered employer  
14 that takes an adverse employment action  
15 against a covered employee for work perform-  
16 ance that does not meet requirements with re-  
17 spect to a quota shall provide—

18 (i) a written explanation to the cov-  
19 ered employee regarding the manner in  
20 which the covered employee failed to per-  
21 form, including a description of the appli-  
22 cable quota and a comparison of such work  
23 performance to such quota; and

24 (ii) if the adverse employment action  
25 was based on employee work speed data, a

1 copy of the employee work speed data in a  
2 human-readable format that a reasonable  
3 individual can understand.

4 (B) NOTICE FOR ACTIONS UNRELATED TO  
5 QUOTA.—A covered employer that, with respect  
6 to any covered employee who is subject to a  
7 quota, takes an adverse employment action  
8 against such covered employee for any reason  
9 that is unrelated to compliance with the quota  
10 shall provide to such covered employee a written  
11 confirmation that such action was unrelated to  
12 compliance with the quota.

13 (4) TERMINATION.—

14 (A) IN GENERAL.—A covered employer  
15 that seeks to terminate a covered employee  
16 shall, regardless of whether the termination re-  
17 lates to work performance with respect to a  
18 quota, provide to the covered employee a writ-  
19 ten notice of the intent to terminate the covered  
20 employee.

21 (B) EGREGIOUS MISCONDUCT.—Notwith-  
22 standing subparagraph (A), a covered employer  
23 may terminate a covered employee without pro-  
24 viding such written notice if the covered em-  
25 ployee engaged in egregious misconduct.

1           (5) DESCRIPTIONS.—Each covered employer  
2 shall—

3           (A) provide any written description, notice,  
4 explanation, or confirmation described in para-  
5 graph (1), (2), (3), or (4) to a covered em-  
6 ployee—

7           (i) through a human representative of  
8 the covered employer at the work station of  
9 the covered employee; and

10          (ii) in a manner required by the Di-  
11 rector that—

12           (I) is accessible;

13           (II) allows the covered employee  
14 to transport the data in the descrip-  
15 tion, notice, explanation, or confirma-  
16 tion without hindrance;

17           (III) is in plain language; and

18           (IV) is in the primary language  
19 of the covered employee; and

20          (B) make such description, notice, expla-  
21 nation, or confirmation available to the covered  
22 employee electronically.

23   (c) PROTECTION FROM QUOTAS.—

1           (1) PROHIBITED QUOTAS.—A covered employer  
2       may not require any quota for a covered employee  
3       that would—

4           (A) prevent—

5               (i) compliance with any required meal  
6               or rest period or any other break required  
7               by Federal, State, or local law;

8               (ii) compliance with health and safety  
9               provisions required by Federal, State, or  
10              local law;

11              (iii) the use by the covered employee  
12              of bathroom facilities, including reasonable  
13              travel time to and from bathroom facilities  
14              that takes into account the architecture of  
15              the covered facility; or

16              (iv) compliance with a covered em-  
17              ployee's right to reasonable accommoda-  
18              tions or nondiscrimination as required by  
19              Federal, State, or local law;

20           (B) set a performance target or perform-  
21           ance standard that measures total output for  
22           the covered employee over an increment of time  
23           that is shorter than one day;

24           (C) measure and evaluate the output or  
25           performance of a covered employee during any

1           paid or unpaid break to which the covered em-  
 2           ployee is entitled under applicable law, contract,  
 3           or industry standard, including breaks to use  
 4           bathroom facilities and reasonable travel time  
 5           to and from bathroom facilities;

6           (D) prevent or discourage the covered em-  
 7           ployee from exercising any right under the Na-  
 8           tional Labor Relations Act (29 U.S.C. 151 et  
 9           seq.) or any other Federal law;

10          (E) prevent or discourage the covered em-  
 11          ployee from exercising any right guaranteed in  
 12          an applicable collective bargaining agreement;  
 13          or

14          (F) violate the generally accepted prin-  
 15          ciples of work measurement as set forth in the  
 16          Code of Work Measurement Ethics of the  
 17          American Institute of Industrial Engineers and  
 18          recognized by the Secretary.

19          (2) ADVERSE EMPLOYMENT ACTION.—A cov-  
 20          ered employer may not take adverse employment ac-  
 21          tion against a covered employee for failure to meet  
 22          a quota that—

23                (A) violates paragraph (1);

24                (B) was not described to the covered em-  
 25          ployee in accordance with subsection (b);

1 (C) is based solely on ranking the perform-  
2 ance of the covered employee in relation to the  
3 performance of another covered employee or in  
4 relation to the past performance of that covered  
5 employee; or

6 (D) is based on continuously measuring,  
7 recording, or tallying increments of time within  
8 a defined time period during which a covered  
9 employee is or is not doing a particular activity.

10 (d) MINIMIZATION.—

11 (1) COLLECTION.—In establishing, maintaining,  
12 or using employee work speed data with respect to  
13 a quota for a covered employee, a covered employer  
14 may not collect, use, maintain, or transfer data on  
15 or of the covered employee except as strictly nec-  
16 essary to monitor the compliance of the covered em-  
17 ployee with the quota.

18 (2) EMPLOYEE ACCESS.—In establishing, main-  
19 taining, or using employee work speed data with re-  
20 spect to a quota for a covered employee, a covered  
21 employer may not disclose any information collected  
22 on a covered employee with respect to the quota to  
23 any other covered employee of the covered employer  
24 except as strictly necessary to fulfill a specific and

1 reasonable business rationale of the covered em-  
2 ployer.

3 (e) RECORDKEEPING.—

4 (1) IN GENERAL.—Each covered employer  
5 shall—

6 (A) maintain contemporaneous records,  
7 with respect to each covered employee of the  
8 covered employer, of—

9 (i) the employee work speed data of  
10 each such covered employee;

11 (ii) the aggregated work speed data  
12 for similarly situated covered employees at  
13 the same place where each such covered  
14 employee performs work for the covered  
15 employer; and

16 (iii) the written descriptions of the  
17 quota of each such covered employee pro-  
18 vided under subsection (b)(1);

19 (B) maintain such records for the duration  
20 of the employment of each relevant covered em-  
21 ployee; and

22 (C) make such records available to the  
23 Secretary upon request.

24 (2) SUPPLEMENTATION AND DISPUTE OF  
25 RECORDS.—

(A) SUPPLEMENTATION OF RECORDS.—

Each covered employer shall enable a covered employee, upon request of the covered employee at or after the time of any employee work speed data collection with respect to the covered employee, to supplement the employee work speed data by recording any reason the covered employee provides for any defined time period during which the covered employee was not performing work-related tasks, including because the covered employee was taking a paid or unpaid break, using a bathroom facility (including reasonable travel to and from the facility), reporting an injury or receiving attention due to an injury, exercising a right guaranteed under the National Labor Relations Act (29 U.S.C. 151 et seq.) or another Federal law, or exercising a right guaranteed under an applicable covered bargaining agreement.

(B) DISPUTE PROCESS.—

(i) IN GENERAL.—Each covered employer shall enable a covered employee, upon request of the covered employee at or after the time of any data collection with respect to the covered employee, to review



1 and request correction of the employee  
2 work speed data in accordance with clause  
3 (ii).

4 (ii) CORRECTION OF EMPLOYEE WORK  
5 SPEED DATA.—A covered employer that re-  
6 ceives a request by a covered employee  
7 under clause (i) shall—

8 (I) investigate and determine  
9 whether the employee work speed data  
10 is inaccurate; and

11 (II) if determined to be inac-  
12 curate—

13 (aa) promptly correct the in-  
14 accurate data and notify the cov-  
15 ered employee of the covered em-  
16 ployer's determination and cor-  
17 rection; and

18 (bb) review and adjust, as  
19 appropriate, any adverse employ-  
20 ment action that was, partially or  
21 solely, based on the inaccurate  
22 data and notify the covered em-  
23 ployee of the adjustment.

24 (3) RETENTION OF RECORDS.—

1 (A) IN GENERAL.—After the termination  
 2 of employment of a covered employee of a cov-  
 3 ered employer, the covered employer shall—

4 (i) for not less than 3 years after the  
 5 date of such termination, retain the  
 6 records described in paragraph (1) with re-  
 7 spect to the 6-month period prior to such  
 8 date; and

9 (ii) make such records available to the  
 10 Secretary upon request.

11 (4) RULE OF CONSTRUCTION.—Nothing in this  
 12 subsection shall require a covered employer to keep  
 13 records described in paragraph (1) with respect to  
 14 employee work speed data if such covered employer  
 15 does not otherwise monitor employee work speed  
 16 data.

17 (f) RIGHT TO REQUEST.—

18 (1) IN GENERAL.—A covered employer shall,  
 19 upon receiving a request under paragraph (2) or (3),  
 20 provide the relevant copies described in such para-  
 21 graphs to, as the case may be, the covered employee,  
 22 designated employee representative, or individual  
 23 who was a covered employee—

24 (A) except as provided in subparagraph

25 (B)(ii), at no cost to the covered employee, des-

1           ignated employee representative, or individual  
2           who was a covered employee;

3           (B) with respect to—

4                 (i) a covered employee, by a human  
5                 representative of the covered employer; or

6                 (ii) a designated employee representa-  
7                 tive or an individual who was a covered  
8                 employee, by a human representative of  
9                 the covered employer or through the mail  
10                (at the cost of the designated employee  
11                representative or individual, respectively);  
12                and

13           (C) as soon as practicable but not later  
14           than—

15                 (i) 7 business days after receipt of a  
16                 request for such copies with respect to em-  
17                 ployee work speed data or aggregate work  
18                 speed data; or

19                 (ii) 2 business days after receipt of a  
20                 request for any other copy.

21           (2) REQUESTS DURING EMPLOYMENT.—A cov-  
22           ered employee, or a designated employee representa-  
23           tive of such covered employee at the request of the  
24           covered employee, may request from the covered em-  
25           ployer of the covered employee a copy of the written

1 description described under subsection (b), a copy of  
2 the employee work speed data (in a human-readable  
3 format that a reasonable individual can understand)  
4 of the covered employee for the preceding 6-month  
5 period, and a copy of the aggregated work speed  
6 data (in a human-readable format that a reasonable  
7 individual can understand) for similarly situated cov-  
8 ered employees at the same place where the covered  
9 employee performs work for the covered employer  
10 for the preceding 6-month period.

11 (3) REQUESTS AFTER EMPLOYMENT TERMI-  
12 NATION.—An individual who was a covered employee  
13 with respect to a covered employer, or a designated  
14 employee representative with respect to such an indi-  
15 vidual, may, not later than 3 years after the date of  
16 termination of employment of the covered employee  
17 with the covered employer, request from the covered  
18 employer a copy of—

19 (A) the written description described under  
20 subsection (b) effective on the date of termi-  
21 nation of the covered employee;

22 (B) the employee work speed data (in a  
23 human-readable format that a reasonable indi-  
24 vidual can understand) of the covered employee

1           for the 6-month period prior to such date of  
2           termination; and

3           (C) the aggregated work speed data (in a  
4           human-readable format that a reasonable indi-  
5           vidual can understand) for similarly situated  
6           covered employees at the same place where the  
7           covered employee performs work for the covered  
8           employer for such 6-month period.

9           (4) RULE OF CONSTRUCTION.—Nothing in this  
10          subsection shall require a covered employer to—

11           (A) monitor employee work speed data; or

12           (B) provide information related to em-  
13          ployee work speed data if the covered employer  
14          does not otherwise monitor such employee work  
15          speed data.

16          (g) POSTING OF NOTICES.—

17           (1) IN GENERAL.—Each covered employer shall  
18          post, in a conspicuous and accessible location, a no-  
19          tice in the covered facility of the covered employer  
20          regarding the rights of covered employees under this  
21          section, including what constitutes a permissible  
22          quota, the right to request quota descriptions and  
23          employee speed data information, and the right to  
24          make a complaint to Federal authorities regarding a  
25          violation of any right under this section.

1           (2) REQUIREMENTS FOR NOTICES.—Each no-  
 2       tice described in paragraph (1) shall be in a manner  
 3       required by the Director that—

4                   (A) is in plain language; and

5                   (B) is in English, Spanish, and any other  
 6       language that constitutes the primary language  
 7       of any covered employee at the covered facility.

8       (h) BREAKS FOR COVERED EMPLOYEES.—

9           (1) IN GENERAL.—Each covered employer  
 10      shall—

11                   (A) with respect to each covered employee  
 12      of such covered employer—

13                           (i) provide, for every 4 hours of work  
 14                   by such a covered employee, to the covered  
 15                   employee not less than one 15-minute rest  
 16                   break paid at the regular rate at which the  
 17                   covered employee is employed; and

18                           (ii) provide, at the time the covered  
 19                   employer hires such a covered employee,  
 20                   notice to the covered employee, in plain  
 21                   language and the primary language of the  
 22                   covered employee, that—

23                                   (I) the covered employee is enti-  
 24                                   tled to the paid rest breaks described  
 25                                   in clause (i);

1 (II) retaliation by the covered  
 2 employer against the covered employee  
 3 for requesting or taking such paid  
 4 rest breaks is prohibited; and

5 (III) the covered employee, or a  
 6 designated employee representative of  
 7 the covered employee, has a right to  
 8 file a complaint with the Secretary for  
 9 any violation by the covered employer  
 10 of this subsection; and

11 (B) display, in a conspicuous and acces-  
 12 sible location, a sign at each covered facility of  
 13 the covered employer that includes, in English,  
 14 Spanish, and any other language that con-  
 15 stitutes the primary language of any covered  
 16 employee at the covered facility, the information  
 17 in the notice described in subparagraph (A)(ii).

18 (2) NOTICE.—Not later than 180 days after the  
 19 date of enactment of this section, the Secretary of  
 20 Labor shall issue regulations with respect to the de-  
 21 sign and content of the sign described in paragraph  
 22 (1)(B), including a sample design.

23 (3) INTERACTION WITH OTHER LAWS.—Noth-  
 24 ing in this subsection shall be construed to super-  
 25 sede or preempt any Federal, State, or local law or

collective bargaining agreement requiring longer paid rest breaks than those required under paragraph (1)(A)(i).

(i) UNLAWFUL RETALIATION.—

(1) IN GENERAL.—A person, including a covered employer, an agent of a covered employer, or person acting as or on behalf of a covered employer conducting hiring or any related activity, or an officer or agent of any entity, business, corporation, partnership, or limited liability company, may not—

(A) discharge or in any way retaliate, discriminate, or take any adverse employment action against any individual for exercising any right conferred under this section, or for being perceived as exercising such a right, including for—

(i) requesting copies under subsection

(f);

(ii) filing a complaint under subparagraph (A) of section 16(f) of the Fair Labor Standards Act of 1938 regarding a violation of this section or designating a representative in accordance with subparagraph (B) of such section to file such a complaint; or



1 (iii) commencing a proceeding under  
 2 section 16(b) of the Fair Labor Standards  
 3 Act of 1938 (29 U.S.C. 216(b)) for a vio-  
 4 lation of this section; or

5 (B) otherwise prevent an individual for ex-  
 6 ercising such a right or take any action against  
 7 an individual that might deter a reasonable em-  
 8 ployee from asserting a right conferred under  
 9 this section.

10 (2) PROTECTIONS FOR GOOD FAITH ALLEGA-  
 11 TIONS.—The protections under paragraph (1) shall  
 12 apply to any individual who mistakenly, but in good  
 13 faith, alleges a violation of a requirement of this sec-  
 14 tion.

15 (3) EXPLICIT REFERENCE NOT REQUIRED.—A  
 16 complaint or other communication by an individual,  
 17 including a covered employee, may be the exercise of  
 18 a right for purposes of paragraph (1) regardless of  
 19 whether the complaint or communication is in writ-  
 20 ing or makes explicit reference to this Act.

21 (4) REBUTTABLE PRESUMPTION.—If a person  
 22 takes adverse action against a covered employee  
 23 within 90 days of the covered employee engaging, or  
 24 attempting to engage in, activities protected by para-  
 25 graph (1), such conduct shall establish a rebuttable

1       presumption that the adverse action is an adverse  
 2       action in violation of such paragraph. Such pre-  
 3       sumption may be rebutted by clear and convincing  
 4       evidence that—

5               (A) the action was taken for other permis-  
 6               sible reasons; and

7               (B) the engaging or attempting to engage  
 8               in activities protected by paragraph (1) was not  
 9               a motivating factor in the adverse action.

10       (j) QUOTA TASK FORCE.—Not later than 90 days  
 11       after the date of the enactment of this section, the Direc-  
 12       tor shall convene a task force with labor organizations,  
 13       worker advocacy organizations, and covered employees to  
 14       develop strategies for labor organizations and worker ad-  
 15       vocacy organizations to—

16               (1) assist in the enforcement of this section;

17               (2) train covered employees with respect to new  
 18       rights provided through this section; and

19               (3) provide the Director with recommendations  
 20       on the implementation of regulations related to this  
 21       section.

22       **SEC. 103. ENFORCEMENT BY THE SECRETARY OF LABOR.**

23       The Fair Labor Standards Act of 1938 is amended—

1           (1) in section 9 (29 U.S.C. 209), by striking  
2       “or investigation” and inserting “, investigation, or  
3       inspection”;

4           (2) in section 11 (29 U.S.C. 211), by adding at  
5       the end the following:

6       “(e)(1) The Secretary, acting through the Director  
7       of the Fairness and Transparency Division, shall, as pro-  
8       vided in subsection (a) and paragraph (2), investigate vio-  
9       lations of section 102 of the Warehouse Worker Protection  
10      Act, including any violations of any regulation or order  
11      issued with respect to that section.

12      “(2) In addition to powers otherwise provided to the  
13      Secretary under subsection (a), the Secretary, in inves-  
14      tigating violations of section 102 of the Warehouse Work-  
15      er Protection Act, may upon presenting appropriate cre-  
16      dentials to the owner, operator, or agent in charge—

17           “(A) enter without delay and at reasonable  
18      times any covered facility of a covered employer; and

19           “(B) inspect and investigate during regular  
20      working hours and at other reasonable times, and  
21      within reasonable limits and in a reasonable manner,  
22      any such covered facility and all pertinent condi-  
23      tions, structures, machines, apparatus, devices,  
24      equipment, and materials therein, and to question

1       privately any such covered employer, owner, oper-  
2       ator, agent, or covered employee.

3       “(3)(A) In conducting an inspection during an inves-  
4       tigation into a violation of section 102 of the Warehouse  
5       Worker Protection Act, the Secretary shall permit, at the  
6       request of a covered employee, a representative of a labor  
7       organization or a worker advocacy organization, or an-  
8       other designee of the covered employee, to accompany any  
9       inspectors during such inspection.

10       “(B) A covered employee may, regardless of the rela-  
11       tionship between the covered employee and the labor orga-  
12       nization, worker advocacy organization, or other designee,  
13       anonymously request to the Secretary that the Secretary  
14       permit a representative of such labor organization, worker  
15       advocacy organization, or other designee accompany in-  
16       spectors during an inspection in accordance with para-  
17       graph (1).

18       “(f)(1) Not later than 30 days after an event de-  
19       scribed in paragraph (2), the Secretary shall open an in-  
20       vestigation under this section (that includes an on-site in-  
21       spection) into any covered employer to determine if such  
22       covered employer is violating section 102 of the Warehouse  
23       Worker Protection Act.

24       “(2) An event described in this paragraph is, with  
25       respect to a covered employer, either of the following:

1           “(A) The Secretary determines that the covered  
2 employer—

3               “(i) has an annual total of employee work  
4 hours that is not less than 40,000 hours; and

5               “(ii) has an annual employee injury rate,  
6 overall or at a worksite, that is not less than  
7 1.5 times the warehousing industry’s average  
8 annual injury rate, as determined by the Bu-  
9 reau of Labor Statistics in the most recent (as  
10 of such determination) publication regarding  
11 fatal and nonfatal occupational injuries and ill-  
12 nesses data.

13           “(B) The Secretary receives, during any one-  
14 year period, not less than—

15               “(i) 5 credible complaints from covered  
16 employees of the covered employer, individuals  
17 who were covered employees of the covered em-  
18 ployer, or designated representatives of such  
19 covered employees or individuals, about viola-  
20 tions under section 102 of the Warehouse  
21 Worker Protection Act at a worksite; or

22               “(ii) 10 credible complaints from covered  
23 employees of the covered employer, individuals  
24 who were covered employees of the covered em-  
25 ployer, or designated representatives of such

1 covered employees or individuals, about such  
 2 violations at multiple worksites operated by the  
 3 covered employer.

4 “(3) In conducting an investigation under paragraph  
 5 (1), the Secretary shall select representatives of a labor  
 6 organization or a worker advocacy organization who have  
 7 specific knowledge of the relevant industry to conduct out-  
 8 reach to workers with respect to such investigation and  
 9 aid and accompany investigators in such investigation.

10 “(g) For purposes of subsections (e) and (f), the  
 11 terms ‘covered employee’, ‘covered employer’, and ‘covered  
 12 facility’ have the meanings given such terms in section  
 13 102(a) of the Warehouse Worker Protection Act.”;

14 (3) in section 15(a) (29 U.S.C. 215(a))—

15 (A) in paragraph (5), by striking “; and”  
 16 and inserting a semicolon;

17 (B) in paragraph (6), by striking the pe-  
 18 riod at the end and inserting “; and”; and

19 (C) by adding at the end the following:

20 “(7) to violate any of the provisions of section  
 21 102 of the Warehouse Worker Protection Act.”; and

22 (4) in section 16 (29 U.S.C. 216)—

23 (A) in subsection (b)—

(i) by inserting “or section 102 of the Warehouse Worker Protection Act” after “18D” each place it appears;

(ii) in the second sentence—

(I) by striking “of this Act shall” and inserting “shall”; and

(II) by inserting “and, in the case of a violation of section 102 of the Warehouse Worker Protection Act, of an amount for the direct or foreseeable pecuniary harms resulting from the violation and an amount equal to \$10,000 per violation of subsection (b), (d), (e), (f), or (g) of such section or an amount equal to \$25,000 per violation of subsection (c), (h), or (i) of such section” before the period at the end of the sentence; and

(iii) in the fifth sentence, by striking “No” and inserting “Except with respect to an action brought regarding a violation of section 102 of the Warehouse Worker Protection Act, no”;

(B) in subsection (e)—

1 (i) by redesignating paragraphs (3),  
 2 (4), and (5) as paragraphs (4), (5), and  
 3 (6), respectively;

4 (ii) by inserting after paragraph (2),  
 5 the following:

6 “(3) Any person who violates section 102 of the  
 7 Warehouse Worker Protection Act shall be subject  
 8 to a civil penalty—

9 “(A) in an amount not more than \$76,987  
 10 per violation; or

11 “(B) for repeat or willful violations, in an  
 12 amount not more than \$769,870 per viola-  
 13 tion.”; and

14 (iii) in paragraph (4)(C), as so redes-  
 15 ignated, by striking “section 15(a)(4)” and  
 16 inserting “paragraph (4) or (7) of section  
 17 15(a)”; and

18 (C) by adding at the end the following:

19 “(f) ADMINISTRATIVE COMPLAINTS REGARDING  
 20 WAREHOUSE WORKER PROTECTIONS.—

21 “(1) IN GENERAL.—A covered employee or an  
 22 individual who was a covered employee may—

23 “(A) file a complaint of a violation of sec-  
 24 tion 102 of the Warehouse Worker Protection  
 25 Act with the Secretary; and



1 “(B) designate a representative of a labor  
 2 organization or worker advocacy organization,  
 3 regardless of the relationship between the cov-  
 4 ered employee or individual and the labor orga-  
 5 nization or worker advocacy organization, to—

6 “(i) file the complaint on behalf of the  
 7 covered employee or individual; or

8 “(ii) represent the covered employee  
 9 or individual for purposes of engagement  
 10 with the Secretary regarding such com-  
 11 plaint, including being present at employee  
 12 interviews and participating in workplace  
 13 inspections, conferences, and settlement  
 14 negotiations.

15 “(2) DEFINITION OF COVERED EMPLOYEE.—

16 For purposes of paragraph (1), the term ‘covered  
 17 employee’ has the meaning given such term in sec-  
 18 tion 102(a) of the Warehouse Worker Protection  
 19 Act.

20 “(g) EXEMPTION FROM THE FEDERAL ARBITRATION  
 21 ACT REGARDING WAREHOUSE WORKER PROTECTIONS.—

22 “(1) IN GENERAL.—Notwithstanding chapter 1  
 23 of title 9, United States Code (commonly known as  
 24 the ‘Federal Arbitration Act’), no predispute arbitra-  
 25 tion agreement or predispute joint-action waiver (as

1       those terms are defined in section 401 of title 9,  
 2       United States Code) shall be valid or enforceable  
 3       with respect to claims arising under this Act for vio-  
 4       lations of section 102 of the Warehouse Worker Pro-  
 5       tection Act.

6               “(2) ARBITRATION PURSUANT TO A COLLEC-  
 7       TIVE BARGAINING AGREEMENT.—Nothing in this  
 8       subsection shall limit the enforceability of any arbi-  
 9       tration provision in a collective bargaining agree-  
 10      ment between a covered employer (as defined in sec-  
 11      tion 102(a) of the Warehouse Worker Protection  
 12      Act) and a labor organization.

13       “(h) EXCEPTION FROM CLASS ACTION PRE-  
 14      REQUISITES FOR ACTIONS REGARDING WAREHOUSE  
 15      WORKER PROTECTIONS.—An employee who brings an ac-  
 16      tion for a violation of section 102 of the Warehouse Work-  
 17      er Protection Act on behalf of employees similarly situated  
 18      shall be considered to have satisfied paragraphs (1)  
 19      through (4) of rule 23(a) of the Federal Rules of Civil  
 20      Procedure for purposes of such an action.”.

21   **SEC. 104. REFERRAL OF COMPLAINTS.**

22       (a) MEMORANDUM OF UNDERSTANDING.—The Di-  
 23      rector of the Fairness and Transparency Office estab-  
 24      lished by section 5 of the Fair Labor Standards Act of  
 25      1938 (as added by section 101) and the Administrator of

1 the Wage and Hour Office of the Department of Labor  
2 shall jointly enter into a memorandum of understanding  
3 with the Assistant Secretary of Labor for Occupational  
4 Safety and Health to encourage efficient enforcement of  
5 relevant labor laws, including through information shar-  
6 ing, referral of complaints, and cross-training of inspec-  
7 tors and investigators. The memorandum of under-  
8 standing shall encourage coordination of enforcement ac-  
9 tivity in States enforcing relevant labor law under a State  
10 plan that has been approved by the Secretary under sec-  
11 tion 18 of the Occupational Safety and Health Act of 1970  
12 (29 U.S.C. 667).

13 (b) REFERRAL OF COMPLAINTS AND CROSS-TRAIN-  
14 ING.—The Director of the Fairness and Transparency Of-  
15 fice shall, to the greatest extent possible—

16 (1) encourage the referral of relevant com-  
17 plaints from and to the Equal Employment Oppor-  
18 tunity Commission, the National Institute for Occu-  
19 pational Safety and Health, the Environmental Pro-  
20 tection Agency, the National Labor Relations Board,  
21 and other Federal and State agencies that may con-  
22 duct inspections related to occupational health and  
23 safety in covered facilities (as defined in section  
24 102(a) of the Warehouse Worker Protection Act);  
25 and

1           (2) promote cross-training of inspectors and in-  
 2           vestigators in the Equal Employment Opportunity  
 3           Commission, National Institute for Occupational  
 4           Safety and Health, Environmental Protection Agen-  
 5           cy, and such other Federal and State agencies for  
 6           inspections related to working conditions in such  
 7           covered facilities.

8   **SEC. 105. ENFORCEMENT BY THE FTC.**

9           (a) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—  
 10          A violation of section 102 shall be treated as a violation  
 11          of a rule defining an unfair or deceptive act or practice  
 12          under section 18(a)(1)(B) of the Federal Trade Commis-  
 13          sion Act (15 U.S.C. 57a(a)(1)(B)).

14          (b) POWERS OF THE FTC.—

15               (1) IN GENERAL.—The Federal Trade Commis-  
 16          sion (in this section referred to as the Commission)  
 17          shall enforce section 102 and the regulations pro-  
 18          mulgated under this Act in the same manner, by the  
 19          same means, and with the same jurisdiction, powers,  
 20          and duties as though all applicable terms and provi-  
 21          sions of the Federal Trade Commission Act (15  
 22          U.S.C. 41 et seq.) were incorporated into and made  
 23          a part of this Act.

24               (2) PRIVILEGES AND IMMUNITIES.—Any person  
 25          who violates section 102 shall be subject to the pen-

1 alties and entitled to the privileges and immunities  
 2 provided in the Federal Trade Commission Act (15  
 3 U.S.C. 41 et seq.).

4 (3) AUTHORITY PRESERVED.—Nothing in this  
 5 Act shall be construed to limit the authority of the  
 6 Commission under any other provision of law.

7 (4) RULEMAKING.—The Commission may pro-  
 8 mulgate in accordance with section 553 of title 5,  
 9 United States Code, such rules as may be necessary  
 10 to carry out this section.

## 11 **TITLE II—NATIONAL LABOR** 12 **RELATIONS ACT**

### 13 **SEC. 201. AMENDMENTS TO NATIONAL LABOR RELATIONS** 14 **ACT.**

15 (a) IN GENERAL.—Section 8(a) of the National  
 16 Labor Relations Act (29 U.S.C. 158) is amended—

17 (1) in paragraph (5) by striking the period at  
 18 the end and inserting “; and”; and

19 (2) by adding at the end the following:

20 “(6) to impose on an employee a quota that sig-  
 21 nificantly discourages or prevents, or is intended to  
 22 significantly discourage or prevent, an employee  
 23 from exercising the rights guaranteed in section 7.”.

1 (b) PRESUMPTION OF RETALIATION.—Section 8 of  
 2 the such Act (29 U.S.C. 158) is amended by adding at  
 3 the end the following:

4 “(h) PRESUMPTION OF RETALIATION RELATED TO  
 5 A QUOTA.—Any action to impose a quota on an employee  
 6 that is taken against the employee within 90 days of an  
 7 employee exercising the rights guaranteed in section 7  
 8 shall establish a rebuttable presumption that the action  
 9 is discrimination against the employee in violation of sub-  
 10 section (a)(6).”.

11 (c) DEFINITIONS.—Section 2 such Act (29 U.S.C.  
 12 152) is amended by adding at the end the following:

13 “(15) QUOTA.—

14 “(A) IN GENERAL.—The term ‘quota’  
 15 means a performance standard or performance  
 16 target, including such a standard or target used  
 17 to rank an employee in relation to the perform-  
 18 ance of another employee or in relation to the  
 19 past performance of the employee, under  
 20 which—

21 “(i)(I) an employee is actually or ef-  
 22 fectively assigned, required, or expected  
 23 within a defined time period (with or with-  
 24 out any reasonable accommodation pro-

1           vided under Federal, State, or local law)  
2           to—

3                           “(aa) perform—

4                                   “(AA)    a    quantified  
5                                   number of tasks; or

6                                   “(BB)  at  a  specified  
7                                   productivity speed; or

8                           “(bb) handle or produce a  
9                           quantified amount of material  
10                          without a certain number of er-  
11                          rors or defects; and

12                          “(II) such assignment, requirement,  
13                          or expectation is measured at the indi-  
14                          vidual or group level for such defined time  
15                          period;

16                          “(ii) actions by an employee are cat-  
17                          egorized and measured between time per-  
18                          forming tasks and not performing tasks  
19                          within a defined time period; or

20                          “(iii) increments of time of a defined  
21                          time period during which an employee is or  
22                          is not doing a particular activity are meas-  
23                          ured, recorded, or tallied.

24                          “(B) DEFINED TIME PERIOD.—For pur-  
25                          poses of subparagraph (A), the term ‘defined

1           time period’ means any unit of time measure-  
 2           ment equal to or less than one day, including  
 3           hours, minutes, and seconds and any fraction  
 4           thereof.”.

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

6           The National Labor Relations Board shall—

7           (1) examine cases in which a quota (as such  
 8           term is defined in section 2 of the National Labor  
 9           Relations Act (29 U.S.C. 152)) was used as a rea-  
 10          son to deny a worker rights under the National  
 11          Labor Relations Act; and

12          (2) as often as practicable, submit a report on  
 13          such cases to—

14                  (A) the Committee on Health, Education,  
 15                  Labor, and Pensions of the Senate; and

16                  (B) the Committee on Education and  
 17                  Workforce of the House of Representatives.

18   **TITLE III—OSHA STANDARDS**

19   **SEC. 301. STANDARD PROTECTING COVERED EMPLOYEES**  
 20                   **FROM OCCUPATIONAL RISK FACTORS CAUS-**  
 21                   **ING MUSCULOSKELETAL DISORDERS.**

22          (a) PROPOSED STANDARD.—Not later than 3 years  
 23          after the date of enactment of this Act, the Secretary  
 24          shall, pursuant to section 6 of the Occupational Safety and  
 25          Health Act of 1970 (29 U.S.C. 655), publish in the Fed-



1 eral Register a proposed standard for ergonomic program  
2 management for covered employers with respect to covered  
3 employees, including requirements for—

4 (1) hazard identification and ergonomic job  
5 evaluations for covered employees, including require-  
6 ments for covered employee and designated employee  
7 representative participation in such identification  
8 with the aim of maximizing such participation;

9 (2) hazard control at covered facilities, which  
10 may rely on the principles of the hierarchy of con-  
11 trols and which may include measures such as equip-  
12 ment and workstation redesign, work pace reduc-  
13 tions, or job rotation to less forceful or repetitive  
14 jobs;

15 (3) training for covered employees regarding  
16 covered employer activities, occupational risk factors,  
17 and training on controls and recognition of symp-  
18 toms of musculoskeletal disorders; and

19 (4) medical management for covered employees  
20 that includes—

21 (A) encouraging early reporting of mus-  
22 culoskeletal disorder symptoms;

23 (B) first aid delivered by those operating  
24 under State licensing requirements; and

1 (C) systematic evaluation and early refer-  
 2 ral for medical attention.

3 (b) FINAL STANDARD.—Not later than 4 years after  
 4 the date of enactment this Act, the Secretary shall, pursu-  
 5 ant to section 6 of the Occupational Safety and Health  
 6 Act of 1970 (29 U.S.C. 655), publish in the Federal Reg-  
 7 ister a final standard based on the proposed standard  
 8 under subsection (a).

9 **SEC. 302. STANDARD FOR PROTECTING COVERED EMPLOY-**  
 10 **EES FROM DELAYS IN MEDICAL TREATMENT**  
 11 **REFERRALS FOLLOWING INJURIES OR ILL-**  
 12 **NESSES.**

13 (a) PROPOSED STANDARD.—Not later than 1 year  
 14 after the date of enactment of this Act, the Secretary  
 15 shall, pursuant to section 6 of the Occupational Safety and  
 16 Health Act of 1970 (29 U.S.C. 655), publish in the Fed-  
 17 eral Register a proposed standard requiring that—

18 (1) all covered employers have a person readily  
 19 available at the covered facility of the covered em-  
 20 ployer who is adequately trained to render first aid  
 21 and ensure that such person provides first aid to any  
 22 injured or ill covered employee and, without delay,  
 23 refers any such covered employee who reports an in-  
 24 jury or illness that requires further medical treat-

1       ment to an appropriate medical professional for such  
2       treatment; and

3           (2) all covered employers provide to the covered  
4       employees of the covered employer occupational med-  
5       icine consultation services through a physician who  
6       is board certified in occupational medicine, which  
7       services shall include—

8           (A) regular review of any health and safety  
9       program, medical management program, or  
10      ergonomics program of the covered employer;

11          (B) review of any work-related injury or  
12      illness of a covered employee;

13          (C) providing onsite health services for  
14      treatment of such injury or illness; and

15          (D) consultation referral to a local health  
16      care provider for treating such injury or illness.

17      (b) FINAL STANDARD.—Not later than 3 years after  
18      the date of enactment of this Act, the Secretary shall, pur-  
19      suant to section 6 of the Occupational Safety and Health  
20      Act of 1970 (29 U.S.C. 655), publish in the Federal Reg-  
21      ister a final standard based on the proposed standard  
22      under subsection (a).

1 **SEC. 303. CORRECTION OF SERIOUS, WILLFUL, OR RE-**  
 2 **PEATED VIOLATIONS PENDING CONTEST AND**  
 3 **PROCEDURES FOR A STAY.**

4 (a) IN GENERAL.—Section 10 of the Occupational  
 5 Safety and Health Act of 1970 (29 U.S.C. 659) is amend-  
 6 ed by adding at the end the following:

7 “(d) CORRECTION OF SERIOUS, WILLFUL, OR RE-  
 8 PEATED VIOLATIONS PENDING CONTEST AND PROCE-  
 9 DURES FOR A STAY.—

10 “(1) PERIOD PERMITTED FOR CORRECTION OF  
 11 SERIOUS, WILLFUL, OR REPEATED VIOLATIONS.—  
 12 For each violation which the Secretary designates as  
 13 serious, willful, or repeated, the period permitted for  
 14 the correction of the violation shall begin to run  
 15 upon receipt of the citation.

16 “(2) FILING OF A MOTION OF CONTEST.—The  
 17 filing of a notice of contest by an employer shall not  
 18 operate as a stay of the period for correction of a  
 19 violation designated as serious, willful, or repeated.

20 “(3) CRITERIA AND RULES OF PROCEDURE FOR  
 21 STAYS.—

22 “(A) MOTION FOR A STAY.—An employer  
 23 that receives a citation alleging a violation des-  
 24 ignated as serious, willful, or repeated and that  
 25 files a notice of contest to the citation asserting  
 26 that the time set for abatement of the alleged

1 violation is unreasonable or challenging the ex-  
 2 istence of the alleged violation may file with the  
 3 Commission a motion to stay the period for the  
 4 abatement of the violation.

5 “(B) CRITERIA.—In determining whether  
 6 a stay should be issued on the basis of a motion  
 7 filed under subparagraph (A), the Commission  
 8 may grant a stay only if the employer has dem-  
 9 onstrated—

10 “(i) a substantial likelihood of success  
 11 on the areas contested under subparagraph  
 12 (A); and

13 “(ii) that a stay will not adversely af-  
 14 fect the health and safety of employees.

15 “(C) RULES OF PROCEDURE.—The Com-  
 16 mission shall develop rules of procedure for con-  
 17 ducting a hearing on a motion filed under sub-  
 18 paragraph (A) on an expedited basis. At a min-  
 19 imum, such rules shall provide the following:

20 “(i) That a hearing before an admin-  
 21 istrative law judge shall occur not later  
 22 than 15 days following the filing of the  
 23 motion for a stay (unless extended at the  
 24 request of the employer), and shall provide  
 25 for a decision on the motion not later than

1 15 days following the hearing (unless ex-  
2 tended at the request of the employer).

3 “(ii) That a decision of an administra-  
4 tive law judge on a motion for stay is ren-  
5 dered on a timely basis.

6 “(iii) That if a party is aggrieved by  
7 a decision issued by an administrative law  
8 judge regarding the stay, such party has  
9 the right to file an objection with the Com-  
10 mission not later than 5 days after receipt  
11 of the administrative law judge’s decision.  
12 Within 10 days after receipt of the objec-  
13 tion, a Commissioner, if a quorum is seat-  
14 ed pursuant to section 12(f), shall decide  
15 whether to grant review of the objection.  
16 If, within 10 days after receipt of the ob-  
17 jection, no decision is made on whether to  
18 review the decision of the administrative  
19 law judge, the Commission declines to re-  
20 view such decision, or no quorum is seated,  
21 the decision of the administrative law  
22 judge shall become a final order of the  
23 Commission. If the Commission grants re-  
24 view of the objection, the Commission shall  
25 issue a decision regarding the stay not

1 later than 30 days after receipt of the ob-  
 2 jection. If the Commission fails to issue  
 3 such decision within 30 days, the decision  
 4 of the administrative law judge shall be-  
 5 come a final order of the Commission.

6 “(iv) For notification to employees or  
 7 representatives of affected employees of re-  
 8 quests for such hearings, and to provide an  
 9 opportunity for affected employees or rep-  
 10 resentatives of affected employees to par-  
 11 ticipate as parties to such hearings.”.

12 (b) CONFORMING AMENDMENTS.—

13 (1) IN GENERAL.—The Occupational Safety  
 14 and Health Act of 1970 is amended—

15 (A) in the first sentence of section 10(b)  
 16 (29 U.S.C. 659(b)), by inserting “, with the ex-  
 17 ception of violations designated as serious, will-  
 18 ful, or repeated,” after “(which period shall not  
 19 begin to run”; and

20 (B) in section 17 (29 U.S.C. 666) by strik-  
 21 ing subsection (d) and inserting the following:

22 “(d) Any employer who fails to correct a violation  
 23 designated by the Secretary as serious, willful, or repeated  
 24 and for which a citation has been issued under section 9(a)  
 25 within the period permitted for its correction (and a stay

1 has not been issued by the Commission under section  
 2 10(d)) may be assessed a civil penalty of not more than  
 3 \$7,000 for each day during which such failure or violation  
 4 continues. Any employer who fails to correct any other vio-  
 5 lation for which a citation has been issued under section  
 6 9(a) of this title within the period permitted for its correc-  
 7 tion (which period shall not begin to run until the date  
 8 of the final order of the Commission in the case of any  
 9 review proceeding under section 10 initiated by the em-  
 10 ployer in good faith and not solely for delay of avoidance  
 11 of penalties) may be assessed a civil penalty of not more  
 12 than \$7,000 for each day during which such failure or vio-  
 13 lation continues.”.

14 (2) ADJUSTMENT UNDER THE FEDERAL CIVIL  
 15 PENALTIES INFLATION ADJUSTMENT ACT OF 1990.—

16 (A) CATCH-UP.—Not later than 1 year  
 17 after the date of enactment of this Act, the Sec-  
 18 retary of Labor shall adjust the maximum  
 19 amounts described in subsection (d) of section  
 20 17 of the Occupational Safety and Health Act  
 21 of 1970 (29 U.S.C. 666), as amended by para-  
 22 graph (1)(B), so that each such amount equals  
 23 the maximum amount of the civil penalty under  
 24 such subsection (as in effect on the day before  
 25 such date of enactment) as adjusted by section



1           4 of the Federal Civil Penalties Inflation Ad-  
2           justment Act of 1990 (28 U.S.C. 2461 note).

3                   (B) SUBSEQUENT ADJUSTMENTS.—Sub-  
4           paragraph (A) and the amendment made by  
5           this paragraph (1)(B) shall not be construed to  
6           affect the application of the Federal Civil Pen-  
7           alties Inflation Adjustment Act of 1990 (28  
8           U.S.C. 2461 note) to the civil penalty amount  
9           under section 17(d) of the Occupational Safety  
10          and Health Act of 1970 (29 U.S.C. 666) for  
11          any adjustment under section 4 of the Federal  
12          Civil Penalties Inflation Adjustment Act of  
13          1990 (28 U.S.C. 2461 note) after the catch-up  
14          adjustment made by the Secretary of Labor  
15          under subparagraph (A).

16 **SEC. 304. DEFINITIONS.**

17          For purposes of sections 301 and 302, the terms  
18          “covered employee”, “covered employer”, “covered facil-  
19          ity”, and “designated employee representative” have the  
20          meanings given such terms in section 102(a).

21                   **TITLE IV—MISCELLANEOUS**  
22                   **PROVISIONS**

23 **SEC. 401. SEVERABILITY.**

24          If any provision of this Act (including an amendment  
25          made by this Act) or the application of such provision to

1 any person, entity, government, or circumstance, is held  
2 to be unconstitutional, the remainder of this Act (includ-  
3 ing the amendments made by this Act), or the application  
4 of such provision to all other persons, entities, govern-  
5 ments, or circumstances, shall not be affected thereby.

6 **SEC. 402. PREEMPTION.**

7 (a) INTERACTION WITH OTHER LAWS.—Nothing in  
8 this Act (including the amendments made by this Act) or  
9 the regulations promulgated under this Act shall be con-  
10 strued to supersede or preempt any law or ordinance of  
11 a State, or political subdivision of a State, that requires  
12 limitations on any quota for a covered employee of a cov-  
13 ered employer that are comparable to or greater than the  
14 protections provided in this Act.

15 (b) COLLECTIVE BARGAINING AGREEMENTS.—Noth-  
16 ing in this Act (including the amendments made by this  
17 Act) or the regulations promulgated under this Act shall  
18 be construed to supersede or preempt employment terms  
19 or conditions agreed upon in collective bargaining agree-  
20 ments that are more beneficial to a covered employee.

21 (c) OSHA.—No action by the Director under this Act  
22 (including the amendments made by this Act) shall be con-  
23 strued as an exercise of statutory authority within the  
24 meaning of section 4(b)(1) of the Occupational Safety and  
25 Health Act of 1970 (29 U.S.C. 653(b)(1)).

1       (d) DEFINITIONS.—For purposes of this section, the  
2 terms “Director”, “covered employee”, “covered em-  
3 ployer”, “designated employee representative”, and  
4 “quota” have the meanings given such terms in section  
5 102(a).

6 **SEC. 403. AUTHORIZATION OF APPROPRIATIONS.**

7       There is authorized to be appropriated to carry out  
8 this Act such sums as may be necessary for each of the  
9 fiscal years 2026 through 2036.

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