



September 1, 2022

The Honorable Kathy Hochul
 Governor of New York State
 New York State Capitol
 Albany, NY 12224

Dear Governor Hochul,

On behalf of our organizations which represent tens of thousands of businesses throughout New York State, we respectfully urge you to veto A.1118/S.768, A.2020-A/S.6373-B, and A.7178-A/S.8271-A. These workers' compensation bills, if enacted, would increase workers' compensation benefits by millions of dollars, resulting in higher costs and premiums for all New York State businesses, especially small businesses, at a time when they are contending with unrelenting economic challenges and the state's economy is showing signs of a recession.

These proposed sweeping changes to workers' compensation law would come just a few years after Albany rightfully focused on cost containment. Lawmakers, business organizations, and labor worked together to agree upon and put in place sensible and

balanced reforms in 2017. These efforts to reduce costs on employers, while providing necessary coverage to employees, represented the essential first step toward lowering the cost of doing business in New York. These bills not only undermine any progress made by both labor and the business community but are guaranteed to obliterate the modest cost savings and premium reductions that were achieved in the workers' compensation system.

While all three pieces of legislation together are disastrous and will undoubtedly drive-up workers' compensation premiums, they are deeply problematic individually:

- **A.1118 (Bronson)/S.768 (Gounardes)** redefines temporary total disability, marking a fundamental shift in the definition of disability and how wage replacement amounts are determined in New York State. This bill upends case law by allowing for unlimited awards at the temporary total rate for employees with mild or moderate partial disabilities. Under existing law, when a doctor finds that an employee has partially recovered from an injury, that employee must either seek out work that is commensurate with their degree of disability or risk losing their indemnity benefits. As passed, this bill would automatically qualify injured employees to receive benefits at the higher disability rate if it was determined they could not return to their pre-injury employment or a modified position. This will lead to significant and extremely damaging cost increases for the workers' compensation system. Many businesses, especially small businesses, do not have the financial or practical ability to accommodate light-duty work, and long-standing workers' compensation law recognized that important dynamic. This bill abandons the long-held tenets of workers' compensation law.
- **A.2020-A (Reyes)/S.6373-B (Savino)** expands the statutory carve-out that applies to police officers, firefighters, and emergency medical technicians who filed a claim for mental injury premised upon extraordinary work-related stress to include *all employees*. This bill will permit all employees who allege extraordinary work-related stress to file a mental stress claim irrespective of a work-related emergency. Law Judges will determine what qualifies as "extraordinary," a standard that is not defined by statute, which will result in extensive litigation. Additionally, the bill would transfer the cost of treatment and disability for psychological conditions that are not currently considered work-related to the workers' compensation system. The cost to the system would be substantial.
- **A.7178-A (Joyner)/S.8271-A (Sanders)** would increase the minimum amount of compensation from \$150 to not less than 1/5 of Statewide Average Weekly Wage (SAWW) or employee's full wages if equal to or less than 1/5 of SAWW. The current minimum weekly indemnity rate for employees who earn more than \$150 per week is \$150. If enacted, this bill would grant employees who sustain accidents after June 30, 2022, to almost double the current minimum indemnity rate of \$150 per week (weekly

indemnity benefits would increase to no less than \$337.64, which is 1/5 of the current SAWW of \$1,688.19). Employees with wages less than or, equal to \$337.64 per week would receive full salaries. The impact of this legislation would be most felt by businesses with part-time, seasonal, or lower-wage employees, and may deter employees from returning to work, exacerbating the labor shortage and keeping New York's unemployment rate higher than the national average.

For the above-mentioned reasons, any further action on these bills warrants a pause. Additionally, the New York Compensation Insurance Rating Board (NYCIRB) has not calculated the fiscal impact of these bills, individually or collectively. While the total cost to employers remains unknown, it is undeniable that these bills would lead to catastrophic rate hikes, a risk New York cannot afford to take while the economy teeters on edge.

New York's businesses are wrestling with widespread inflation, unrelenting supply chain issues, extensive labor shortages, stubbornly high gas prices, and unnecessarily excessive Unemployment Insurance costs. According to the National Federation of Independent Business' (NFIB) Small Business Economic Trends report, 37% of small businesses report inflation as their single most important problem, the highest level since 1979. Forty nine percent of small businesses report job openings that could not be filled, ensuring that businesses have every incentive to bring employees back to work as quickly as possible. Small businesses continue to raise wages and increase selling prices at historic levels, adding financial pressures on both business owners and consumers.¹ The state must and should avoid saddling businesses with any new or increased costs. Driving workers' compensation premiums higher than they already are is a dangerous gamble for New York to take in such a precarious economic environment.

On behalf of our organizations, businesses, industries, and communities we represent, we urge you to veto these bills.

Thank you for your time and consideration.

Sincerely,

Associated Builders & Contractors, Empire State
Associated General Contractors of New York State
Big I New York
Buffalo Niagara Partnership
Building Contractors Association
Building Industry Employers of New York State

¹ "Small Business Economic Trends." NFIB Research Center, July 2022. <https://assets.nfib.com/nfibcom/SBET-July-2022.pdf/>.

Business Council of New York State
Business Council of Westchester
Capital Region Chamber
Construction Contractors Association of the Hudson Valley, Inc.
Construction Exchange of Buffalo and Western New York
Construction Industry Council
Empire Center for Public Policy
Empire State Forest Products Association
Food Industry Alliance of New York
Greater Binghamton Chamber of Commerce
Greater Rochester Chamber
Long Island Association
Manufacturers Association of Central New York (MACNY)
Mohawk Valley Builders Exchange
National Federation of Independent Business (NFIB)
New York Association of Convenience Stores
New York Construction Materials Association
New York Electrical Contractors Association
New York Farm Bureau
New York Green Industry Council
New York Insurance Association
New York State Association of Electrical Contractors
New York State Automobile Dealers Association
New York State Chemistry Council
New York State Council of NECA Chapters
New York State Economic Development Council
New York State Hospitality & Tourism Association
New York State Liquor Store Association
New York State Restaurant Association
New York State Vegetable Producers Association
Northeast Agribusiness and Feed Alliance
Northeast Dairy Producers Association
Northeastern Retail Lumber Association, New York
Northeastern Subcontractors Association
Retail Council of New York State
Rochester Technology and Manufacturing Association (RTMA)
Sheet Metal and Air Conditioning Contractors' National Association of New York State
Syracuse Builders Exchange
Trucking Association of New York
Upstate United

CC: Elizabeth Fine, Counsel to the Governor
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