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December 13, 2023

The Honorable Bob Good
Chairman
Subcommittee on Health, Employment
Labor, and Pensions
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Mark DeSaulnier
Ranking Member
Subcommittee on Health, Employment,
Labor, and Pensions
U.S. House of Representatives
Washington, D.C. 20515

Re: Opposition to Employee Rights Act, H.R. 2700; the Modern Worker Empowerment Act, H.R. 5513; and the Save Local Business Act, H.R. 2826.

Dear Chairman Good and Ranking Member DeSaulnier:

On behalf of the core coalition of organizations that advocated for successful passage of the overwhelmingly bipartisan PUMP for Nursing Mothers Act (“PUMP Act”),¹ we write in opposition to the Employee Rights Act, H.R. 2700; the Modern Worker Empowerment Act, H.R. 5513; and the Save Local Business Act, H.R. 2826, all of which would significantly jeopardize critical civil rights and labor rights protections relied on by workers for decades as well as undermining the recently enacted PUMP Act’s protections, which is housed in the Fair Labor Standards Act.

As organizations who advance public health, economic justice, racial justice, and advocate to ensure that no one has to choose between feeding their baby breast milk and their economic security, we are invested in robust legal protections for workers nationwide.

The Fair Labor Standards Act (FLSA) provides essential minimum wage, overtime, and other labor protections that have been a cornerstone of workers’ rights, economic justice, racial justice, and gender justice for generations. Similarly, the National Labor Relations Act’s (NLRA) provision of a right to participate in collective bargaining has long been a mechanism for workers to ensure they are treated with dignity and respect as well as protecting against labor abuses, and establishing health and safety standards in the workplace for millions of people. Without these core rights, employers will be free to treat their workers, especially those most vulnerable and marginalized in our society, as expendable given the imbalance of power that employers have over those who rely on them for an income.

These three bills under consideration before the House of Representatives would eliminate core protections for workers covered by the Fair Labor Standards Act and National Labor Relations Act, at a time when our shifting economy demands legal reform to provide *further* protection to more workers in the labor force, such as independent contractors and gig workers, not to shrink protections for working families, many of whom are already struggling financially. Far too many workers have been illegally misclassified under FLSA as independent contractors, and our government’s resources should be spent rooting out such legal violations, not legalizing dangerous practices.

¹ Providing Urgent Maternal Protections for Nursing Mothers Act (“PUMP Act”) (Pub. L. 117–328 Division KK).



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Workers who feed their babies breast milk must have the ability to regularly express milk at work in order to feed their babies and maintain their ability to produce enough milk. The PUMP Act allows breastfeeding employees the right to break time in order to express milk as well as a private, non-bathroom space to do so. The PUMP Act is transformative in closing a loophole that previously left 9 million employees uncovered by the law’s protections, in recognition of the importance of such protections for maternal and infant health as well as family economic security.² Workers who do not have these rights stop breastfeeding far sooner than they otherwise planned or face severe retaliation consequences at work, including reductions in hours and pay, or even termination.³ The critical nature of this right has been put into sharp relief by the country’s recent infant formula crisis. We have heard from many parents desperately concerned about their ability to continue breastfeeding their babies, especially those who may have medical needs incompatible with available formula, while facing inadequate workplace protections ensuring their right to pump breast milk at work. The passage of the PUMP Act last year provided newfound hope for parents simply trying to feed their babies.

We are already seeing the positive effects of the new law for millions of workers nationwide. Employers also benefit from the clear guidance put in place so they can understand their legal obligations rather than navigating a difficult legal landscape, especially for small businesses and those that cannot afford legal counsel to advise them on their breastfeeding policies.

We cannot allow an amendment to FLSA that would reduce the number of breastfeeding employees covered by the law. The result would mean potentially thousands or hundreds of thousands of workers with very little control over their work schedules, worksites, and other conditions would lose critical protections. The hardest hit will be mothers of color, disproportionately represented in low-wage positions and physically demanding jobs, and with little bargaining power on their own. Passage of these laws would result in rampant labor abuse while at the same time undermining critical public health goals.

In conclusion, we urge you to oppose the Employee Rights Act, H.R. 2700; the Modern Worker Empowerment Act, H.R. 5513; and the Save Local Business Act, H.R. 2826.

Thank you,

A Better Balance
Center for WorkLife Law
MomsRising
United States Breastfeeding Committee

² *Fighting for Fairness: Examining Legislation to Confront Workforce Discrimination (H.R. 1065): Hearing Before the Subcomms. on Civil and Human Services and Workforce Protections of the H. Comm. on Ed. & Lab., 117th Cong. (2021)*; <https://www.abetterbalance.org/resources/written-testimony-in-support-of-pregnant-workers-fairness-act-and-pump-act-for-fighting-for-fairness-congressional-hearing/> (testimony of Dina Bakst, A Better Balance Co-Founder & Co-President).

³ Liz Morris, Jessica Lee, and Joan Williams, Center for WorkLife Law, *Exposed: Discrimination Against Breastfeeding Workers* (January 1, 2019). UC Hastings Research Paper No.328, <http://dx.doi.org/10.2139/ssrn.3341649>.