

NFIB Pennsylvania

National Federation of
Independent Business

STATEMENT OF THE
NATIONAL FEDERATION OF INDEPENDENT BUSINESS
ON
WORK PLACE SAFETY
BEFORE THE
HOUSE LABOR RELATIONS COMMITTEE
NOVEMBER 30, 1989

GOOD AFTERNOON, MY NAME IS TIM LYDEN. I AM THE STATE DIRECTOR FOR NFIB PENNSYLVANIA.

NFIB IS THE LARGEST SMALL BUSINESS ORGANIZATION IN PENNSYLVANIA AND THE NATION, REPRESENTING OVER A HALF MILLION SMALL BUSINESS OWNERS NATIONWIDE AND OVER 21,000 SMALL BUSINESS OWNERS HERE IN THE COMMONWEALTH. OUR MEMBERS ARE FROM ALL SECTORS OF THE ECONOMY. THEIR COMMON TIE IS THEIR SIZE--THEY ARE ALL SMALL INDEPENDENT BUSINESSES.

I APPRECIATE THIS OPPORTUNITY TO PRESENT TESTIMONY CONCERNING HOUSE BILLS 1012, 1013, 1030, THE PROPOSED WORKPLACE SAFETY BILLS. THIS LEGISLATION IS OF INTEREST AND CONCERN TO THE SMALL BUSINESS COMMUNITY.

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The Guardian of
Small Business

AS YOU MAY KNOW, NFIB IS UNIQUE AMONG BUSINESS ORGANIZATIONS IN THAT WE GO DIRECTLY TO OUR MEMBERSHIP TO ESTABLISH A POSITION ON ANY GIVEN ISSUE. TO THIS END, WE SURVEY OUR MEMBERSHIP, TALLY THE RESPONSES AND BASE OUR POSITION ON A MAJORITY OF THE RESPONSES. WE ARE CURRENTLY IN THE PROCESS OF SURVEYING OUR MEMBERSHIP ON THE PROPOSED WORK PLACE SAFETY BILLS AND WILL HAVE A POSITION IN THE VERY NEAR FUTURE. HOWEVER, IN THE INTERIM, THERE IS SOME CONCERN WITH THIS LEGISLATION WHICH HAS PROMPTED OUR SURVEY.

OUR CONCERN CENTERS AROUND THE POSSIBILITY THAT THESE PROPOSALS MAY ERODE THE BASIC PREMISE OF PENNSYLVANIA'S WORKER'S COMPENSATION SYSTEM—THAT IT IS THE EXCLUSIVE REMEDY FOR A WORKER'S INJURIES. THE WORKER'S COMPENSATION SYSTEM WAS ESTABLISHED AS A MEANS FOR INJURED WORKER'S TO OBTAIN COMPENSATION FOR THEIR INJURIES REGARDLESS OF FAULT. IT REMOVED THE NEED FOR WORKERS TO FILE LAWSUITS IN ORDER TO GAIN COMPENSATION; AND IN ITS PLACE, PROVIDED A PRACTICAL SOLUTION TO THE PROVISION OF COMPENSATION FOR INJURED WORKERS EVEN IF THE INJURY WAS DUE TO THE WORKER'S OWN NEGLIGENCE. THE WORKER'S COMPENSATION SYSTEM RECOGNIZED, THEN AS IT DOES NOW, THAT IT IS MORE IMPORTANT THAT AN INJURED WORKER BE GIVEN A MEANS TO RECEIVE COMPENSATION THAN DETERMING WHICH PARTY WAS AT FAULT FOR THE INJURY. IN ADDITION, OSHA IS IN EXISTENCE TO DEVELOP AND ENFORCE STANDARDS FOR SAFE WORKPLACES. EMPLOYERS MUST COMPLY WITH THESE STANDARDS.

SMALL BUSINESS OWNERS AS ANY OTHER REASONABLE PERSONS ARE NOT DISINTERESTED ABOUT SAFETY IN THE WORKPLACE. WE SHOULD ALL CARE ABOUT SAFETY AND SMALL BUSINESS OWNERS ARE NO DIFFERENT. WE FEEL THAT THOSE EMPLOYERS THAT DO NOT PROVIDE SAFE WORKPLACES SHOULD BE SUBJECT TO PENALTY UNDER THE WORKPLACE PROTECTIONS THAT ARE ALREADY IN PLACE. FOR EXAMPLE, WORKER'S

COMPENSATION PREMIUMS ARE FOR MANY SMALL BUSINESSES, BASED ON THEIR SAFETY EFFECTIVENESS. THIS CREATES A BUILT-IN ECONOMIC INCENTIVE FOR EMPLOYERS TO MAINTAIN A SAFE WORKPLACE.

WE ARE CONCERNED ABOUT THE FACT THAT THE WORKPLACE SAFETY BILLS BEING CONSIDERED WILL ALLOW EMPLOYEES TO SUE THEIR EMPLOYERS AND ALLOW EMPLOYEES TO SUE EVEN IF THE EMPLOYER DID NOT INTEND TO HARM THE EMPLOYEE. FURTHERMORE, THESE BILLS ALLOW FOR AN EMPLOYEE TO FILE A CLAIM UNDER THE WORKER'S COMPENSATION SYSTEM AND SIMULTANEOUSLY FILE SUIT AGAINST THEIR EMPLOYER. WE ARE CONCERNED THAT CIVIL LAWSUITS IN THIS AREA MAY NEEDLESSLY DUPLICATE EFFORT AND ONLY SERVE TO FURTHER TIE UP ALREADY CLOGGED COURT DOCKETS. IF AN EMPLOYEE IS LEGITIMATELY INJURED, EVEN IF THE INJURY WAS THE EMPLOYEE'S FAULT, THAT EMPLOYEE WILL RECEIVE COMPENSATION FOR HIS OR HER INJURY FROM THE WORKER'S COMPENSATION SYSTEM. INJURIES WILL COST THE EMPLOYER IN INCREASED WORKER'S COMPENSATION PREMIUMS AND LOSS OF PRODUCTIVE EMPLOYEES. IN SUM, WE ARE VERY CONCERNED THAT ALLOWING EMPLOYEE LAWSUITS MAY NOT ONLY UNDERMINE THE ORIGINAL INTENT OF THE WORKER'S COMPENSATION SYSTEM; BUT, MAY FURTHER INCREASE THE COST OF DOING BUSINESS IN PENNSYLVANIA WITHOUT CREATING ANY ADDITIONAL DETERENT AGAINST UNSAFE WORKPLACES.

MOREOVER, WE ARE CONFUSED ABOUT THE INTENDED IMPACT OF THIS LEGISLATION. ARE THE PROPONENTS ABANDONING OUR WORKER'S COMPESATION SYSTEM AS A LEGITIMATE MEANS TO COMPENSATE EMPLOYEES FOR THEIR INJURIES? OR, ARE PROPONENTS TRYING TO OPEN UP A NEW AREA OF TORT LAW? IF WE ARE TO MOVE IN THE DIRECTION OF GAINING COMPENSATION THROUGH THE TORT SYSTEM, SHOULDN'T THE FOLLOWING QUESTIONS ALSO BE RAISED? SHOULD EMPLOYEES BE INELIGIBLE FOR WORKER'S COMPENSATION IF THEIR INJURY WAS DUE TO THEIR OWN NEGLIGENCE? SHOULD EMPLOYERS BE ALLOWED TO SUE EMPLOYEES WHO REMOVE SAFETY GUARDS OR CREATE OTHER

UNSAFE CONDITIONS EITHER IN PROTEST OR FOR THEIR OWN CONVENIENCE? WE ARE NOT SURE IF THIS IS A GOOD DIRECTION IN WHICH TO TRAVEL. BUT, IN THE INTEREST OF FAIRNESS SHOULDN'T LAWSUITS IN THESE AREAS ALSO BE CONSIDERED? IN THE FINAL ANALYSIS, WE ARE WORRIED ABOUT THE NEGATIVE IMPACT TORT PROCEEDINGS MAY HAVE ON OUR WORKER'S COMPENSATION SYSTEM. WE ARE NOT SURE THAT CIVIL ACTIONS WILL PROVIDE ANY ADDITIONAL DETTERENT AGAINST WORKER INJURIES AND IN THE END MAY INTRODUCE COSTS THAT OUTWEIGH ANY INTENDED BENEFITS.

AGAIN, I WANT TO THANK YOU FOR THE OPPORTUNITY TO APPEAR HERE TODAY. ALTHOUGH WE CANNOT OFFER AN OFFICIAL POSITION AT THIS TIME, WORKPLACE SAFETY IS AN ISSUE OF GREAT CONCERN TO SMALL BUSINESS. ACCORDINGLY, WE WILL BE SURE TO SHARE OUR POSITION WITH THE COMMITTEE AS SOON AS IT IS OBTAINED.