



May 18, 2022

The Honorable Bobby Scott  
Chairman  
Committee on Education and Labor  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Virginia Foxx  
Ranking Member  
Committee on Education and Labor  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Scott and Ranking Member Foxx:

The U.S. Chamber of Commerce opposes H.R. 7701, the “Wage Theft Prevention and Wage Recovery Act,” which would hinder employees from receiving their due compensation and inhibit the use of arbitration procedures that have been shown to be highly efficient and cost effective.

While sounding benign and well meaning, the provisions on requiring pay disclosures and paystubs are redundant with rights covered under state law. Adding federal requirements would add complexity and confusion without actually improving worker protections.

Similarly, increasing the financial consequences for violations makes a great headline, but the actual impact on low-wage workers will not be to their advantage. Employers faced with such massive damages and penalties will most likely choose to challenge the citations and allegations and pursue a litigation approach. Payment of back wages would be delayed by years. The plaintiff’s bar will collect more fees, but low-wage workers may see scant returns or nothing at all. The proposed increases also are inflexible with no room for discretion based on the size of business or the type of violation.

The ultimate goal of this bill is to promote expensive class action litigation that does little to help businesses and employees by precluding the enforcement of predispute arbitration clauses. Such litigation serves principally to benefit the attorneys who file class action lawsuits. Arbitration is a fair, effective, and less expensive means of resolving disputes compared to going to court. Empirical studies demonstrate that employees in arbitration do just as well, or in many circumstances, considerably better, than in court. For example, recent studies have found that employees in arbitration prevail three times more often, win more money, and resolve their claims much faster than in litigation.<sup>1</sup> Studies have also shown that class action settlements frequently provide only a pittance – or many

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<sup>1</sup> See Fairer, Faster, Better III: An Empirical Assessment of Consumer and Employment Arbitration (March 2022) available at <https://institutelegalreform.com/research/update-an-empirical-assessment-of-consumer-employment-cases-in-arbitration-litigation/>.

times, nothing at all – to class members while millions of dollars are paid to their attorneys.<sup>2</sup>

Finally, the bill's Grant Program would deputize advocates to help conduct investigations. This would eradicate the long tradition of employers voluntarily cooperating with agency investigations, producing documents, and welcoming investigators into their worksites. If the Department of Labor brings along unions and advocates, employers would likely stop cooperating and insist on search warrants and document subpoenas, in accordance with the Fourth Amendment. Again, more complexity, longer investigations, and more litigation will harm low-wage workers by delaying payment of wages.

The Chamber urges the Committee not to approve the Wage Theft Prevention and Wage Recovery Act.

Sincerely,



Neil L. Bradley  
Executive Vice President, Chief Policy Officer,  
and Head of Strategic Advocacy  
U.S. Chamber of Commerce

cc: Members of the House Committee on Education and Labor

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<sup>2</sup> See Do Class Actions Benefit Class Members? An Empirical Analysis of Class Actions (Dec. 11, 2013) available at <https://www.mayerbrown.com/files/uploads/documents/pdfs/2013/december/doclassactionsbenefitclassmembers.pdf>.