BILL	S.2127-C (Gianaris)/A.1718-C (Mitaynes)
ISSUE	“Indirect Source Review” program for Warehouses
POSITION	Opposed

The undersigned business organizations from across New York State oppose this bill that would mandate significant new construction and operational standards for “heavy distribution warehouses” (defined as fulfillment centers, parcel hubs and parcel sorting facilities) that are 50,000 ft^2 or larger, or are of any size if owned and operated by an entity that operates in aggregate 500,000 ft^2 or more of heavy distribution warehouse space in New York.

While we recognize the need to manage indirect air emissions, this legislation will have adverse economic development and environmental consequences. It could effectively prevent further warehouse development in New York, eliminating major local investment projects while shifting new development and jobs out of state. It could also increase drive times and distances for serving New York customers, resulting in increased regional and local air emissions.

"Indirect source" refers to buildings, facilities or roads that attract, or may attract, mobile sources of air pollution. As these emissions are not directly released by the facilities, they are outside the scope of facility-based air permitting programs.

Among the bill's provisions:

- new or modified "heavy distribution warehouse" facilities must obtain permits from the state Department of Environmental Conservation (DEC) demonstrating that additional traffic will not result in a violation of, or exacerbation of, any national ambient air quality standard. To qualify for a permit, the facility operator must demonstrate that it has not violated any similar indirect source emissions rule "or any other federal, state or local air quality standards related to its logistics operations" in the two years prior to applying for such permits.

- new warehouses must meet the U.S. Green Building Council's LEED silver, gold or platinum standards, or any functionally equivalent standard.

- DEC is directed to adopt additional regulations, within eighteen months of the bill's effective date, for further emission reductions, which could include measure such as use of zero-emission vehicles, use of "alternatives to truck or van trips" for incoming and outgoing deliveries, installing solar generation and energy storage equipment, or others. These rules will also require notifications to a facility's employees about pending job changes, related training opportunities, and other information, and specifically require prior agreement by any affected union. These rules will also require enhanced operational reporting, with public disclosure.

- DEC is also required to, within eighteen months of the bill's approval, report on the feasibility, costs and benefits of implementing "low and zero-emissions designated zones" for medium and heavy-duty vehicles, including delivery vehicles.

While the bill is intended to regulate air emissions from vehicles associated with heavy distribution warehouse facilities, it goes well beyond that focus by addressing building standards, and employment and operations mechanisms.

Because of this bill's broad scope, impacting new and existing facilities statewide, and its lack of specifics (leaving significant discretion to DEC to devise and impose operational mandates on warehouses), we believe the bill needs additional stakeholder input regarding impacts on local zoning laws and grid reliability, the availability of new technologies, and its impact on statewide economic development and on e-commerce customers.

Its impact on the cost and timetable for developing new facilities could significantly reduce construction of new warehouses and impede improvements to existing warehouses, impeding local economic development efforts and pushing growth into neighboring states, resulting in increased drive times and distance to serve New York customers. These added delivery distances disrupt a complex delivery network and could result in increased emissions and congestion – the opposite of the bill's stated purpose.

This legislation could impair green alternatives in last mile delivery. For example, there is growing popularity to deliver via e-bikes in urban centers, but if micromobility hubs (which tend to be much smaller) are captured under this legislation (which they would, if owned by a business that exceeds the aggregate applicability threshold), businesses may halt these investments due to the bill's enhanced standards, resulting in packages continuing to be delivered from out of state via trucks and vans.

We also believe this bill encroaches on local land use decision-making. Local governments are better equipped to manage land use and zoning issues and evaluate proposed development projects. Since the impacts of warehouse-related emissions are not consistent across the state, mitigation solutions should be tailored locally to both effectively manage air quality and optimize economic development opportunities.

Finally, the requirements of this proposed bill would significantly impact development investment within New York. E-commerce and distribution businesses contribute substantially to local economies by creating high-quality jobs, by growing the tax base, and through other direct and indirect investments in the community. Reduced development will have an adverse impact on regional economies within the state.

For these reasons, our organizations oppose adoption of S.2127-C/A.1718-C.

Associated Builders and Contractors Inc., Empire State Chapter
Buffalo Niagara Partnership
Business Council of New York State
Business Council of Westchester
Capital Region Chamber of Commerce
CenterState CEO
Food Industry Alliance of NY
Greater Rochester Chamber of Commerce
Long Island Association
Manhattan Chamber of Commerce
New York Construction Materials Association
Orange County Partnership
Orange County Chamber of Commerce
Trucking Association of New York
Upstate United