General Assembly

January Session, 2023

Offered by:
SEN. KUSHNER, 24th Dist.
REP. SANCHEZ E., 24th Dist.

To: Subst. Senate Bill No. 152 File No. 661 Cal. No. 267

"AN ACT CONCERNING THE PROTECTION OF WAREHOUSE WORKERS."

1 Strike everything after the enacting clause and substitute the following in lieu thereof:

2 "Section 1. (NEW) (Effective July 1, 2025) As used in this section and sections 2 to 4, inclusive, of this act:

3 (1) "Employee" means an individual engaged in service to an employer in a business of the employer. "Employee" does not include a driver or courier traveling to or from a warehouse distribution center;

4 (2) "Work speed data" means any information an employer collects, stores, analyzes or interprets relating to an employee's performance of a quota, including, but not limited to, quantities of tasks performed, quantities of items or materials handled or produced, rates or speeds of tasks performed or measurements of employee performance in relation to a quota and time categorized as performing tasks or not performing
tasks;

(3) "Employer" means an individual, corporation, partnership, limited partnership, limited liability partnership, limited liability company, business trust, estate, trust, association, joint venture, agency, instrumentality, or any other legal or commercial entity, whether domestic or foreign, that directly or indirectly, or through an agent or any other person, including through the services of a third-party employer, temporary services, staffing agency, independent contractor or any similar entity, at any time in the prior twelve months, employs or exercises control over the wages, hours or working conditions of (A) one hundred or more employees at a single warehouse distribution center in the state, or (B) one thousand or more employees, in the aggregate, at one or more warehouse distribution centers in the state that are owned and operated by the same individual, partnership, corporation, limited liability company, association of persons or other business entity;

(4) "Quota" means a performance standard or performance target under which (A) an employee is assigned or required, within a defined time period, to perform a quantified number of tasks or at a specified productivity speed or to handle or produce a quantified amount of material without a certain number of errors or defects, as measured at the individual or group level within a defined time period, and for which the employee may suffer an adverse employment action if such employee fails to complete such performance standard or performance target, (B) an employee's actions are categorized and measured between time performing tasks and not performing tasks within a day, and such employee may suffer an adverse employment action if such employee fails to complete such performance standard or performance target, or (C) an employee's performance is ranked in relation to the performance of other employees and for which the employee may suffer an adverse employment action if such employee falls below a certain rank among other employees in the facility; and

(5) "Warehouse distribution center" means an establishment as
defined by any of the following North American Industry Classification System Codes: (A) 493110 for General Warehousing and Storage; (B) 423 for Merchant Wholesalers, Durable Goods; (C) 424 for Merchant Wholesalers, Nondurable Goods; (D) 454110 for Electronic Shopping and Mail-Order Houses; or (E) 492110 for Couriers and Express Delivery Services.

Sec. 2. (NEW) (Effective July 1, 2025) (a) Not later than August 1, 2025, an employer shall provide each employee with a written description of each quota that the employee is subject to, including any potential adverse employment action that may result from a failure to satisfy such quota. On and after August 1, 2025, an employer shall provide such written description of each quota to each person hired by such employer.

(b) Any time there is a change to a quota that results in a quota that differs from the most recent written description provided to an employee pursuant to subsection (a) of this section, an employer shall (1) notify the employee of such change as soon as possible, either verbally or in writing, prior to such employee becoming subject to the new quota, and (2) provide the employee with an updated written description of each quota such employee is subject to not later than two business days after such change in the quota.

Sec. 3. (NEW) (Effective July 1, 2025) (a) No employee shall be required to meet any quota that (1) prevents compliance with section 31-51ii of the general statutes concerning meal periods, (2) interferes with the employee's use of bathroom facilities, including the reasonable time to travel to and from bathroom facilities, or (3) measures total output over an increment of time that is shorter than one day.

(b) No employer shall take any adverse employment action against an employee for failure to meet (1) a quota that prevents compliance as described in subdivision (1) of subsection (a) of this section, (2) a quota that interferes with an employee's use of bathroom facilities pursuant to subdivision (2) of subsection (a) of this section, (3) a quota that has not
been previously provided to an employee as part of the written
descriptions of each quota pursuant to section 2 of this act, or (4) a daily
quota if the employee did not complete such employee's entire
scheduled shift.

(c) (1) If a current or former employee believes that meeting a quota
caused or will cause a violation of subsection (a) of this section, such
employee may request, from such employee's supervisor, or another
designated supervisor, (A) the written description of each quota that
such employee is subject to, (B) a copy of such employee's own personal
work speed data for the most recent ninety days, and (C) a copy of the
aggregate work speed data for similar employees at the same employer
for the same time period. Such request may be made orally or in writing.
If a former employee requests the written description of each quota that
the former employee was subject to and a copy of such former
employee's own personal work speed data pursuant to this subsection,
the employer shall provide such former employee's quotas and personal
work speed data for the ninety days prior to the date of the employee's
separation from employment with the employer. A former employee
may only make one request under this subsection.

(2) An employer that receives a written or oral request for
information under this subsection shall provide such written
description of each quota and such employee's personal work speed
data not later than five calendar days after the date of the request. Such
employer shall provide the requested written description of any quota
or personal work speed data in English and the language identified by
each employee as the primary language of such employee.

(3) Each employer shall establish, maintain and preserve true and
accurate records of such information for a period of three years.

(4) Nothing in this section shall require an employer to use quotas or
monitor work speed data. An employer that does not monitor such data
shall not be obligated to provide such data to such employer's
employees.
(d) (1) If an employer in any manner discriminates, retaliates or takes any adverse action against any employee not later than ninety days after such employee (A) makes a request for the written description of each quota or such employee's own personal work speed data pursuant to subsection (c) of this section, or (B) files a civil action related to a quota, alleging a violation pursuant to subsection (e) of this section, there shall be a rebuttable presumption of an adverse employment action in violation of this section.

(2) Such presumption may be rebutted by clear and convincing evidence that (A) the adverse action was taken for other permissible reasons, and (B) the employee (i) making or attempting to make a request pursuant to subsection (c) of this section, or (ii) filing or attempting to file a civil action pursuant to subsection (e) of this section was not a motivating factor in the employer taking such adverse action.

(e) Any employee aggrieved by a violation of any provision of this section, or the Attorney General on behalf of any employee aggrieved by a violation of any provision of this section, may bring a civil action in the Superior Court to recover damages, civil penalties and such equitable and injunctive relief as the court deems appropriate. Any person who prevails in such civil action may be awarded reasonable attorney's fees and cost to be taxed by the court. Exhaustion of any available administrative remedies shall not be required prior to commencement of suit under this section.

(f) Any employer who violates a provision of this section and section 2 of this act may be assessed a civil penalty by the court of (1) one thousand dollars for a first violation, (2) two thousand dollars for a second violation, or (3) three thousand dollars for a third or subsequent violations.

Sec. 4. (NEW) (Effective July 1, 2025) The Workers' Compensation Commission shall monitor the injury rates for each employer, as defined in section 1 of this act. If an employer is found to have an annual employee injury rate at or over one and one-half times the warehousing
industry's average annual injury rate, the Workers' Compensation Commission shall notify the Labor Commissioner and the commissioner shall determine whether an investigation concerning potential violations of sections 2 and 3 of this act is appropriate."

This act shall take effect as follows and shall amend the following sections:

| Section 1 | July 1, 2025 | New section |
| Sec. 2    | July 1, 2025 | New section |
| Sec. 3    | July 1, 2025 | New section |
| Sec. 4    | July 1, 2025 | New section |