
OLR Bill Analysis

sSB 412

AN ACT CONCERNING THE PROTECTION OF WAREHOUSE WORKERS IN THE STATE.

SUMMARY

Starting July 1, 2025, this bill limits the extent to which certain warehouse distribution centers can require their employees to meet production quotas. It generally applies to employers that employ at least (1) 100 employees at a single warehouse distribution center in the state or (2) 1,000 employees, in total, at multiple warehouse distribution centers in the state that are owned and operated by the same business entity.

Among other things, the bill:

1. requires the covered employers to give their employees a written description of the quotas they must meet and any possible adverse employment actions they may face for failing to do so;
2. prohibits the employers from using quotas that (a) violate the state law on meal periods, (b) interfere with the employee using bathroom facilities, or (c) use certain methods to measure work; and
3. sets recordkeeping requirements for employers and requires them to give copies of their quota records to current or former employees who believe that meeting a quota caused a violation of certain provisions in the bill.

The bill allows an employee aggrieved by a violation of the bill's provisions to bring a civil action in Superior Court, which may assess civil penalties for violations. It also prohibits employers from discharging or retaliating against employees solely because they

requested their quota records or filed a civil action, and creates a rebuttable presumption that a violation occurred if this happens within 90 days after the request or filing.

Lastly, the bill requires the Workers' Compensation Commission to monitor and report on injury rates of employees in warehouse distribution centers in the state.

EFFECTIVE DATE: October 1, 2024

COVERED EMPLOYERS AND EMPLOYEES

The employers covered by the bill are any domestic or foreign legal or commercial entities that over the previous 12 months employed or exercised control over the wages, hours, or working conditions of at least (1) 100 employees at a single warehouse distribution center in the state or (2) 1,000 employees, in total, at multiple warehouse distribution centers in the state that are owned and operated by the same person, partnership, corporation, limited liability company, association, or other business entity. The employer's exercise of control over the employees may be direct or indirect, or through an agent or another entity, including through the services of a third-party employer, temporary services or staffing agency, independent contractor, or any similar entity.

Under the bill, a warehouse distribution center is an establishment as defined by North American Industry Classification System Code: (1) 493110 for General Warehousing and Storage; (2) 423 for Merchant Wholesalers, Durable Goods; (3) 424 for Merchant Wholesalers, Nondurable Goods; (4) 454110 for Electronic Shopping and Mail-Order Houses; or (5) 492110 for Couriers and Express Delivery Services.

"Employees" under the bill are anyone engaged in service to an employer in the employer's business, but they do not include drivers or couriers traveling to or from a warehouse distribution center.

QUOTAS

Under the bill, a "quota" is a work performance standard or target where:

1. an employee is assigned or required to (a) perform a certain number of tasks within a defined time period, (b) perform at a specified productivity speed, or (c) handle or produce a certain amount of material without a certain number of errors or defects, as measured at the individual or group level within a defined period;
2. an employee's actions are categorized and measured between time performing tasks and time not performing tasks;
3. an employee's performance is ranked in relation to other employees; or
4. increments of time are continuously measured, recorded, or tallied within an employee's work day where the employee is or is not doing a particular activity or set of activities.

Disclosure

Starting July 1, 2025, the bill requires covered employers to give employees a written description of each quota they are subject to, including any potential adverse employment action that could result from failing to meet it. The employers must do so by August 1, 2025, for existing employees and at the time of hire for new employees after that date.

Whenever an employer changes an employee's quota from its most recent written description, the bill requires the employer to (1) notify the employee about the change as soon as possible, but before the employee becomes subject to the quota, and (2) give the employee an updated written description of each quota he or she is subject to within two business days after the quota changes.

The bill requires that the written copy of these quotas be given directly to the employee by a manager during the employee's work hours.

Prohibited Quotas

Starting July 1, 2025, the bill prohibits quotas from doing the

following:

1. violating the state's law on required meal periods;
2. interfering with an employee's use of bathroom facilities, including reasonable time to travel to and from them;
3. measuring an employee's total output over an increment shorter than the employee's work day;
4. being based solely on ranked performance in relation to other employees; or
5. measuring, recording, or tallying increments of time during an employee's work day where the employee is or is not performing a particular activity or set of activities.

The bill also prohibits employers from taking any adverse action against an employee for failing to meet a quota (1) that violates the law on required meal periods; (2) that interferes with the employee's use of bathroom facilities, including travel time; (3) if the employee did not complete his or her entire scheduled shift; or (4) that has not been disclosed as the bill requires.

EMPLOYER RECORDS

Starting July 1, 2025, the bill requires employers to establish, maintain, and preserve contemporaneous, true, and accurate records for (1) each employee's personal work speed data, (2) the aggregate work speed data for similar employees at the same warehouse distribution center, and (3) the written description for each quota that was given to each employee as required by the bill. The employer must maintain and preserve these records for up to three years. However, the bill specifies that these requirements do not apply if the employer does not use quotas or monitor work speed.

Under the bill, "work speed data" is information an employer collects, stores, analyzes, or interprets about an employee's quota performance, such as quantities of tasks performed, quantities of items

or materials handled or produced, rates or speeds of tasks performed, measurements of employee performance in relation to a quota, or time categorized as performing tasks or not performing tasks.

EMPLOYEE ACCESS TO WORK SPEED DATA

Starting July 1, 2025, if current or former employees believe that meeting a quota caused or will cause a violation of the bill's provisions on prohibited quotas, the bill allows them to request certain data for the past 90 days (or for former employees, the 90 days before their separation from employment). Specifically, an employee may request (1) written descriptions of each quota they were subject to, (2) copies of their personal work speed data records, and (3) copies of the aggregate work speed data records for similar employees at the same employer for the same period.

Under the bill, current employees may request this information from their supervisor or another designated supervisor, and former employees may request it from their former employer. The bill also limits former employees to one request.

The bill requires employers to provide a written copy of the requested records within five calendar days after receiving the request. They must be (1) written in English and the language the employee identifies as his or her primary language and (2) given directly to the employee during his or her work hours (the bill does not specify how former employees must receive the records).

Anti-retaliation

Starting July 1, 2025, the bill also prohibits employers from discharging or retaliating, discriminating, or taking any adverse action against an employee or former employee solely because he or she requested their quotas and work speed data or filed a civil action as allowed by the bill (see below). It creates a rebuttable presumption that an adverse action violates this prohibition if it occurs within 90 days after the request or filing.

The presumption may be rebutted by clear and convincing evidence

that the (1) adverse action was taken for other permissible reasons and (2) employee's request or filing was not a motivating factor for the employer's action.

CIVIL ACTIONS

Starting July 1, 2025, the bill allows any employee aggrieved by a violation of the bill's provisions, or the attorney general on the employee's behalf, to bring a civil action in Superior Court to recover damages, civil penalties, and equitable and injunctive relief. Anyone who prevails in the case may be awarded attorney's fees. The court may also assess civil penalties against an employer of \$1,000 for its first violation, \$2,000 for its second, and \$3,000 for a third or subsequent violation.

INJURY RATE MONITORING

The bill requires the Workers' Compensation Commission to monitor injury rates of employees in warehouse distribution centers in the state. If an employer has an annual injury rate more than 1.5 times the warehousing industry's average annual injury rate, the commission must notify the labor commissioner, who must decide whether an investigation for potential violations of the bill is appropriate (it is unclear how this provision would be implemented, as the bill does not give the labor commissioner any investigative or enforcement authority over the bill's provisions and the federal Department of Labor would be responsible for enforcing any safety violations under OSHA).

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 8 Nay 4 (03/21/2024)