



Senate

General Assembly

File No. 354

February Session, 2024

Substitute Senate Bill No. 412

Senate, April 9, 2024

The Committee on Labor and Public Employees reported through SEN. KUSHNER of the 24th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

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

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2024*) As used in this section and
2 sections 2 to 8, inclusive, of this act:

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

6 (2) "Employer" means an individual, corporation, partnership,
7 limited partnership, limited liability partnership, limited liability
8 company, business trust, estate, trust, association, joint venture, agency,
9 instrumentality or any other legal or commercial entity, whether
10 domestic or foreign, that directly or indirectly, or through an agent or
11 any other person, including through the services of a third-party
12 employer, temporary services, staffing agency, independent contractor

13 or any similar entity, at any time in the prior twelve months, employs
14 or exercises control over the wages, hours or working conditions of (A)
15 one hundred or more employees at a single warehouse distribution
16 center in the state, or (B) one thousand or more employees, in the
17 aggregate, at one or more warehouse distribution centers in the state
18 that are owned and operated by the same individual, partnership,
19 corporation, limited liability company, association of persons or other
20 business entity;

21 (3) "Quota" means a work performance standard or performance
22 target where (A) an employee is assigned or required to (i) perform a
23 quantified number of tasks within a defined time period, (ii) perform at
24 a specified productivity speed, or (iii) handle or produce a quantified
25 amount of material without a certain number of errors or defects as
26 measured at the individual or group level within a defined time period,
27 (B) an employee's actions are categorized and measured between time
28 performing tasks and not performing tasks, (C) an employee's
29 performance is ranked in relation to the performance of other
30 employees, or (D) increments of time are continuously measured,
31 recorded or tallied within an employee's work day where such
32 employee is or is not doing a particular activity or set of activities;

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

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

46 Services.

47 Sec. 2. (NEW) (*Effective October 1, 2024*) (a) On and after July 1, 2025,
48 each employer shall provide to each employee not later than August 1,
49 2025, or, for an employee hired on or after August 1, 2025, upon hire, a
50 written description of each quota such employee is or will be subject to,
51 including any potential adverse employment action that may result
52 from a failure to meet each quota.

53 (b) Whenever the employer makes a change to a quota and such
54 change results in a different quota for an employee than the most recent
55 written description provided to the employee pursuant to subsection (a)
56 of this section, an employer shall:

57 (1) Notify the employee of such change as soon as possible, either
58 verbally or in writing, prior to such employee becoming subject to the
59 new quota; and

60 (2) Provide the employee with an updated written description of each
61 quota for which such employee is subject to not later than two business
62 days after such quota change.

63 (c) An employer shall provide a written copy of any quota required
64 pursuant to this section to an employee. Such written copy shall be
65 provided directly to such employee by a manager during such
66 employee's work hours.

67 Sec. 3. (NEW) (*Effective October 1, 2024*) (a) On and after July 1, 2025,
68 no quota shall: (1) Violate the provisions of section 31-51ii of the general
69 statutes concerning meal periods; (2) interfere with an employee's use
70 of the bathroom facilities, including reasonable travel time to and from
71 the bathroom facilities; (3) measure an employee's total output over an
72 increment of time that is shorter than such employee's work day; (4) be
73 based solely on ranking the performance of an employee in relation to
74 the performance of other employees; or (5) measure, record or tally
75 increments of time during an employee's work day where such
76 employee is or is not performing a particular activity or set of activities.

77 (b) No employer shall take any adverse action against an employee
78 for failing to meet a quota (1) that violates the provisions of section 31-
79 51ii of the general statutes as described in subdivision (1) of subsection
80 (a) of this section, (2) that interferes with the employee's use of bathroom
81 facilities, including reasonable time to travel to and from the bathroom
82 facilities, (3) if such employee did not complete such employee's entire
83 scheduled shift, or (4) that has not been previously provided to an
84 employee pursuant to section 2 of this act.

85 Sec. 4. (NEW) (*Effective October 1, 2024*) (a) On and after July 1, 2025,
86 each employer shall establish, maintain and preserve contemporaneous,
87 true and accurate records of the following: (1) Each employee's own
88 personal work speed data; (2) the aggregate work speed data for similar
89 employees at the same warehouse distribution center; and (3) the
90 written description of each quota that each employee was provided
91 pursuant to section 2 of this act.

92 (b) An employer shall maintain and preserve any records required
93 pursuant to this section for a period of not more than three years.

94 (c) Nothing in this section shall require an employer to establish,
95 maintain and preserve the records required pursuant to this section if
96 such employer does not use quotas or monitor work speed data.

97 Sec. 5. (NEW) (*Effective October 1, 2024*) (a) On and after July 1, 2025,
98 if an employee believes meeting a quota caused or will cause a violation
99 of subsection (a) of section 3 of this act, such employee may request from
100 such employee's supervisor, or another designated supervisor: (1) A
101 written description of each quota the employee is subject to; (2) a copy
102 of any records of the employee's own personal work speed data for the
103 ninety days prior to such request; and (3) a copy of any records of
104 aggregated work speed data for similar employees at the same
105 employer for the ninety days prior to such request.

106 (b) On and after July 1, 2025, a former employee may request from a
107 former employer: (1) A written description of each quota the employee
108 was subject to for the ninety days prior to the date of such employee's

109 separation from employment; (2) a copy of any records of the
110 employee's own personal work speed data for the ninety days prior to
111 such employee's separation from employment; and (3) a copy of any
112 records of aggregated work speed data for similar employees at the
113 same warehouse distribution center for the ninety days prior to the
114 employee's separation from employment. A former employee may only
115 make one such request of such former employer under this section.

116 (c) An employer shall provide a written copy of any records
117 requested pursuant to this section not later than five calendar days after
118 receipt of such request. Such written copy shall be provided in both
119 English and the language identified by the requesting employee as the
120 primary language of such employee. Such written copy shall be
121 provided directly to such employee by a manager during such
122 employee's work hours.

123 Sec. 6. (NEW) (*Effective October 1, 2024*) (a) On and after July 1, 2025,
124 no employer shall discharge or in any way retaliate, discriminate or take
125 any adverse action against any employee or former employee solely due
126 to such employee (1) making a request pursuant to section 5 of this act,
127 or (2) filing a civil action pursuant to section 7 of this act.

128 (b) (1) On and after July 1, 2025, if an employer discharges or in any
129 way retaliates, discriminates or takes any adverse action against any
130 employee or former employee within ninety days after such employee
131 (A) makes a request pursuant to section 5 of this act, or (B) files a civil
132 action pursuant to section 7 of this act, there shall be a rebuttable
133 presumption that such adverse action is in violation of this section.

134 (2) Such presumption may be rebutted by clear and convincing
135 evidence that (1) the adverse action was taken for other permissible
136 reasons, and (2) the employee (A) making or attempting to make a
137 request pursuant to section 5 of this act, or (B) filing a civil action
138 pursuant to section 7 of this act was not a motivating factor in the
139 employer taking such adverse action.

140 Sec. 7. (NEW) (*Effective October 1, 2024*) (a) On and after July 1, 2025,

141 any employee aggrieved by a violation of sections 2 to 6, inclusive, of
 142 this act, or the Attorney General on behalf of any employee aggrieved
 143 by a violation of sections 2 to 6, inclusive, of this act, may bring a civil
 144 action in the Superior Court to recover damages, civil penalties and such
 145 equitable and injunctive relief as the court deems appropriate. Any
 146 person who prevails in such civil action may be awarded reasonable
 147 attorney's fees and cost to be taxed by the court.

148 (b) Any employer who violates a provision of sections 2 to 6,
 149 inclusive, of this act may be assessed a civil penalty by the court of (1)
 150 one thousand dollars for a first violation, (2) two thousand dollars for a
 151 second violation, or (3) three thousand dollars for a third or subsequent
 152 violations.

153 Sec. 8. (NEW) (*Effective October 1, 2024*) On and after July 1, 2025, the
 154 Workers' Compensation Commission shall monitor the injury rates of
 155 employees working in warehouse distribution centers in the state. If an
 156 employer is found to have an annual injury rate at or over one and one-
 157 half times the warehousing industry's average annual injury rate, the
 158 Workers' Compensation Commission shall notify the Labor
 159 Commissioner and the commissioner shall determine whether an
 160 investigation concerning potential violations of sections 2 to 6, inclusive,
 161 of this act is appropriate.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2024</i>	New section
Sec. 2	<i>October 1, 2024</i>	New section
Sec. 3	<i>October 1, 2024</i>	New section
Sec. 4	<i>October 1, 2024</i>	New section
Sec. 5	<i>October 1, 2024</i>	New section
Sec. 6	<i>October 1, 2024</i>	New section
Sec. 7	<i>October 1, 2024</i>	New section
Sec. 8	<i>October 1, 2024</i>	New section

Statement of Legislative Commissioners:

In Section 2(b)(2), "change in the quota" was changed to "quota change" for clarity; in Section 4(c), "under this section" was changed to "pursuant to this section" for consistency with standard drafting conventions; in Section 5(a), in Subdiv. (2) "prior ninety days" was changed to "ninety days prior to such request" for conformity and Subdiv. (3) was rewritten for conformity; and Section 6(a) was rewritten for clarity.

LAB *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 25 \$	FY 26 \$
Resources of the General Fund	GF - Potential Revenue Gain	None	See Below
Workers' Compensation Com.	WCF - Potential Cost	None	See Below

Note: GF=General Fund; WCF=Workers' Compensation Fund

Municipal Impact: None

Explanation

The bill establishes protections for employees of certain warehouse distribution centers, resulting in the following fiscal impacts beginning in FY 26.

The bill allows covered employees or the Attorney General to bring a civil action in Superior Court for violations of the bill's provisions, resulting in a potential revenue gain to the state. Violations may be subject to civil penalties of up to \$3,000.¹ These cases are not expected to result in a cost to the Attorney General or the courts.²

The bill also requires the Workers' Compensation Commission (WCC) to monitor injury rates at warehouse distribution centers, resulting in a potential cost to the state. The exact cost will depend on the extent to which WCC requires additional resources to collect this

¹\$1,000 for the first violation, \$2,000 for the second violation, and \$3,000 for the third and subsequent violations.

²The court system disposed of over 263,000 cases in FY 23 and the number of cases is not anticipated to be great enough to need additional resources.

data.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of civil actions brought under this bill.

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)