

HB 4127 -4, -5 STAFF MEASURE SUMMARY

House Committee On Business and Labor

Prepared By: Patrick Brennan, LPRO Analyst

Meeting Dates: 2/7, 2/14

WHAT THE MEASURE DOES:

Sets quotas and guidelines for some warehouse workers. Lets workers file a claim with BOLI if an employer doesn't follow the rules outlined in the bill.

Detailed Summary: Requires covered employer to provide covered employees with a written description of quota to which employee is subject at time of hire, within two business days following date of change in quota, or when employer takes adverse employment action against employee for failing to meet quota. Prohibits employer from: (1) imposing quota that unreasonably interferes with employee right to meal and rest breaks or causes employee to forgo meal and rest breaks under applicable federal and state laws; (2) imposing quota that unreasonably interferes with employee right to use bathroom facilities, including reasonable travel time to and from bathroom facilities; or (3) imposing quota that unreasonably interferes with any right to which an employee entitled under applicable federal or state law relating to occupation health and safety standards. Prohibits employer from taking adverse employment action against employee for failing to meet quota that interfered with or caused employee to forgo meal or rest break or for failing to meet quota for which employee did not receive required written description. Defines terms including employee, covered employer, quota, and covered warehouse distribution centers. Provides right to current and former employees to request copies of records, if employee has been disciplined for failing to meet quota, or that meeting quota resulted in violation of employee's right to meal or rest break, including reasonable travel time to and from bathroom facilities. Specifies content of record for current and former employees. Requires employer to provide current or former employee record free of charge and as soon as practicable, but not later than 21 calendar days after request. Designates violation of this Act as an unlawful practice under ORS 659A. Stipulates that an employee alleging violation may file complaint with Commissioner of the Bureau of Labor and Industries (BOLI). Requires employers to provide a written description of quota and prohibitions against imposing unreasonable quotas or taking adverse employment actions becomes operative 30 days after effective date of measure. Takes effect January 1, 2025.

ISSUES DISCUSSED:

- Complaint process to Bureau of Labor and Industries
- Need for living wage jobs and employment growth
- Benefits of workplace transparency and safety
- Coding used by North American Industry Classification System (NAICS)

EFFECT OF AMENDMENT:

-4 Revises definition of "employee" to remove reference to quotas. Specifies that employer shall provide written documentation in the language the employer regularly uses to communicate with the employee. Deletes language regarding imposition of quotas. Revises language related to adverse employment action to specify employer may not take such action for failure to meet quota for which employee did not receive written documentation; allows employee to file complaint with BOLI to allege violation of this section. Deletes provisions designating violations as unlawful trade practice. Authorizes BOLI to require employer to produce records and subjects employer to civil penalty for failure to comply. Specifies that sections 3 and 4 do not apply to employers subject to a collective bargaining agreement in cases where the terms of that agreement include an employee performance evaluation metric based on established engineering methods and scientific principles and that is subject to review and

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negotiation according to the terms of the agreement. Stipulates that nothing in this measure relieves an employer of obligation to comply with any other provision of law, including ORS 652, 653, and 654.

FISCAL: *Fiscal statement issued on measure w/the -4 amendment*

REVENUE: *No revenue impact on measure w/the -4 amendment*

NOTE: *LFO requests that measure be referred to the Committee on Ways and Means*

-5 Identical to -4 amendment, except that it omits from section 5 reference to employee performance evaluation metric that is based on established engineering methods and scientific principles and subject to review and negotiation.

FISCAL:

REVENUE:

BACKGROUND:

Online shopping with delivery options as quick as a couple hours have led to an increase in the demand for Amazon and other large retailers that utilize large warehouse distribution centers to deliver products to consumers. Warehouse distribution centers employ an increasing proportion of the workforce, with Amazon, as the second-largest private employer in the United States, having more than 950,000 warehouse workers. Warehouse distribution centers allow goods to be transported, stored, and mailed from an organized, centralized location quickly. The increase in utilization of warehouse distribution centers to deliver products to consumer has also led to an increase in awareness of the working conditions within the warehouse distribution centers. According to data available from Occupational Safety and Health Administration (OSHA) and Bureau of Labor Statistics, warehouse workers perform dangerous jobs, demonstrating that workers are injured more frequently than coal miners, lumberjacks, trash collectors, and police officers.

Advocates for warehouse workers cite the use of productivity quotas and productivity metrics as a contributing factor to the elevated injury rate in warehouse distribution centers. Quotas are a requirement that each worker must meet a specific goal or pick a specific number of goods in a specific amount of time. In some instances, warehouse employers use an algorithm and tracking systems to monitor worker productivity throughout the workday, tools that alert employers when workers are taking too many breaks including meal and rest breaks required under wage and hour laws.

Workers at Amazon distribution centers have identified quotas, required workloads, and speeds, managed through a system of constant surveillance contributing to an increase in injury. Amazon workers report, for example, having to scan between 300-400 items per hour in some positions, with their tasks constantly tracked and penalties for time marked as "off-task." Increasing workplace pressures have resulted in injuries to workers' backs, limbs, joints, and mental health. Amazon's records show that its workers are injured on the job at nearly double the average rate of the general warehousing industry. Recent company records show that 88.9 percent of injured workers had to miss work or be placed on restricted duty, and those forced to miss work to recover were out for an average of five-and-a-half weeks.

House Bill 4127 requires covered warehouse distribution centers provide workers with information on quotas they are assigned, prohibits employers from putting in place quotas that prevent workers from taking required meal and rest breaks, provides protections for workers from adverse employment actions, such as disciplinary action or firing because of a failure to meet undisclosed quotas or quotas that do not allow for proper breaks, and allows complaints to be filed with the Commissioner of the Bureau of Labor and Industries for enforcement.