

A-Engrossed
House Bill 4127

Ordered by the House February 20
Including House Amendments dated February 20

Sponsored by Representative RUIZ, Senators MANNING JR, CAMPOS, GORSEK; Representatives BOWMAN, BYNUM, CHAICHI, EVANS, GAMBA, HARTMAN, HELM, HUDSON, LIVELY, NOSSE, REYNOLDS, WALTERS, Senators FREDERICK, GOLDEN, JAMA, PATTERSON, SOLLMAN (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Makes quota guidelines for some warehouse workers. Not following this Act is a reason to make a claim to BOLI. (Flesch Readability Score: 69.7).

Creates rules and standards for warehouse employees' quota requirements. **Creates an exemption for certain employers who are subject to a collective bargaining agreement that meets certain criteria.** Establishes a procedure through Bureau of Labor and Industries if employers violate the Act. **Provides that an employer's failure to comply with requirements shall subject the employer to civil penalties.**

A BILL FOR AN ACT

Relating to protections for warehouse workers; creating new provisions; and amending ORS 653.256.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Sections 2 to 5 of this 2024 Act are added to and made a part of ORS chapter 653.

SECTION 2. Definitions. As used in sections 2 to 5 of this 2024 Act:

(1) **"Defined time period" means any unit of time measurement equal to or less than the duration of an employee's shift, including but not limited to hours, minutes, seconds and any fraction of those units of time.**

(2)(a) **"Employee" means an employee who is subject to federal or state laws relating to minimum wage and overtime and who works at a warehouse distribution center.**

(b) **"Employee" does not include a driver or courier to or from a warehouse distribution center.**

(3) **"Employer" means a person who directly or indirectly, through an agent or any other person, including through the services of a third-party, temporary services or staffing agency or any other similar entity, employs or exercises control over the wages, hours or working conditions of the employees employed at a warehouse distribution center of 100 or more employees at a single warehouse distribution center or 1,000 or more employees at one or more warehouse distribution centers in this state.**

(4) **"Quota" means a work standard under which an employee is assigned or required to perform at a specified productivity or speed, perform a quantified number of tasks or handle or produce a quantified number of materials, within a defined time period and under which the employee may suffer an adverse employment action if they fail to complete the performance standard.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (5)(a) "Warehouse distribution center" means an establishment engaged in any services
2 relating to:

3 (A) Warehousing and storage, as that term is used in the 2022 North American Industry
4 Classification System code 493.

5 (B) Merchant wholesale of durable goods, as those terms are used in the 2022 North
6 American Industry Classification System code 423.

7 (C) Merchant wholesale of nondurable goods, as those terms are used in the 2022 North
8 American Industry Classification System code 424.

9 (D) Retailing using electronic shopping and mail-order houses, as those terms are used
10 in the 2017 North American Industry Classification System code 454110.

11 (b) "Warehouse distribution center" does not mean an establishment engaged in any
12 services relating to:

13 (A) Farm product warehousing and storage, as those terms are used in the 2022 North
14 American Industry Classification System code 493130.

15 (B) Refrigerated warehousing and storage, as those terms are used in the 2022 North
16 American Industry Classification System code 493120.

17 (C) Merchant wholesale of professional medical, dental and hospital equipment and sup-
18 plies, as those terms are used in the 2022 North American Industry Classification System
19 code 423450.

20 (D) Merchant wholesale distribution of drugs and druggists' sundries, as those terms are
21 used in the 2022 North American Industry Classification System code 424210.

22 (E) Couriers and express delivery services, as those terms are used in the 2022 North
23 American Industry Classification System code 492110.

24 (F) Merchant wholesale distribution of carbonated beverages, as those terms are used in
25 the 2022 North American Industry Classification System code 424490.

26 (G) Merchant wholesale distribution of wine and distilled alcoholic beverages, as those
27 terms are used in the 2022 North American Industry Classification System code 424820.

28 (H) Merchant wholesale distribution of beer and ale, as those terms are used in the 2022
29 North American Industry Classification System code 424810.

30 (6)(a) "Work speed data" includes any of the following information that is collected or
31 maintained by an employer for purposes of evaluating an employee's performance regarding
32 meeting a quota to which the employee is subject:

33 (A) The quantity of tasks performed;

34 (B) The quantity of items or materials handled or produced;

35 (C) The rate or speed at which the employee performs assigned tasks;

36 (D) Measurements or metrics of employee performance in relation to an applicable quota;
37 and

38 (E) Time categorized as performing tasks or not performing tasks.

39 (b) "Work speed data" does not include data or information that does not relate to the
40 performance of a quota, including but not limited to:

41 (A) Qualitative performance assessments;

42 (B) Personnel records; and

43 (C) Itemized wage statements required under ORS 652.610.

44 **SECTION 3. Quotas.** (1) An employer shall provide each employee with written doc-
45 umentation summarizing any quota to which the employee is subject. The documentation

1 **must include:**

2 (a) **The quantified number of tasks to be performed, or materials to be produced or**
3 **handled, within a defined time period; and**

4 (b) **A description of the potential consequences, including any adverse employment**
5 **actions, that an employee may face as a result of the employee's failure to meet the appli-**
6 **cable quota.**

7 (2) **The employer shall provide the written documentation required under subsection (1)**
8 **of this section, in the language the employer regularly uses to communicate with the em-**
9 **ployee, as follows:**

10 (a) **To a new employee at the time of hire.**

11 (b) **To an existing employee within two business days following the date on which the**
12 **employer makes a change to a quota to which the employee is subject.**

13 (c) **To an employee when an employer takes an adverse employment action against the**
14 **employee for failing to meet the applicable quota.**

15 (3)(a) **An employer may not take an adverse employment action against an employee for**
16 **failing to meet a quota for which an employee did not receive written documentation re-**
17 **quired under subsection (1) of this section.**

18 (b) **A person who alleges a violation of this section may file a complaint with the Com-**
19 **missioner of the Bureau of Labor and Industries in the manner provided by ORS 659A.820.**

20 **SECTION 4. Employee right to request. (1) If a current or former employee of an em-**
21 **ployer believes that the employee has been disciplined for failing to meet a quota, the current**
22 **or former employee shall have a right, upon request, to receive records as follows:**

23 (a) **If the requesting employee is a current employee, the employee shall have a right to**
24 **a copy of a record that includes:**

25 (A) **The information described in section 3 (1) of this 2024 Act; and**

26 (B) **The employee's work speed data for the 90 days immediately preceding the date of**
27 **the employee's request.**

28 (b) **If the requesting employee is a former employee, the employee shall have a right to**
29 **make one request for a copy of a record that includes:**

30 (A) **The information described under section 3 (1) of this 2024 Act related to the quota**
31 **to which the former employee was subject for the 90 days immediately preceding the date**
32 **of the employee's separation from the employer; and**

33 (B) **The former employee's work speed data for the 90 days immediately preceding the**
34 **date of the former employee's most recent separation from employment.**

35 (2) **A former employee has the right to request records under subsection (1) of this sec-**
36 **tion within three years following the date of the employee's separation from employment.**

37 (3) **An employer shall provide records requested pursuant to this section free of charge**
38 **and as soon as practicable upon request of a current or former employee, but not later than**
39 **21 calendar days from the date of the request.**

40 (4) **Nothing in this section may obligate an employer:**

41 (a) **To impose a quota or monitor work speed data.**

42 (b) **To provide the records described in this section if the employer does not monitor**
43 **work speed data.**

44 (5) **The Commissioner of the Bureau of Labor and Industries may order an employer to**
45 **produce the records described under this section.**

1 **(6) An employer’s failure to comply with the requirements of this section shall subject**
2 **the employer to a civil penalty under ORS 653.256.**

3 **SECTION 5. Effect of collective bargaining agreement. Sections 3 and 4 of this 2024 Act**
4 **do not apply to an employer who is subject to a collective bargaining agreement:**

5 **(1) Under which employees are subject to a performance evaluation metric that is subject**
6 **to review and negotiation according to the terms of the agreement; and**

7 **(2) That provides for rights to request records that are substantially equivalent to the**
8 **rights provided under section 4 of this 2024 Act.**

9 **SECTION 6. Nothing in sections 2 to 4 of this 2024 Act relieves an employer of the obli-**
10 **gation to comply with any other provision of law, including the provisions of ORS chapter**
11 **652, 653 or 654.**

12 **SECTION 7. ORS 653.256 is amended to read:**

13 653.256. (1) In addition to any other penalty provided by law, the Commissioner of the Bureau
14 of Labor and Industries may assess a civil penalty not to exceed \$1,000 against any person that
15 willfully violates ORS 653.025, 653.030, 653.045, 653.050, 653.060, 653.261, 653.265, 653.272, 653.606,
16 653.611, 653.616, 653.621, 653.626, 653.631 or 653.636 or section 5, chapter 537, Oregon Laws 2015,
17 **or section 4 of this 2024 Act**, or any rule adopted thereunder.

18 (2) In addition to any other penalty provided by law, the commissioner may assess a civil penalty
19 not to exceed \$1,000 against any person that intentionally violates ORS 653.077 or any rule adopted
20 thereunder.

21 (3) Civil penalties authorized by this section shall be imposed in the manner provided in ORS
22 183.745.

23 (4)(a) All sums collected as penalties under this section shall be first applied toward reimburse-
24 ment of costs incurred in determining the violations, conducting hearings under this section and
25 addressing and collecting the penalties.

26 (b) The remainder, if any, of the sums collected as penalties under subsection (1) of this section
27 shall be paid over by the commissioner to the Department of State Lands for the benefit of the
28 Common School Fund of this state. The department shall issue a receipt for the money to the com-
29 missioner.

30 (c) The remainder, if any, of the sums collected as penalties under subsection (2) of this section
31 shall be paid over by the commissioner to the Department of Human Services for the benefit of the
32 Breastfeeding Mother Friendly Employer Project. The department shall issue a receipt for the
33 moneys to the commissioner.

34 **SECTION 8. Section 3 of this 2024 Act becomes operative 30 days after the effective date**
35 **of this 2024 Act.**

36 **SECTION 9. The section captions used in this 2024 Act are provided only for the con-**
37 **venience of the reader and do not become part of the statutory law of this state or express**
38 **any legislative intent in the enactment of this 2024 Act.**

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