

House Bill 4127

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 **as introduced**. 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. Establishes a procedure through Bureau of Labor and Industries if employers violate the Act.

A BILL FOR AN ACT

1
2 Relating to protections for warehouse workers.

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

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

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

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

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

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

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

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

26 (5)(a) **"Warehouse distribution center" means an establishment engaged in any services**
27 **relating to:**

28 (A) **Warehousing and storage, as that term is used in the 2022 North American Industry**

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 **Classification System code 493.**

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

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

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

8 **(b) "Warehouse distribution center" does not mean an establishment engaged in any**
9 **services relating to:**

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

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

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

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

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

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

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

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

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

30 **(A) The quantity of tasks performed;**

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

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

33 **(D) Measurements or metrics of employee performance in relation to an applicable quota;**
34 **and**

35 **(E) Time categorized as performing tasks or not performing tasks.**

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

38 **(A) Qualitative performance assessments;**

39 **(B) Personnel records; and**

40 **(C) Itemized wage statements required under ORS 652.610.**

41 **SECTION 3. Quotas. (1) An employer shall provide each employee with written doc-**
42 **umentation summarizing the quota to which the employee is subject. The documentation**
43 **must include:**

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

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

4 (2) The employer shall provide the written documentation required under subsection (1)
5 of this section as follows:

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

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

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

11 (3) An employer may not:

12 (a) Impose any quota that would:

13 (A) Unreasonably interfere with an employee's right to take meal and rest breaks under
14 applicable federal or state laws relating to meal and rest breaks;

15 (B) Unreasonably interfere with an employee's ability to use bathroom facilities, includ-
16 ing reasonable travel time to and from facilities; or

17 (C) Unreasonably interfere with any right to which an employee is entitled under any
18 applicable federal or state law relating to occupational health and safety standards.

19 (b) Take an adverse employment action against an employee for:

20 (A) Failing to meet a quota that interfered with or caused an employee to forgo a meal
21 or rest break or did not comply with federal or state law relating to occupational health and
22 safety standards.

23 (B) Failing to meet a quota for which an employee did not receive written documentation
24 required under subsection (1) of this section.

25 **SECTION 4. Employee right to request.** (1) If a current or former employee of an em-
26 ployer believes that the employee has been disciplined for failing to meet a quota, or that
27 meeting a quota caused a violation of the employee's right to a meal or rest break, including
28 reasonable travel time to and from bathroom facilities, the current or former employee shall
29 have a right, upon request, to receive records as follows:

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

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

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

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

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

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

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

44 (3) An employer shall provide records requested pursuant to this section free of charge
45 and as soon as practicable upon request of a current or former employee, but not later than

1 **21 calendar days from the date of the request.**

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

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

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

6 **SECTION 5. Remedies. A violation of the provisions of sections 2 to 4 of this 2024 Act is**
7 **an unlawful practice under ORS chapter 659A. An employee alleging a violation of sections**
8 **2 to 4 of this 2024 Act may file a complaint under ORS 659A.820 with the Commissioner of**
9 **the Bureau of Labor and Industries. The commissioner shall enforce the provisions of this**
10 **section in the manner provided in ORS chapter 659A regarding other unlawful practices.**

11 **SECTION 6. Section 3 of this 2024 Act becomes operative 30 days after the effective date**
12 **of this 2024 Act.**

13 **SECTION 7. The section captions used in this 2024 Act are provided only for the con-**
14 **venience of the reader and do not become part of the statutory law of this state or express**
15 **any legislative intent in the enactment of this 2024 Act.**

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