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## **OLR Bill Analysis**

### **SB 1254**

#### ***AN ACT ESTABLISHING ADDITIONAL PROTECTIONS FOR WAREHOUSE WORKERS.***

#### **SUMMARY**

Starting July 1, 2026, this bill limits the extent to which employers at certain warehouse distribution centers can require their employees to meet production quotas. It generally applies to employers that employ at least (1) 250 employees at a single warehouse distribution center in the state or (2) 1,000 employees at multiple warehouse distribution centers in the state.

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) prevent compliance with the state law on meal periods or (b) interfere with the employee using bathroom facilities; 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. The commission must report its findings to the labor commissioner if the injury rate at a distribution center is above a threshold the bill sets.

EFFECTIVE DATE: October 1, 2025

### **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) 250 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. 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 the following North American Industry Classification System (NAICS) code, however the establishment is designated: (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 (it appears that this code was removed in the 2022 revision to the NAICS); or (5) 492110 for Couriers and Express Delivery Services.

"Employees" under the bill are anyone employed at a warehouse distribution center who is not exempt from the federal Fair Labor Standards Act's minimum wage and overtime requirements, except drivers or couriers traveling to or from a warehouse distribution center.

### **QUOTAS**

Under the bill, a "quota" is a work performance standard under which an employee:

1. is assigned or required to (a) perform at a specified productivity speed, (b) perform a certain number of tasks, or (c) handle or produce a certain amount of material within a defined period and
2. may suffer an adverse employment action for failing to complete or meet that work performance standard.

### ***Quota Disclosure***

Starting July 1, 2026, 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 for their existing employees by August 1, 2026, and upon hiring for employees hired after that date.

Whenever an employer makes a change to an employee's existing quota that results in a new quota for the employee, the bill requires the employer to (1) notify the employee about the change verbally or in writing as soon as possible, but before the quota becomes effective, and (2) give the employee a written description of the new quota within two business days after the quota changes.

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

### ***Prohibited Quotas***

Starting July 1, 2026, the bill prohibits quotas from (1) preventing compliance with the state law on required meal periods or (2) interfering with an employee's use of bathroom facilities, including reasonable time to travel to and from them.

Under the bill, paid and unpaid breaks cannot be considered productive time for any quota or employee monitoring system unless the employee is required to remain on call.

### ***Adverse Action Ban***

Starting July 1, 2026, the bill also prohibits employers from taking any

adverse action against an employee for failing to satisfy a quota that (1) violates the bill's provision on prohibited quotas or (2) has not been disclosed as the bill requires.

### **EMPLOYER RECORDS**

Starting July 1, 2026, 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 quota descriptions given to each employee as required by the bill. The employer must maintain and preserve these records for three years. However, the bill specifies that these requirements do not apply if the employer does not assign or require quotas, or collect, store, analyze, or interpret work speed data.

Under the bill, "work speed data" is information an employer collects, stores, analyzes, or interprets about an employee's quota performance, including quantities of tasks performed, quantities of items or materials handled or produced, rates or speeds of tasks performed, employee performance measurements or metrics in relation to a quota, or time categorized as performing tasks or not performing tasks. It does not include wage statements or data an employer collects, stores, analyzes, or interprets that does not relate to performing a quota, except for any content that includes work speed data.

### **EMPLOYEE ACCESS TO WORK SPEED DATA**

Starting July 1, 2026, if employees believe that satisfying a quota caused or will cause a violation of the bill's provisions on prohibited quotas, the bill allows them to request (1) a written description of each quota they were subject to, (2) copies of their personal work speed data records for the past 90 days, and (3) copies of the aggregate work speed data for similar employees at the same warehouse distribution center for the past 90 days. The bill similarly allows former employees to request this same information for the 90 days before they separated from employment with the employer. However, the bill limits a former employee to one of these requests.

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 by a manager during the employee's work hours. If a former employee requested the records, they must be provided either at a mutually convenient time or through a mutually convenient delivery method.

### ***Anti-retaliation***

Starting July 1, 2026, the bill prohibits employers from discharging or retaliating, discriminating, or taking any adverse action against an employee or former employee for requesting their quotas and work speed data or filing a civil action as allowed by the bill (see below). If an employer does so within 90 days after the employee or former employees requested the information or filed the lawsuit, the bill creates a rebuttable presumption that the employer's adverse action violates this prohibition. 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, 2026, 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. (The bill does not similarly authorize former employees to bring these actions.) The party that prevails in the case may be awarded attorney's fees and costs. 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**

Starting July 1, 2026, 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

of at least 1.5 times the average annual injury rate for the relevant NAICS code, based on data reported to the federal Occupational Safety and Health Administration (OSHA), 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).

## **BACKGROUND**

### ***Related Bills***

SB 8 (§§ 1-9) and HB 6907, both reported favorably by the Labor and Public Employees Committee, include largely similar provisions to this bill. However, those bills differ by, among other things, (1) also covering (and counting) employees exempt under the federal Fair Labor Standards Act's minimum wage and overtime requirements; (2) requiring single warehouses to have at least 100 employees (rather than 250) to be covered; and (3) explicitly covering quotas that count an employee's actions between time performing and not performing tasks, count time increments when an employee is or is not doing a particular activity, or rank employees against each other.

## **COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable

Yea 9      Nay 4      (03/06/2025)