



Rep. Kevin John Olickal

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LRB103 30799 RPS 59628 a

1 AMENDMENT TO HOUSE BILL 2547

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2547 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the  
5 Warehouse Worker Protection Act.

6 Section 5. Definitions. As used in this Act:

7 "Aggregated work speed data" means a compilation of  
8 employee work speed data for multiple employees, in summary  
9 form, assembled in full or in another form such that the data  
10 cannot be identified with any individual.

11 "Controlled group of corporations" has the meaning given  
12 to that term under Section 1563 of the Internal Revenue Code,  
13 26 U.S.C. 1563, except that 50% shall be substituted for 80%  
14 where 80% is specified in that definition.

15 "Defined time period" means any unit of time measurement  
16 equal to or less than the duration of an employee's shift,

1 including hours, minutes, seconds, and any fraction thereof.

2 "Designated employee representative" means any employee  
3 representative, including, but not limited to, an authorized  
4 employee representative who has a collective bargaining  
5 relationship with the employer.

6 "Director" means the Director of Labor.

7 "Employee" means a nonadministrative employee who is not  
8 exempt from the overtime and minimum wage requirements of the  
9 federal Fair Labor Standards Act of 1938, as amended, and who  
10 works at a warehouse distribution center and is subject to a  
11 quota as defined in this Section. "Employee" does not include  
12 a driver or courier to or from a warehouse distribution  
13 center.

14 "Employee work speed data" means information an employer  
15 collects, stores, analyzes, or interprets relating to an  
16 individual employee's performance of a quota, including, but  
17 not limited to, quantities of tasks performed, quantities of  
18 items or materials handled or produced, rates or speeds of  
19 tasks performed, measurements or metrics of employee  
20 performance in relation to a quota, and time categorized as  
21 performing tasks or not performing tasks. "Employee work speed  
22 data" does not include itemized wage statements or data that  
23 does not relate to the performance of a quota, except for any  
24 content of those records that includes employee work speed  
25 data.

26 "Employer" means a person who directly or indirectly, or

1 through an agent or any other person, including through the  
2 services of a third-party employer, temporary services or  
3 staffing agency, independent contractor, or any similar  
4 entity, employs or exercises control over the wages, hours, or  
5 working conditions of 100 or more employees at a single  
6 warehouse distribution center in the State or 1,000 or more  
7 employees at one or more warehouse distribution centers in the  
8 State. For the purposes of this definition, all employees of a  
9 controlled group of corporations shall be counted in  
10 determining the number of employees employed at a single  
11 warehouse distribution center or at one or more warehouse  
12 distribution centers in the State.

13 "Person" means an individual, corporation, partnership,  
14 limited partnership, limited liability partnership, limited  
15 liability company, business trust, estate, trust, association,  
16 joint venture, agency, instrumentality, or any other legal or  
17 commercial entity, whether domestic or foreign.

18 "Quota" means a work performance standard under which:

19 (1) an employee is assigned or required to perform at  
20 a specified productivity speed or a quantified number of  
21 tasks or to handle or produce a quantified amount of  
22 material within a defined time period and under which the  
23 employee may suffer an adverse employment action if the  
24 employee fails to complete or meet the performance  
25 standard; or

26 (2) categorizes and measures an employee's actions

1 between time performing tasks and not performing tasks,  
2 and the employee's failure to complete or meet a task  
3 performance standard may lead to an adverse employment  
4 action.

5 "Warehouse distribution center" means an establishment as  
6 defined by any of the following North American Industry  
7 Classification System (NAICS) codes, however such  
8 establishment is denominated:

9 (1) 493 for Warehousing and Storage, but does not  
10 include 493130 for Farm Product Warehousing and Storage;

11 (2) 423 for Merchant Wholesalers, Durable Goods;

12 (3) 424 for Merchant Wholesalers, Nondurable Goods,  
13 but does not include 424510 for Grain and Field Bean  
14 Merchant Wholesalers, 424520 for Livestock Merchant  
15 Wholesalers, and 424590 for Other Farm Product Raw  
16 Material Wholesalers;

17 (4) 454110 for Electronic Shopping and Mail-Order  
18 Houses; or

19 (5) 492110 for Couriers and Express Delivery Services.

20 Section 10. Disclosure of quotas. Each employer shall  
21 provide to each employee, upon hire or within 30 days after the  
22 effective date of this Act, whichever is later, a written  
23 description of each quota to which the employee is subject,  
24 including the quantified number of tasks to be performed or  
25 materials to be produced or handled within the defined time

1 period, and any potential adverse employment action that could  
2 result from failure to meet the quota. Each time the quota  
3 changes thereafter, the employer shall provide an updated  
4 written description of each quota to which the employee is  
5 subject within 2 business days of the quota change. If an  
6 employer takes an adverse employment action against an  
7 employee based on a quota, the employee has a right to request,  
8 and the employer shall provide, a written explanation  
9 regarding the manner in which the employee failed to perform,  
10 including the applicable quota and comparison of the  
11 employee's work performance in relation to that quota. If an  
12 employee requests a written description of the quotas to which  
13 the employee was subject and a copy of the employee's own  
14 personal work speed data pursuant to this Section, the  
15 employer shall comply with this request as soon as  
16 practicable, but no later than 3 calendar days after the date  
17 of the request.

18 Section 15. Protection from quotas. An employee shall not  
19 be required to meet a quota that prevents compliance with meal  
20 or rest periods or use of bathroom facilities, including  
21 reasonable travel time to and from bathroom facilities. An  
22 employer shall not take adverse employment action against an  
23 employee for failure to meet a quota that does not allow a  
24 worker to comply with meal and rest periods or for failure to  
25 meet a quota that has not been disclosed to the employee

1 pursuant to Section 10.

2 Section 20. Time on task. Consistent with existing law,  
3 paid and unpaid breaks shall not be considered productive time  
4 for the purpose of any quota or monitoring system unless the  
5 employee is required to remain on call.

6 Section 25. Recordkeeping. Each employer shall establish,  
7 maintain, and preserve for 3 years contemporaneous, true, and  
8 accurate records to ensure compliance with employee and  
9 Director requests for data. Nothing in this Section shall  
10 require an employer to keep such records if such employer does  
11 not use quotas or monitor work speed data as a performance  
12 standard that leads to an adverse employment action. An  
13 employer is not obligated to produce data that does not  
14 constitute employee work speed data.

15 Section 30. Employee's right to request records.

16 (a) A current employee has the right to request a written  
17 description of each quota to which the employee is subject. If  
18 a current or former employee believes that the current or  
19 former employee has received an adverse employment action as  
20 the result of failing to meet a quota, or that meeting a quota  
21 caused a violation of the employee's right to a meal or rest  
22 period or use of bathroom facilities, the current or former  
23 employee has the right to request, and the employer shall

1 provide, a written description of each quota to which the  
2 employee is subject, a copy of the most recent 90 days of the  
3 employee's own personal work speed data, and a copy of the  
4 aggregated work speed data for similar employees at the same  
5 establishment for the same time period.

6 (b) Requested records under this Section shall be provided  
7 at no cost to the current or former employee.

8 (c) Nothing in this Section shall require an employer to  
9 use quotas or monitor work speed data. An employer that does  
10 not monitor this data has no obligation to provide it.

11 (d) The rights afforded under this Section are independent  
12 of any other right afforded to an employee or former employee  
13 under any State or federal law, including, but not limited to,  
14 the Personnel Records Review Act, to access documents  
15 maintained by an employer.

16 Section 35. Unlawful retaliation. For purposes of this  
17 Act, there shall be a rebuttable presumption of unlawful  
18 retaliation if an employer takes any adverse employment action  
19 against an employee within 90 days of the employee doing  
20 either of the following:

21 (1) Initiating the employee's first request in a  
22 calendar year for information about a quota or personal  
23 work speed data pursuant to Section 30 of this Act.

24 (2) Making a complaint related to a quota alleging any  
25 violation of Sections 10, 15, or 20 of this Act,

1 inclusive, to the Director, the Department, or the  
2 employer.

3 Section 40. Notice to employees. Every employer covered by  
4 this Act shall post and keep posted, in conspicuous places on  
5 the premises of the employer where notices to employees are  
6 customarily posted, a notice, to be prepared or approved by  
7 the Director of Labor, regarding employees' rights under this  
8 Act, including what constitutes a permissible quota and  
9 employees' right to request quota and work speed data  
10 information, and making a complaint to various State  
11 authorities regarding a violation of an employee's quota  
12 rights under this Act.

13 Section 45. Enforcement. The Department of Labor shall  
14 adopt rules to implement and enforce this Act. The Director  
15 shall be authorized to enforce this Act and to assess damages  
16 payable to the employee and civil penalties.

17 Section 50. Workplace inspections. If a particular work  
18 site or employer that uses quotas as a performance standard to  
19 determine adverse employment actions and is subject to this  
20 Act is found to have an annual employee injury rate of at least  
21 1.5 times as high as the warehousing industry's average annual  
22 injury rate as published by the Bureau of Labor Statistics'  
23 most recent fatal and non-fatal occupational injuries and



1 illnesses data, the Director shall determine whether an  
2 investigation of violations pursuant to this Act, if relevant  
3 to the Director's authority, is appropriate.

4 Section 55. Private right of action. A current or former  
5 employee or his or her designated employee representative may  
6 bring an action for injunctive relief to obtain compliance  
7 with Sections 10, 15, 20, and 30 and may, upon prevailing in  
8 the action, recover costs and reasonable attorney's fees in  
9 such action. In any action involving a quota that prevented  
10 the compliance with applicable regulations on workplace safety  
11 and health or meal or rest break requirements, the injunctive  
12 relief shall be limited to suspension of the quota and any  
13 adverse action that resulted from its enforcement by the  
14 employer.

15 Section 60. Attorney General; powers. The Attorney  
16 General, pursuant to the authority under Section 6.3 of the  
17 Attorney General Act, may initiate or intervene in a civil  
18 action in the name of the People of the State in any circuit  
19 court to obtain all appropriate relief for violations  
20 established under this Act.

21 Section 97. Severability. The provisions of this Act are  
22 severable under Section 1.31 of the Statute on Statutes.

1           Section 99. Effective date. This Act takes effect January  
2   1, 2024."