

HB 3568 -1 STAFF MEASURE SUMMARY

House Committee On Rules

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Meeting Dates: 4/13

WHAT THE MEASURE DOES:

Requires Bureau of Labor and Industries (BOLI) to study issues related to working conditions of warehouse workers. Directs BOLI to submit findings to interim committees of Legislative Assembly related to business and labor not later than September 15, 2024.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Requires covered employer to provide each employee a written description of quota to which employee is subject at time of hire, within two calendar days of change in quota, or when employer takes adverse employment action against employee for failing to meet quota. Restricts 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) 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; and (3) considering time spent by employee on meal or rest break as productive time for purposes of monitoring quota system or determining whether employee has met applicable quota. Defines terms and covered employers. Requires employer to keep and maintain employee records on certain work speed data and written description of quota and to provide records on request to Commissioner of the Bureau of Labor and Industries (BOLI). Provides right to current and former employees to request copies of records free of charge and receive within prescribed timeframe. Prohibits discrimination or retaliation against current or former employee if employee has engaged in any protected activity, including filing complaint or requesting records. Allows complaints to be filed with BOLI Commissioner for enforcement and establishes rebuttable presumption of a violation if person takes adverse employment action or otherwise retaliates against employee or former employee within 90 days after employee or former employee engaged in protected activities. Allows Director of Department of Consumer and Business Services (DCBS) to notify BOLI Commissioner if, as a result of DCBS inquiry, inspection, or investigation, Director determines that employer's worksite has employee injury rate at least one and one-half times the average number of fatal and non-fatal injuries and illnesses recorded for warehouse industry. Makes BOLI Commissioner's receipt of notice sufficient to establish reasonable belief that employer has committed unlawful practice in violation of measure and allows Commissioner to file complaint. Allows BOLI Commissioner to adopt necessary rules.

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. Warehouses 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

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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 3568 provides protections to warehouse distribution workers from undisclosed work speed quotas, including protections for workers who fail to meet quotas. The measure requires warehouse distribution centers to provide workers with information on quotas they are assigned, how those quotas are developed, and how such things could be used by the employer to discipline them. In addition, the measure prohibits employers from putting in place quotas that prevent workers from taking required meal and rest breaks. HB 3568 also 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, or requesting records related to speed data or work speed data. Similar legislation was recently passed in California and New York.