

HB 4127 A STAFF MEASURE SUMMARY

House Committee On Business and Labor

Action Date: 02/19/24

Action: Do pass with amendments and be referred to Ways and Means. (Printed A-Eng.)

Vote: 8-1-2-0

Yeas: 8 - Elmer, Grayber, Holvey, Hudson, Nelson, Nosse, Scharf, Sosa

Nays: 1 - Osborne

Exc: 2 - Boshart Davis, Breese-Iverson

Fiscal: Fiscal impact issued

Revenue: No revenue impact

Prepared By: Patrick Brennan, LPRO Analyst

Meeting Dates: 2/7, 2/19

WHAT THE MEASURE DOES:

The measure sets quotas and guidelines for some warehouse workers. It allows workers to file a claim with the Bureau of Labor and Industries if an employer violates the provisions of the measure.

Detailed Summary:

Requires an employer of warehouse workers to provide information to employees of any quota to which the employee is subject. Outlines required information and documentation to be provided to employee and specifies that such information is to be provided in the language that the employer regularly uses to communicate with the employee. Stipulates that the employer may not take an adverse employment action against an employee for failure to meet a quota for which the employee did not receive written documentation. Establishes the right of an employee to request records if they are disciplined for failure to meet a quota and requires employer to provide such records free of charge and as soon as practicable, no later than 21 days following the request. Specifies that nothing in the measure obligates an employer to impose a quota, monitor work speed data, or provide work speed data if the employer does not monitor such data. Clarifies that provisions do not apply to an employer subject to a collective bargaining agreement that includes performance evaluation metrics subject to review and negotiation and that provides access to records.

ISSUES DISCUSSED:

- Process for filing a complaint with Bureau of Labor and Industries
- Need for living wage jobs and employment growth
- Benefits of workplace transparency and safety
- Coding used by North American Industry Classification System (NAICS)

EFFECT OF AMENDMENT:

Revises the definition of "employee" to remove reference to quotas. Specifies that employer shall provide written documentation in the language the employer regularly uses to communicate with the employee. Adds stipulation that employer is to provide each employee with written documentation summarizing *any* quota to which the employee is subject. Deletes language regarding imposition of quotas. Revises language related to adverse employment action to specify employer may not take such action for failure to meet quota for which employee did not receive written documentation; allows employee to file complaint with BOLI to allege violation of this section. Deletes provisions designating violations as unlawful trade practice. Authorizes BOLI to require employer to produce records and subjects employer to civil penalty for failure to comply. Specifies that sections 3 and 4 do not apply to employers subject to a collective bargaining agreement that meets the following criteria: 1)

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employees are subject to a performance evaluation metric subject to review and negotiation according to terms of the agreement, and 2) the agreement provides for rights to request records substantially equivalent to provisions in section 4 of this Act. Stipulates that nothing in this measure relieves an employer of obligation to comply with any other provision of law, including ORS Chapters 652, 653, and 654.

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. Warehouse 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 increased use of warehouse distribution centers to deliver products to consumer has also led to an increase in awareness of the working conditions in warehouse distribution centers. According to data available from the 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, as 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.