



AB 701: Warehouse Distribution Centers

Bill Summary – As Amended, 7/15/21

Defines “quota” as a work standard in a warehouse distribution center related to productivity speed *under which an employee may suffer an adverse employment action* if they fail to complete the standard.

Key Requirements on DC Operators

- Requires warehouse distribution center employers to provide employees, upon hire, notice of any quotas to which the employee is subject.
- Prohibits quotas that prevent compliance with meal and rest periods or occupational health and safety laws, and that time used to exercise those rights shall be considered time on task except as provided.

Employee Rights

- Grants employees the right to request a written description of their quotas and any personal work speed data for the previous 90 days, to the extent the employer monitors that data.
- Creates a rebuttable presumption of unlawful retaliation for any discrimination or adverse action against an employee who has made a complaint related to an alleged quota violation, or within 90 days of their first request in that calendar year for their personal work speed data.

Private Enforcement

- Establishes these standards in the Labor Code, which allows employees to file complaints under the Private Attorneys General Act of 2004 (PAGA).
- Authorizes current or former employees to bring an action for injunctive relief, limited to suspension of the quota and any adverse action resulting from its enforcement.
- Does not limit authority of the AG, district attorneys, or city attorneys to prosecute upon their own complaint or those of employees or limit local ordinances that provide equal or greater protection to employees.

New CalOSHA DC Workplace Standard

- Requires CalOSHA to propose to the Standards Board a standard to minimize musculoskeletal injuries in warehouse distribution centers, based upon factors including work pace and work activity levels.
- Authorizes CalOSHA to subpoena and inspect records of warehouse quotas.

Key Labor and Judiciary Committee amendments (7/7/21 and 7/15/21)

- Narrow the definition of “health and safety laws” which productivity quotas must accommodate to “occupational health and safety laws in the Labor Code”.
- Narrow the available injunctive relief to the warehouse quota itself as well as an adverse employment action resulting from the quota.
- Clarify that all procedural requirements in existing law for filing PAGA claims still apply to this bill.
- Limit the 90-day rebuttable presumption of retaliation to the first request per year for work speed data (instead of allowing repeated requests creating perpetual rebuttable presumption).
- Expand the employee’s right to request work speed data, from the most recent three weeks to the most recent 90 days, and clarifies that the employer is not required to produce such data if none is being collected.

Key Concerns

- This bill creates substantial new liability for warehouse distribution centers by making warehouse quotas a litigation issue for plaintiff's attorneys:
 - By establishing these requirements in the Labor Code, companies may be sued under PAGA.
 - The bill also establishes injunctive relief for aggrieved employees to sue to overturn warehouse quotas.
- Requires the unprecedented intrusion of a regulatory board (CalOSHA's Standards Board) into warehouse operations, including the possibility of substantial regulatory limits on warehouse "work pace". Regulatory micromanagement of warehouse performance standards could require substantial changes to warehouse operations, raising costs for consumers and impeding the ability to put goods on store shelves.
- The prospect of litigation will also have a chilling effect on existing warehouse operations and further encourage retailers and others to look outside California for warehousing – killing well-paying jobs in an industry currently experiencing substantial wage growth.
- A rebuttable presumption of employer retaliation based upon an employee's filing of a complaint related to quotas or requests for work speed data will allow savvy employees the ability to shield themselves from disciplinary measures for any workplace issue.

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July 15, 2021