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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 2774

01/24/2022 Authored by Greenman and Ecklund
The bill was referred to the Committee on Labor, Industry, Veterans and Military Affairs Finance and Policy

1.1 A bill for an act
1.2 relating to employment; establishing worker safety requirements; amending
1.3 Minnesota Statutes 2020, section 177.253, subdivision 1; proposing coding for
1.4 new law in Minnesota Statutes, chapter 182.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2020, section 177.253, subdivision 1, is amended to read:

1.7 Subdivision 1. Rest breaks. An employer must allow each employee adequate time
1.8 from work within each four consecutive hours of work to utilize the nearest convenient
1.9 restroom. For the purpose of this requirement, "adequate time" must include reasonable
1.10 travel time to and from restroom facilities.

1.11 Sec. 2. [182.6526] WAREHOUSE DISTRIBUTION WORKER SAFETY.

1.12 Subdivision 1. Definitions. (a) The terms defined in this subdivision have the meanings
1.13 given them.

1.14 (b) "Commissioner" means the commissioner of labor and industry.

1.15 (c) "Employee" means a nonexempt employee who works at a warehouse distribution
1.16 center.

1.17 (d) "Employee work speed data" means information an employer collects, stores, analyzes,
1.18 or interprets relating to an individual employee's or group of employees' pace of work,
1.19 including but not limited to quantities of tasks performed, quantities of items or materials
1.20 handled or produced, rates or speeds of tasks performed, measurements or metrics of
1.21 employee performance in relation to a quota, and time categorized as performing tasks or
1.22 not performing tasks.

2.1 (e) "Employer" means a person who directly or indirectly, or through an agent or any  
 2.2 other person, including through the services of a third-party employer, temporary service,  
 2.3 or staffing agency or similar entity, employs or exercises control over the wages, hours, or  
 2.4 working conditions of 100 or more employees at a single warehouse distribution center or  
 2.5 1,000 or more employees at one or more warehouse distribution centers in the state. For  
 2.6 purposes of this paragraph, all employees of an employer's unitary business, as that term is  
 2.7 defined in section 290.17, subdivision 4, shall be counted in determining the number of  
 2.8 employees employed at a single warehouse distribution center or at one or more warehouse  
 2.9 distribution centers in the state.

2.10 (f) "Warehouse distribution center" means an establishment as defined by any of the  
 2.11 following North American Industry Classification System (NAICS) codes:

2.12 (1) 493110 for General Warehousing and Storage;

2.13 (2) 423 for Merchant Wholesalers, Durable Goods;

2.14 (3) 424 for Merchant Wholesalers, Nondurable Goods; and

2.15 (4) 454110 for Electronic Shopping and Mail-Order Houses.

2.16 (g) "Quota" means a work standard under which:

2.17 (1) an employee is assigned or required to perform at a specified productivity speed,  
 2.18 perform a quantified number of tasks, or handle or produce a quantified amount of material  
 2.19 within a defined time period; or

2.20 (2) an employee's actions are categorized between time performing tasks and not  
 2.21 performing tasks, and the employee's failure to complete a task performance standard or  
 2.22 recommendation may have an adverse impact on the employee's continued employment.

2.23 Subd. 2. **Notice required.** (a) Each employer shall provide to each employee, upon hire,  
 2.24 or within 30 days of the effective date of this section, a written description of each quota  
 2.25 to which the employee is subject, including the quantified number of tasks to be performed  
 2.26 or materials to be produced or handled or the limit on time categorized as not performing  
 2.27 tasks, within the defined time period, and any potential adverse employment action that  
 2.28 could result from failure to meet the quota.

2.29 (b) An employer shall not take adverse employment action against an employee for  
 2.30 failure to meet a quota that has not been disclosed to the employee.

2.31 Subd. 3. **Breaks.** An employee shall not be required to meet a quota that prevents  
 2.32 compliance with meal or rest periods, use of restroom facilities, including reasonable travel

3.1 time to and from restroom facilities as provided under section 177.253, subdivision 1, or  
3.2 occupational health and safety standards under this chapter or Minnesota Rules, chapter  
3.3 5205. An employer shall not take adverse employment action against an employee for failure  
3.4 to meet a quota that does not allow a worker to comply with meal and rest periods, or  
3.5 occupational health and safety standards under this chapter.

3.6 Subd. 4. **Work speed data.** Employees have the right to request, and the employer shall  
3.7 provide, a written description of each quota to which the employee is subject and a copy of  
3.8 the most recent 90 days of the employee's own personal work speed data. If an employer  
3.9 disciplines an employee for failure to meet a quota, the employer must, at the time of  
3.10 discipline, provide the employee with a written copy of the most recent 90 days of the  
3.11 employee's own personal work speed data. If an employer dismisses an employee for any  
3.12 reason, they must, at the time of firing, provide the employee with a written copy of the  
3.13 most recent 90 days of the employee's own personal work speed data. An employer shall  
3.14 not retaliate against an employee for requesting data under this subdivision.

3.15 Subd. 5. **High rates of injury.** If a particular work site or employer is found to have an  
3.16 annual employee injury rate of at least 1.5 times higher than the warehousing industry's  
3.17 average annual injury rate, the commissioner shall open an investigation of violations under  
3.18 this section.

3.19 Subd. 6. **Enforcement.** (a) This section does not limit the authority of the attorney  
3.20 general, a district attorney, or a city attorney, either upon their own complaint or the  
3.21 complaint of any person acting for themselves or the general public, to prosecute actions,  
3.22 either civil or criminal, for violations of this section, or to enforce the provisions thereof  
3.23 independently and without specific direction from the commissioner.

3.24 (b) A current or former employee may bring an action for injunctive relief to obtain  
3.25 compliance with this section, and may, upon prevailing in the action, recover costs and  
3.26 reasonable attorney fees in that action.

3.27 (c) Nothing in this section shall be construed to prevent local enforcement of occupational  
3.28 health and safety standards that are more restrictive than this section.

3.29 **Sec. 3. SEVERABILITY.**

3.30 If any provision of this act or the application thereof to any person or circumstance is  
3.31 held invalid, the invalidity does not affect other provisions or applications of the act which  
3.32 can be given effect without the invalid provision or application.