

SENATE, No. 4265

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED DECEMBER 9, 2021

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Concerns work break periods and warehouse conditions of employment.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning work break periods and warehouse conditions of
2 employment, amending and supplementing P.L.1966, c.113, and
3 amending R.S.34:11-58.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 2 of P.L.1966, c.113 (C.34:11-56a1) is amended to
9 read as follows:

10 2. As used in this act:

11 (a) "Commissioner" means the Commissioner of Labor and
12 Workforce Development.

13 (b) "Director" means the director in charge of the bureau referred
14 to in section 3 of this act.

15 (c) "Wage board" means a board created as provided in section
16 10 of this act.

17 (d) "Wages" means any moneys due an employee from an
18 employer for services rendered or made available by the employee to
19 the employer as a result of their employment relationship including
20 commissions, bonus and piecework compensation and including the
21 fair value of any food or lodgings supplied by an employer to an
22 employee, and, until December 31, 2018, "wages" includes any
23 gratuities received by an employee for services rendered for an
24 employer or a customer of an employer, and includes pay for meal
25 and rest periods. The commissioner may, by regulation, establish the
26 average value of gratuities received by an employee in any
27 occupation and the fair value of food and lodging provided to
28 employees in any occupation, which average values shall be
29 acceptable for the purposes of determining compliance with this act
30 in the absence of evidence of the actual value of such items.

31 (e) "Regular hourly wage" means the amount that an employee is
32 regularly paid for each hour of work as determined by dividing the
33 total hours of work during the week into the employee's total earnings
34 for the week, exclusive of overtime premium pay.

35 (f) "Employ" includes to suffer or to permit to work.

36 (g) "Employer" includes any individual, partnership, association,
37 corporation, and the State and any county, municipality, or school
38 district in the State, or any agency, authority, department, bureau, or
39 instrumentality thereof, or any person or group of persons acting
40 directly or indirectly in the interest of an employer in relation to an
41 employee.

42 (h) "Employee" includes any individual employed by an
43 employer.

44 (i) "Occupation" means any occupation, service, trade, business,
45 industry or branch or group of industries or employment or class of
46 employment in which employees are gainfully employed.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (j) "Minimum fair wage order" means a wage order promulgated
2 pursuant to this act.

3 (k) "Fair wage" means a wage fairly and reasonably
4 commensurate with the value of the service or class of service
5 rendered and sufficient to meet the minimum cost of living necessary
6 for health. A wage and rate of work imposed by a warehouse
7 employer by a quota which violates the provisions of P.L. , c. (C.
8)(pending before the Legislature as this bill) is not a "fair wage".

9 (l) "Oppressive and unreasonable wage" means a wage which is
10 both less than the fair and reasonable value of the service rendered
11 and less than sufficient to meet the minimum cost of living necessary
12 for health. A wage and rate of work imposed by a warehouse
13 employer by a quota which violates the provisions of
14 P.L. , c. (C.)(pending before the Legislature as this bill), is an
15 "oppressive and unreasonable wage".

16 (m) "Limousine" means a motor vehicle used in the business of
17 carrying passengers for hire to provide prearranged passenger
18 transportation at a premium fare on a dedicated, nonscheduled,
19 charter basis that is not conducted on a regular route and with a
20 seating capacity in no event of more than 14 passengers, not
21 including the driver, provided, that such a motor vehicle shall not
22 have a seating capacity in excess of four passengers, not including
23 the driver, beyond the maximum passenger seating capacity of the
24 vehicle, not including the driver, at the time of manufacture.
25 "Limousine" shall not include taxicabs, hotel or airport shuttles and
26 buses, buses employed solely in transporting school children or
27 teachers to and from school, vehicles owned and operated directly or
28 indirectly by businesses engaged in the practice of mortuary science
29 when those vehicles are used exclusively for providing transportation
30 related to the provision of funeral services or vehicles owned and
31 operated without charge or remuneration by a business entity for its
32 own purposes.

33 (n) "Seasonal employment" means employment during a year by
34 an employer that is a seasonal employer, or employment by a non-
35 profit or government entity of an individual who is not employed by
36 that employer outside of the period of that year commencing on May
37 1 and ending September 30, or employment by a governmental entity
38 in a recreational program or service during the period commencing
39 on May 1 and ending September 30, except that "seasonal
40 employment" does not include employment of employees engaged to
41 labor on a farm on either a piece-rate or regular hourly rate basis.

42 (o) "Seasonal employer" means an employer who exclusively
43 provides its services in a continuous period of not more than ten
44 weeks during the months of June, July, August, and September, or an
45 employer for which, during the immediately previous calendar year,
46 not less than two thirds of the employer's gross receipts were received
47 in a continuous period of not more than sixteen weeks or for which

1 not less than 75 percent of the wages paid by the employer during the
2 immediately preceding year were paid for work performed during a
3 single calendar quarter.

4 (p) "Small employer" means any employer who employed less
5 than six employees for every working day during each of a majority
6 of the calendar workweeks in the current calendar year and less than
7 six employees for every working day during not less than 48 calendar
8 workweeks in the preceding calendar year, except that, if the
9 employer was newly established during the preceding calendar year,
10 the employer shall be regarded as a "small employer" if the employer
11 employed less than six employees for every working day during all
12 of the weeks of that year, and during a majority of the calendar
13 workweeks in the current calendar year, and, if the employer is newly
14 established during the current calendar year, the employer shall be
15 regarded as a "small employer" if the employer employed less than
16 six employees for every working day during a majority of the
17 calendar workweeks in the current calendar year.

18 (q) "Long-term care facility direct care staff member" means any
19 health care professional licensed or certified pursuant to Title 26 or
20 Title 45 of the Revised Statutes who is employed by a long-term care
21 facility and who provides personal care, assistance, or treatment
22 services directly to residents of the facility in the course of the
23 professional's regular duties.

24 (r) "Employee work speed data" means information warehouse
25 employers collect, store, analyze, or interpret relating to the
26 performance of individual employees of quotas, including, but not
27 limited to, quantities of tasks performed, quantities of items or
28 materials handled or produced, rates or speeds of tasks performed,
29 measurements or metrics of employee performance in relation to
30 quotas, and time categorized as performing tasks or not performing
31 tasks.

32 (s) "Warehouse employer" means an employer who directly or
33 indirectly, or through an agent or any other person, including through
34 the services of a third-party employer, temporary service, or staffing
35 agency or similar entity, employs or exercises control over the wages,
36 hours, or working conditions of 100 or more employees at a single
37 warehouse distribution center or 1,000 or more employees at one or
38 more warehouse distribution centers in the State.

39 (t) "Quota" means a work standard under which an employee of
40 a warehouse employer is assigned or required to perform at a
41 specified productivity speed, or perform a quantified number of
42 tasks, or to handle or produce a quantified amount of material, within
43 a defined time period and under which the employee may suffer an
44 adverse employment action if the employee fails to complete the
45 performance standard. Any "quota" imposed by the employer is a
46 component of "wages and hours of work" for the purposes of
47 P.L.1966, c.113 (C.34:11-56a et al), and a wage and rate of work

1 imposed by a quota which violates the provisions of
2 P.L. , c. (C.)(pending before the Legislature as this bill), is
3 not a fair wage and is an oppressive and unreasonable wage.

4 (u) "Warehouse distribution center" means an establishment as
5 defined by any of the following North American Industry
6 Classification System (NAICS) Codes: 4931, Warehousing and
7 Storage; 423, Merchant Wholesalers, Durable Goods; 424, Merchant
8 Wholesalers, Nondurable Goods; and 4541, Electronic Shopping and
9 Mail-Order Houses.

10 (cf: P.L.2020, c.89, s.1)

11
12 2. (New section) a. (1) No individual shall be employed or
13 permitted to work for more than five hours continuously without an
14 interval of not less than 30 minutes for a meal period, which shall be
15 counted as time worked. The meal period shall not occur before the
16 end of the second hour of the shift or after two hours before the end
17 of the shift. No period of less than 30 minutes shall be deemed to
18 interrupt a continuous period of work for the purpose of this
19 paragraph.

20 (2) In addition, no individual shall be employed or permitted to
21 work for more than four hours continuously without an interval of
22 not less than 15 minutes for a rest period, which shall be counted as
23 time worked. The rest period shall not occur before the end of the
24 first hour of the shift or after one hour before the end of the shift. No
25 period of less than 15 minutes shall be deemed to interrupt a
26 continuous period of work for the purpose of this paragraph.

27 b. Nothing in this section shall be construed as prohibiting an
28 employer from providing, or negotiating with a labor organization
29 representing the employer's employees, longer or more frequent meal
30 or rest periods. Nothing in this section shall be construed as reducing
31 in any way the responsibility of any employer to comply with the
32 provisions of section 4 of P.L.1940, c.153 (C.34:2-21.4) regarding
33 lunch periods for minors.

34
35 3. (New section) a. The commissioner shall adopt regulations
36 setting requirements for work quotas in covered warehouse facilities
37 to assure that the quotas:

38 (1) include the quantified number of tasks to be performed or
39 materials to be produced or handled, within the defined time period,
40 and any potential adverse employment action that could result from
41 failure to meet the quota;

42 (2) do not result in rates of work or workloads under which the
43 wages paid are not fairly and reasonably commensurate with the
44 value of the service provided;

45 (3) permit rates of work and workloads which workers can
46 maintain on a sustained basis, and do not result in high levels of

1 turnover of the workforce, or otherwise adversely affect the general
2 well-being and efficiency of the workers; and

3 (4) do not prevent compliance with meal and rest periods required
4 pursuant to section 2 of this act, prevent needed use of bathroom
5 facilities, including reasonable travel to and from bathroom facilities,
6 prevent breaks or other accommodations required by subsection s. of
7 section 11 of P.L.1945, c.159 (C.10:5-12) in connection with
8 pregnancy or breastfeeding, or hinder any other accommodations
9 required pursuant to any State or federal anti-discrimination or safety
10 and health laws.

11 b. In setting requirements for quotas pursuant to subsection a. of
12 this section, the commissioner shall take into consideration:
13 information regarding quotas imposed by warehouse employers in
14 this State and elsewhere, data regarding the rates of work and
15 workloads in warehouses in this State and elsewhere, information
16 regarding adverse impacts of excessive work speeds on warehouse
17 workers, data on turnover rates and wage levels in warehouses in this
18 State and elsewhere, and the adequacy of those wage levels to meet
19 a cost of living necessary for health and well-being;

20 c. In preparing proposed regulations pursuant to section a. of
21 this section, the commissioner shall consult with representatives of
22 organizations representing warehouse employers, representatives of
23 labor organizations representing warehouse employees, and
24 individuals not employed by those organizations who have expertise
25 regarding the effects of work speed and quotas on the well-being,
26 efficiency, and turnover rates of warehouse workers, including
27 expertise regarding adverse impacts of excessive work speeds on
28 warehouse workers.

29 The regulations shall be adopted not later than 120 days after the
30 effective date of this act.

31
32 4. (New section) Each warehouse employer shall provide to
33 each employee, not later than the 30th day after of the adoption of
34 regulations pursuant to section 3 of this act, or upon hire if the
35 employee is hired after that day, a written description of each quota
36 to which the employee is subject which shall be in compliance with
37 requirements set by those regulations. The employer shall provide a
38 written description of any change in the quota not less than two weeks
39 prior to the change taking effect.

40
41 5. (New section) An employee shall not be required to meet a
42 quota that prevents compliance with required meal or rest periods,
43 use of bathroom facilities, including reasonable travel time to and
44 from bathroom facilities, or occupational health and safety laws or
45 standards, or otherwise violates any requirement set by regulation
46 pursuant to section 3 of this act. An employer who takes any adverse
47 employment action against an employee for failure to meet a quota

1 that does not meet the requirements set by regulation pursuant to
2 section 3 of this act or for failure to meet a quota that has not been
3 disclosed to the employee pursuant to section 4 of this act, shall be
4 regarded as having taken a retaliatory action against the employee
5 and shall be subject to the penalties and other remedies provided by
6 section 25 of P.L.1966, c.113 (C.34:11-56a24) for retaliatory actions.

7
8 6. (New section) Any actions taken by an employee to comply
9 with occupational health and safety laws or standards shall be
10 considered time on task and productive time for purposes of any
11 quota or monitoring system.

12
13 7. (New section) a. If a current or former employee believes
14 that meeting a quota caused a violation of the employee's rights
15 under the requirements set by regulation pursuant to section 3 of this
16 act, the employee has the right to request, and the employer shall
17 provide, a written description of each quota to which the employee is
18 subject and a copy of the most recent 90 days of the employee's own
19 personal work speed data.

20 b. If a former employee requests a written description of the
21 quotas to which the employee was subject and a copy of the
22 employee's own personal work speed data pursuant to subsection a.
23 of this section, the employer shall provide not less than 90 days of
24 the former employee's quotas and personal work speed data for the
25 not less than 90 days prior to the date of the employee's separation
26 from the employer.

27 c. A former employee shall be limited to one request pursuant to
28 this section.

29 d. An employer that receives a written or oral request for
30 information pursuant to this section shall comply with the request as
31 soon as practicable, but not later than 14 calendar days from the date
32 of the request.

33
34 8. (New section) a. This act provides minimum requirements
35 pertaining to quotas imposed on employees of warehouse employers
36 and shall not be construed to preempt, limit, or otherwise affect the
37 applicability of any other federal, State or local law, ordinance,
38 regulation, requirement, policy, or standard that provides rights to
39 employees which are more favorable to employees than those
40 required by this act or which provide rights to employees not covered
41 by this act.

42 b. No provision of this act, or any regulations promulgated to
43 implement or enforce this act, shall be construed as:

44 (1) Requiring an employer to reduce, or justifying an employer in
45 reducing, rights provided by the employer pursuant to an employer
46 policy or collective bargaining agreement which are more favorable

1 to employees than those required by this act or which provide rights
2 to employees not covered by this act;

3 (2) Preventing or prohibiting the employer from agreeing,
4 through a collective bargaining agreement or employer policy, to
5 provide rights which are more favorable to employees than those
6 required by this act or to provide rights to employees not covered by
7 this act;

8 (3) Superseding any law providing collective bargaining rights
9 for employees, or in any way reducing, diminishing, or adversely
10 affecting those collective bargaining rights, or in any way reducing,
11 diminishing, or affecting the obligations of employers under those
12 laws.

13 c. With respect to employees covered by a collective bargaining
14 agreement in effect at the time of the effective date of this act, no
15 provision of this act shall apply until the expiration of the collective
16 bargaining agreement.

17

18 9. Section 21 of P.L.1966, c.113 (C.34:11-56a20) is amended to
19 read as follows:

20 21. Every employer of employees subject to this act shall keep a
21 true and accurate record of the hours worked by each and the wages
22 paid by **him** the employer to each, and, if the employer is a
23 warehouse employer, any quota set by the employer and employee
24 work speed data related to the quota, and shall furnish to the
25 commissioner or the director or their authorized representative upon
26 demand a sworn statement of the same. Such records shall be open
27 to inspection by the commissioner or the director or their authorized
28 representative at any reasonable time. No employer shall be found
29 guilty of violating this provision for failure to keep a true and
30 accurate record of the hours worked by outside salesmen, buyers of
31 poultry, eggs, cream, milk or other perishable commodities in their
32 natural or raw state, homeworkers legally employed in accordance
33 with the laws of this State or any person employed in a bona fide
34 executive, administrative or professional capacity, except that no
35 exemption from record keeping pursuant to this section in regard to
36 any person employed in a bona fide executive, administrative or
37 professional capacity shall be construed to permit an employer to pay
38 wages at a rate which violates the provisions of section 5 of P.L.1966,
39 c.113 (C.34:11-56a4).

40 (cf: P.L.1993, c.91, s.1)

41

42 10. Section 22 of P.L.1966, c.113 (C.34:11-56a21) is amended to
43 read as follows:

44 22. Every employer subject to any provision of this act or of any
45 regulations or orders issued under this act shall keep a summary of
46 this act, approved by the commissioner, and copies of any applicable

1 wage orders and regulations issued under this act, or a summary of
2 such wage orders and regulations, and, if the employer is a warehouse
3 employer, a summary of the requirements set by regulation pursuant
4 to section 3 of this act, posted in a conspicuous and accessible place
5 in or about the premises wherein any person subject thereto is
6 employed. Employers shall be furnished copies of such summaries,
7 orders, and regulations by the State on request without charge.
8 (cf: P.L.1966, c.113, s.22)

9
10 11. Section 26 of P.L.1966, c.113 (C.34:11-56a25) is amended to
11 read as follows:

12 26. If any employee is paid by an employer less than the minimum
13 fair wage to which the employee is entitled under the provisions of
14 P.L.1966, c.113 (C.34:11-56a et seq.) or by virtue of a minimum fair
15 wage order, or suffers a loss of wages or other damages because of a
16 retaliatory action by the employer in violation of the provisions of
17 section **【24】** 25 of P.L.1966, c.113 (C.34:11-56a24), the employee
18 may recover in a civil action the full amount of that minimum wage
19 less any amount actually paid to him or her by the employer, or any
20 wages lost due to the retaliatory action, and an additional amount
21 equal to not more than 200 percent of the amount of the unpaid
22 minimum wages or wages lost due to retaliatory action as liquidated
23 damages, plus costs and reasonable attorney's fees as determined by
24 the court, except that if there is an agreement of the employee to
25 accept payment of the unpaid wages or compensation supervised by
26 the commissioner pursuant to section 24 of P.L.1966, c.113 (C.34:11-
27 56a23) or R.S.34:11-58, the liquidated damages shall be equal to not
28 more than 200 percent of wages that were due prior to the supervised
29 payment. The payment of liquidated damages shall not be required
30 for a first violation by an employer if the employer shows to the
31 satisfaction of the court that the act or omission constituting the
32 violation was an inadvertent error made in good faith and that the
33 employer had reasonable grounds for believing that the act or
34 omission was not a violation, and the employer acknowledges that
35 the employer violated the law and pays the amount owed within 30
36 days of notice of the violation. In the case of a violation of
37 requirements set by regulations pursuant to section 3 of
38 P.L. , c. (C.)(pending before the Legislature as this bill), the
39 amount of unpaid wages shall be based on a determination of the
40 difference between what the employer would have paid if the
41 requirements had be complied with and what was actually paid. In a
42 case of retaliation against an employee in violation of the provisions
43 of section **【24】** 25 of P.L.1966, c.113 (C.34:11-56a24), the employer
44 shall also be required to offer reinstatement in employment to the
45 discharged employee, and take other actions as needed to correct the
46 retaliatory action. For purposes of this section, an employer taking

1 an adverse action against an employee within 90 days of the
2 employee filing a complaint with the commissioner or a claim or
3 action being brought by or on behalf of the employee in a court of
4 competent jurisdiction for a violation of P.L.1966, c.113 (C.34:11-
5 56a et seq.) shall raise a presumption that the employer's action was
6 taken in retaliation against the employee, which presumption may be
7 rebutted only by clear and convincing evidence that the action was
8 taken for other, permissible, reasons. Any agreement between the
9 employee and the employer to work for less than the minimum fair
10 wage shall be no defense to the action. An employee shall be entitled
11 to maintain the action for and on behalf of himself or other employees
12 similarly situated, and the employee and employees may designate
13 an agent or representative to maintain the action for and on behalf of
14 all employees similarly situated. The employee may bring the action
15 to recover unpaid minimum wages, or wages lost due to retaliatory
16 action, or other appropriate relief, including reinstatement and
17 payment of damages pursuant to this section, in the Superior Court.

18 At the request of any employee paid less than the minimum wage
19 to which the employee was entitled under the provisions of P.L.1966,
20 c.113 (C.34:11-56a et seq.) or under an order, the commissioner may
21 take an assignment of the wage claim in trust for the assigning
22 employee and may bring any legal action necessary to collect the
23 claim, and the employer shall be required to pay to the employee the
24 unpaid wages and liquidated damages equal to not more **[then]** than
25 200 percent the amount of the unpaid wages and pay to the
26 commissioner the costs and reasonable attorney's fees as determined
27 by the court. The payment of liquidated damages shall not be
28 required for a first violation by an employer if the employer shows
29 to the satisfaction of the court that the act or omission constituting
30 the violation was an inadvertent error made in good faith and that the
31 employer had reasonable grounds for believing that the act or
32 omission was not a violation, and the employer acknowledges that
33 the employer violated the law and pays the amount owed within 30
34 days of notice of the violation. In the case of a violation of
35 requirements set by regulation pursuant to section 3 of
36 P.L. , c. (C.)(pending before the Legislature as this bill), the
37 amount of unpaid wages to be paid, and any resulting liquidated
38 damages, shall be based on a determination of the difference between
39 what the employer would have paid if the requirements had be
40 complied with and what was actually paid.

41 (cf: P.L.2019, c.212, s.4)

42

43 12. R.S.34:11-58 is amended to read as follows:

44 34:11-58. a. An employee may file a claim for wages against an
45 employer under this section or any of the other State wage and hours
46 laws for wages owed related to work performed, including but not

1 limited to wages owed related to unpaid minimum wages, unpaid
2 overtime compensation, wages lost because of unlawful discharge or
3 other discriminatory acts taken in retaliation against the employee,
4 up to six years prior to the date the claim for wages is filed. In the
5 case of a violation of requirements set by regulations pursuant to
6 section 3 of P.L. , c. (C.)(pending before the Legislature as this
7 bill), the amount of unpaid wages due to be paid shall be based on a
8 determination of the difference between what the employer would
9 have paid if the requirements had be complied with and what was
10 actually paid.

11 b. An employer found to owe an employee wages shall pay the
12 employee the wages owed plus liquidated damages equal to not more
13 than 200% of the wages owed, exclusive of any costs or fees.

14 c. The commissioner is authorized and empowered to
15 investigate any claim for wages due an employee and in such
16 investigation may summon the defendant, subpoena witnesses,
17 administer oaths, take testimony and shall upon such proceeding
18 make a decision or award when the sum in controversy, exclusive of
19 costs, does not exceed \$50,000.

20 Such decision or award shall be a judgment when a certified copy
21 thereof is filed with the Superior Court.

22 Such judgment shall be entered in the same manner and have the
23 same effect and be subject to the same proceedings as are judgments
24 rendered in suits duly heard and determined by courts of competent
25 jurisdiction.

26 d. Upon an investigation of a wage claim initiated pursuant to
27 this section or any of the other State wage and hours laws, if an
28 employer fails to provide sufficient employee records, as required to
29 be kept under any State wage and hour laws, there shall be a
30 rebuttable presumption that the employee worked for the employer
31 for the period of time and for the amount of wages as alleged in the
32 wage claim. The rebuttable presumption shall not apply to an
33 employer that can demonstrate it does not have sufficient employee
34 records as a result of record destruction due to a natural disaster.

35 e. The commissioner is authorized to supervise the payment of
36 amounts, including liquidated damages, due to employees under an
37 award made pursuant to this section, and the employer may be
38 required to make these payments to the commissioner to be held in a
39 special account in trust for the employees, and paid on order of the
40 commissioner directly to the employee or employees affected. The
41 employer shall also pay the commissioner an administrative fee equal
42 to not less than 10% or more than 25% of any payment made to the
43 commissioner pursuant to this section. The amount of the
44 administrative fee shall be specified in a schedule of fees to be
45 promulgated by rule or regulation of the commissioner in accordance
46 with the "Administrative Procedure Act," P.L.1968, c.410
47 (C.52:14B-1 et seq.). The fee shall be applied to enforcement and

1 administration costs of the Division of Workplace Standards in the
2 Department of Labor and Workforce Development.

3 f. Upon issuing a decision, under this section or any of the other
4 State wage and hours laws, finding wages due to an employee in an
5 amount equal to or greater than \$5,000, the commissioner shall:

6 (1) inform the employer that the commissioner may conduct an
7 audit of the employer or any successor firm of the employer pursuant
8 to section 2 of P.L.2009, c.194 (C.34:1A-1.12); and

9 (2) notify the Division of Taxation in the Department of the
10 Treasury of the decision and may recommend that the division
11 conduct an audit of the employer to ensure the proper withholding
12 and payment of payroll and other taxes by the employer.

13 g. No payment of an amount of wages owed or related damages,
14 including wages or damages related to retaliation, shall be required
15 under the provisions of this section, or under the provisions of any of
16 the other State wage and hour laws, which results in a violator paying
17 wages owed or damages more than one time for the same violation.

18 (cf: P.L2019, c.212, s.7)

19
20 13. This act shall take effect immediately.

21 22 23 STATEMENT

24
25 This bill supplements and amends the "New Jersey State Wage
26 and Hour Law," P.L.1966, c.113 (C.34:11-56a et seq.), to require all
27 employers to provide meal and rest periods for employees working
28 for shifts of specified lengths, and to have the Commissioner of Labor
29 and Workforce Development set by regulation requirements
30 regarding work quotas in warehouse distribution centers.

31 The bill requires all employers to provide paid meal periods of at
32 least 30 minutes for employees who work for more than five hours
33 continuously, and paid rest periods of at least a 15 minutes for any
34 continuous work period of more than four hours. Current New Jersey
35 law requires 30-minute meal breaks for minors who work five or
36 more continuous hours, but has no requirement for adults, and no
37 requirement for rest breaks for adults or minors. 21 states currently
38 require meal breaks for adults and six of those states also have rest
39 break requirements.

40 The bill directs the commissioner to adopt regulations setting
41 requirements for work quotas in covered warehouse facilities to
42 assure that the quotas:

43 1. include the quantified number of tasks to be performed or
44 materials to be produced or handled, within the defined time period,
45 and any potential adverse employment action that could result from
46 failure to meet the quota;

1 2. do not result in rates of work or workloads under which the
2 wages paid are not fairly and reasonably commensurate with the
3 value of the service provided;

4 3. permit rates of work and workloads which workers can
5 maintain on a sustained basis, and do not result in high levels of
6 turnover of the workforce, or otherwise adversely affect the general
7 well-being and efficiency of the workers; and

8 4. do not prevent compliance with required meal and rest
9 periods, prevent needed use of bathroom facilities, prevent breaks or
10 other accommodations required by the Law Against Discrimination
11 in connection with pregnancy or breastfeeding, or hinder any other
12 accommodations required pursuant to any State or federal anti-
13 discrimination or safety and health laws.

14 In setting requirements for quotas, the commissioner is directed to
15 consider information regarding quotas imposed by warehouse
16 employers, data regarding the rates of work and workloads in
17 warehouses, information regarding adverse impacts of excessive
18 work speeds on warehouse workers, data on turnover rates and wage
19 levels in warehouses in this State and elsewhere, and the adequacy of
20 those wage levels to meet a cost of living necessary for health and
21 well-being. The commissioner is also directed to consult with
22 warehouse employer organization representatives, representatives of
23 labor organizations representing warehouse employees, and
24 individuals not employed by those organizations who have expertise
25 regarding the effects of work speed and quotas on the well-being,
26 efficiency, and turnover rates of warehouse workers.

27 Warehouse employers are required to provide employees with a
28 written description of quotas to which the employee is subject. The
29 employers are prohibited from requiring any employee to meet a
30 quota that violates any requirement set by the regulation pursuant to
31 the bill, and are prohibited from taking any adverse employment
32 action against an employee for failure to meet a quota that does not
33 meet the requirements set those regulations or for failure to meet a
34 quota which the employer has failed to disclose.

35 Actions taken by an employee to comply with occupational health
36 and safety laws or standards are considered productive time for
37 purposes of any quota or monitoring system.

38 Current and former employees who believe that meeting a quota
39 caused a violation of the provisions of the bill are given the right to
40 obtain from an employer a written description of each quota and
41 employee's own personal work speed data.

42 Any employer who violates the bill's provisions is subject to
43 sanctions in the "New Jersey State Wage and Hour Law."