

# SENATE BILL NO. 1654

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR WEBBER.

7111S.011

KRISTINA MARTIN, Secretary

## AN ACT

To amend chapter 290, RSMo, by adding thereto eight new sections relating to work performance standards for employees of certain warehouse distribution centers, with penalty provisions.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 290, RSMo, is amended by adding thereto  
2 eight new sections, to be known as sections 290.160, 290.161,  
3 290.162, 290.163, 290.164, 290.165, 290.166, and 290.167, to  
4 read as follows:

290.160. As used in sections 290.161 to 290.167,  
2 unless the context indicates otherwise, the following terms  
3 mean:

4 (1) "Artificial intelligence", a machine-based system  
5 that can, for a given set of human-defined objectives, make  
6 predictions, recommendations, or decisions influencing real  
7 or virtual environments. Artificial intelligence systems  
8 use machine and human-based inputs to:

9 (a) Perceive real and virtual environments;

10 (b) Abstract such perceptions into models through  
11 analysis in an automated manner; and

12 (c) Use model inference to formulate options for  
13 information or action;

14 (2) "Designated employee representative", any  
15 representative designated by an employee, including an

16 employee representative that has a collective bargaining  
17 relationship with the covered employer of the covered  
18 employee. A designated employee representative shall not  
19 include a worker's employer;

20 (3) "Employee", an individual who is employed at a  
21 warehouse distribution center and who is not exempt from the  
22 minimum wage and overtime requirements of the Fair Labor  
23 Standards Act of 1938, as amended from time to time.

24 "Employee" does not include a driver or courier traveling to  
25 or from a warehouse distribution center;

26 (4) "Employer", an individual, corporation,  
27 partnership, limited partnership, limited liability  
28 partnership, limited liability company, business trust,  
29 estate, trust, association, joint venture, agency,  
30 instrumentality, or any other legal or commercial entity,  
31 whether domestic or foreign, that directly or indirectly, or  
32 through an agent or any other person, including through the  
33 services of a third-party employer, temporary services,  
34 staffing agency, independent contractor or any similar  
35 entity, at any time in the prior twelve months, employs or  
36 exercises control over the wages, hours, or working  
37 conditions of fifty or more employees at a single warehouse  
38 distribution center in the state or one thousand or more  
39 employees at one or more warehouse distribution centers in  
40 the state;

41 (5) "Warehouse distribution center", an establishment  
42 as defined by any of the following North American Industry  
43 Classification System Codes, however such establishment is  
44 denominated: (A) 493110 for General Warehousing and Storage;  
45 (B) 423 for Merchant Wholesalers, Durable Goods; (C) 424 for  
46 Merchant Wholesalers, Nondurable Goods; (D) 454110 for

47 Electronic Shopping and Mail-Order Houses; or (E) 492110 for  
48 Couriers and Express Delivery Services;

49 (6) "Work performance standard", an expectation set by  
50 an employer for an employee;

51 (7) "Work speed data", information an employer  
52 collects, stores, analyzes, or interprets relating to an  
53 individual employee's work performance, including, but not  
54 limited to, quantities of tasks performed, quantities of  
55 items or materials handled or produced, rates or speeds of  
56 tasks performed, measurements or metrics of employee  
57 performance, and time categorized as performing tasks or not  
58 performing tasks. "Work speed data" does not include wage  
59 statements or data an employer collects, stores, analyzes,  
60 or interprets that does not relate to the work performance,  
61 except for any content of such records that includes work  
62 speed data.

290.161. 1. Upon hiring an employee, an employer  
2 shall provide to such employee a written description of each  
3 work performance standard to which such employee is subject,  
4 including any potential adverse employment action that may  
5 result from a failure to satisfy such work performance  
6 standard. Such written description shall be provided to an  
7 employer's current employees not later than October 1, 2026.

8 2. Whenever an employer makes a change to an existing  
9 work performance standard for an employee, the employer  
10 shall:

11 (1) Notify the employee of such change as soon as  
12 possible, either verbally or in writing, and prior to the  
13 effective date of such new standard;

14 (2) Provide the employee with a written description of  
15 the new work performance standard to which such employee is

16 subject not later than two business days after the change is  
17 made; and

18 (3) Any written description required pursuant to this  
19 section shall be provided directly to an employee by a human  
20 manager during such employee's work hours.

21 3. An employer shall not impose any work performance  
22 standard that:

23 (1) Interferes with an employee's use of the bathroom  
24 facilities, including reasonable travel time to and from the  
25 bathroom facilities;

26 (2) Sets a performance standard that measures an  
27 employee's total output over an increment of time that is  
28 shorter than such employee's work day;

29 (3) Requires an employee to work for three or more  
30 consecutive hours without a period of at least ten  
31 consecutive minutes for a rest break, given at some time  
32 after the first hour of work and before the last hour;

33 (4) Requires employees to work more than forty hours  
34 in a seven-day period or ten hours in a twenty-four hour  
35 period, unless the employee agrees in writing or in a  
36 similar format and is paid a one hundred fifty dollar  
37 premium in addition to their wages and any overtime premium  
38 pay required under state or federal law;

39 (5) Requires employees to work consecutive shifts with  
40 less than twelve hours of time elapsing between the shifts,  
41 unless the employee agrees in writing or in a similar format  
42 and is paid a one hundred fifty dollar premium in addition  
43 to their wages; or

44 (6) Require an employee to perform duties outside of  
45 the scope of such employee's regular job duties for more  
46 than three hours a week.

47           4. An employer shall not take an adverse employment  
48 action against an employee for failure to meet a work  
49 performance standard that:

50           (1) Violates subsection 3 of this section;

51           (2) Was not described to the employee in accordance  
52 with subsection 2 of this section;

53           (3) Is based solely on ranking the performance of the  
54 employee in relation to the performance of another employee  
55 or in relation to the past performance of that employee;

56           (4) Is based on continuously measuring, recording, or  
57 tallying increments of time within a defined time period  
58 during which an employee is or is not doing a particular  
59 activity; or

60           (5) Is based primarily on work speed data collected  
61 through automated electronic monitoring.

62           5. An employee may request to speak in person with a  
63 human manager during such employee's work hours. An  
64 employer shall assign a human manager authorized to make  
65 decisions related to discipline to respond not later than  
66 thirty minutes after such a request. An employee may not  
67 make more than one request per every two hours under this  
68 section.

69           6. An employer shall not discipline or terminate an  
70 employee based on failure to meet a performance standard  
71 unless it has provided prior written notice of such action.  
72 Such notice shall include the following:

73           (1) A plain language description of the reasons for  
74 the discipline or termination;

75           (2) The effective date of the discipline or  
76 termination; and

77           (3) Any and all records relied upon to substantiate  
78 the discipline or termination.

79           7. In the case of a termination based on failure to  
80 meet a work performance standard, the employer shall notify  
81 the employee of the termination of their employment at least  
82 fourteen days before such termination becomes effective, as  
83 well as upon the effective date of termination. The time  
84 period between a first warning or discipline and termination  
85 shall be not less than thirty days, and the employer may not  
86 rely on a warning or discipline issued more than one year in  
87 the past to justify a termination.

          290.162. 1. (1) Each employer shall establish,  
2 maintain, and preserve contemporaneous, true, and accurate  
3 records of the following:

4           (a) Each individual employee's work performance  
5 records;

6           (b) The aggregated work performance records for  
7 similar employees at the same warehouse distribution center;

8           (c) The work performance standard provided to each  
9 employee pursuant to section 290.161; and

10          (d) The written notice provided to a terminated  
11 employee pursuant to subsection 8 of section 290.161.

12          (2) The records required by this subsection shall be  
13 maintained for a period of three years. Nothing in this  
14 section shall require an employer to establish, maintain,  
15 and preserve the records required pursuant to this section  
16 if such employer does not assign or require work performance  
17 standards or collect, store, analyze, or interpret work  
18 performance data.

19          2. An employee, or a designated employee  
20 representative of such employee, may request from such  
21 employee's employer:

22           (1) A written description of the work performance  
23 standard the employee is subject to;

24           (2) A copy of the employee's personal work speed data  
25 for the prior ninety days;

26           (3) A copy of aggregated work speed data for similar  
27 employees at the same warehouse distribution center for the  
28 prior ninety days; and

29           (4) Any notices of discipline issued to such employee  
30 in the prior year.

31           3. (1) A former employee, or a designated employee  
32 representative of such employee, may request from a former  
33 employer:

34           (a) A written description of each work performance  
35 standard the employee was subject to for the ninety days  
36 prior to the employee's separation from employment with such  
37 employer;

38           (b) A copy of the employee's personal work speed data  
39 for the ninety days prior to such employee's separation from  
40 employment with such employer;

41           (c) A copy of aggregated work speed data for similar  
42 employees at the same warehouse distribution center for the  
43 ninety days prior to such employee's separation from  
44 employment with such employer; and

45           (d) Any notices of discipline issued to such former  
46 employee in the calendar year prior to the termination.

47           (2) A former employee may only make one request under  
48 this section.

49           4. An employer shall provide a written copy of any  
50 records requested pursuant to this section not later than  
51 five calendar days after receipt of such request. Such  
52 written copy shall be provided:

53           (1) In both English and the primary language of the  
54 employee requesting such records; and

55           (2) (a) For a current employee, directly to the  
56 employee requesting such records by a manager during such  
57 employee's work hours; or

58           (b) For a former employee, either at a mutually  
59 convenient time or via a mutually convenient delivery method.

290.163. 1. An employer shall not commence a  
2 reduction of force resulting in an employment loss at a  
3 single site of employment during any thirty day period for  
4 fifty or more employees unless such employer has offered a  
5 new employment position to each employee who may reasonably  
6 be expected to experience an employment loss as a  
7 consequence of such a reduction in force. Such a position  
8 shall be:

9           (1) Comparable with regard to wages, hours, benefits,  
10 working conditions, and job duties;

11           (2) Within a reasonable commuting distance from the  
12 affected site of employment; and

13           (3) Offered in writing at least thirty days prior to  
14 the commencement of such a reduction in force.

15           2. If an employer discharges an employee, the employer  
16 shall pay the employee two weeks of severance pay plus an  
17 additional day of severance pay for each two months that the  
18 employee has worked for the employer. One week of severance  
19 pay shall be calculated based on the employee's average  
20 weekly earnings including overtime pay received during the  
21 employee's most recent twelve months of employment, or  
22 received during the duration of the employee's employment if  
23 the duration of the employment has been less than twelve  
24 months. A day of severance pay shall be equal to one week  
25 of severance pay divided by five.

290.164. 1. An employer shall not discharge or in any way retaliate, discriminate, or take any adverse action against any employee or former employee for:

(1) Making a request pursuant to section 290.161 or 290.162;

(2) Declining to work more than forty hours in a week, more than ten hours in a day, or consecutive shifts with less than twelve hours between the shifts; or

(3) Filing a civil action pursuant to section 290.165.

2. If an employer discharges or in any way retaliates, discriminates, or takes any adverse action against any employee or former employee within ninety days after such employee engages in or attempts to engage in the activities described in subsection 1 of this section, there shall be a rebuttable presumption that such adverse action is in violation of this section. Such presumption may be rebutted by clear and convincing evidence that the:

(1) Adverse action was taken for other permissible reasons; and

(2) Employee engaging or attempting to engage in the activities described in subsection 1 of this section was not a motivating factor in the employer taking such adverse action.

290.165. 1. (1) An employee aggrieved by a violation of sections 290.161 to 290.164, or the attorney general on behalf of an employee aggrieved by a violation of sections 290.161 to 290.164, may bring a civil action in circuit court or any other court of competent jurisdiction to recover damages, civil penalties, and such equitable and injunctive relief as the court deems appropriate. An employer who violates the provisions of sections 290.161 to 290.164 shall be liable to a plaintiff for statutory damages

10 of not less than five thousand dollars nor more than seven  
11 thousand five hundred dollars per violation in addition to  
12 economic damages. A court shall have discretion to  
13 determine the amount in light of the severity of the  
14 violation and any history of prior violations. A  
15 complainant who prevails in such a civil action shall be  
16 awarded reasonable attorney's fees and costs to be taxed by  
17 the court. An employer who violates a provision of section  
18 290.161 to 290.164 may be assessed a civil penalty by the  
19 court of:

20 (a) One thousand dollars for a first violation;  
21 (b) Two thousand dollars for a second violation; or  
22 (c) Three thousand dollars for a third or subsequent  
23 violations.

24 (2) An employer who fails to pay in full required  
25 severance pay shall be liable for payment of the required  
26 severance pay, plus an additional two times the unpaid  
27 amount as liquidated damages.

28 2. The director of the department of labor and  
29 industrial relations shall monitor the injury rates of  
30 employees working in warehouse distribution centers in the  
31 state. If an employer is found to have an annual injury  
32 rate at or over one and one-half times the average annual  
33 injury rate for the relevant North American Industry  
34 Classification System Codes, based on data reported to the  
35 federal Occupational and Safety and Health Administration,  
36 the director of the department of labor and industrial  
37 relations shall determine whether an investigation  
38 concerning potential violations of sections 290.161 to  
39 290.164 is appropriate.

290.166. 1. Not more than thirty days after the last  
2 day of each quarter, an employer shall, with respect to the

3 preceding quarter, disclose to the director of the  
4 department of labor and industrial relations any artificial  
5 intelligence-related job impact experienced by the entity in  
6 the state of Missouri, including:

7 (1) The number of individuals laid off by the employer  
8 in the state of Missouri during the quarter that are  
9 substantially due to the replacement or automation by  
10 artificial intelligence of the functions performed by such  
11 individuals;

12 (2) The number of individuals hired by the employer in  
13 the state of Missouri during the quarter that are  
14 substantially due to the incorporation of artificial  
15 intelligence;

16 (3) The number of positions at the employer's  
17 establishments in the state of Missouri that were occupied  
18 at any point during the prior quarter for which the employer  
19 has decided not to fill based on a reason that is  
20 substantially due to the replacement or automation by  
21 artificial intelligence of the functions of such positions;

22 (4) The number of individuals in the state of Missouri  
23 whom the employer is retraining, or assisting in retraining,  
24 based on a reason that is substantially due to artificial  
25 intelligence; and

26 (5) Any other information related to artificial  
27 intelligence-related job impacts, as determined appropriate  
28 by the director at the department of labor and industrial  
29 relations.

30 2. With respect to each artificial intelligence-  
31 related job impact disclosure under section 290.166, the  
32 employer shall provide in such disclosure the corresponding  
33 North American Industry Classification System Codes.

34           3. The director of the department of labor and  
35 industrial relations shall impose civil monetary penalties  
36 on an employer in violation of this section as follows. For  
37 each violation, a penalty of five hundred dollars shall be  
38 imposed. In the case of willful or repeated violations, an  
39 additional amount of not less than one thousand dollars and  
40 not more than three thousand dollars shall be imposed.

41           4. The director of the department of labor and  
42 industrial relations shall:

43           (1) For each quarter, prepare a report summarizing the  
44 data from disclosures submitted under subsection 1 of this  
45 section during the quarter; and for the quarter ending on  
46 December thirty-first, summarizing such data for the  
47 calendar year;

48           (2) For every other quarter, prepare a report  
49 analyzing the net impact of the data contained in the report  
50 under subdivision (1) of this subsection for such quarter  
51 and for the preceding quarter, and any other relevant data  
52 available to the director of the department of labor and  
53 industrial relations with respect to artificial intelligence-  
54 related job impacts; and

55           (3) Not more than sixty days after the last day of  
56 each quarter publish each report prepared for the quarter  
57 under subdivision (1) of this subsection and, as applicable,  
58 subdivision (2) of this subsection, and the data underlying  
59 such reports on the website of the department of labor and  
60 industrial relations; and submit each such report to the  
61 speaker of the house of representatives and the president  
62 pro tempore of the senate.

          290.167. Effective July 1, 2027, and each subsequent  
2 July first after that, the director of the department of  
3 labor and industrial relations shall increase all of the

4 dollar amounts specified in sections 290.161 to 290.166 in  
5 proportion to the increase, if any, during the most recent  
6 twelve month period for which data is available when the  
7 increase is announced, in the consumer price index for all  
8 urban wage earners and clerical workers on a national and  
9 seasonally unadjusted basis (CPI-W), or a successor index,  
10 as calculated by the United States Department of Labor or a  
11 successor agency. Such increases shall be announced by  
12 April 1, 2027, and by April first of subsequent years.

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