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SENATE BILL NO. 120

Offered January 14, 2026

Prefiled January 5, 2026

A BILL to amend the Code of Virginia by adding in Article 1 of Chapter 3 of Title 40.1 a section numbered 40.1-28.7:12, relating to protection of employees; warehouse distribution center requirements; civil penalty; civil action.

Patron—Carroll Foy

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 1 of Chapter 3 of Title 40.1 a section numbered 40.1-28.7:12 as follows:

§ 40.1-28.7:12. Warehouse distribution center requirements; civil penalty; civil action.

A. As used in this section:

"Warehouse distribution center" means a business establishment that corresponds to any of the following North American Industry Classification System (NAICS) codes: general warehousing and storage (NAICS 493110); merchant wholesalers, durable goods (NAICS 423000); merchant wholesalers, nondurable goods (NAICS 424000); electronic shopping and mail-order houses (NAICS 454110); and couriers and express delivery services (NAICS 492100).

"Warehouse employee" means an employee performing work or based at a warehouse distribution center.

"Warehouse employer" means an employer that operates a warehouse distribution center.

B. A warehouse employer shall provide to each warehouse employee, within 30 days after hiring such employee, a written description of (i) each performance standard, including any quota, stacked ranking system, or time-off-task requirement, to which such employee is subject and (ii) any potential adverse employment action that may result from such employee's failure to meet such performance standard. If a warehouse employer changes or adds a performance standard, such employer shall provide an updated written description of such performance standard at least two business days before such change or addition. A warehouse employer that takes adverse action against a warehouse employee for such employee's failure to meet a performance standard shall provide such employee with a written description of such failure. No warehouse employer shall take adverse employment action against a warehouse employee for such employee's use of a bathroom facility, including reasonable travel time to and from such facility. Nothing in this subsection shall be construed to require a warehouse employer to use a performance standard or to monitor warehouse employee work speed data, and any warehouse employer that does not use performance standards or monitor such data is exempt from the provisions of this subsection.

C. Warehouse employees shall have the right to request orally or in writing from their warehouse employer, or a direct supervisor or other representative designated by such employer, and such employer shall provide within four business days (i) a written description of each quota to which the warehouse employee is subject, (ii) a copy of the most recent 90 days of the warehouse employee's own personal employee work speed data, and (iii) a copy of the most recent 90 days of aggregated employee work speed data for similar warehouse employees at the same worksite. The written description of each quota shall be provided in a manner understandable to the warehouse employee. A warehouse employee may make a request under this subsection no more than four times per year.

D. Any warehouse employer that fails to comply with the requirements of subsection B shall be subject to a civil penalty not to exceed \$5,000 for each violation.

E. In addition to being subject to any other penalty provided by the provisions of this section, any warehouse employer that discharges, retaliates against, or adversely affects the compensation of a warehouse employee in violation of subsection B shall be liable for the payment of all wages due, and an additional equal amount as liquidated damages, plus interest at an annual rate of eight percent accruing from the date the wages were due.

F. In addition to any civil penalty provided by this section, and without regard to any exhaustion of alternative administrative remedies provided for in this section, if a warehouse employer fails to comply with the requirements of subsection B, the warehouse employee may bring an action, individually, jointly, with other aggrieved warehouse employees, or on behalf of similarly situated warehouse employees as a collective action consistent with the collective action procedures of the federal Fair Labor Standards Act, 29 U.S.C. § 216(b), against the warehouse employer to order compliance with the requirements of subsection B, and the court shall award injunctive relief and liquidated damages of \$1,000 for each violation of the requirements of subsection B. If the court finds that the warehouse employer knowingly retaliated against a warehouse

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59 *employee for bathroom facility use in violation of subsection B, the court shall award the warehouse*
60 *employee an amount equal to triple the amount of wages due and reasonable attorney fees and costs. An*
61 *action under this subsection shall be commenced within three years after the cause of action accrued.*

62 *G. As used in this section, a person acts "knowingly" if the person, with respect to information, (i) has*
63 *actual knowledge of the information, (ii) acts in deliberate ignorance of the truth or falsity of the information,*
64 *or (iii) acts in reckless disregard of the truth or falsity of the information. Establishing that a person acted*
65 *knowingly shall not require proof of specific intent to defraud.*