



General Assembly

Substitute Bill No. 152

January Session, 2023



AN ACT CONCERNING THE PROTECTION OF WAREHOUSE WORKERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2023*) As used in this section and
2 sections 2 to 7, inclusive, of this act:

3 (1) "Employee" means an individual engaged in service to an
4 employer in a business of the employer;

5 (2) "Work speed data" means any information an employer collects,
6 stores, analyzes or interprets relating to an employee's performance of a
7 quota, including, but not limited to, quantities of tasks performed,
8 quantities of items or materials handled or produced, rates or speeds of
9 tasks performed or measurements of employee performance in relation
10 to a quota and time categorized as performing tasks or not performing
11 tasks;

12 (3) "Employer" means an individual, corporation, partnership,
13 limited partnership, limited liability partnership, limited liability
14 company, business trust, estate, trust, association, joint venture, agency,
15 instrumentality, or any other legal or commercial entity, whether
16 domestic or foreign, that directly or indirectly, or through an agent or
17 any other person, including through the services of a third-party
18 employer, temporary services, or staffing agency, independent

19 contractor or any similar entity, at any time in the prior twelve months,
20 employs or exercises control over the wages, hours or working
21 conditions of (A) one hundred or more employees at a single warehouse
22 distribution center in the state, or (B) one thousand or more employees,
23 in the aggregate, at one or more warehouse distribution centers in the
24 state that are owned and operated by the same individual, partnership,
25 corporation, limited liability company, association of persons or other
26 business entity;

27 (4) "Quota" means a performance standard under which (A) an
28 employee is assigned or required, within a defined time period, to
29 perform a quantified number of tasks or at a specified productivity
30 speed or to handle or produce a quantified amount of material without
31 a certain number of errors or defects, as measured at the individual or
32 group level within a defined time period, and for which the employee
33 may suffer an adverse employment action if such employee fails to
34 complete such performance standard, or (B) an employee's actions are
35 categorized and measured between time performing tasks and not
36 performing tasks within a day, and such employee may suffer an
37 adverse employment action if such employee fails to complete such
38 performance standard; and

39 (5) "Warehouse distribution center" means an establishment as
40 defined by any of the following North American Industry Classification
41 System Codes: (A) 493110 for General Warehousing and Storage; (B) 423
42 for Merchant Wholesalers, Durable Goods; (C) 424 for Merchant
43 Wholesalers, Nondurable Goods; (D) 454110 for Electronic Shopping
44 and Mail-Order Houses; or (E) 492110 for Couriers and Express Delivery
45 Services.

46 Sec. 2. (NEW) (*Effective July 1, 2023*) (a) Not later than August 1, 2023,
47 an employer shall provide each employee with a written description of
48 each quota that the employee is subject to, including any potential
49 adverse employment action that may result from a failure to satisfy such
50 quota. On and after August 1, 2023, an employer shall provide such
51 written description of each quota to each person hired by such

52 employer.

53 (b) Nothing in this section shall require an employer to use quotas or
54 monitor work speed data. An employer that does not monitor such data
55 shall not be obligated to provide such data to such employer's
56 employees.

57 Sec. 3. (NEW) (*Effective July 1, 2023*) (a) No employee shall be required
58 to meet any quota that (1) prevents compliance with section 31-51ii of
59 the general statutes concerning meal periods, (2) interferes with the
60 employee's use of bathroom facilities, including the reasonable time to
61 travel to and from bathroom facilities, (3) prevents compliance with the
62 Occupational Safety and Health Act of 1970, 15 USC 651 et seq., as
63 amended from time to time, or (4) measures total output over an
64 increment of time that is shorter than one day. Any action taken by an
65 employee to comply with the Occupational Safety and Health Act of
66 1970, 15 USC 651 et seq., as amended from time to time, or regulations
67 promulgated thereunder, shall be considered time on task and
68 productive time for purposes of any quota or monitoring system,
69 provided meal and rest breaks are not considered productive time
70 unless such employee is required to be on call.

71 (b) No employer shall take any adverse employment action against
72 an employee for failure to meet (1) a quota that prevents compliance as
73 described in subdivisions (1) and (3) of subsection (a) of this section, (2)
74 a quota that interferes with an employee's use of bathroom facilities
75 pursuant to subdivision (2) of subsection (a) of this section, (3) a quota
76 that has not been previously provided to an employee as part of the
77 written descriptions of each quota pursuant to section 2 of this act, or (4)
78 a daily quota if the employee did not complete such employee's entire
79 scheduled shift.

80 (c) (1) If a current or former employee believes that meeting a quota
81 caused or will cause a violation of subsection (a) of this section, a current
82 employee may request, from such employee's supervisor, or another
83 designated supervisor, (A) the written description of each quota that

84 such employee is subject to, (B) a copy of such employee's own personal
85 work speed data for the most recent ninety days, and (C) a copy of the
86 aggregate work speed data for similar employees at the same employer
87 for the same time period. Such request may be made orally or in writing.
88 If a former employee requests the written description of each quota that
89 the former employee was subject to and a copy of such former
90 employee's own personal work speed data pursuant to this subsection,
91 the employer shall provide such former employee's quotas and personal
92 work speed data for the ninety days prior to the date of the employee's
93 separation from employment with the employer. A former employee
94 may only make one request under this subsection.

95 (2) An employer that receives a written or oral request for
96 information under this subsection shall provide such written
97 description of each quota and such employee's personal work speed
98 data not later than five calendar days after the date of the request. Such
99 employer shall provide the requested written description of any quota
100 or personal work speed data in English and the language identified by
101 each employee as the primary language of such employee.

102 (3) Each employer shall establish, maintain and preserve true and
103 accurate records of such information for a period of three years.

104 (d) (1) If an employer in any manner discriminates, retaliates or takes
105 any adverse action against any employee not later than ninety days after
106 such employee (A) makes a request for the written description of each
107 quota or such employee's own personal work speed data pursuant to
108 subsection (c) of this section, or (B) makes a complaint to the Labor
109 Commissioner, related to a quota, alleging a violation pursuant to
110 subsection (e) of this section, there shall be a rebuttable presumption of
111 an adverse employment action in violation of this section.

112 (2) Such presumption may be rebutted by clear and convincing
113 evidence that (A) the adverse action was taken for other permissible
114 reasons, and (B) the employee making or attempting to make (i) a
115 request pursuant to subsection (c) of this section, or (ii) a complaint

116 pursuant to subsection (e) of this section was not a motivating factor in
117 the employer taking such adverse action.

118 (e) (1) An employee who believes an employer violated any provision
119 of this section may file a complaint with the Labor Commissioner. Upon
120 receipt of any such complaint, the commissioner shall hold a hearing.
121 After the hearing, the commissioner shall send each party a written copy
122 of the commissioner's decision. The commissioner may award the
123 employee all appropriate relief. Any party aggrieved by a decision of
124 the commissioner may appeal the decision to the Superior Court in
125 accordance with the provisions of chapter 54 of the general statutes.

126 (2) If the commissioner determines that an employer has violated any
127 provision of this section, the commissioner shall issue an order of
128 compliance to such employer which shall describe particularly the
129 nature of the alleged violation. A copy of such order shall be provided
130 to any employee who has filed the complaint and any authorized
131 representative of such employee.

132 (f) (1) Any employer who violates a provision of this section and
133 section 2 of this act may be liable to the Labor Department for a civil
134 penalty of (A) one thousand dollars for a first violation, (B) two
135 thousand dollars for a second violation, or (C) three thousand dollars
136 for a third or subsequent violations.

137 (2) The Attorney General, upon complaint of the Labor
138 Commissioner, shall institute a civil action to recover the penalties
139 provided for under subdivision (1) of this subsection. Any amount
140 recovered shall be deposited in the General Fund and credited to the
141 separate, nonlapsing appropriation to the Labor Department, for other
142 current expenses, and may be used by the Labor Department to enforce
143 the provisions of this section and section 2 of this act.

144 (g) Any employee aggrieved by a violation of any provision of this
145 section, or the Attorney General on behalf of any employee aggrieved
146 by a violation of any provision of this section, may bring a civil action
147 in the Superior Court to recover damages, civil penalties and such

148 equitable and injunctive relief as the court deems appropriate. Any
149 person who prevails in such civil action may be awarded reasonable
150 attorney's fees and cost to be taxed by the court. Exhaustion of any
151 available administrative remedies shall not be required prior to
152 commencement of suit under this section.

153 Sec. 4. (NEW) (*Effective July 1, 2023*) The commissioner may adopt
154 regulations, in accordance with the provisions of chapter 54 of the
155 general statutes, to implement and enforce the provisions of sections 2
156 and 3 of this act.

157 Sec. 5. (NEW) (*Effective July 1, 2023*) The Labor Commissioner may
158 develop an outreach program in order to inform employees and
159 employers about their rights and obligations under the provisions of
160 sections 2 and 3 of this act. Such program shall include the distribution
161 of notices and other written materials to employers and employees
162 working in a warehouse.

163 Sec. 6. (NEW) (*Effective July 1, 2023*) (a) The Labor Commissioner shall
164 have access to data, including employer-reported injury data and
165 enforcement actions in employer warehouses, the identity of uninsured
166 employers, and employers who are committing workers' compensation
167 fraud, wage theft or other information relevant to the commissioner's
168 authority.

169 (b) Not later than July 1, 2024, the Labor Commissioner shall report
170 to the joint standing committee of the General Assembly having
171 cognizance of matters relating to labor and public employees on (1) the
172 number of claims filed with the commissioner under section 3 of this act,
173 (2) data on warehouse production quotas in warehouses in which the
174 Workers' Compensation Commission has indicated that annual
175 employee injury rates are above the industry average, and (3) the
176 number of investigations undertaken and enforcement actions initiated.

177 Sec. 7. (NEW) (*Effective July 1, 2023*) The Workers' Compensation
178 Commission shall monitor the injury rates for each employer, as defined
179 in section 1 of this act. If an employer is found to have an annual

180 employee injury rate at or over one and one-half times the warehousing
181 industry's average annual injury rate, the Workers' Compensation
182 Commission shall notify the Labor Commissioner and the
183 commissioner shall determine whether an investigation concerning
184 potential violations of sections 2 and 3 of this act is appropriate.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2023</i>	New section
Sec. 2	<i>July 1, 2023</i>	New section
Sec. 3	<i>July 1, 2023</i>	New section
Sec. 4	<i>July 1, 2023</i>	New section
Sec. 5	<i>July 1, 2023</i>	New section
Sec. 6	<i>July 1, 2023</i>	New section
Sec. 7	<i>July 1, 2023</i>	New section

JUD *Joint Favorable Subst.*

APP *Joint Favorable*