AN ACT CONCERNING THE PROTECTION OF WAREHOUSE WORKERS.

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

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

1. "Employee" means an individual engaged in service to an employer in a business of the employer;

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

3. "Employer" means an individual, corporation, partnership, limited partnership, limited liability partnership, limited liability company, business trust, estate, trust, association, joint venture, agency, instrumentality, or any other legal or commercial entity, whether domestic or foreign, that directly or indirectly, or through an agent or any other person, including through the services of a third-party employer, temporary services, or staffing agency, independent...
contractor or any similar entity, at any time in the prior twelve months, employs or exercises control over the wages, hours or working conditions of (A) one hundred or more employees at a single warehouse distribution center in the state, or (B) one thousand or more employees, in the aggregate, at one or more warehouse distribution centers in the state that are owned and operated by the same individual, partnership, corporation, limited liability company, association of persons or other business entity;

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

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

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

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

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

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

(c) (1) If a current or former employee believes that meeting a quota caused or will cause a violation of subsection (a) of this section, a current employee may request, from such employee's supervisor, or another designated supervisor, (A) the written description of each quota that
such employee is subject to, (B) a copy of such employee’s own personal
work speed data for the most recent ninety days, and (C) a copy of the
aggregate work speed data for similar employees at the same employer
for the same time period. Such request may be made orally or in writing.
If a former employee requests the written description of each quota that
the former employee was subject to and a copy of such former
employee’s own personal work speed data pursuant to this subsection,
the employer shall provide such former employee’s quotas and personal
work speed data for the ninety days prior to the date of the employee’s
separation from employment with the employer. A former employee
may only make one request under this subsection.

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

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

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

(2) Such presumption may be rebutted by clear and convincing
evidence that (A) the adverse action was taken for other permissible
reasons, and (B) the employee making or attempting to make (i) a
request pursuant to subsection (c) of this section, or (ii) a complaint
pursuant to subsection (e) of this section was not a motivating factor in
the employer taking such adverse action.

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

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

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

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

(g) Any employee aggrieved by a violation of any provision of this
section, or the Attorney General on behalf of any employee aggrieved
by a violation of any provision of this section, may bring a civil action
in the Superior Court to recover damages, civil penalties and such
equitable and injunctive relief as the court deems appropriate. Any person who prevails in such civil action may be awarded reasonable attorney's fees and cost to be taxed by the court. Exhaustion of any available administrative remedies shall not be required prior to commencement of suit under this section.

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

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

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

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

Sec. 7. (NEW) (Effective July 1, 2023) The Workers' Compensation Commission shall monitor the injury rates for each employer, as defined in section 1 of this act. If an employer is found to have an annual
employee injury rate at or over one and one-half times the warehousing industry's average annual injury rate, the Workers' Compensation Commission shall notify the Labor Commissioner and the commissioner shall determine whether an investigation concerning 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 | July 1, 2023 | New section |
| Sec. 2    | July 1, 2023 | New section |
| Sec. 3    | July 1, 2023 | New section |
| Sec. 4    | July 1, 2023 | New section |
| Sec. 5    | July 1, 2023 | New section |
| Sec. 6    | July 1, 2023 | New section |
| Sec. 7    | July 1, 2023 | New section |

JUD Joint Favorable Subst.
APP Joint Favorable