



General Assembly

Substitute Bill No. 314

February Session, 2022



AN ACT CONCERNING 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, 2022*) (a) As used in this section and
2 sections 2 and 3 of this act:

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

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

12 (3) "Employer" means (A) a single warehouse distribution center in
13 the state in which one hundred or more employees work, or (B) one or
14 more warehouse distribution centers in the state which are owned and
15 operated by the same person, partnership, corporation, limited liability
16 company, association of persons or other business entity and in which,
17 in the aggregate, one thousand or more employees work;

18 (4) "Quota" means a work standard under which an employee is
19 assigned or required to perform at a specified productivity speed,
20 perform a quantified number of tasks, or to handle or produce a
21 quantified amount of material, within a defined time period and under
22 which the employee may suffer an adverse employment action if the
23 employee fails to complete a performance standard; and

24 (5) "Warehouse distribution center" means an establishment as
25 defined by any of the following North American Industry Classification
26 System Codes: (A) 493110 For General Warehousing and Storage; (B)
27 423 for Merchant Wholesalers, Durable Goods; (C) 424 for Merchant
28 Wholesalers, Nondurable Goods; or (D) 454110 for Electronic Shopping
29 and Mail-Order Houses.

30 (b) (1) Not later than August 1, 2022, or at the time of hire, whichever
31 is later, an employer shall provide to each employee a written
32 description of each quota the employee is subject to within a defined
33 time period and any potential adverse employment action that may
34 result from a failure to meet such quota. An employee shall not be
35 required to meet any quota that prevents compliance with (A) section
36 31-51ii of the general statutes, concerning meal periods, (B) the use of
37 bathroom facilities, including the reasonable time to travel to and from
38 bathroom facilities, or (C) the Occupational Safety and Health Act of
39 1970, 15 USC 651 et seq., as amended from time to time.

40 (2) An employer shall not take any adverse employment action
41 against an employee for failure to meet a quota that prevents
42 compliance as described in subparagraphs (A) to (C), inclusive, of
43 subdivision (1) of this subsection or for a quota that has not been
44 disclosed pursuant to this subsection. Any action taken by an employee
45 to comply with the Occupational Safety and Health Act of 1970, 15 USC
46 651 et seq., as amended from time to time, or regulations promulgated
47 thereunder shall be considered time on task and productive time for
48 purposes of any quota or monitoring system. Meal and rest breaks are
49 not considered productive time unless the employee is required to be on
50 call.

51 (c) If a current or former employee believes that meeting a quota
52 caused a violation of the employee's right to a meal period under section
53 31-51ii of the general statutes or required the employee to violate the
54 Occupational Safety and Health Act of 1970, 15 USC 651 et seq., the
55 employee may request, and the employer shall provide, upon the
56 employee's request, a written description of each quota to which the
57 employee is subject and a copy of the employee's own personal work
58 speed data for the most recent ninety days. If a former employee
59 requests a written description of the quotas to which the former
60 employee was subject and a copy of the former employee's own
61 personal work speed data pursuant to this subsection, the employer
62 shall provide ninety days of the former employee's quotas and personal
63 work speed data for the ninety days prior to the date of the employee's
64 separation from employment with the employer. A former employee
65 may make only one request pursuant to this subsection.

66 (d) An employer that receives a written or oral request for
67 information pursuant to subsection (c) of this section shall comply with
68 the request as soon as practicable, but not later than twenty-one calendar
69 days after the date of the request.

70 (e) There shall be a rebuttable presumption of unlawful retaliation if
71 an employer in any manner discriminates, retaliates or takes any
72 adverse action against any employee not later than ninety days after the
73 employee:

74 (1) Initiates the employee's first request in a calendar year for
75 information about a quota or personal work speed data pursuant to
76 subsection (c) of section 1 of this act; or

77 (2) Makes a complaint related to a quota alleging any violation of this
78 section to the Labor Commissioner.

79 (f) Any employee who believes an employer violated any provision
80 of this section may file a complaint with the Labor Commissioner. Upon
81 receipt of any such complaint, the commissioner shall hold a hearing.

82 After the hearing, the commissioner shall send each party a written copy
83 of the commissioner's decision. The commissioner may award the
84 employee all appropriate relief. Any party aggrieved by a decision of
85 the commissioner may appeal the decision to the Superior Court in
86 accordance with the provisions of chapter 54 of the general statutes.

87 Sec. 2. (NEW) (*Effective July 1, 2022*) (a) The Labor Commissioner shall
88 enforce the provisions of sections 1 to 3, inclusive, of this act by engaging
89 in coordinated and strategic enforcement efforts with the Workers'
90 Compensation Commission.

91 (b) The Labor Commissioner shall educate employees and employers
92 about their rights and obligations under said sections in order to
93 increase compliance.

94 (c) The Labor Commissioner shall have access to data, including
95 employer-reported injury data and enforcement actions in employer
96 warehouses, the identity of uninsured employers, and employers who
97 are committing workers' compensation fraud, wage theft or other
98 information relevant to the commissioner's authority.

99 (d) Not later than January 1, 2024, the Labor Commissioner shall
100 report to the joint standing committee of the General Assembly having
101 cognizance of matters relating to labor on the number of claims filed
102 with the commissioner under sections 1 to 3, inclusive, of this act, data
103 on warehouse production quotas in warehouses in which the Workers'
104 Compensation Commission has indicated that annual employee injury
105 rates are above the industry average, and the number of investigations
106 undertaken and enforcement actions initiated.

107 (e) The Workers' Compensation Commission shall keep track of
108 injury rates for each employer as defined under section 1 of this act. If
109 an employer is found to have an annual employee injury rate one and
110 one-half times higher than the warehousing industry's average annual
111 injury rate, or more, the Workers' Compensation Commission shall
112 notify the Labor Commissioner, and the commissioner shall determine

113 whether an investigation concerning potential violations of sections 1 to
114 3, inclusive, of this act is appropriate.

115 (f) The commissioner may adopt regulations, in accordance with the
116 provisions of chapter 54 of the general statutes, to implement and
117 enforce the provisions of sections 1 to 3, inclusive, of this act.

118 Sec. 3. (NEW) (Effective July 1, 2022) Any person aggrieved by a
119 violation of any provision of this section and sections 1 and 2 of this act,
120 the Labor Commissioner, or the Attorney General may bring a civil
121 action in the Superior Court to recover damages, civil penalties and such
122 equitable and injunctive relief as the court deems appropriate. Any
123 person who prevails in such civil action shall be awarded reasonable
124 attorney's fees and costs to be taxed by the court.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2022	New section
Sec. 2	July 1, 2022	New section
Sec. 3	July 1, 2022	New section

Statement of Legislative Commissioners:

In Section 1(b)(2), "such a quota" was changed to "a quota that prevents compliance as described in subparagraphs (A) to (C), inclusive, of subdivision (1) of this subsection" for clarity, in Section 2(e), "investigation of violations pursuant to sections 1 to 3" was changed to "investigation concerning potential violations of sections 1 to 3" for clarity; and in Section 3, "individual" was changed to "person" for consistency.

LAB Joint Favorable Subst.