



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3272

Introduced 2/6/2024, by Sen. Celina Villanueva

SYNOPSIS AS INTRODUCED:

New Act

Creates the Warehouse Worker Protection Act. Provides that each employer shall provide to each employee, upon hire or within 30 days after the effective date of the Act, whichever is later, a written description of each quota to which the employee is subject, including the quantified number of tasks to be performed or materials to be produced or handled, within a defined time period, and any potential adverse employment action that could result from failure to meet the quota. Provides that an employee shall not be required to meet a quota that prevents compliance with meal or rest periods or use of bathroom facilities, including reasonable travel time to and from bathroom facilities. Requires employers to post a notice of employees' rights under the Act and to comply with certain recordkeeping requirements. Establishes civil penalties for noncompliance with the Act. Provides for a private right of action and injunctive relief. Sets forth provisions concerning definitions, employee's right to request records, enforcement, and severability. Effective January 1, 2025.

LRB103 38574 RPS 68710 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Warehouse Worker Protection Act.

6 Section 5. Definitions. As used in this Act:

7 "Aggregated work speed data" means a compilation of
8 employee work speed data for multiple employees, in summary
9 form, assembled in full or in another form such that the data
10 cannot be identified with any individual.

11 "Controlled group of corporations" has the meaning given
12 to that term under Section 1563 of the Internal Revenue Code,
13 26 U.S.C. 1563, except that 50% shall be substituted for 80%
14 where 80% is specified in that definition.

15 "Defined time period" means any unit of time measurement
16 equal to or less than the duration of an employee's shift,
17 including hours, minutes, seconds, and any fraction thereof.

18 "Designated employee representative" means any employee
19 representative, including, but not limited to, an authorized
20 employee representative who has a collective bargaining
21 relationship with the employer.

22 "Director" means the Director of Labor.

23 "Employee" means a nonadministrative employee who is not

1 exempt from the overtime and minimum wage requirements of the
2 federal Fair Labor Standards Act of 1938, as amended, and who
3 works at a warehouse distribution center and is subject to a
4 quota as defined in this Section. "Employee" does not include
5 a driver or courier to or from a warehouse distribution
6 center.

7 "Employee work speed data" means information an employer
8 collects, stores, analyzes, or interprets relating to an
9 individual employee's performance of a quota, including, but
10 not limited to, quantities of tasks performed, quantities of
11 items or materials handled or produced, rates or speeds of
12 tasks performed, measurements or metrics of employee
13 performance in relation to a quota, and time categorized as
14 performing tasks or not performing tasks. "Employee work speed
15 data" does not include itemized wage statements or data that
16 does not relate to the performance of a quota, except for any
17 content of those records that includes employee work speed
18 data.

19 "Employer" means a person who directly or indirectly, or
20 through an agent or any other person, including through the
21 services of a third-party employer, temporary services or
22 staffing agency, independent contractor, or any similar
23 entity, employs or exercises control over the wages, hours, or
24 working conditions of 100 or more employees at a single
25 warehouse distribution center in the State or 1,000 or more
26 employees at one or more warehouse distribution centers in the

1 State. For the purposes of this definition, all employees of a
2 controlled group of corporations shall be counted in
3 determining the number of employees employed at a single
4 warehouse distribution center or at one or more warehouse
5 distribution centers in the State.

6 "Person" means an individual, corporation, partnership,
7 limited partnership, limited liability partnership, limited
8 liability company, business trust, estate, trust, association,
9 joint venture, agency, instrumentality, or any other legal or
10 commercial entity, whether domestic or foreign.

11 "Quota" means a work performance standard under which:

12 (1) an employee is assigned or required to perform at
13 a specified productivity speed or a quantified number of
14 tasks or to handle or produce a quantified amount of
15 material within a defined time period and under which the
16 employee may suffer an adverse employment action if the
17 employee fails to complete or meet the performance
18 standard; or

19 (2) categorizes and measures an employee's actions
20 between time performing tasks and not performing tasks,
21 and the employee's failure to complete or meet a task
22 performance standard may lead to an adverse employment
23 action.

24 "Warehouse distribution center" means an establishment as
25 defined by any of the following North American Industry
26 Classification System (NAICS) codes, however such

1 establishment is denominated:

2 (1) 493 for Warehousing and Storage, but does not
3 include 493130 for Farm Product Warehousing and Storage;

4 (2) 423 for Merchant Wholesalers, Durable Goods;

5 (3) 424 for Merchant Wholesalers, Nondurable Goods,
6 but does not include 424510 for Grain and Field Bean
7 Merchant Wholesalers, 424520 for Livestock Merchant
8 Wholesalers, and 424590 for Other Farm Product Raw
9 Material Wholesalers;

10 (4) 454110 for Electronic Shopping and Mail-Order
11 Houses; or

12 (5) 492110 for Couriers and Express Delivery Services.

13 Section 10. Disclosure of quotas. Each employer shall
14 provide to each employee, upon hire or within 30 days after the
15 effective date of this Act, whichever is later, a written
16 description of each quota to which the employee is subject,
17 including the quantified number of tasks to be performed or
18 materials to be produced or handled within the defined time
19 period, and any potential adverse employment action that could
20 result from failure to meet the quota. Each time the quota
21 changes thereafter, the employer shall provide an updated
22 written description of each quota to which the employee is
23 subject within 2 business days of the quota change. If an
24 employer takes an adverse employment action against an
25 employee based on a quota, the employee has a right to request,

1 and the employer shall provide, a written explanation
2 regarding the manner in which the employee failed to perform,
3 including the applicable quota and comparison of the
4 employee's work performance in relation to that quota. If an
5 employee requests a written description of the quotas to which
6 the employee was subject and a copy of the employee's own
7 personal work speed data pursuant to this Section, the
8 employer shall comply with this request as soon as
9 practicable, but no later than 3 calendar days after the date
10 of the request.

11 Section 15. Protection from quotas. An employee shall not
12 be required to meet a quota that prevents compliance with meal
13 or rest periods or use of bathroom facilities, including
14 reasonable travel time to and from bathroom facilities. An
15 employer shall not take adverse employment action against an
16 employee for failure to meet a quota that does not allow a
17 worker to comply with meal and rest periods or for failure to
18 meet a quota that has not been disclosed to the employee
19 pursuant to Section 10.

20 Section 20. Time on task. Consistent with existing law,
21 paid and unpaid breaks shall not be considered productive time
22 for the purpose of any quota or monitoring system unless the
23 employee is required to remain on call.

1 Section 25. Recordkeeping. Each employer shall establish,
2 maintain, and preserve for 3 years contemporaneous, true, and
3 accurate records to ensure compliance with employee and
4 Director requests for data. Nothing in this Section shall
5 require an employer to keep such records if such employer does
6 not use quotas or monitor work speed data as a performance
7 standard that leads to an adverse employment action. An
8 employer is not obligated to produce data that does not
9 constitute employee work speed data.

10 Section 30. Employee's right to request records.

11 (a) A current employee has the right to request a written
12 description of each quota to which the employee is subject. If
13 a current or former employee believes that the current or
14 former employee has received an adverse employment action as
15 the result of failing to meet a quota, or that meeting a quota
16 caused a violation of the employee's right to a meal or rest
17 period or use of bathroom facilities, the current or former
18 employee has the right to request, and the employer shall
19 provide, a written description of each quota to which the
20 employee is subject, a copy of the most recent 90 days of the
21 employee's own personal work speed data, and a copy of the
22 aggregated work speed data for similar employees at the same
23 establishment for the same time period.

24 (b) Requested records under this Section shall be provided
25 at no cost to the current or former employee.

1 (c) Nothing in this Section shall require an employer to
2 use quotas or monitor work speed data. An employer that does
3 not monitor this data has no obligation to provide it.

4 (d) The rights afforded under this Section are independent
5 of any other right afforded to an employee or former employee
6 under any State or federal law, including, but not limited to,
7 the Personnel Records Review Act, to access documents
8 maintained by an employer.

9 Section 35. Unlawful retaliation. For purposes of this
10 Act, there shall be a rebuttable presumption of unlawful
11 retaliation if an employer takes any adverse employment action
12 against an employee within 90 days of the employee doing
13 either of the following:

14 (1) Initiating the employee's first request in a
15 calendar year for information about a quota or personal
16 work speed data pursuant to Section 30 of this Act.

17 (2) Making a complaint related to a quota alleging any
18 violation of Sections 10, 15, or 20 of this Act,
19 inclusive, to the Director, the Department, or the
20 employer.

21 Section 40. Notice to employees. Every employer covered by
22 this Act shall post and keep posted, in conspicuous places on
23 the premises of the employer where notices to employees are
24 customarily posted, a notice, to be prepared or approved by

1 the Director of Labor, regarding employees' rights under this
2 Act, including what constitutes a permissible quota and
3 employees' right to request quota and work speed data
4 information, and making a complaint to various State
5 authorities regarding a violation of an employee's quota
6 rights under this Act.

7 Section 45. Enforcement. The Department of Labor shall
8 adopt rules to implement and enforce this Act. The Director
9 shall be authorized to enforce this Act and to assess damages
10 payable to the employee and civil penalties.

11 Section 50. Workplace inspections. If a particular work
12 site or employer that uses quotas as a performance standard to
13 determine adverse employment actions and is subject to this
14 Act is found to have an annual employee injury rate of at least
15 1.5 times as high as the warehousing industry's average annual
16 injury rate as published by the Bureau of Labor Statistics'
17 most recent fatal and non-fatal occupational injuries and
18 illnesses data, the Director shall determine whether an
19 investigation of violations pursuant to this Act, if relevant
20 to the Director's authority, is appropriate.

21 Section 55. Private right of action. A current or former
22 employee or his or her designated employee representative may
23 bring an action for injunctive relief to obtain compliance

1 with Sections 10, 15, 20, and 30 and may, upon prevailing in
2 the action, recover costs and reasonable attorney's fees in
3 such action. In any action involving a quota that prevented
4 the compliance with applicable regulations on workplace safety
5 and health or meal or rest break requirements, the injunctive
6 relief shall be limited to suspension of the quota and any
7 adverse action that resulted from its enforcement by the
8 employer.

9 Section 60. Attorney General; powers. The Attorney
10 General, pursuant to the authority under Section 6.3 of the
11 Attorney General Act, may initiate or intervene in a civil
12 action in the name of the People of the State in any circuit
13 court to obtain all appropriate relief for violations
14 established under this Act.

15 Section 97. Severability. The provisions of this Act are
16 severable under Section 1.31 of the Statute on Statutes.

17 Section 99. Effective date. This Act takes effect January
18 1, 2025.