



General Assembly

Amendment

January Session, 2023

LCO No. **9104**



Offered by:

SEN. KUSHNER, 24th Dist.

REP. SANCHEZ E., 24th Dist.

To: Subst. Senate Bill No. **152**

File No. 661

Cal. No. 267

"AN ACT CONCERNING THE PROTECTION OF WAREHOUSE WORKERS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective July 1, 2023*) As used in this section and
4 sections 2 to 4, inclusive, of this act:

5 (1) "Employee" means an individual engaged in service to an
6 employer in a business of the employer. "Employee" does not include a
7 driver or courier traveling to or from a warehouse distribution center;

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

14 tasks;

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

30 (4) "Quota" means a performance standard or performance target
31 under which (A) an employee is assigned or required, within a defined
32 time period, to perform a quantified number of tasks or at a specified
33 productivity speed or to handle or produce a quantified amount of
34 material without a certain number of errors or defects, as measured at
35 the individual or group level within a defined time period, and for
36 which the employee may suffer an adverse employment action if such
37 employee fails to complete such performance standard or performance
38 target, (B) an employee's actions are categorized and measured between
39 time performing tasks and not performing tasks within a day, and such
40 employee may suffer an adverse employment action if such employee
41 fails to complete such performance standard or performance target, or
42 (C) an employee's performance is ranked in relation to the performance
43 of other employees and for which the employee may suffer an adverse
44 employment action if such employee falls below a certain rank among
45 other employees in the facility; and

46 (5) "Warehouse distribution center" means an establishment as

47 defined by any of the following North American Industry Classification
48 System Codes: (A) 493110 for General Warehousing and Storage; (B) 423
49 for Merchant Wholesalers, Durable Goods; (C) 424 for Merchant
50 Wholesalers, Nondurable Goods; (D) 454110 for Electronic Shopping
51 and Mail-Order Houses; or (E) 492110 for Couriers and Express Delivery
52 Services.

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

60 (b) Any time there is a change to a quota that results in a quota that
61 differs from the most recent written description provided to an
62 employee pursuant to subsection (a) of this section, an employer shall
63 (1) notify the employee of such change as soon as possible, either
64 verbally or in writing, prior to such employee becoming subject to the
65 new quota, and (2) provide the employee with an updated written
66 description of each quota such employee is subject to not later than two
67 business days after such change in the quota.

68 Sec. 3. (NEW) (*Effective July 1, 2023*) (a) No employee shall be required
69 to meet any quota that (1) prevents compliance with section 31-51ii of
70 the general statutes concerning meal periods, (2) interferes with the
71 employee's use of bathroom facilities, including the reasonable time to
72 travel to and from bathroom facilities, or (3) measures total output over
73 an increment of time that is shorter than one day.

74 (b) No employer shall take any adverse employment action against
75 an employee for failure to meet (1) a quota that prevents compliance as
76 described in subdivision (1) of subsection (a) of this section, (2) a quota
77 that interferes with an employee's use of bathroom facilities pursuant to
78 subdivision (2) of subsection (a) of this section, (3) a quota that has not

79 been previously provided to an employee as part of the written
80 descriptions of each quota pursuant to section 2 of this act, or (4) a daily
81 quota if the employee did not complete such employee's entire
82 scheduled shift.

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

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

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

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

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

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

125 (e) Any employer who violates a provision of this section and section
126 2 of this act may be assessed a civil penalty of (1) one thousand dollars
127 for a first violation, (2) two thousand dollars for a second violation, or
128 (3) three thousand dollars for a third or subsequent violations.

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

138 Sec. 4. (NEW) (*Effective July 1, 2023*) The Workers' Compensation
139 Commission shall monitor the injury rates for each employer, as defined
140 in section 1 of this act. If an employer is found to have an annual
141 employee injury rate at or over one and one-half times the warehousing
142 industry's average annual injury rate, the Workers' Compensation

143 Commission shall notify the Labor Commissioner and the
144 commissioner shall determine whether an investigation concerning
145 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