

WORKING DRAFT

Proposed Substitute Bill No. 412

February Session, 2024

LCO No. 3240

AN ACT CONCERNING THE PROTECTION OF WAREHOUSE WORKERS IN THE STATE.

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

1 Section 1. (NEW) (*Effective October 1, 2024*) As used in this section and
2 sections 2 to 8, inclusive, of this act:

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

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

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21 (3) "Quota" means a work performance standard or performance
22 target where (A) an employee is assigned or required to (i) perform a
23 quantified number of tasks within a defined time period, (ii) perform at
24 a specified productivity speed, or (iii) handle or produce a quantified
25 amount of material without a certain number of errors or defects as
26 measured at the individual or group level within a defined time period,
27 (B) an employee's actions are categorized and measured between time
28 performing tasks and not performing tasks, (C) an employee's
29 performance is ranked in relation to the performance of other
30 employees, or (D) increments of time continuously measured, recorded
31 or tallied within an employee's work day where such employee is or is
32 not doing a particular activity or set of activities;

33 (4) "Work speed data" means information an employer collects,
34 stores, analyzes or interprets relating to an individual employee's
35 performance of a quota, including, but not limited to, quantities of tasks
36 performed, quantities of items or materials handled or produced, rates
37 or speeds of tasks performed, measurements or metrics of employee
38 performance in relation to a quota and time categorized as performing
39 tasks or not performing tasks; and

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

47 Sec. 2. (NEW) (*Effective October 1, 2024*) (a) On and after July 1, 2025,
48 each employer shall provide to each employee not later than August 1,
49 2025, or, for an employee hired on or after August 1, 2025, upon hire, a
50 written description of each quota the employee is or will be subject to,
51 including any potential adverse employment action that may result
52 from a failure to meet each quota.

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53 (b) Whenever the employer makes a change to a quota and such
54 change results in a different quota for an employee than the most recent
55 written description provided to an employee pursuant to subsection (a)
56 of this section, an employer shall:

57 (1) Notify the employee of such change as soon as possible, either
58 verbally or in writing, prior to such employee becoming subject to the
59 new quota; and

60 (2) Provide the employee with an updated written description of each
61 quota for which such employee is subject to not later than two business
62 days after such change in the quota.

63 (c) An employer shall provide a written copy of any quota required
64 pursuant to this section to an employee. Such written copy shall be
65 provided directly to such employee by a manager during such
66 employee's work hours.

67 Sec. 3. (NEW) (*Effective October 1, 2024*) (a) On and after July 1, 2025,
68 no quota shall: (1) Violate the provisions of section 31-51ii of the general
69 statutes concerning meal periods; (2) interfere with an employee's use
70 of the bathroom facilities, including reasonable travel time to and from
71 the bathroom facilities; (3) measure an employee's total output over an
72 increment of time that is shorter than such employee's work day; (4) be
73 based solely on ranking the performance of an employee in relation to
74 the performance of other employees; or (5) measure, record or tally
75 increments of time during an employee's work day where such
76 employee is or is not performing a particular activity or set of activities.

77 (b) No employer shall take any adverse action against an employee
78 for failing to meet a quota (1) that violates the provisions of section 31-
79 51ii of the general statutes as described in subdivision (1) of subsection
80 (a) of this section, (2) that interferes with the employee's use of bathroom
81 facilities, including reasonable time to travel to and from the bathroom
82 facilities, (3) if such employee did not complete such employee's entire
83 scheduled shift, or (4) that has not been previously provided to an

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84 employee pursuant to section 2 of this act.

85 Sec. 4. (NEW) (*Effective October 1, 2024*) (a) On and after July 1, 2025,
86 each employer shall establish, maintain and preserve contemporaneous,
87 true and accurate records of the following: (1) Each employee's own
88 personal work speed data; (2) the aggregate work speed data for similar
89 employees at the same warehouse distribution center; and (3) the
90 written description of each quota that each employee was provided
91 pursuant to section 2 of this act.

92 (b) An employer shall maintain and preserve any records required
93 pursuant to this section for a period of not more than three years.

94 (c) Nothing in this section shall require an employer to establish,
95 maintain and preserve the records required under this section if such
96 employer does not use quotas or monitor work speed data.

97 Sec. 5. (NEW) (*Effective October 1, 2024*) (a) On and after July 1, 2025,
98 if an employee believes meeting a quota caused or will cause a violation
99 of subsection (a) of section 3 of this act, such employee may request from
100 such employee's supervisor, or another designated supervisor: (1) A
101 written description of each quota the employee is subject to; (2) a copy
102 of any records of the employee's own personal work speed data for the
103 prior ninety days; and (3) a copy of any records of the prior ninety days
104 of aggregated work speed data for similar employees at the same
105 employer for the same time period.

106 (b) On and after July 1, 2025, a former employee may request from a
107 former employer: (1) A written description of each quota the employee
108 was subject to for the ninety days prior to the date of such employee's
109 separation from employment; (2) a copy of any records of the
110 employee's own personal work speed data for the ninety days prior to
111 such employee's separation from employment; and (3) a copy of any
112 records of aggregated work speed data for similar employees at the
113 same warehouse distribution center for the ninety days prior to the
114 employee's separation from employment. A former employee may only

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115 make one such request of such former employer under this section.

116 (c) An employer shall provide a written copy of any records
117 requested pursuant to this section not later than five calendar days after
118 receipt of such request. Such written copy shall be provided in both
119 English and the language identified by the requesting employee as the
120 primary language of such employee. Such written copy shall be
121 provided directly to such employee by a manager during such
122 employee's work hours.

123 Sec. 6. (NEW) (*Effective October 1, 2024*) (a) On and after July 1, 2025,
124 no employer shall discharge or in any way retaliate, discriminate or take
125 any adverse action against any employee or former employee after such
126 employee (1) makes a request pursuant to section 5 of this act, or (2) files
127 a civil action pursuant to section 7 of this act.

128 (b) (1) On and after July 1, 2025, if an employer discharges or in any
129 way retaliates, discriminates or takes any adverse action against any
130 employee or former employee within ninety days after such employee
131 (A) makes a request pursuant to section 5 of this act, or (B) files a civil
132 action pursuant to section 7 of this act, there shall be a rebuttable
133 presumption that such adverse action is in violation of this section.

134 (2) Such presumption may be rebutted by clear and convincing
135 evidence that (1) the adverse action was taken for other permissible
136 reasons, and (2) the employee (A) making or attempting to make a
137 request pursuant to section 5 of this act, or (B) filing a civil action
138 pursuant to section 7 of this act was not a motivating factor in the
139 employer taking such adverse action.

140 Sec. 7. (NEW) (*Effective October 1, 2024*) (a) On and after July 1, 2025,
141 any employee aggrieved by a violation of sections 2 to 6, inclusive, of
142 this act, or the Attorney General on behalf of any employee aggrieved
143 by a violation of sections 2 to 6, inclusive, of this act, may bring a civil
144 action in the Superior Court to recover damages, civil penalties and such
145 equitable and injunctive relief as the court deems appropriate. Any

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146 person who prevails in such civil action may be awarded reasonable
147 attorney's fees and cost to be taxed by the court.

148 (b) Any employer who violates a provision of sections 2 to 6,
149 inclusive, of this act may be assessed a civil penalty by the court of (1)
150 one thousand dollars for a first violation, (2) two thousand dollars for a
151 second violation, or (3) three thousand dollars for a third or subsequent
152 violations.

153 Sec. 8. (NEW) (*Effective October 1, 2024*) On and after July 1, 2025, the
154 Workers' Compensation Commission shall monitor the injury rates of
155 employees working in warehouse distribution centers in the state. If an
156 employer is found to have an annual injury rate at or over one and one-
157 half times the warehousing industry's average annual injury rate, the
158 Workers' Compensation Commission shall notify the Labor
159 Commissioner and the commissioner shall determine whether an
160 investigation concerning potential violations of sections 2 to 6, inclusive,
161 of this act is appropriate.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2024</i>	New section
Sec. 2	<i>October 1, 2024</i>	New section
Sec. 3	<i>October 1, 2024</i>	New section
Sec. 4	<i>October 1, 2024</i>	New section
Sec. 5	<i>October 1, 2024</i>	New section
Sec. 6	<i>October 1, 2024</i>	New section
Sec. 7	<i>October 1, 2024</i>	New section
Sec. 8	<i>October 1, 2024</i>	New section