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Coming Soon: Illinois Law Affecting Warehouse Distribution Centers

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The Illinois Legislature recently passed the "Warehouse Worker Protection Act" (HB2547enr 103RD GENERAL ASSEMBLY), which is expected to be signed by Governor Pritzker and would go into effect starting January 1, 2026. The Act would impose multiple requirements on employers that mandate certain work standards, or "quotas," on employees that work in warehouse distribution centers in Illinois.

Who is covered by the Act?

The Act would apply to entities that employ (a) at least 250 employees in a single warehouse distribution center in Illinois, or (b) at least 1,000 employees across such establishments in Illinois.

A warehouse distribution center includes (subject to certain exclusions) those defined by the NAICS codes 493 (Warehousing and Storage), 423 (Merchant Wholesalers, Durable Goods), 424 (Merchant Wholesalers, Nondurable Goods), and 454110 (Electronic Shopping and Mail-Order Houses).

The Act applies to non-administrative and non-exempt (i.e., overtime-eligible) employees subject to a quota (discussed below) who work at a covered warehouse distribution center. However, the Act expressly excludes those who work only as drivers or couriers to or from these warehouses.

What is a "quota" under the Act?

A quota is defined broadly as a "work performance standard" under which an employee must perform at a certain speed, perform a quantified number of tasks, or handle or produce a quantified amount of material within a defined time period *and* the employee would suffer an "adverse employment action" if they fail to do so. An adverse employment action, in turn, is anything that a "reasonable employee" would find materially adverse. This would include not only employment termination or compensation decisions but also potentially warnings or other less tangible consequences for not meeting such standards.

The Act also states that paid and unpaid breaks may not be considered productive time in establishing a quota, unless the employee is required to remain on call.

What are the requirements under the Act?

Employers would have to provide to covered employees, upon hire or within 30 days after the Act becomes effective (whichever is later), a written description of each applicable quota and any potential adverse employment action that could result for failure to meet the quota. Employers must provide updated written descriptions within five business days whenever the quota changes.

An employer would be prohibited from taking adverse employment action against an employe for failing to meet a quota if the employer fails to provide this description.

If adverse employment action is taken, the employee may request a written explanation regarding the manner in which the employee failed to perform. The employer then would have seven days to provide an explanation that includes the applicable quota and a comparison of the employee's performance against that quota.

An employee also may request, and the employer must provide within seven days, a written description of the quota and a copy of the employee's personal work speed data applicable to this quota.

In addition, the Act makes clear that a quota cannot prevent compliance with meal- or rest-period obligations or use of bathroom facilities and that no adverse employment action may be taken if a quota has this effect.

What else is required?

Covered employers also must do the following:

- Retain applicable data and records for three years.
- Provide, if requested by a current or former employee for failing to meet a quota or if the employee believes the quota affects their rights to rest or meal periods or use of bathroom facilities: (i) a written description of each applicable quota, (ii) a copy of the most recent 90 days of the employee's data that is maintained concerning that quota, *and* (iii) a copy of aggregated data "for similar employees at the same establishment for the same time period."
- Not retaliate against employees for exercising their rights under the Act. Note that the Act imposes a rebuttable presumption of unlawful retaliation if the employee is subject to adverse employment action within 90 days of making a request for information or for making a complaint.

- Post a notice regarding employees' rights under the Act.

Does an employer have to use quotas at its warehouse distribution centers?

No. The Act does not require an employer to use quotas or monitor employee work-speed data. As the Act states, "[a]n employer that does not monitor this data has no obligation to provide it."

What are the consequences of violating the Act?

The Illinois Department of Labor may recover damages for an employee and issue civil penalties. An employee may bring a private right of action to require compliance with the Act and, if the employee prevails, recover costs and reasonable attorneys' fees. Additionally, the Illinois Attorney General would be authorized to initiate a lawsuit.

Next steps

In advance of the law's anticipated effective date, employers should evaluate whether they meet the employee threshold for coverage under the Act. Covered employers should determine whether quotas, as broadly defined, are used at their facilities and ensure that they have a process in place, with supervisors or other relevant personnel properly trained, for disclosing and responding to requests for information required under the Act.

Additional Information

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