



# RULE-MAKING ORDER PERMANENT RULE ONLY

## CR-103P (December 2017) (Implements RCW 34.05.360)

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STATE OF WASHINGTON  
FILED

DATE: May 31, 2024

TIME: 8:30 AM

WSR 24-12-045

**Agency:** Department of Labor & Industries (L&I)

**Effective date of rule:**

**Permanent Rules**

31 days after filing.

Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

Yes  No If Yes, explain:

**Purpose:** Second Substitute House Bill 1762 (2SHB 1762), chapter 49.84 RCW, Laws of 2023, creates new protections for workers of warehouse distribution centers who are subject to performance quotas. 2SHB 1762 grants enforcement authority to L&I's Fraud Prevention and Labor Standards (FPLS) division and Division of Occupational Safety and Health (DOSH). The provisions enforced by FPLS require employers to:

- Provide quota descriptions to employees;
- Ensure quotas account for:
  - Rest breaks;
  - Time to travel to break locations; and
  - Time to perform an activity required by the employer to complete the work subject to a quota; and
- Refrain from retaliating or taking other adverse action related to protections under the chapter and rules.

FPLS is adopting the rule to implement the provisions of 2SHB 1762 enforced by the division. The rule clarifies and provides employers additional guidance on the quota protections established by the bill. The rule also describes the enforcement mechanisms FPLS will use to enforce the requirements, including the complaint, investigation, citation, and appeal processes. The rule provides remedies and penalties for violations of the rule.

Other requirements related to quotas for workers at certain warehouse distribution centers under chapter 49.84 RCW are enforced by L&I's Division of Occupational Safety and Health (DOSH). DOSH conducted simultaneous rulemaking and has adopted rules for the provisions of chapter 49.84 RCW enforced by the division in chapter 296-35 WAC.

**Citation of rules affected by this order:**

New: WAC 296-136-010, 296-136-020, 296-136-030, 296-136-040, 296-136-050, 296-136-060, 296-136-070, 296-136-080, 296-136-090, 296-136-100, 296-136-110, 296-136-120, 296-136-130, 296-136-140, 296-136-150, 296-136-160, 296-136-170, and 296-136-180

Repealed:

Amended:

Suspended:

**Statutory authority for adoption:** Chapter 49.84 RCW

**Other authority:**

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 24-06-080 on March 5, 2024 (date).

Describe any changes other than editing from proposed to adopted version:

**WAC 296-136-010(15) Definitions.**

Added subsection (c) to the definition of the term "quota." It clarifies that a team quota, when applied to a group of employees, is considered a quota under the rule for each individual employee. The change provides additional guidance in instances where employers use a team quota.

**WAC 296-136-030 Warehouse quota written descriptions and notices.**

Added language to subsection (4) to clarify employees may choose in which language(s) they receive a written quota description. The adopted rule also adds language to clarify employees must receive their initial written quota description in their preferred language within 15 calendar days of hire, and any updated description within the timelines established by WAC 296-136-030(7). The changes improve clarity around preferred language timelines.

Reorganized subsection (7) to improve readability. The adopted rule makes clear which language employers must offer written descriptions in within two businesses days of when the employer changes a quota. The adopted rule also adds language to clarify employees may choose in which language(s) they receive a written description. The changes improve clarity around the preferred language requirements for updated quota descriptions.

**WAC 296-136-050 Labor standards quota violations except under chapter 49.17 RCW.**

Reorganized subsection (3) to improve readability. The adopted rule adds language to clarify that employers may not take adverse action against an employee for failing to meet a quota that the employee had not yet received in their preferred language. The change provides clarity for when employers may not take adverse action against employees.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

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Web site: <https://www.lni.wa.gov/rulemaking-activity/?query=warehouse>  
Other:

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	<u>18</u>	Amended	___	Repealed	___

**The number of sections adopted at the request of a nongovernmental entity:**

New	___	Amended	___	Repealed	___
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**The number of sections adopted on the agency's own initiative:**

New	___	Amended	___	Repealed	___
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	___	Amended	___	Repealed	___
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**The number of sections adopted using:**

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___

Other alternative rule making:    New    \_\_\_    Amended    \_\_\_    Repealed    \_\_\_

**Date Adopted:** May 31, 2024

**Name:** Joel Sacks

**Title:** Director

**Signature:**

