



Standards Regarding Quotas at Warehouse Distribution Centers

*Implementation of 2SHB
1762 (2023)*

Agenda

- Welcome and introductions
- Background, purpose, and brief summary of proposed rule language
- Question and answer period and public feedback
- Formal public hearing

Introductions

- Ellen Saline, FPLS Senior Policy Manager
- Allison Drake, DOSH Policy & Stakeholder Engagement Manager
- Tracy West, DOSH Standards Program Manager
- Reed Simock, FPLS Administrative Regulations Analyst
- Bridget Osborne, FPLS Administrative Regulations Analyst
- Carmyn Shute, DOSH Administrative Regulations Analyst

Rule Development Process

- **CR-101 preproposal statement of inquiry**
 - October 11, 2023
- **CR-102 Proposal**
 - Filed March 5, 2024 with proposed rule language
 - Deadline for public comment: 5:00pm, April 22, 2024
- **CR-103**
 - Estimated filing date: May 31, 2024
 - Effective date: July 1, 2024

2023 Legislation

- Second Substitute House Bill (2SHB) 1762, codified under chapter 49.84 RCW, addresses protections for employees at warehouse distribution centers who are subject to quotas.
- Chapter 49.84 RCW provides for L&I enforcement by both Fraud Prevention and Labor Standards (FPLS) and the Division of Occupational Safety and Health (DOSH).
- Effective July 1, 2024

Safety Standards Rules

Requirements Under Chapter 296-35 WAC

- **WAC 296-35-100 Definitions.** Establishes definitions that apply to this chapter. Definitions are numerated for ease in cross referencing.
- **WAC 296-35-200 Quota time periods and reasonable travel time.** Establishes that time periods applied to quotas must include time to use the bathroom, including reasonable travel time.

Requirements, cont.

- **WAC 296-35-250 Employer size determination.**
Establishes how the department will determine the employer size for purposes of establishing penalties under chapter 49.17 RCW.
- **WAC 296-35-300 Quota – Violations of WISHA.**
Establishes when a quota violates chapter 49.17 RCW (WISHA). A non-exhaustive table of examples is provided.

Requirements, cont.

- **WAC 296-35-350 Employer recordkeeping requirements.** Establishes that records required under the labor standards rules must be maintained along with records on how time periods were considered in setting a quota.
- **WAC 296-35-400 Protection from adverse action for failure to meet a quota in violation of WISHA.** Establishes employers may not take adverse action against employees for not meeting quotas in violation of RCW 49.84.032.

Retaliation Protections under DOSH

- **WAC 296-35-500 Retaliation protections and enforcement.** Establishes that employers or their designee may not take adverse action against an employee or former employee for exercising any rights established by the rule or RCW 49.84.032. Reiterates rebuttable presumption established under RCW 49.84.040.
- **WAC 296-35-600 Severability Clause.**

Retaliation Protections, cont.

- **WAC 296-360-200 Retaliation protections and enforcement – Warehouse distribution centers.** Establishes protected activities covered by this rule. RCW 49.84.062 and 49.84.040 will be processed, investigated and handled according to established DOSH retaliation processes.

Labor Standards Rules

Requirements Under Chapter 296-136 WAC

- **WAC 296-136-010 Definitions.** Establishes definitions that apply to this chapter. Definitions are numerated for ease in cross referencing.
- **WAC 296-136-020 Determining employer size for quota requirement coverage.** Establishes how the department will determine the employer size for purposes of establishing coverage under chapter 49.84 RCW.

Requirements, cont.

- **WAC 296-136-030 Warehouse Quota Written Descriptions and Notices.** Clarifies statutory requirements in RCW 49.84.020. Establishes when descriptions and notices must be provided. Establishes preferred language requirements.
- **WAC 296-136-040 Quota time periods and reasonable travel time.** Clarifies time periods that must be considered in a quota, in accordance with RCW 49.84.025.

Requirements, cont.

- **WAC 296-136-050 Labor Standard quota violations except under chapter 49.17 RCW.** Clarifies violations for quotas that violate labor standards outside of safety and health violations.
- **WAC 296-136-060 Employer recordkeeping requirements.** Clarifies employer recordkeeping requirements established in RCW 49.84.035.

Requirements, cont.

- **WAC 296-136-070 Employee right to request written description and records.** Clarifies an employee's right to request written descriptions of quotas and work speed data records. Establishes when descriptions and records must be provided to the employee. Establishes preferred language requirements.
- **WAC 296-136-080 Protection from adverse action for failure to meet a quota in violation of labor standards.** Establishes employers may not take adverse actions against employees for not meeting a quota in violation of RCW 49.84.030.

Labor Standards Retaliation Protections

- **WAC 296-136-090 Retaliation protections.** Clarifies that employers or their designee may not take adverse action against an employee or former employee for exercising any rights established by the rule or RCW 49.84.032. Clarifies rebuttable presumptions of retaliation as established in RCW 49.84.040.

Labor Standards Investigations

- **WAC 296-136-100 Department investigations.**
Clarifies complaint, investigation, and determination processes for the department as established in RCW 49.84.045.
- **WAC 296-136-110 Investigation-Civil Penalties.**
Establishes penalty escalation process and clarifies employer penalties established in RCW 49.84.045.

Labor Standards Enforcement and Appeal

- **WAC 296-136-120 Enforcement of meal and rest break violations resulting from quota violations.** Establishes investigation and enforcement mechanisms for the department.
- **WAC 296-136-130 Appeals.** Clarifies determination appeal process as established in RCW 49.84.050.

Labor Standards Enforcement and Appeal

- **WAC 296-136-140 Retaliation - Enforcement.**
Establishes retaliation enforcement mechanisms for the department, in accordance with the Minimum Wage Act as established by RCW 49.84.040(4).
- **WAC 296-136-150 Retaliation - Civil Penalties.**
Clarifies civil penalties for retaliation violations.

Labor Standards Enforcement and Appeal

- **WAC 296-136-160 Retaliation appeals.** Clarifies appeal process for retaliation determinations.
- **WAC 296-136-170 Discretionary Enforcement Provisions.** Establishes coordinated enforcement efforts between different divisions within L&I.
- **WAC 296-136-180 Severability Clause.**

Questions?



- Short break to transition to public hearing

A chance to stretch your legs and take a deep breath.

Public Hearing

Testimony

When called on, please begin by identifying yourself, spelling your name, and identifying who you represent for the record.

Thank you for joining us today!

Please submit your comments or questions to us at
WarehouseRules@Lni.wa.gov

by 5:00 p.m. April 22, 2024

