



# PROPOSED RULE MAKING

## CR-102 (July 2022) (Implements RCW 34.05.320) Do NOT use for expedited rule making

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FILED

DATE: March 05, 2024

TIME: 3:31 PM

WSR 24-06-080

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

- Original Notice**
- Supplemental Notice to WSR** \_\_\_\_\_
- Continuance of WSR** \_\_\_\_\_

- Preproposal Statement of Inquiry was filed as WSR 23-21-058 ; or**
- Expedited Rule Making--Proposed notice was filed as WSR \_\_\_\_\_; or**
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**
- Proposal is exempt under RCW \_\_\_\_\_.**

**Title of rule and other identifying information:** (describe subject) Chapter 296-136 WAC, Labor standards for quotas at warehouse distribution centers. New chapter under Title 296 WAC, Department of Labor and Industries.

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
April 9, 2024	9:30 a.m.	Spokane Enduris Training Center 1610 S Technology Blvd Spokane, WA 99224	A pre-hearing overview will begin at 9:00 a.m. The hearing will start at 9:30 a.m. and will continue until all oral comments are received. This public hearing will be held jointly with L&I's Division of Occupational Safety and Health.
April 11, 2024	6:00 p.m.	Virtual/telephonic hearing: <b>Join electronically:</b> <a href="https://lni-wa-gov.zoom.us/j/89225681620?pwd=-bkh6emF3bGUraHlxbFk5dTJ2tjJMQT09">https://lni-wa-gov.zoom.us/j/89225681620?pwd=-bkh6emF3bGUraHlxbFk5dTJ2tjJMQT09</a> Passcode: Ware@530  <b>Or join by phone (audio only):</b> US: 253-215-8782 Meeting ID: 892 2568 1620 Passcode: 12275394	A pre-hearing overview will begin at 5:30 p.m. The hearing will start at 6:00 p.m. and will continue until all oral comments are received. This public hearing will be held jointly with L&I's Division of Occupational Safety and Health.
April 15, 2024	1:30 p.m.	Tukwila Department of Labor & Industries 12806 Gateway Drive South Tukwila, WA 98168	A pre-hearing overview will begin at 1:00 p.m. The hearing will start at 1:30 p.m. and will continue until all oral comments are received. This public hearing will be held jointly with L&I's Division of Occupational Safety and Health.

**Date of intended adoption:** May 31, 2024 (Note: This is **NOT** the effective date)

**Submit written comments to:**

Name: Reed Simock  
 Address: Department of Labor & Industries  
 Fraud Prevention & Labor Standards/Employment Standards  
 PO Box 44510  
 Olympia, WA 98504-4510  
 Email: [WarehouseRules@Lni.wa.gov](mailto:WarehouseRules@Lni.wa.gov)  
 Fax: 360-902-5300  
 Other:  
 By (date) April 22, 2024, by 5:00pm

**Assistance for persons with disabilities:**

Contact Reed Simock  
 Phone: 360-480-3237  
 Fax: 360-902-5300  
 TTY:  
 Email: [WarehouseRules@Lni.wa.gov](mailto:WarehouseRules@Lni.wa.gov)  
 Other:

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**

The Washington State Legislature passed Second Substitute House Bill 1762 (2SHB 1762), Chapter 306, Laws of 2023, during the 2023 legislative session. 2SHB 1762, codified under chapter 49.84 RCW, establishes protections for employees at certain warehouse distribution centers who are subject to quotas. L&I's Fraud Prevention and Labor Standards (FPLS) Division enforces the following labor standards under chapter 49.84 RCW:

- Provide quota descriptions to employees
- Ensure quotas account for:
  - Rest breaks
  - Time to travel to break locations
  - Time to perform an activity required by the employer to complete the work subject to a quota
- Prohibit retaliation

FPLS is adopting rules to clarify and implement the requirements of 2SHB 1762. The proposed rules also describe FPLS's enforcement mechanisms, including the complaint, investigation, citation, and appeals processes. The proposed rules also provide for remedies and penalties for violations of the rules.

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 is conducting simultaneous rulemaking for the provisions of chapter 49.84 RCW enforced by the division in chapter 296-35 WAC.

**Reasons supporting proposal:** Rules are needed to clarify and enforce the new requirements of 2SHB 1762, codified in chapter 49.84 RCW.

**Statutory authority for adoption:** RCW 49.84.060

**Statute being implemented:** RCW 49.84.020, 49.84.030, 49.84.035, 49.84.037, 49.84.040, 49.84.045, 49.84.050

**Is rule necessary because of a:**

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

**Type of proponent:**  Private  Public  Governmental

**Name of proponent:** (person or organization) Department of Labor and Industries

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Reed Simock	Tumwater, WA	360-480-3237
Implementation:	Bryan Templeton	Tumwater, WA	360-902-5310
Enforcement:	Bryan Templeton	Tumwater, WA	360-902-5310

**Is a school district fiscal impact statement required under [RCW 28A.305.135](#)?**

Yes  No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

**Is a cost-benefit analysis required under [RCW 34.05.328](#)?**

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name: Reed Simock

Address: Department of Labor & Industries

Fraud Prevention & Labor Standards/Employment Standards

PO Box 44510  
Olympia, WA 98504-4510  
Phone: 360-480-3237  
Fax: 360-902-5300  
TTY:  
Email: WarehouseRules@Lni.wa.gov  
Other:

No: Please explain:

### Regulatory Fairness Act and Small Business Economic Impact Statement

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

#### (1) Identification of exemptions:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570\(2\)](#) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:

[RCW 34.05.310](#) (4)(b)  
(Internal government operations)

[RCW 34.05.310](#) (4)(e)  
(Dictated by statute)

[RCW 34.05.310](#) (4)(c)  
(Incorporation by reference)

[RCW 34.05.310](#) (4)(f)  
(Set or adjust fees)

[RCW 34.05.310](#) (4)(d)  
(Correct or clarify language)

[RCW 34.05.310](#) (4)(g)  
(i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#) (does not affect small businesses).

This rule proposal, or portions of the proposal, is exempt under RCW \_\_\_\_\_.

Explanation of how the above exemption(s) applies to the proposed rule: Under RCW 49.84.010(9)(a), the proposed rule only apply to employers with 100 more employees at a single warehouse distribution center in the state or 1,000 or more employees at one or more warehouse distribution centers in the state.

#### (2) Scope of exemptions: *Check one.*

The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.

The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):

The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

#### (3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. \_\_\_\_\_

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:  
Address:  
Phone:

Fax:  
TTY:  
Email:  
Other:

**Date:** March 5, 2024

**Name:** Joel Sacks

**Title:** Director

**Signature:**

