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ARTICLE 14

178.2

WAREHOUSE WORKERS

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Section 1. [182.6526] WAREHOUSE DISTRIBUTION WORKER SAFETY.

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Subdivision 1. **Definitions.** (a) The terms defined in this subdivision have the meanings given them.

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(b) "Commissioner" means the commissioner of labor and industry.

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(c)(1) Except as provided in clause (2), "employee" means a nonexempt employee who works at a warehouse distribution center.

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(2) For the purposes of subdivisions 2, 3, and 4 only, "employee" means a nonexempt employee performing warehouse work occurring on the property of a warehouse distribution center, and does not include a nonexempt employee performing solely manufacturing, administrative, sales, accounting, human resources, or driving work at a warehouse distribution center.

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(d) "Work speed data" means information an employer collects, stores, analyzes, or interprets relating to an individual employee's or group of employees' pace of work, including but not limited to quantities of tasks performed, quantities of items or materials handled or produced, rates or speeds of tasks performed, measurements or metrics of employee performance in relation to a quota, and time categorized as performing tasks or not performing tasks.

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(e) "Employer" means a person who directly or indirectly, or through an agent or any other person, including through the services of a third-party employer, temporary service, or staffing agency or similar entity, employs or exercises control over the wages, hours, or working conditions of 250 or more employees at a single warehouse distribution center or 1,000 or more employees at one or more warehouse distribution centers in the state. For purposes of this paragraph, all employees of an employer's unitary business, as that term is defined in section 290.17, subdivision 4, shall be counted in determining the number of employees employed at a single warehouse distribution center or at one or more warehouse distribution centers in the state.

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(f) "Warehouse distribution center" means an establishment as defined by any of the following North American Industry Classification System (NAICS) codes:

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(1) 493110 for General Warehousing and Storage;

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(2) 423 for Merchant Wholesalers, Durable Goods;

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(3) 424 for Merchant Wholesalers, Nondurable Goods;

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(4) 454110 for Electronic Shopping and Mail-Order Houses; and

- 179.3 (5) 492110 for Couriers and Express Delivery Services.
- 179.4 (g) "Quota" means a work standard under which:
- 179.5 (1) an employee or group of employees is assigned or required to perform at a specified
179.6 productivity speed, or perform a quantified number of tasks, or handle or produce a quantified
179.7 amount of material, or perform without a certain number of errors or defects, as measured
179.8 at the individual or group level within a defined time period; or
- 179.9 (2) an employee's actions are categorized between time performing tasks and not
179.10 performing tasks, and the employee's failure to complete a task performance standard or
179.11 recommendation may have an adverse impact on the employee's continued employment.
- 179.12 Subd. 2. **Written description required.** (a) Each employer shall provide to each
179.13 employee a written description of each quota to which the employee is subject and how it
179.14 is measured, including the quantified number of tasks to be performed or materials to be
179.15 produced or handled or the limit on time categorized as not performing tasks, within the
179.16 defined time period, and any potential adverse employment action that could result from
179.17 failure to meet the quota.
- 179.18 (b) The written description must be understandable in plain language and in the
179.19 employee's language of preference.
- 179.20 (c) The written description must be provided:
- 179.21 (1) upon hire or within 30 days of the effective date of this section; and
- 179.22 (2) no fewer than two working days prior to the effective date of any modification of
179.23 existing quotas.
- 179.24 (d) An employer shall not take adverse employment action against an employee for
179.25 failure to meet a quota that has not been disclosed to the employee.
- 179.26 Subd. 3. **Breaks.** An employee shall not be required to meet a quota that prevents
179.27 compliance with meal or rest or prayer periods, use of restroom facilities, including
179.28 reasonable travel time to and from restroom facilities as provided under section 177.253,
179.29 subdivision 1, or occupational health and safety standards under this chapter or Minnesota
179.30 Rules, chapter 5205. An employer shall not take adverse employment action against an
179.31 employee for failure to meet a quota that does not allow a worker to comply with meal or
179.32 rest or prayer periods, or occupational health and safety standards under this chapter.
- 180.1 Subd. 4. **Work speed data.** (a) Employees have the right to request orally or in writing
180.2 from any supervisor, and the employer shall provide within 72 hours: (1) a written description
180.3 of each quota to which the employee is subject; (2) a copy of the most recent 90 days of the
180.4 employee's own personal work speed data; and (3) a copy of the prior six months of
180.5 aggregated work speed data for similar employees at the same work site.

180.6 The written description of each quota must meet the requirements of subdivision 2, paragraph
180.7 (b), and the work speed data must be provided in a manner understandable to the employee.
180.8 An employee may make a request under this paragraph no more than four times per year.

180.9 (b) If an employer disciplines an employee for failure to meet a quota, the employer
180.10 must, at the time of discipline, provide the employee with a written copy of the most recent
180.11 90 days of the employee's own personal work speed data. If an employer dismisses an
180.12 employee for any reason, they must, at the time of firing, provide the employee with a
180.13 written copy of the most recent 90 days of the employee's own personal work speed data.
180.14 An employer shall not retaliate against an employee for requesting data under this
180.15 subdivision.

180.16 Subd. 5. **High rates of injury.** If a particular work site or employer is found to have an
180.17 employee incidence rate in a given year, based on data reported to the federal Occupational
180.18 Safety and Health Administration, of at least 30 percent higher than that year's average
180.19 incidence rate for the relevant NAICS code's nonfatal occupational injuries and illnesses
180.20 by industry and case types, released by the United States Bureau of Labor Statistics, the
180.21 commissioner shall open an investigation of violations under this section. The employer
180.22 must also hold its safety committee meetings as provided under section 182.676 monthly
180.23 until, for two consecutive years, the work site or employer does not have an employee
180.24 incidence rate 30 percent higher than the average yearly incidence rate for the relevant
180.25 NAICS code.

180.26 Subd. 6. **Enforcement.** (a) Subdivision 2, paragraphs (a) to (c), subdivision 4, and
180.27 subdivision 5 shall be enforced by the commissioner under sections 182.66, 182.661, and
180.28 182.669. A violation of this section is subject to the penalties provided under sections
180.29 182.666 and 182.669.

180.30 (b) A current or former employee aggrieved by a violation of this section may bring a
180.31 civil cause of action for damages and injunctive relief to obtain compliance with this section,
180.32 may receive other equitable relief as determined by a court, including reinstatement with
180.33 back pay, and may, upon prevailing in the action, recover costs and reasonable attorney
181.1 fees in that action. A cause of action under this section must be commenced within one year
181.2 of the date of the violation.

181.3 (c) Nothing in this section shall be construed to prevent local enforcement of occupational
181.4 health and safety standards that are more restrictive than this section.

181.5 Sec. 2. **SEVERABILITY.**

181.6 If any provision of this act or the application thereof to any person or circumstance is
181.7 held invalid, the invalidity does not affect other provisions or applications of the act which
181.8 can be given effect without the invalid provision or application.