

183.13 **ARTICLE 16**

183.14 **WAREHOUSE DISTRIBUTION WORKER SAFETY**

183.15 Section 1. **[182.6526] WAREHOUSE DISTRIBUTION WORKER SAFETY.**

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

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

183.19 (c) "Employee" means a nonexempt employee who works at a warehouse distribution
183.20 center.

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

183.27 (e) "Employer" means a person who directly or indirectly, or through an agent or any
183.28 other person, including through the services of a third-party employer, temporary service,
183.29 or staffing agency or similar entity, employs or exercises control over the wages, hours, or
183.30 working conditions of 250 or more employees at a single warehouse distribution center or
183.31 1,000 or more employees at one or more warehouse distribution centers in the state. For
183.32 purposes of this paragraph, all employees of an employer's unitary business, as that term is

184.1 defined in section 290.17, subdivision 4, shall be counted in determining the number of
184.2 employees employed at a single warehouse distribution center or at one or more warehouse
184.3 distribution centers in the state.

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

184.6 (1) 493110 for General Warehousing and Storage;

184.7 (2) 423 for Merchant Wholesalers, Durable Goods;

184.8 (3) 424 for Merchant Wholesalers, Nondurable Goods;

184.9 (4) 454110 for Electronic Shopping and Mail-Order Houses; and

184.10 (5) 492110 for Couriers and Express Delivery Services.

184.11 (g) "Quota" means a work standard under which:

184.12 (1) an employee or group of employees is assigned or required to perform at a specified
184.13 productivity speed, or perform a quantified number of tasks, or handle or produce a quantified
184.14 amount of material, or perform without a certain number of errors or defects, as measured
184.15 at the individual or group level within a defined time period; or

184.16 (2) an employee's actions are categorized between time performing tasks and not
184.17 performing tasks, and the employee's failure to complete a task performance standard or
184.18 recommendation may have an adverse impact on the employee's continued employment.

184.19 Subd. 2. **Notice required.** (a) Each employer shall provide to each employee a written
184.20 description of each quota to which the employee is subject and how it is measured, including
184.21 the quantified number of tasks to be performed or materials to be produced or handled or
184.22 the limit on time categorized as not performing tasks, within the defined time period, and
184.23 any potential adverse employment action that could result from failure to meet the quota.

184.24 (b) The written description must be understandable in plain language and in the
184.25 employee's language of preference.

184.26 (c) The written description must be provided:

184.27 (1) upon hire or within 30 days of the effective date of this section; and

184.28 (2) no fewer than two working days prior to the effective date of any modification of
184.29 existing quotas.

184.30 (d) An employer shall not take adverse employment action against an employee for
184.31 failure to meet a quota that has not been disclosed to the employee.

185.1 Subd. 3. **Breaks.** An employee shall not be required to meet a quota that prevents
185.2 compliance with meal or rest or prayer periods, use of restroom facilities, including
185.3 reasonable travel time to and from restroom facilities as provided under section 177.253,
185.4 subdivision 1, or occupational health and safety standards under this chapter or Minnesota
185.5 Rules, chapter 5205. An employer shall not take adverse employment action against an
185.6 employee for failure to meet a quota that does not allow a worker to comply with meal or
185.7 rest or prayer periods, or occupational health and safety standards under this chapter.

185.8 Subd. 4. **Work speed data.** (a) Employees have the right to request orally or in writing
185.9 from any supervisor, and the employer shall provide within 72 hours, a written description
185.10 of each quota to which the employee is subject and a copy of the most recent 90 days of the
185.11 employee's own personal work speed data. The written description of each quota must meet
185.12 the requirements of subdivision 2, paragraph (b), and the employee work speed data must
185.13 be provided in a manner understandable to the employee. An employee can make a request
185.14 under this paragraph no more than four times per year.

185.15 (b) If an employer disciplines an employee for failure to meet a quota, the employer
185.16 must, at the time of discipline, provide the employee with a written copy of the most recent
185.17 90 days of the employee's own personal work speed data. If an employer dismisses an
185.18 employee for any reason, they must, at the time of firing, provide the employee with a
185.19 written copy of the most recent 90 days of the employee's own personal work speed data.
185.20 An employer shall not retaliate against an employee for requesting data under this
185.21 subdivision.

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

185.32 Subd. 6. **Enforcement.** (a) Subdivision 2, paragraphs (a) to (c), subdivision 4, and
185.33 subdivision 5 shall be enforced by the commissioner under sections 182.66, 182.661, and
185.34 182.669. A violation of this section is subject to the penalties provided under sections
185.35 182.666 and 182.669.

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

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

186.9 **Sec. 2. SEVERABILITY.**

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