

WSR 23-21-059
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed October 11, 2023, 4:51 p.m.]

Subject of Possible Rule Making: Safety standards for quotas at warehouse distribution centers. New chapter under Title 296 WAC, Department of labor and industries (L&I), and chapter 296-360 WAC, Discrimination, pursuant to RCW 49.17.160.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 49.84.060, 49.17.010, 49.17.040, 49.17.050, and 49.17.060.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: 2023's 2SHB 1762, codified under chapter 49.84 RCW, addresses protections for employees at warehouse distribution centers who are subject to quotas. In part, chapter 49.84 RCW includes requirements enforced under the Washington Industrial Safety and Health Act, chapter 49.17 RCW. These include the following requirements:

- Ensure time considered in the quota includes:
 - o Time to use the bathroom, including reasonable travel time;
 - o Time to take any actions necessary for the employee to exercise the employee's right to a safe and healthful workplace including, but not limited to, time to access tools or safety equipment necessary to perform the employee's duties; and
 - o Time to perform any activity related to safety and health required by the employer for the employee to do the work subject to any quota.
- Ensure a quota does not expose an employee to safety and health hazard.
- Prohibits adverse action against an employee for failure to meet a quota that violates the safety and health requirements above.
- Prohibits adverse action against an employee for making a complaint related to a quota violating the safety and health requirements. There is a rebuttal presumption that adverse action taken within 90 days of an employee complaint is retaliatory.

L&I's division of occupational safety and health (DOSH) must adopt rules under WAC to implement and enforce the requirements related to warehouse workers quotas under chapter 49.84 RCW.

Other requirements related to warehouse workers quotas under chapter 49.84 RCW are enforced by the fraud prevention and labor standards (FPLS) division and those requirements are being adopted under a separate rule making; the rule-making efforts will be jointly coordinated.

Chapter 49.84 RCW becomes effective July 1, 2024.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Parties interested in the formulation of these rules for proposal may contact the individual listed below. The public may also participate by commenting after the rules are proposed by providing written comments or giving oral testimony during the public hearing and comment process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Carmyn Shute, Administrative Regulations Analyst, L&I, DOSH, P.O. Box 44620, Olympia, WA 98504-04620, phone 360-870-4525, fax

360-902-5619, email warehouserules@lni.wa.gov, website <https://www.lni.wa.gov/rulemaking-activity/>.

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Director