

LABOR AND EMPLOYMENT LAW

INFORMATION MEMO

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Governor Hochul Signs Warehouse Worker Protection Act Into Law

On Dec. 21, 2022, Gov. Kathy Hochul signed the Warehouse Worker Protection Act (WWPA), S.8922/A [10020](#), into law. This new legislation aims to protect warehouse distribution workers from undisclosed or unlawful work speed quotas and includes protections for workers who fail to meet these quotas. The law takes effect 60 days after its signing, *i.e.*, Feb. 19, 2023.

The WWPA requires covered employers to provide a written description of quotas to which employees are subject and states that employees shall not be required to meet quotas that prevent compliance with meal or rest periods, or use of bathroom facilities, including reasonable travel time to and from bathroom facilities. A “covered employer” is anyone who employs 100 or more employees at a single warehouse distribution center or 500 or more employees at one or more warehouse distribution centers.

The term “quota” is defined to include any work standard (1) which prescribes a specified productivity speed, or number of tasks performed, or materials handled within a defined time period, or (2) when an employee’s actions are categorized between time on task and time off task, and the failure to complete a task performance standard or recommendation may result in adverse employment action. According to the text of the legislation, justification for the WWPA stems from “the rapid growth of just-in-time logistics and same-and next-day consumer package delivery, and advances in technology used for tracking employee productivity,” which has increased the number of employees subject to “quantified work quotas.” The legislature found that failure to meet such quotas could subject employees to adverse employment actions, and therefore contribute to an unsafe environment and workplace injuries. The legislature also reasoned that warehouse and distribution center employees could potentially be deprived of the full benefit of minimum wages if the quota is increased.

To address these legislative concerns, the WWPA requires covered employers to notify employees in writing of applicable quotas, establishes certain recordkeeping requirements, and prohibits retaliation against employees who exercise their rights under the law. Specifically:

- The WWPA requires that employers provide a written description of each quota to relevant employees, as well as the potential consequences of not meeting such quota. The notices must be given upon hire, within 30 days of the effective date of this article or within two business days of a quota change.
- The law requires that employers keep records of quota-related data, including employees’ work speed data, aggregate work speed data and written descriptions of quotas.
- Employees are protected from exercising rights under the law, including requesting quota-related information or filing a complaint. If an employer takes adverse action within 90 days of the employee exercising their rights under the law, there will be a rebuttable presumption that the adverse action was unlawfully motivated.

The potential implications of this new legislation are far-reaching. Over the past few years, various companies have been rapidly growing their number of warehouses in New York. Now, those companies must ensure that, should they employ any sort of quota system, they are following the new legislation.

Those with questions about The Warehouse Worker Protection Act should reach out to [Mark Moldenhauer](#), [James Rooney](#), [Thomas Eron](#) or any member of Bond's [labor and employment practice](#).

