

HOUSE BILL NO. 3258

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WOODS.

7023H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To amend chapter 285, RSMo, by adding thereto six new sections relating to employment practices involving warehouse distribution centers, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 285, RSMo, is amended by adding thereto six new sections, to be
2 known as sections 285.2000, 285.2003, 285.2006, 285.2009, 285.2012, and 285.2015, to read
3 as follows:

**285.2000. For the purposes of sections 285.2000 to 285.2015, the following terms
2 shall mean:**

3 **(1) "Affiliate", a person that directly or indirectly, through one or more
4 intermediaries, controls, is controlled by, or is under common control with another
5 person. For the purposes of this subdivision, "control" means the possession, directly or
6 indirectly, of more than fifty percent of the power to direct or cause the direction of the
7 management and policies of a person, whether through the ownership of voting shares,
8 by contract, or otherwise;**

9 **(2) "Aggregated data", information that an employer has combined or collected
10 in summary or other form such that the data cannot be identified with any individual;**

11 **(3) "Defined time period", any unit of time measurement less than or equal to
12 the duration of an employee's shift, and includes hours, minutes, and seconds and any
13 fraction thereof;**

14 **(4) "Department", the department of labor and industrial relations;**

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 (5) "Designated employee representative", any employee representative
16 including, but not limited to, an authorized employee representative that has a
17 collective bargaining relationship with the employer;

18 (6) "Director", the director of the department of labor and industrial relations
19 or the director's designee;

20 (7) "Employee", an employee who is not exempt under subdivision (3) of section
21 290.500 and works at a warehouse distribution center;

22 (8) "Employee work-speed data", information an employer collects, stores,
23 analyzes, or interprets relating to an individual employee's performance of a quota
24 including, but not limited to, quantities of tasks performed, quantities of items or
25 materials handled or produced, rates or speeds of tasks performed, measurements or
26 metrics of employee performance in relation to a quota, and time categorized as
27 performing tasks or not performing tasks. Employee work-speed data does not include
28 qualitative performance assessments, personnel records, or itemized wage statements
29 pursuant to department rules, except for any content of those records that includes
30 employee work-speed data as defined in this subdivision;

31 (9) "Employer", a person who directly or indirectly, or through an agent or any
32 other person, including through the services of a third-party employer, temporary
33 services, or staffing agency, independent contractor, or any similar entity, at any time,
34 employs or exercises control over the wages, hours, or working conditions of one
35 hundred or more employees at a single warehouse distribution center in the state or one
36 thousand or more cumulative employees at one or more warehouse distribution centers
37 in the state. For the purposes of determining the number of employees employed at a
38 single warehouse distribution center or cumulatively at one or more warehouse
39 distribution centers, all employees employed directly or indirectly, or through a staffing
40 agency or any other person in a contractual agreement with the employer, and all
41 employees employed by an employer and its affiliates shall be counted. For the
42 purposes of determining responsible employers, all agents or other persons and affiliates
43 shall be deemed employers and are jointly and severally responsible for compliance with
44 sections 285.2000 to 285.2015;

45 (10) "Person", an individual, corporation, partnership, limited partnership,
46 limited liability partnership, limited liability company, business trust, estate, trust,
47 association, joint venture, agency, instrumentality, or any other legal or commercial
48 entity, whether domestic or foreign;

49 (11) "Quota", a work performance standard, whether required or
50 recommended, where:

51 (a) An employee is assigned or required to perform at a specified productivity
52 speed, or perform a quantified number of tasks, or to handle or produce a quantified
53 amount of material, within a defined time period and under which the employee may
54 suffer an adverse employment action if they fail to complete the performance standard;
55 or

56 (b) An employee's actions are categorized as time performing tasks, where the
57 employee may suffer an adverse employment action if they fail to meet the performance
58 standard;

59 (12) "Warehouse distribution center", an establishment engaged in activities as
60 defined by any of the following North American Industry Classification System
61 (NAICS) codes, however such establishment is denominated:

62 (a) 493 for warehousing and storage, but does not include 493130 for farm
63 product warehousing and storage;

64 (b) 423 for merchant wholesalers, durable goods;

65 (c) 424 for merchant wholesalers, nondurable goods; or

66 (d) 454110 for electronic shopping and mail-order houses.

285.2003. 1. An employer shall provide to each employee, upon hire, or within
2 thirty days of August 28, 2026, a written description of:

3 (1) Each quota to which the employee is subject, including the quantified
4 number of tasks to be performed or materials to be produced or handled within a
5 defined time period;

6 (2) Any potential adverse employment action that could result from failure to
7 meet each quota; and

8 (3) Any incentives or bonus programs associated with meeting or exceeding each
9 quota.

10 2. Whenever there is a change to a quota that results in a different quota than
11 the most recent written description provided to the employee, the employer shall:

12 (1) Notify the employee orally or in writing as soon as practicable and before the
13 employee is subject to the new quota; and

14 (2) Provide the employee with an updated written description of each quota to
15 which the employee is subject within two business days of the quota change.

16 3. Whenever an employer takes an adverse action against an employee in whole
17 or in part for failure to meet a quota, the employer shall provide that employee with the
18 applicable quota for the employee and the personal work-speed data for the employee
19 that was the basis for the adverse action.

20 **4. The written description shall be understandable, in plain language, and in the**
21 **employee's preferred language. The department may adopt rules regarding the format,**
22 **plain language, and language access requirements for the written description.**

23 **5. (1) The time period considered in a quota, including time designated as**
24 **productive time or time on task, shall include:**

25 **(a) Time for rest breaks and reasonable time to travel to designated locations for**
26 **rest breaks;**

27 **(b) Reasonable travel time to on-site designated meal break locations. Meal**
28 **breaks are not considered time on task or productive time unless the employee is**
29 **required by the employer to remain on duty on the premises or at a prescribed worksite**
30 **in the interest of the employer;**

31 **(c) Time to perform any activity required by the employer in order to do the**
32 **work subject to any quota;**

33 **(d) Time to use the bathroom, including reasonable travel time; and**

34 **(e) Time to take any actions necessary for the employee to exercise the**
35 **employee's right to a safe and healthful workplace including, but not limited to, time to**
36 **access tools or safety equipment necessary to perform the employee's duties.**

37 **(2) Reasonable travel time shall include consideration of the architecture and**
38 **geography of the facility and the location within the facility that the employee is located**
39 **at the time.**

40 **6. (1) A quota violates sections 285.2000 to 285.2015 if the quota:**

41 **(a) Does not provide sufficient time as required under subsection 5 of this**
42 **section;**

43 **(b) Prevents the performance of any activity required by the employer for the**
44 **employee to do the work subject to any quota;**

45 **(c) Prevents the performance of any activity related to occupational safety and**
46 **health required by the employer for the employee to do the work subject to any quota;**
47 **or**

48 **(d) Exposes an employee to occupational safety and health hazards in violation**
49 **of the requirements of state or federal law and the applicable rules or regulations.**

50 **(2) An employee is not required to meet a quota that violates the provisions of**
51 **sections 285.2000 to 285.2015.**

52 **(3) An employer shall not take adverse action against an employee for failing to**
53 **meet a quota that violates sections 285.2000 to 285.2015 or that was not disclosed to the**
54 **employee as required under the provisions of sections 285.2000 to 285.2015.**

55 (4) All provisions of section 285.2006 apply to any person who complains to the
56 employer, the director, or any local, state, or federal governmental agency or official
57 related to a quota alleging any violations of sections 285.2000 to 285.2015.

58 7. (1) An employer shall establish, maintain, and preserve contemporaneous,
59 true, and accurate records of the following:

60 (a) Each employee's own personal work-speed data;

61 (b) The aggregated work-speed data for similar employees at the same
62 warehouse distribution center; and

63 (c) The written descriptions of each quota the employee was provided, as
64 required under this section.

65 (2) (a) The required records shall be maintained and preserved throughout the
66 duration of each employee's period of employment and for the period required by this
67 subsection.

68 (b) Except as required under paragraph (c) of this subdivision, subsequent to an
69 employee's separation from the employer, records relating to the six-month period prior
70 to the date of the employee's separation from the employer shall be preserved for at
71 least one year from the date of the employee's separation.

72 (c) Where an employer has taken adverse action against an employee in whole or
73 in part for failure to meet a quota, the employer shall preserve the records relating to
74 the basis for the adverse action for at least three years from the date of the adverse
75 action.

76 (d) The employer shall make records available to the director upon request.

77 (3) Nothing in this subsection requires an employer to collect or keep such
78 records if the employer does not use quotas or monitor work-speed data.

79 (4) An employer who fails to allow adequate inspection of records in an
80 inspection by the department within a reasonable time period shall not use such records
81 in any appeal to challenge the correctness of any citation and notice issued by the
82 department.

83 8. (1) An employee has the right to request, at any time, a written description of
84 each quota to which the employee is subject, a copy of the employee's own personal
85 work-speed data for the prior six months, and a redacted copy of the prior six months of
86 aggregated work-speed data for similar employees at the same warehouse distribution
87 center.

88 (2) A former employee has the right to request, within one year subsequent to
89 the date of his or her separation from the employer, a written description of the quota to
90 which the employee was subject as of the date of his or her separation, a copy of the
91 employee's own personal work-speed data for the six months prior to his or her date of

92 separation, and a redacted copy of aggregated work-speed data for similar employees at
93 the same warehouse distribution center for the six months prior to their date of
94 separation.

95 (3) An employer shall provide records requested under this subsection at no cost
96 to the employee or former employee.

97 (4) An employer shall provide records requested under this subsection as soon as
98 practicable and subject to the following:

99 (a) Requested records of written descriptions of a quota shall be provided no
100 later than seven business days following the date of the receipt of the request; and

101 (b) Requested personal work-speed data and aggregated work-speed data shall
102 be provided no later than seven business days following the date of the receipt of the
103 request.

104 (5) Nothing in this subsection requires an employer to use quotas or monitor
105 work-speed data. An employer that does not use quotas or monitor work-speed data
106 has no obligation to provide records under this section.

285.2006. 1. A person including, but not limited to, an employer, his or her
2 agent, or person acting as or on behalf of a hiring entity, or the officer or agent of any
3 entity, business, corporation, partnership, or limited liability company, shall not
4 discharge or in any way retaliate, discriminate, or take adverse action against an
5 employee or former employee for exercising any rights established under sections
6 285.2000 to 285.2015, or for being perceived as exercising rights established under such
7 sections including, but not limited to:

8 (1) Initiating a request for information about a quota or personal work-speed
9 data; and

10 (2) Making a complaint to the employer, the director, or any local, state, or
11 federal governmental agency or official, related to a quota that is allegedly in violation
12 of sections 285.2000 to 285.2015.

13 2. An employee or former employee need not explicitly refer to sections 285.2000
14 to 285.2015 or the rights established in these sections to be protected from an adverse
15 action. The protection provided under this section applies to former employees and to
16 employees who mistakenly but in good faith allege violations of sections 285.2000 to
17 285.2015.

18 3. (1) If a person takes adverse action against an employee or former employee
19 within ninety days of the employee engaging or attempting to engage in activities
20 protected by sections 285.2000 to 285.2015, there is a rebuttable presumption that the
21 adverse action is a retaliatory action in violation of sections 285.2000 to 285.2015.

22 (2) The presumption may be rebutted by a preponderance of the evidence that:

23 (a) The action was taken for other permissible reasons; and
24 (b) The engaging or attempting to engage in activities protected by sections
25 285.2000 to 285.2015 was not a motivating factor in the adverse action.

26 4. The department shall carry out and enforce the provisions of sections
27 285.2000 to 285.2015 under the procedures established and any applicable rules.

285.2009. 1. (1) An employee may file a complaint with the department alleging
2 a violation of sections 285.2000 to 285.2015 or the applicable rules. The department
3 shall investigate the complaint, or it may designate the attorney general as its agent to
4 investigate the complaint. The department shall not investigate any such alleged
5 violation of rights that occurred more than three years before the date that the employee
6 filed the complaint.

7 (2) If an employee files a timely complaint with the department, the department
8 shall investigate the complaint and issue either a citation and notice of assessment or a
9 determination of compliance within ninety days after the date on which the department
10 received the complaint, unless the complaint is otherwise resolved. The department may
11 extend the period by providing advance written notice to the employee and the employer
12 setting forth good cause for an extension of the period and specifying the duration of the
13 extension.

14 (3) The department shall send the citation and notice of assessment or the
15 determination of compliance to both the employer and the employee by service of
16 process or using a method by which the mailing can be tracked or the delivery can be
17 confirmed to their last known addresses.

18 2. If the department's investigation finds that the employee's allegation cannot
19 be substantiated, the department shall issue a determination of compliance to the
20 employee and the employer detailing such finding.

21 3. The director may initiate an investigation without an employee's complaint to
22 ensure compliance with sections 285.2000 to 285.2015.

23 4. The department may request an employer perform a self-audit of any records
24 relating to sections 285.2000 to 285.2015 which shall be provided within a reasonable
25 time. Reasonable timelines shall be specified in the self-audit request. The department
26 shall determine reasonable time based on the number of affected employees and the
27 period of time covered by the self-audit. The records examined by the employer in
28 order to perform the self-audit shall be made available to the department upon request.

29 5. Upon the department's request, an employer shall notify affected employees in
30 writing that the department is conducting an investigation. The department may
31 require the employer to include a general description of each investigation as part of the
32 notification, including the allegations and whether the notified employee may be

33 affected. The employer may consult with the department to provide the information for
34 the description of the notification or investigation.

35 6. If the department determines that the employer has violated a requirement of
36 sections 285.2000 to 285.2015 or any rule adopted under the provisions of such sections,
37 the department also may order the employer to pay a civil penalty of not less than two
38 hundred fifty dollars. The penalty for the first violation shall not exceed two hundred
39 fifty dollars. The department may, at any time, waive or reduce any civil penalty
40 assessed against an employer under this section if the department determines that the
41 employer has taken corrective action to remedy a violation. The department shall adopt
42 rules creating a schedule to enhance penalties, based on repeat violations by the
43 employer.

44 7. Upon receiving a complaint, the department may request or subpoena the
45 records of the warehouse distribution center.

46 8. For enforcement actions under sections 285.2000 to 285.2015, if any person
47 fails to pay an assessment under this section, or under any rule under this section, after
48 it has become a final and unappealable order, or after a court has entered final
49 judgment in favor of the agency, the director or the attorney general may initiate
50 collection procedures as authorized by law.

51 9. If the department finds that a quota violates sections 285.2000 to 285.2015, the
52 department may order the employer to review and provide a corrected written quota to
53 the affected employee or employees within fifteen calendar days and place a letter in the
54 employee's personnel file to acknowledge the correction.

55 10. In addition to any enforcement authority provided under sections 285.2000
56 to 285.2015 or the applicable rules, the department or the attorney general may enforce
57 the provisions of sections 285.2000 to 285.2015 or the applicable rules by filing an action
58 in the circuit court for the county in which the violation is alleged to have occurred. If
59 the department prevails, it is entitled to reasonable attorney's fees and costs in an
60 amount to be determined by the court.

285.2012. 1. For enforcement actions under sections 285.2000 to 285.2015, a
2 person, firm, or corporation aggrieved by a citation and notice of assessment or
3 determination of compliance by the department or any rules adopted under sections
4 285.2000 to 285.2015 may appeal the citation and notice of assessment or determination
5 of compliance to the director by filing a notice of appeal with the administrative hearing
6 commission under the provisions of chapter 621 within fifteen calendar days of the
7 department's issuance of the citation and notice of assessment or determination of
8 compliance. A citation and notice of assessment or determination of compliance not

9 appealed within fifteen calendar days is final and binding, and not subject to further
10 appeal.

11 2. A notice of appeal filed with the administrative hearing commission under this
12 section stays the effectiveness of the citation and notice of assessment or determination
13 of compliance pending final review of the appeal by the administrative hearing
14 commission.

15 3. The standard of review by the administrative law judge of an appealed
16 citation and notice of assessment shall be de novo. Any party who seeks to challenge an
17 initial order shall file a petition for administrative review with the administrative
18 hearing commission within thirty days after service of the initial order.

19 4. The final order of the administrative hearing commission is subject to judicial
20 review.

21 5. Orders that are not appealed within the time period specified in this section
22 and chapter 621 are final and binding, and not subject to further appeal.

23 6. An employer who fails to allow adequate inspection of records in an
24 investigation by the department under sections 285.2000 to 285.2015 within a reasonable
25 time period shall not use such records in any appeal under this section to challenge the
26 correctness of any determination by the department of the penalty assessed.

285.2015. The department may promulgate all necessary rules and regulations
2 for the administration of sections 285.2000 to 285.2015. Any rule or portion of a rule, as
3 that term is defined in section 536.010, that is created under the authority delegated in
4 this section shall become effective only if it complies with and is subject to all of the
5 provisions of chapter 536 and, if applicable, section 536.028. This section and chapter
6 536 are nonseverable and if any of the powers vested with the general assembly
7 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul
8 a rule are subsequently held unconstitutional, then the grant of rulemaking authority
9 and any rule proposed or adopted after August 28, 2026, shall be invalid and void.

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