



# RULE-MAKING ORDER PERMANENT RULE ONLY

## CR-103P (December 2017) (Implements RCW 34.05.360)

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STATE OF WASHINGTON  
FILED

DATE: May 31, 2024

TIME: 8:32 AM

WSR 24-12-048

**Agency:** Department of Labor & Industries (L&I)

**Effective date of rule:**

**Permanent Rules**

31 days after filing.

Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

Yes  No If Yes, explain:

**Purpose:** L&I's Division of Occupational Safety and Health (DOSH) and Division of Fraud Prevention and Labor Standards (FPLS) are required to implement and enforce Second Substitute House Bill 1762 (2SHB 1762), codified as chapter 49.84 RCW. 2SHB 1762 is an act related to protecting the health and safety of employees who are subject to quotas in warehouse distribution centers. L&I must adopt WAC rules to fully and adequately enforce the law. This act becomes effective July 1, 2024.

The adopted rule establishes the following safety standards under chapter 49.84 RCW:

- Require quotas to take into account reasonable travel time and time to use the restroom;
- Establish how DOSH will determine employer size for purposes of determining penalties under the rule;
- Outline when a quota will be considered a violation of the Washington Industrial Safety and Health Act (WISHA) as established in RCW 49.84.032. The rule includes examples of activities or equipment to help employers understand what may contribute to a quota being found unlawful;
- Establish recordkeeping requirements; and
- Establish and reiterates protections from adverse actions when an employee does not meet an unlawful quota, and general retaliation protections. The retaliation provisions include reiterating the rebuttable presumption established in RCW 49.84.040.

Other requirements related to quotas for workers at certain warehouse distribution centers under chapter 49.84 RCW are enforced by L&I's Fraud Prevention and Labor Standards (FPLS). FPLS conducted simultaneous rulemaking and has adopted rules for the provisions of chapter 49.84 RCW enforced by that division in chapter 296-136 WAC.

**Citation of rules affected by this order:**

New: WAC 296-35-010, 296-35-100, 296-35-200, 296-35-250, 296-35-300, 296-35-350, 296-35-400, 296-35-500, 296-35-600, and 296-360-200.

Repealed:

Amended:

Suspended:

**Statutory authority for adoption:** RCW 49.84.060, 49.17.010, 49.17.040, 49.17.050, and 49.17.060.

**Other authority:** Chapters 49.17 and 49.84 RCW

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 24-06-081 on March 5, 2024 (date).

Describe any changes other than editing from proposed to adopted version: WAC 296-35-100(11) Definitions. Added subsection (c) to the definition of the term "quota" that clarifies that a team quota, when applied to a group of employees, is considered a quota under the rule for each individual employee. The change provides additional guidance in instances where employers use a team quota.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

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 Other:

**Note: If any category is left blank, it will be calculated as zero.  
 No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
 A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

|                                  |     |           |         |     |          |     |
|----------------------------------|-----|-----------|---------|-----|----------|-----|
| Federal statute:                 | New | ___       | Amended | ___ | Repealed | ___ |
| Federal rules or standards:      | New | ___       | Amended | ___ | Repealed | ___ |
| Recently enacted state statutes: | New | <u>10</u> | Amended | ___ | Repealed | ___ |

**The number of sections adopted at the request of a nongovernmental entity:**

|     |     |         |     |          |     |
|-----|-----|---------|-----|----------|-----|
| New | ___ | Amended | ___ | Repealed | ___ |
|-----|-----|---------|-----|----------|-----|

**The number of sections adopted on the agency's own initiative:**


|     |     |         |     |          |     |
|-----|-----|---------|-----|----------|-----|
| New | ___ | Amended | ___ | Repealed | ___ |
|-----|-----|---------|-----|----------|-----|

**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

|     |     |         |     |          |     |
|-----|-----|---------|-----|----------|-----|
| New | ___ | Amended | ___ | Repealed | ___ |
|-----|-----|---------|-----|----------|-----|

**The number of sections adopted using:**

|                                |     |     |         |     |          |     |
|--------------------------------|-----|-----|---------|-----|----------|-----|
| Negotiated rule making:        | New | ___ | Amended | ___ | Repealed | ___ |
| Pilot rule making:             | New | ___ | Amended | ___ | Repealed | ___ |
| Other alternative rule making: | New | ___ | Amended | ___ | Repealed | ___ |

|                                   |  |
|-----------------------------------|--|
| <b>Date Adopted:</b> May 31, 2024 | <b>Signature:</b><br><br> |
| <b>Name:</b> Joel Sacks           |  |
| <b>Title:</b> Director            |  |