

House Bill 16

By: Representatives Schofield of the 63rd, McClain of the 109th, Scott of the 76th, Davis of the 87th, and Glaize of the 67th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial
2 relations, so as to provide protections for warehouse distribution center workers; to provide
3 for a short title; to provide for definitions; to require a covered employer to provide to a
4 covered employee in a warehouse distribution center a written description of any quota or
5 workplace surveillance; to prohibit unlawful quotas; to provide for paid break time for rest;
6 to provide for appropriate training; to limit the collection and use of employee work speed
7 data; to provide for record retention and cooperation with the Department of Labor; to
8 provide for a right to request records; to provide for notice; to prohibit unlawful retaliation;
9 to provide for a complaints process; to provide for enforcement; to provide for a private
10 cause of action; to provide for rules and regulations; to provide for assessments and appeals;
11 to provide for related matters; to provide for an effective date; to repeal conflicting laws; and
12 for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,
16 is amended by revising Chapter 11, which is designated as reserved, as follows:

H. B. 16

17 "CHAPTER 11

18 34-11-1.

19 This chapter shall be known and may be cited as the 'Warehouse Worker Protection Act.'20 ~~Reserved.~~21 34-11-2.22 As used in this chapter, the term:

23 (1) 'Adverse employment action' means a change by the covered employer in the
24 compensation, terms, conditions, or privileges of the job of the covered employee that,
25 from the perspective of a reasonable person, puts the covered employee in a materially
26 adverse position than prior to the change, including termination, a reduction in benefits,
27 disciplinary action, demotion, promotion, transfer, imposition of a work schedule more
28 burdensome to the covered employee, reduction of scheduled hours, adjustment in ability
29 for promotion, or other modifications to compensation, terms, conditions, or privileges
30 of employment.

31 (2) 'Commissioner' means the Commissioner of Labor.

32 (3) 'Covered employee' means an individual who is employed by a covered employer for
33 the performance of work at a warehouse distribution center and is subject to a quota while
34 performing work at such center.

35 (4) 'Covered employer' means a person that is engaged in commerce, in the production
36 of goods for commerce, or in an enterprise engaged in commerce or in the production of
37 goods for commerce, including a contractor, subcontractor, temporary service firm,
38 staffing agency, independent contractor, employee leasing entity, or similar entity and
39 that employs a covered employee for the performance of work at a warehouse distribution
40 center.

41 (5) 'Defined time period' means any unit of time measurement equal to or less than one
42 day, including hours, minutes, and seconds and any fraction thereof.

43 (6) 'Department' means the Department of Labor.

44 (7) 'Designated employee representative' means any representative designated by a
45 covered employee, including but not limited to an employee representative that has a
46 collective bargaining relationship with the covered employer of the covered employee.

47 (8) 'Employee work speed data' means information a covered employer collects, stores,
48 analyzes, or interprets relating to the performance of work by a covered employee of the
49 covered employer for a quota, including information with respect to the following
50 criteria:

51 (A) Quantities of tasks performed by the covered employee;

52 (B) Quantities of items or materials handled or produced by the covered employee;

53 (C) Rates or speeds of tasks performed by the covered employee;

54 (D) Measurements or metrics of covered employee performance in relation to a quota;

55 or

56 (E) Time categorized with respect to the covered employee as performing tasks or not
57 performing tasks.

58 (9) 'Quota' means an express or implied performance standard or performance target,
59 including such a standard or target used to rank or compare a covered employee in
60 relation to the performance of another covered employee or in relation to the past
61 performance of the covered employee, where:

62 (A) A covered employee is actually or effectively assigned, required, or expected
63 within a defined time period, with or without any reasonable accommodation provided
64 under federal, state, or local law, to perform a quantified number of tasks or at a
65 specified productivity speed or handle or produce a quantified amount of material
66 without a certain number of errors or defects, and such assignment, requirement, or

67 expectation is measured at the individual or group level for such defined time period;
68 or

69 (B) A covered employer categorizes, measures, records, or tallies the time a covered
70 employee is performing and not performing tasks within a defined time period or
71 increments of time within a defined time period.

72 (10) 'Warehouse distribution center' means an establishment in Georgia as defined by
73 any of the following North American Industry Classification System Codes in effect on
74 January 1, 2025: 493, for warehousing and storage; 423, for merchant wholesalers,
75 durable goods; 424, for merchant wholesalers, nondurable goods; 454110, for electronic
76 shopping and mail-order houses; and 492110, for couriers and express delivery services.

77 (11) 'Workplace surveillance' means any surveillance by a covered employer, whether
78 on duty or off duty, with respect to a covered employee, including the detection,
79 monitoring, interception, collection, exploitation, preservation, protection, transmission,
80 or retention of data concerning activities or communications with respect to the covered
81 employee, including through the use of a product or service marketed, or that can be used,
82 for such purposes, such as a computer, telephone, wire, radio, camera, sensor,
83 electromagnetic, photoelectronic, handheld or wearable device, or photo-optical system.

84 34-11-3.

85 (a) A covered employer shall provide to each covered employee a written description of
86 each quota to which each covered employee is subject, including but not limited to:

87 (1) The quantified number of tasks to be performed or materials to be produced or
88 handled or other performance measures within the defined time period for the quota;

89 (2) Any potential discipline or adverse employment action that could result from failure
90 to meet the quota;

91 (3) How performance targets or performance standards for the quota are calculated;

92 (4) Whether there is any incentive or bonus program associated with meeting or
93 exceeding the quota and, if applicable, how the incentive or bonus program operates; and
94 (5) How the quota is monitored, including a description of what employee work speed
95 data are being collected; how the employee work speed data are being collected,
96 including a description of any workplace surveillance technology used on the covered
97 employee by the covered employer; where and when the employee work speed data are
98 being collected; the frequency of the collection; where the storage of the employee work
99 speed data is located; the business purposes for which the employee work speed data are
100 being used; and the identity of any third party used for such workplace surveillance, to
101 which data from such workplace surveillance is transferred, and from which data of the
102 covered employee is or may be purchased or acquired.

103 (b) A covered employer shall provide the written description required under subsection (a)
104 of this Code section as follows:

105 (1) To a covered employee upon hire;

106 (2) To all covered employees no later than July 1, 2025;

107 (3) To a covered employee not less than two days prior to a change that results in a
108 different quota than the most recent written description provided to the covered
109 employee; and

110 (4) To a covered employee prior to and when a covered employer takes an adverse
111 employment action against the covered employee in whole or in part for failure to meet
112 a quota.

113 (c) The written description required under this Code section shall be understandable, in
114 plain language, and either in the covered employee's preferred language or in the language
115 the covered employer regularly uses to communicate with the covered employee.

116 34-11-4.

117 (a) A covered employer shall not require a covered employee to meet a quota that:

118 (1) Prevents compliance with any meal breaks, rest periods, or other breaks required by
119 federal, state, or local law; compliance with health and safety provisions required by
120 federal, state, or local law; the use of bathroom facilities, including reasonable travel time
121 to and from bathroom facilities; or compliance with a covered employee's right to
122 reasonable accommodations or nondiscrimination as required by federal, state, or local
123 law;

124 (2) Measures the total output or performance for the covered employee over an
125 increment of time that is shorter than one day or measures and evaluates the output or
126 performance of a covered employee during any paid or unpaid break to which the covered
127 employee is entitled;

128 (3) Is based solely on ranking the performance of the covered employee in relation to the
129 performance of another covered employee or in relation to the past performance of that
130 covered employee; or

131 (4) Is based on continuously measuring, recording, or tallying increments of time within
132 a defined time period during which a covered employee is or is not doing a particular
133 activity.

134 (b) A covered employer shall not take an adverse employment action against a covered
135 employee for failure to meet a quota that violates subsection (a) of this Code section or for
136 failure to meet a quota for which the covered employee did not receive the written
137 description required under Code Section 34-11-3.

138 34-11-5.

139 (a) A covered employer shall provide to each covered employee not less than one 15
140 minute paid break time every four hours of work, to be paid at the regular rate at which the
141 covered employee is employed.

142 (b) A covered employer shall not retaliate against a covered employee for requesting or
143 taking the paid break time provided for in subsection (a) of this Code section.

144 (c) A covered employer shall provide information or training to all covered employees on
145 the following:

146 (1) The name of each individual on the covered employer's safety committee;

147 (2) The warehouse distribution center's ergonomic program;

148 (3) The early signs and symptoms of musculoskeletal injuries and the procedures for
149 reporting them;

150 (4) The procedures for reporting injuries, incidents, and other hazards; and

151 (5) Any requirements the Commissioner provides by rule.

152 (d) The training in subsection (c) of this Code section shall be provided to a new hire prior
153 to starting work and to covered employees no later than July 1, 2025, and as such training
154 is updated but not less than annually thereafter.

155 34-11-6.

156 (a) A covered employer shall not collect, use, maintain, or transfer data regarding a
157 covered employee to establish, maintain, or use employee work speed data except as
158 strictly necessary to monitor the compliance of the covered employee with a quota.

159 (b) A covered employer shall not disclose any information collected on a covered
160 employee with respect to a quota to any other covered employee except as strictly
161 necessary to fulfill a specific and reasonable business rationale of the covered employer.

162 34-11-7.

163 (a) A covered employer shall establish, maintain, and preserve contemporaneous, true, and
164 accurate records of the following:

165 (1) The employee work speed data for each covered employee;

166 (2) The aggregate employee work speed data for covered employees at the same
167 warehouse distribution center; and

168 (3) The written descriptions of the quotas a covered employee was provided.

169 (b) The records provided for in subsection (a) of this Code section shall be maintained and
170 preserved throughout the duration of each covered employee's period of employment and
171 shall be made available to the Commissioner upon request.

172 (c) The records provided for in subsection (a) of this Code section relating to the
173 six-month period prior to the date of the covered employee's separation shall be preserved
174 for at least three years subsequent to the date of such employee's separation and shall be
175 made available to the Commissioner upon request.

176 (d) A covered employer shall enable a covered employee to supplement the employee
177 work speed data for the covered employee by recording any reason the covered employee
178 provides for any defined time period during which the covered employee was not
179 performing work related tasks.

180 (e) A covered employer shall enable a covered employee to review and request correction
181 of the employee work speed data for such employee, and a covered employer shall
182 investigate and determine whether the employee work speed data for such employee is
183 inaccurate. A covered employer shall promptly correct any inaccurate data, notify the
184 covered employee of the determination and correction, review and adjust any adverse
185 employment action that was partially or solely based on the inaccurate data, and notify the
186 covered employee of the adjustment.

187 (f) Nothing in this Code section shall require a covered employer to keep records provided
188 for in this Code section if such employer does not use quotas or monitor employee work
189 speed data.

190 34-11-8.

191 (a) A current covered employee has the right to request a written description of each quota
192 to which the covered employee is subject, a copy of the employee work speed data for the
193 covered employee, and a copy of the prior six months of aggregate employee work speed
194 data for similar employees at the same warehouse distribution center.

195 (b) A former covered employee has the right to request within three years subsequent to
196 the date of separation from a covered employer a written description of the quota for the
197 covered employee at the date of separation, a copy of the employee work speed data for the
198 covered employee the six months prior to the date of separation, and a copy of aggregate
199 employee work speed data for similar employees at the same warehouse distribution center
200 for the six months prior to the date of separation.

201 (c) The records requested pursuant to this Code section shall be provided at no cost to the
202 current or former covered employee.

203 (d) A covered employer shall provide any records requested pursuant to this Code section
204 as soon as practicable, provided that the requested written descriptions of the quota shall
205 be provided no later than two business days following the date of the receipt of the request
206 and the requested personal work speed data and aggregated work speed data shall be
207 provided no later than seven business days following the date of the receipt of the request.

208 (e) Any records provided under this Code section shall be understandable, in plain
209 language, and either in the covered employee's preferred language or in the language the
210 covered employer regularly uses to communicate with such covered employee.

211 (f) Nothing in this Code section shall require a covered employer to use quotas or monitor
212 employee work speed data or to provide such information if such employer does not
213 otherwise use quotas or monitor such information.

214 34-11-9.

215 (a) No later than July 1, 2025, and upon hire, a covered employer shall provide written
216 notice regarding the rights of covered employees under this chapter to each covered
217 employee.

218 (b) No later than July 1, 2025, a covered employer shall display a notice regarding the
219 rights of covered employees under this chapter in a conspicuous and accessible location in
220 the warehouse distribution center of the covered employer.

221 (c) The notices required under this Code section shall be understandable, in plain
222 language, and either in the covered employee's preferred language or in the language the
223 covered employer regularly uses to communicate with such covered employee.

224 (d) The Commissioner shall provide for the design and content of the notices by rule.

225 34-11-10.

226 (a) A covered employer shall not discharge, retaliate, discriminate, or take an adverse
227 employment action against a covered employee for exercising or for being perceived as
228 exercising a right conferred under this chapter.

229 (b) A covered employer shall not prevent a covered employee from exercising a right
230 under this chapter or take an action that might reasonably deter a covered employee from
231 asserting a right conferred under this chapter.

232 (c) The protections provided under this Code section shall apply to any covered employee
233 who mistakenly but in good faith alleges a violation under this chapter. A complaint or
234 other communication by a covered employee may be the exercise of a protected right under
235 this Code section regardless of whether the complaint or communication is in writing or
236 makes explicit reference to anything in this chapter.

237 (d) If a covered employer takes an adverse employment action against a covered employee
238 within 90 days of the covered employee engaging or attempting to engage in a protected
239 activity, such action shall establish a rebuttable presumption that the action is an adverse
240 employment action in violation of this Code section. Such presumption may be rebutted
241 by clear and convincing evidence that the covered employer took such action for other
242 permissible reasons and was not motivated by the covered employee's engaging or
243 attempting to engage in a protected activity.

244 34-11-11.

245 (a) No later than July 1, 2025, the Commissioner shall implement and maintain a
246 streamlined process for accepting, evaluating, and responding to complaints regarding
247 violations of this chapter. Such process shall be posted on the department's website in a
248 prominent location.

249 (b) Any covered employee or his or her designated employee representative may file with
250 the department a complaint alleging a violation of this chapter and requesting an
251 investigation of such complaint. The department shall not investigate an alleged violation
252 that occurred more than three years before the date that the complaint was filed. After an
253 investigation, the Commissioner shall issue either a citation and notice of assessment or a
254 determination of compliance to the covered employee and the covered employer detailing
255 such finding.

256 (c) The department may request a covered employer perform a self-audit of records or may
257 initiate an examination without a complaint to ensure compliance with this chapter. When
258 the examination is made by an examiner who is not a regular employee of the department,
259 the person examined shall pay the reasonable charges for such services. After review of
260 documentation from a self-audit or an examination, the Commissioner shall issue either a
261 citation and notice of assessment or a determination of compliance to the covered employer
262 detailing such finding.

263 (d)(1) An individual or his or her designated employee representative may institute a
264 civil action in superior court within three years of an alleged violation. To prevail, the
265 claimant must establish by a preponderance of the evidence that the protected action was
266 a motivating factor for retaliation.

267 (2) In any action brought pursuant to this subsection, the court may order any or all of
268 the following relief in favor of the prevailing claimant:

269 (A) An injunction restraining the continued violation;

- 270 (B) Reinstatement of the claimant to the same or equivalent position held before the
271 retaliation;
272 (C) Reinstatement of full fringe benefits and seniority rights;
273 (D) Compensation for lost wages, benefits, and other remuneration;
274 (E) Any other relief allowable by law; and
275 (F) Reasonable attorney's fees, court costs, and expenses.

276 34-11-12.

277 (a) The Commissioner shall promulgate rules and regulations necessary to implement the
278 provisions of this chapter and shall be authorized to enforce the provisions of this chapter
279 and to assess civil penalties, in compliance with the requirements of Chapter 13 of Title 50,
280 the 'Georgia Administrative Procedure Act.'

281 (b) The Commissioner shall have the authority to impose an assessment of up to \$2,000.00
282 for each and every act in violation of this chapter or the rules, regulations, or orders of the
283 Commissioner, unless the Commissioner designates an act as a serious, willful, or repeated
284 violation, in which case the assessment imposed may be increased to an amount up to
285 \$5,000.00 for each and every act in violation.

286 (c) Any person aggrieved by an order or an act of the Commissioner under this chapter
287 may, within 15 days of notice thereof, request a hearing before an administrative law judge
288 of the Office of State Administrative Hearings, pursuant to Chapter 13 of Title 50, the
289 'Georgia Administrative Procedure Act.'

290 (d) It shall be the duty of the Attorney General and the district attorneys of their respective
291 judicial circuits, upon request of the Commissioner or any of his or her authorized
292 representatives, to prosecute any violation of the law which is made the duty of the
293 Commissioner to enforce."

294 **SECTION 2.**

295 This Act shall become effective upon its approval by the Governor or upon its becoming law
296 without such approval.

297 **SECTION 3.**

298 All laws and parts of laws in conflict with this Act are repealed.