§ 780. Definitions. As used in this article:

1. "Defined time period" means any unit of time measurement equal to or less than the duration of an employee's shift, and includes hours, minutes, and seconds and any fraction thereof.

2. "Employee" means an employee who is not exempt from the minimum wage and any overtime compensation provisions of this chapter and any applicable minimum wage orders and who works at a warehouse distribution center and is subject to a quota as defined in this section; provided, however, that "employee" does not include a driver or courier to or from a warehouse distribution center.

3. (a) "Employee work speed data" means information an employer collects, stores, analyzes, or interprets relating to an individual employee's performance of a quota, including, but not limited to, quantities of tasks performed, quantities of items or materials handled or produced, rates or speeds of tasks performed, measurements or metrics of employee performance in relation to a quota, and time categorized as performing tasks or not performing tasks.

(b) "Aggregated work speed data" means a compilation of employee work speed data for multiple employees, in summary form, assembled in full or in another form such that the data cannot be identified with any individual.

4. "Employer" means a person who directly or indirectly, or through an agent or any other person, including through the services of a third-party employer, temporary services, or staffing agency, independent contractor, or any similar entity, employs or exercises control over the wages, hours, or working conditions of one hundred or more employees at a single warehouse distribution center or one thousand or more employees at one or more warehouse distribution centers in the state.

For the purposes of this definition, all employees of a controlled group of corporations shall be counted in determining the number of employees employed at a single warehouse distribution center or at one

or more warehouse distribution centers in the state.

5. "Person" means an individual, corporation, partnership, limited partnership, limited liability partnership, limited liability company, business trust, estate, trust, association, joint venture, agency, instrumentality, or any other legal or commercial entity, whether domestic or foreign.

6. "Quota" means a work standard which:

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

(b) an employee's actions are categorized between time performing tasks and not performing tasks, and the employee's failure to complete a task performance standard or recommendation may have an adverse impact on the employee's continued employment or the conditions of such employment.

7. "Warehouse distribution center" means an establishment as defined by any of the following North American industry classification system ("NAICS") codes, however such establishment is denominated:

(a) four hundred ninety-three for warehousing and storage but does not include four hundred ninety-three thousand one hundred thirty for farm product warehousing and storage;

(b) four hundred twenty-three for merchant wholesalers, durable goods;

(c) four hundred twenty-four for merchant wholesalers, nondurable goods;

(d) four hundred fifty-four thousand one hundred ten for electronic shopping and mail-order houses; or

(e) four hundred ninety-two thousand one hundred ten for couriers and express delivery services.

8. "Work-related musculoskeletal disorders" means work-related conditions (injuries, illness or disorders) of the muscles, nerves, tendons, ligaments, joints, cartilage of the body's musculoskeletal

system including the muscles, nerves, tendons, ligaments, joints, cartilage and spinal discs of the upper and lower limbs, neck, shoulders, and back that: (a) are the result of an exposure in the work environment during the performance of work that either causes or contributes significantly to the resulting condition or makes worse or longer-lasting a pre-existing condition; (b) are caused by ergonomic risk factors that include, but are not limited to, rapid pace, forceful exertions, extreme or static postures, repetitive motions, direct pressure, contact stress, vibration or cold temperatures; or (c) are not the result of any instantaneous non-exertion event, such as slips, trips, or falls.

9. "Competent person" shall mean one capable of performing a job hazard assessment to identify and assess existing and predictable ergonomic risk factors in work activities that are a core element of an employee's job or a significant part of the workday that are harmful to employees and reasonably likely to cause or contribute to musculoskeletal disorders. A competent person shall include ergonomists, industrial hygienists, certified safety professionals, or other health and safety professionals who, by possession of a recognized advanced academic degree, certificate, or professional standing or who by extensive knowledge, training, and experience has successfully demonstrated the ability to manage workplace injury risk.