

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Business, Labor, & Technology.

SB22-161 be amended as follows:

1 Amend printed bill, page 4, line 11, after "CONTINUES." add "THE
2 DIVISION SHALL TRANSMIT ANY PENALTY IMPOSED AND COLLECTED
3 PURSUANT TO THIS SECTION TO THE STATE TREASURER, WHO SHALL
4 CREDIT THE MONEY TO THE WAGE THEFT ENFORCEMENT FUND CREATED IN
5 SECTION 8-4-113 (3).

6 **SECTION 2.** In Colorado Revised Statutes, 8-1-116, **amend** (2)
7 as follows:

8 **8-1-116. Investigators to have access to premises - penalty.**
9 (2) Any person who hinders or obstructs the director or any ~~such~~ person
10 authorized by the director in the exercise of any power conferred by this
11 article 1, or any employer who in bad faith refuses reasonable access to
12 the employer's premises, or any person who gives advance notice of any
13 inspection to be conducted under this article 1 without authority from the
14 director or the director's designee ~~commits a class 2 misdemeanor~~ IS
15 SUBJECT TO A PENALTY OF NOT LESS THAN FIFTY DOLLARS FOR EACH DAY
16 THAT THE CONDUCT CONTINUES. THE DIVISION SHALL TRANSMIT ANY
17 PENALTY IMPOSED AND COLLECTED PURSUANT TO THIS SECTION TO THE
18 STATE TREASURER, WHO SHALL CREDIT THE MONEY TO THE WAGE THEFT
19 ENFORCEMENT FUND CREATED IN SECTION 8-4-113 (3).

20 **SECTION 3.** In Colorado Revised Statutes, 8-1-117, **amend** (2)
21 as follows:

22 **8-1-117. Director to have access to books - penalty.** (2) Any
23 employer ~~who~~ THAT refuses to exhibit and furnish ~~said~~ THE director or
24 any agents of the division an inspection of any books, records, and
25 payrolls of ~~such~~ THE employer, showing or reflecting in any way upon the
26 amount of wage expenditure of ~~such employers~~ THE EMPLOYER, and other
27 data, facts, and statistics appertaining to the purposes of this ~~article~~
28 ARTICLE 1 or ~~who~~ THAT refuses to admit ~~such~~ THE director or any agent
29 of the division to any place of employment shall pay a penalty of not less
30 than fifty dollars for each day that ~~such~~ THE failure, neglect, or refusal
31 continues. THE DIVISION SHALL TRANSMIT ANY PENALTY IMPOSED AND
32 COLLECTED PURSUANT TO THIS SECTION TO THE STATE TREASURER, WHO
33 SHALL CREDIT THE MONEY TO THE WAGE THEFT ENFORCEMENT FUND
34 CREATED IN SECTION 8-4-113 (3).

35 **SECTION 4.** In Colorado Revised Statutes, 8-1-140, **amend** (2)
36 as follows:

37 **8-1-140. Violation - penalty.** (2) If any employer, employee, or
38 any other person fails, refuses, or neglects to perform any duty lawfully
39 enjoined within the time prescribed by the director or fails, neglects, or
40 refuses to obey any lawful order made by the director or any judgment or

1 decree made by any court as provided in this ~~article~~ ARTICLE 1, for each
2 such violation, ~~such~~ THE employer, employee, or any other person shall
3 pay a penalty of not less than one hundred dollars for each day ~~such~~ THE
4 violation, failure, neglect, or refusal continues. THE DIVISION SHALL
5 TRANSMIT ANY PENALTY IMPOSED AND COLLECTED PURSUANT TO THIS
6 SECTION TO THE STATE TREASURER, WHO SHALL CREDIT THE MONEY TO
7 THE WAGE THEFT ENFORCEMENT FUND CREATED IN SECTION 8-4-113 (3).

8 **SECTION 5.** In Colorado Revised Statutes, **amend** 8-1-142 as
9 follows:

10 **8-1-142. Collection of penalties.** All penalties provided for in this
11 ~~article~~ ARTICLE 1 shall be collected in a civil action brought against the
12 employer or employee in the name of the director, WHICH CIVIL ACTION
13 MAY BE AN ADMINISTRATIVE ACTION OR A JUDICIAL ACTION AUTHORIZED
14 BY LAW. Any fine provided in this ~~article~~ ARTICLE 1 is considered a
15 penalty and recoverable in a civil action as provided in this section unless
16 the violation of this ~~article~~ ARTICLE 1, for the punishment of which said
17 fine is provided, is designated as a misdemeanor or other crime."

18 Renumber succeeding sections accordingly.

19 Page 4, strike lines 23 through 25 and substitute "SECTION."

20 Page 6, line 18, strike "~~at the time of such discharge~~" and substitute "at
21 the time of ~~such discharge~~ EMPLOYEE SEPARATION OR".

22 Page 7, line 20, strike "If" and substitute "ON OR AFTER JANUARY 1, 2023,
23 if".

24 Page 8, line 7, strike "THREE" and substitute "THE GREATER OF TWO".

25 Page 8, line 8, strike "compensation," and substitute "compensation".

26 Page 8, line 9, strike "FOR THE EMPLOYER'S FIRST".

27 Page 8, strike lines 10 and 11 and substitute "OR ONE THOUSAND
28 DOLLARS; OR".

29 Page 8, line 12, strike "THE" and substitute "IF THE EMPLOYEE CAN SHOW
30 THAT THE EMPLOYER'S FAILURE OR REFUSAL TO PAY WAGES OR
31 COMPENSATION WAS WILLFUL, THE WAGE CLAIM IS FOR LESS THAN FIFTY
32 THOUSAND DOLLARS, AND THE EMPLOYEE IS NOT A HIGHLY COMPENSATED
33 EMPLOYEE, AS DEFINED IN THE ANNUAL COLORADO OVERTIME AND
34 MINIMUM PAY STANDARDS (COMPS) ORDER ADOPTED BY THE DIRECTOR,

1 THE".

2 Page 8, strike lines 14 through 27 and substitute "THREE thousand ~~five~~
3 ~~hundred~~ DOLLARS.

4 (c) ~~If the employee can show that the employer's failure to pay is~~
5 ~~willful, the penalty required under paragraph (b) of this subsection (3)~~
6 ~~shall increase by fifty percent.~~ Evidence that a judgment OR WAGE
7 DETERMINATION OF THE".

8 Page 9, line 3, after "conduct." add "AN EMPLOYER'S FAILURE OR REFUSAL
9 TO PAY WAGES OR COMPENSATION IS PER SE WILLFUL IF THE EMPLOYEE
10 CAN SHOW THAT THE CLAIM FOR WHICH A PENALTY UNDER SUBSECTION
11 (3)(b) OF THIS SECTION IS ASSESSED IS THE EMPLOYER'S SECOND OR
12 SUBSEQUENT FAILURE OR REFUSAL TO PAY WAGES OR COMPENSATION
13 WITHIN THE FIVE YEARS IMMEDIATELY PRECEDING THE CLAIM.".

14 Page 12, line 22, strike "(A)".

15 Page 13, line 1, strike "(B)" and substitute "(II)".

16 Page 13, strike lines 7 through 14.

17 Page 14, line 14, strike "AND ANY PENALTY".

18 Page 15, strike lines 12 through 16.

19 Page 15, line 17, strike "OF THE COURT. THE" and substitute:

20 "(c) (I) UPON RECORDING PURSUANT TO SUBSECTION (2)(b) OF
21 THIS SECTION, THE".

22 Page 15, strike lines 23 through 25.

23 Page 15, line 26, strike "AND PENALTIES".

24 Page 15, line 27, after "section" insert "OR SECTION 8-1-114 (2), 8-1-116
25 (2), 8-1-117 (2), OR 8-1-140 (2)".

26 Page 16, line 13, strike "If" and substitute "ON OR AFTER JANUARY 1,
27 2023, IF".

28 Page 17, line 6, strike "ASSETS," and substitute "ASSETS THAT IS FILED
29 LATER IN TIME;".

- 1 Page 17, strike lines 7 and 8.
- 2 Page 21, strike lines 11 through 27.
- 3 Page 22, strike lines 1 through 6.
- 4 Renumber succeeding sections accordingly.
- 5 Page 23, line 15, after "(2);" add "AND".
- 6 Page 23, strike line 16.
- 7 Renumber succeeding subparagraph accordingly.
- 8 Page 26, strike lines 18 through 27.
- 9 Strike pages 27 through 35.
- 10 Page 36, strike lines 1 through 20.
- 11 Renumber succeeding section accordingly.
- 12 Page 36, line 21, strike "This" and substitute "Section 6 of this act takes
- 13 effect January 1, 2023, and the remainder of this".
- 14 Page 37, line 2, strike "governor." and substitute "governor; except that
- 15 section 6 of this act takes effect on January 1, 2023.".

** **