

**Second Regular Session
Seventieth General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 16-0049.01 Kristen Forrestal x4217

HOUSE BILL 16-1347

HOUSE SPONSORSHIP

Danielson,

SENATE SPONSORSHIP

Ulibarri,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE RELEASE OF INFORMATION CONCERNING AN**
102 **EMPLOYER'S VIOLATION OF WAGE LAWS BY THE DIVISION OF**
103 **LABOR IN THE DEPARTMENT OF LABOR AND EMPLOYMENT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills summaries>.)

Current law requires employers to release requested information to the division of labor in the department of labor and employment (division) and allows the division to have access to employers' premises and all books, records, and payrolls of employers. Current law also prohibits the release of any of this information obtained by the division

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
April 25, 2016

if the release of the information might reveal a trade secret. The bill clarifies that information obtained by the division that relates to a finding of a violation of wage laws by the division is not confidential and shall be released to the public or for use in a court proceeding, unless the director makes a determination that the information includes specific information that is a trade secret.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 8-1-115 (1)
3 as follows:

4 **8-1-115. Information not public - penalty for divulging.**

5 (1) (a) The information contained in the reports lawfully required to be
6 furnished by the employer in section 8-1-114, ~~such~~ other information as
7 ~~may be~~ furnished to the division by employers and employees in
8 pursuance of the provisions of this article, and ~~such~~ information obtained
9 through inspections or other proceedings of this article ~~which might~~
10 ~~reveal~~ THAT REVEALS a trade secret ~~shall be~~ IS for the exclusive use and
11 information of ~~said~~ THE division in the discharge of its official duties. AN
12 EMPLOYER MAY DESIGNATE INFORMATION SUBMITTED TO THE DIVISION
13 AS PROPRIETARY, A TRADE SECRET, OR PRIVILEGED INFORMATION IN
14 ACCORDANCE WITH SECTION 24-72-204, C.R.S., AS LONG AS THE
15 DIRECTOR IS NOT BOUND BY THE EMPLOYER'S DESIGNATION. The director
16 may treat and file the information or any part ~~thereof~~ OF THE
17 INFORMATION as confidential, and, when so treated or filed by the
18 director, the ~~same shall be considered to be~~ INFORMATION IS confidential,
19 ~~information~~ for the sole use of the division, and ~~shall not be~~ open to the
20 public nor TO be used in any court in any action or proceeding pending
21 therein unless the division is a party to ~~such~~ THE action or proceeding.
22 The court shall issue ~~such~~ orders as ~~may be~~ appropriate to protect the

1 confidentiality of trade secrets. The information contained in this A report
2 may be tabulated and published by the division in statistical form for the
3 use and information of other state departments and the public.

4 (b) NOTWITHSTANDING PARAGRAPH (a) OF THIS SUBSECTION (1),
5 THE DIVISION SHALL TREAT ANY NOTICE OF CITATION OR NOTICE OF
6 ASSESSMENT ISSUED TO AN EMPLOYER FOR VIOLATION OF A WAGE LAW,
7 INCLUDING A VIOLATION OF SECTION 8-4-111 (2)(c), AFTER ALL REMEDIES
8 HAVE BEEN EXHAUSTED PURSUANT TO SECTION 8-4-111.5, AS A PUBLIC
9 RECORD AND SHALL RELEASE THE INFORMATION TO THE PUBLIC UPON
10 REQUEST PURSUANT TO THE "COLORADO OPEN RECORDS ACT", PART 2 OF
11 ARTICLE 72 OF TITLE 24, C.R.S., UNLESS THE DIRECTOR MAKES A
12 DETERMINATION THAT THE INFORMATION IS A TRADE SECRET. BEFORE
13 RELEASING ANY INFORMATION RELATING TO THE VIOLATION OF A WAGE
14 LAW, THE DIRECTOR SHALL NOTIFY THE EMPLOYER OF THE POTENTIAL
15 RELEASE OF THE INFORMATION. THE EMPLOYER THEN HAS TWENTY DAYS
16 TO PROVIDE THE DIRECTOR WITH FURTHER DOCUMENTATION
17 DEMONSTRATING THAT THE INFORMATION, OR SPECIFIC MATTERS
18 INCLUDED IN THE INFORMATION, IS A TRADE SECRET. IF THE DIRECTOR, IN
19 THE DIRECTOR'S DISCRETION, DETERMINES THAT THE INFORMATION, OR
20 ANY PORTION OF THE INFORMATION, IS A TRADE SECRET, THE DIRECTOR
21 SHALL TREAT THE INFORMATION AS CONFIDENTIAL UNDER THIS
22 SUBSECTION (1). FOR PURPOSES OF THIS PARAGRAPH (b), "TRADE SECRET"
23 HAS THE SAME MEANING AS SET FORTH IN SECTION 7-74-102 (4), C.R.S.

24 **SECTION 2. Safety clause.** The general assembly hereby finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, and safety.