

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 17-0075.01 Kristen Forrestal x4217

HOUSE BILL 17-1021

HOUSE SPONSORSHIP

Danielson,

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

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

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://leg.colorado.gov/>.)

Current law requires employers to release requested information to the division of labor standards and statistics (division) in the department of labor and employment and allows the division to have

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.

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 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 by the division of a violation of wage laws is not confidential and shall be released to the public or for use in a court proceeding, unless the director of the division 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, 8-1-115, **amend** (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~~ ARTICLE 1, and ~~such~~
9 information obtained through inspections or other proceedings ~~of~~ UNDER
10 this ~~article which might reveal~~ ARTICLE 1 THAT REVEALS a trade secret
11 ~~shall be~~ IS for the exclusive use and information of ~~said~~ THE division in
12 the discharge of its official duties. The director may treat and file the
13 information or any part ~~thereof~~ OF THE INFORMATION as confidential, and,
14 when so treated or filed by the director, the ~~same shall be considered to~~
15 ~~be~~ INFORMATION IS confidential, ~~information~~ for the sole use of the
16 division, and ~~shall not be~~ open to the public nor TO be used in any court
17 in any action or proceeding pending therein unless the division is a party
18 to ~~such~~ THE action or proceeding. The court shall issue ~~such~~ orders as
19 ~~may be~~ appropriate to protect the confidentiality of trade secrets. The
20 information contained in ~~this~~ A report may be tabulated and published by

1 the division in statistical form for the use and information of other state
2 departments and the public.

3 (b) NOTWITHSTANDING SUBSECTION (1)(a) OF THIS SECTION, THE
4 DIVISION SHALL TREAT THE INFORMATION FURNISHED BY THE EMPLOYER
5 PURSUANT TO SECTION 8-1-114 OR ANY OTHER INFORMATION FURNISHED
6 OR OBTAINED PURSUANT TO THIS ARTICLE 1 THAT RELATES TO A
7 DETERMINATION OR FINDING BY THE DIVISION THAT AN EMPLOYER HAS
8 VIOLATED A WAGE LAW, INCLUDING A VIOLATION OF SECTION 8-4-111
9 (2)(c), AS A PUBLIC RECORD AND SHALL RELEASE THE INFORMATION TO
10 THE PUBLIC UPON REQUEST PURSUANT TO THE "COLORADO OPEN
11 RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24, UNLESS THE DIRECTOR
12 MAKES A DETERMINATION THAT THE INFORMATION INCLUDES SPECIFIC
13 INFORMATION THAT IS A TRADE SECRET. BEFORE RELEASING ANY
14 INFORMATION RELATING TO THE VIOLATION OF A WAGE LAW, THE
15 DIRECTOR SHALL NOTIFY THE EMPLOYER OF THE POTENTIAL RELEASE OF
16 THE INFORMATION. THE EMPLOYER THEN HAS TEN DAYS TO PROVIDE THE
17 DIRECTOR WITH FURTHER DOCUMENTATION DEMONSTRATING THAT THE
18 INFORMATION, OR A SPECIFIC MATTER INCLUDED IN THE INFORMATION, IS
19 A TRADE SECRET. IF THE DIRECTOR, IN THE DIRECTOR'S DISCRETION,
20 DETERMINES THAT THE INFORMATION, OR ANY PORTION OF THE
21 INFORMATION, IS A TRADE SECRET, THE DIRECTOR SHALL TREAT THE
22 TRADE SECRET AS CONFIDENTIAL UNDER THIS SUBSECTION (1). FOR
23 PURPOSES OF THIS SUBSECTION (1)(b), "TRADE SECRET" HAS THE SAME
24 MEANING AS SET FORTH IN SECTION 7-74-102 (4).

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