

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 18-1079.01 Kip Kolkmeier x4510

HOUSE BILL 18-1303

HOUSE SPONSORSHIP

Wist and Garnett,

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING EXEMPTION OF NONPROFIT YOUTH SPORTS**
102 **ORGANIZATION COACHES FROM THE "COLORADO**
103 **EMPLOYMENT SECURITY ACT".**

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>.)

The bill exempts from the definition of "employment" under the "Colorado Employment Security Act" nonprofit youth sports organization coaches if there is a written agreement between the coach and the organization that meets certain requirements, including a statement that the coach is an independent contractor. A written contract that meets the

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

bill's requirements is conclusive evidence that the coach is an independent contractor for purposes of the employment security statute, but not conclusive evidence of an independent contractor relationship for purposes of a civil action by a third party.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add 8-70-140.6** as
3 follows:

4 **8-70-140.6. Employment does not include - nonprofit youth**
5 **sports organization coach - definition.** (1) "EMPLOYMENT" DOES NOT
6 INCLUDE SERVICES PERFORMED BY AN INDIVIDUAL AS A COACH FOR A
7 NONPROFIT YOUTH SPORTS ORGANIZATION IF:

8 (a) THERE IS A WRITTEN AGREEMENT BETWEEN THE NONPROFIT
9 YOUTH SPORTS ORGANIZATION AND THE COACH THAT INCLUDES THE
10 FOLLOWING:

11 (I) A STATEMENT THAT THE COACH IS AN INDEPENDENT
12 CONTRACTOR AND NOT AN EMPLOYEE OF THE NONPROFIT YOUTH SPORTS
13 ORGANIZATION;

14 (II) A STATEMENT THAT THE COACH IS NOT ENTITLED TO
15 UNEMPLOYMENT SECURITY BENEFITS IN CONNECTION WITH HIS OR HER
16 CONTRACT WITH THE NONPROFIT YOUTH SPORTS ORGANIZATION; AND

17 (III) A DISCLOSURE IN BOLD-FACED, UNDERLINED, OR LARGE TYPE,
18 IN A CONSPICUOUS LOCATION, AND ACKNOWLEDGED BY THE PARTIES THAT
19 THE PARTIES HAVE READ AND UNDERSTAND THE DISCLOSURE INDICATING
20 THAT THE COACH IS AN INDEPENDENT CONTRACTOR RATHER THAN AN
21 EMPLOYEE OF THE NONPROFIT YOUTH SPORTS ORGANIZATION; ■

22 ■ (b) THE YOUTH SPORTS ORGANIZATION DOES NOT HAVE THE
23 RIGHT TO CONTROL THE MEANS AND METHODS BY WHICH THE COACH

1 PROVIDES COACHING SERVICES. FOR THE PURPOSE OF DETERMINING
2 WHETHER THE YOUTH SPORTS ORGANIZATION IS EXERCISING CONTROL,
3 THE ANALYSIS TO DETERMINE IF THE COACH IS AN EMPLOYEE DOES NOT
4 INCLUDE ANY REQUIREMENT OF A YOUTH SPORTS GOVERNING BODY.

5 (c) THE COACH IS NOT ECONOMICALLY DEPENDENT ON INCOME
6 FROM PART-TIME YOUTH SPORTS COACHING OR IS EMPLOYED IN A
7 FULL-TIME COVERED EMPLOYMENT POSITION; AND

8 (d) THE SERVICES OF THE COACH MAY NOT BE TERMINATED
9 EXCEPT FOR BREACH OF THE AGREEMENT, FAILURE TO MEET THE
10 REQUIREMENTS OF A YOUTH COACH GOVERNING BODY, OR FAILURE TO
11 MEET GENERALLY ACCEPTED STANDARDS OF CONDUCT WITHIN THE
12 INDUSTRY.

13 (2) IF IT IS DEMONSTRATED TO THE DIVISION THAT THE
14 REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION ARE MET, THE COACH
15 SHALL BE CONSIDERED AN INDEPENDENT CONTRACTOR FOR THE PURPOSES
16 OF THIS SECTION AND NOT IN COVERED EMPLOYMENT OR ENTITLED TO ANY
17 BENEFITS IN ACCORDANCE WITH THE "COLORADO EMPLOYMENT SECURITY
18 ACT", ARTICLES 70 TO 82 OF THIS TITLE 8.

19 (3) AS USED IN THIS SECTION UNLESS THE CONTEXT OTHERWISE
20 REQUIRES:

21 (a) "NONPROFIT YOUTH SPORTS ORGANIZATION" MEANS AN
22 ORGANIZATION THAT IS EXEMPT FROM FEDERAL TAXATION UNDER SECTION
23 501 (c)(3) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS
24 AMENDED, AND IS PRIMARILY ENGAGED IN CONDUCTING ORGANIZED
25 SPORTS PROGRAMS FOR PERSONS UNDER TWENTY-ONE YEARS OF AGE.

26 (b) "COACH" MEANS AN INDIVIDUAL WHO:

27 (I) PERFORMS SERVICES PURSUANT TO A WRITTEN AND SIGNED

1 CONTRACT THAT COMPLIES WITH THE REQUIREMENTS SET FORTH IN THIS
2 SECTION; AND

3 (II) PERFORMS COACHING SERVICES FIFTEEN HOURS OR LESS IN
4 ANY CONSECUTIVE SEVEN-DAY PERIOD.

5 (4) THIS SECTION DOES NOT ALTER OR DIMINISH OTHERWISE
6 APPLICABLE EXEMPTIONS FROM COVERED EMPLOYMENT FOR THE
7 FOLLOWING:

8 (a) SERVICES PERFORMED IN THE EMPLOY OF THE STATE OF
9 COLORADO, A POLITICAL SUBDIVISION, OR AN INDIAN TRIBE, OR AN
10 INSTRUMENTALITY OF THE STATE, A POLITICAL SUBDIVISION, OR AN
11 INDIAN TRIBE IF THE SERVICE IS EXCLUDED FROM EMPLOYMENT AS
12 DEFINED IN THE "FEDERAL UNEMPLOYMENT TAX ACT", 26 U.S.C. 3301 ET
13 SEQ.; OR

14 (b) SERVICES PERFORMED IN THE EMPLOY OF A RELIGIOUS,
15 CHARITABLE, EDUCATIONAL, OR OTHER ORGANIZATION THAT IS EXCLUDED
16 FROM EMPLOYMENT AS DEFINED IN THE "FEDERAL UNEMPLOYMENT TAX
17 ACT".

18 **SECTION 2. Act subject to petition - effective date.** This act
19 takes effect at 12:01 a.m. on the day following the expiration of the
20 ninety-day period after final adjournment of the general assembly (August
21 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
22 referendum petition is filed pursuant to section 1 (3) of article V of the
23 state constitution against this act or an item, section, or part of this act
24 within such period, then the act, item, section, or part will not take effect
25 unless approved by the people at the general election to be held in
26 November 2018 and, in such case, will take effect on the date of the
27 official declaration of the vote thereon by the governor.