

Second Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0736.01 Yelana Love x2295

HOUSE BILL 20-1089

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HOUSE SPONSORSHIP

Melton,

SENATE SPONSORSHIP

(None),

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House Committees  
Business Affairs & Labor

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING CLARIFICATION THAT THE PROHIBITION ON AN  
102 EMPLOYER TERMINATING AN EMPLOYEE FOR THE EMPLOYEE'S  
103 LAWFUL OFF-DUTY ACTIVITIES EXTENDS TO ACTIVITIES THAT  
104 ARE LAWFUL UNDER STATE LAW EVEN IF THOSE ACTIVITIES ARE  
105 NOT LAWFUL UNDER FEDERAL LAW.

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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 prohibits an employer from terminating an employee for the employee's lawful off-duty activities that are lawful under state law

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.

even if those activities are not lawful under federal law.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly  
3 hereby finds and declares that:

4 (a) State law prohibits employers from terminating employees for  
5 lawful off-duty activities, including the off-duty consumption of alcohol;

6 (b) Although section 16 (1)(b) of article XVIII of the Colorado  
7 constitution requires that marijuana be regulated in a manner similar to  
8 alcohol, employers are currently allowed to terminate employees for  
9 off-duty consumption of marijuana; and

10 (c) By clarifying that the prohibition on termination for lawful  
11 off-duty activities includes activities that are lawful under state law, even  
12 if not lawful under federal law, the statute will be brought into harmony  
13 with the requirements of the Colorado constitution.

14 **SECTION 2.** In Colorado Revised Statutes, 24-34-402.5, **amend**  
15 (1) introductory portion as follows:

16 **24-34-402.5. Unlawful prohibition of legal activities as a**  
17 **condition of employment.** (1) It ~~shall be~~ IS a discriminatory or unfair  
18 employment practice for an employer to terminate the employment of any  
19 employee due to that employee's engaging in any ~~lawful~~ activity THAT IS  
20 LAWFUL UNDER STATE LAW WHILE off the premises of the employer  
21 during nonworking hours, REGARDLESS OF WHETHER THE ACTIVITY IS  
22 LAWFUL UNDER FEDERAL LAW, unless such a restriction:

23 **SECTION 3. Act subject to petition - effective date -**  
24 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
25 the expiration of the ninety-day period after final adjournment of the

1 general assembly (August 5, 2020, if adjournment sine die is on May 6,  
2 2020); except that, if a referendum petition is filed pursuant to section 1  
3 (3) of article V of the state constitution against this act or an item, section,  
4 or part of this act within such period, then the act, item, section, or part  
5 will not take effect unless approved by the people at the general election  
6 to be held in November 2020 and, in such case, will take effect on the  
7 date of the official declaration of the vote thereon by the governor.

8 (2) This act applies to conduct occurring on or after the applicable  
9 effective date of this act.