

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

REVISED

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

LLS NO. 23-0063.01 Josh Schultz x5486

SENATE BILL 23-058

SENATE SPONSORSHIP

Danielson and Jaquez Lewis, Buckner, Cutter, Ginal, Gonzales, Kolker, Marchman, Priola, Sullivan, Winter F.

HOUSE SPONSORSHIP

Willford and Young,

Senate Committees

Business, Labor, & Technology
Appropriations

House Committees

Business Affairs & Labor
Appropriations

A BILL FOR AN ACT

101 **CONCERNING REQUIRED DISCLOSURES OF AGE-RELATED INFORMATION**
102 **ON JOB APPLICATIONS, AND, IN CONNECTION THEREWITH,**
103 **MAKING AN APPROPRIATION.**

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>.)

Starting July 1, 2024, the bill prohibits employers from inquiring about a prospective employee's age, date of birth, and dates of attendance at or date of graduation from an educational institution on an employment application.

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

HOUSE
Amended 2nd Reading
April 19, 2023

SENATE
3rd Reading Unamended
March 15, 2023

SENATE
Amended 2nd Reading
March 14, 2023

An employer may request an individual to verify compliance with age requirements imposed pursuant to or required by:

- A bona fide occupational qualification pertaining to public or occupational safety;
- A federal law or regulation; or
- A state or local law or regulation based on a bona fide occupational qualification.

The department of labor and employment (department) is charged with enforcing the requirements of the bill and may issue warnings and orders of compliance for violations and, for second or subsequent violations, impose civil penalties. A violation of the restrictions does not create a private cause of action. The department is directed to adopt rules regarding procedures for handling complaints against employers.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 8-2-131 as
3 follows:

4 **8-2-131. Age of job applicants - limits on applications -**
5 **exceptions - enforcement - rules - short title - definitions.** (1) **Short**
6 **title.** THE SHORT TITLE OF THIS SECTION IS THE "JOB APPLICATION
7 FAIRNESS ACT".

8 (2) **Definitions.** AS USED IN THIS SECTION:

9 (a) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND
10 EMPLOYMENT.

11 (b) "EMPLOYER" MEANS A PERSON ENGAGED IN A BUSINESS,
12 INDUSTRY, PROFESSION, TRADE, OR OTHER ENTERPRISE IN THE STATE OR
13 A UNIT OF STATE OR LOCAL GOVERNMENT. "EMPLOYER" INCLUDES AN
14 AGENT, A REPRESENTATIVE, OR A DESIGNEE OF THE EMPLOYER.

15 (3) **Job applicant's age - limits on applications.** (a) ON AND
16 AFTER JULY 1, 2024, AN EMPLOYER SHALL NOT REQUEST OR REQUIRE AN
17 INDIVIDUAL TO INCLUDE THE INDIVIDUAL'S AGE, DATE OF BIRTH, OR DATES
18 OF ATTENDANCE AT OR DATE OF GRADUATION FROM AN EDUCATIONAL

1 INSTITUTION ON AN INITIAL EMPLOYMENT APPLICATION.

2 (b) AN EMPLOYER MAY REQUEST OR REQUIRE AN INDIVIDUAL TO
3 PROVIDE ADDITIONAL APPLICATION MATERIALS, INCLUDING COPIES OF
4 CERTIFICATIONS, TRANSCRIPTS, AND OTHER MATERIALS CREATED BY
5 THIRD PARTIES, AT THE TIME OF AN INITIAL EMPLOYMENT APPLICATION, IF
6 THE EMPLOYER NOTIFIES THE INDIVIDUAL THAT THE INDIVIDUAL MAY
7 REDACT INFORMATION THAT IDENTIFIES THEIR AGE, DATE OF BIRTH, OR
8 DATES OF ATTENDANCE AT OR GRADUATION FROM AN EDUCATIONAL
9 INSTITUTION.

10 (4) **Verification permitted.** (a) THE EMPLOYER MAY REQUEST AN
11 INDIVIDUAL TO VERIFY COMPLIANCE WITH AGE REQUIREMENTS IMPOSED
12 PURSUANT TO OR REQUIRED BY:

13 (I) A BONA FIDE OCCUPATIONAL QUALIFICATION PERTAINING TO
14 PUBLIC OR OCCUPATIONAL SAFETY;

15 (II) A FEDERAL LAW OR REGULATION; OR

16 (III) A STATE OR LOCAL LAW OR REGULATION BASED ON A BONA
17 FIDE OCCUPATIONAL QUALIFICATION.

18 (b) VERIFICATION REQUESTS MADE UNDER THIS SUBSECTION (4)
19 MUST NOT REQUIRE DISCLOSURE OF AN INDIVIDUAL'S SPECIFIC AGE, DATE
20 OF BIRTH, OR DATES OF ATTENDANCE AT OR DATE OF GRADUATION FROM
21 AN EDUCATIONAL INSTITUTION ON AN INITIAL EMPLOYMENT APPLICATION.

22 (5) **Enforcement - notice and records retention rules.** (a) THIS
23 SECTION DOES NOT CREATE OR AUTHORIZE A PRIVATE CAUSE OF ACTION
24 BY A PERSON AGGRIEVED BY A VIOLATION OF THIS SECTION. THE
25 PENALTIES SET FORTH IN THIS SUBSECTION (5) ARE THE SOLE REMEDY FOR
26 A VIOLATION OF THIS SECTION. THE ISSUANCE OF A WARNING, ORDER, OR
27 PENALTY FOR A VIOLATION OF THIS SECTION IS NOT EVIDENCE OF A

1 VIOLATION OF PART 4 OF ARTICLE 34 OF TITLE 24.

2 (b) A PERSON WHO IS AGGRIEVED BY A VIOLATION OF THIS SECTION
3 MAY FILE A COMPLAINT WITH THE DEPARTMENT. IF THE DEPARTMENT
4 RECEIVES A COMPLAINT WITHIN TWELVE MONTHS AFTER THE ACT THAT IS
5 ALLEGED TO VIOLATE THIS SECTION OCCURRED, THE DEPARTMENT SHALL
6 INVESTIGATE THE COMPLAINT UNLESS THE DEPARTMENT DETERMINES
7 THAT THE COMPLAINT IS WITHOUT MERIT.

8 (c) AN EMPLOYER THAT VIOLATES THIS SECTION IS LIABLE FOR ONE
9 OF THE FOLLOWING PENALTIES:

10 (I) FOR THE FIRST VIOLATION, A WARNING AND AN ORDER
11 REQUIRING COMPLIANCE WITHIN FIFTEEN BUSINESS DAYS;

12 (II) FOR THE SECOND VIOLATION, AN ORDER REQUIRING
13 COMPLIANCE WITHIN FIFTEEN BUSINESS DAYS AND A CIVIL PENALTY NOT
14 TO EXCEED ONE THOUSAND DOLLARS; OR

15 (III) FOR A THIRD OR SUBSEQUENT VIOLATION, AN ORDER
16 REQUIRING COMPLIANCE WITHIN FIFTEEN BUSINESS DAYS AND A CIVIL
17 PENALTY NOT TO EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS.

18 (d) AN EMPLOYER IS NOT SUBJECT TO PENALTIES FOR A SECOND OR
19 SUBSEQUENT VIOLATION UNDER SUBSECTION (5)(c) OF THIS SECTION
20 UNLESS THE EMPLOYER:

21 (I) FAILED TO COMPLY WITH AN ORDER REQUIRING COMPLIANCE
22 WITHIN FIFTEEN BUSINESS DAYS AFTER THE DATE OF THE ORDER; OR

23 (II) COMPLIED WITH AN ORDER REQUIRING COMPLIANCE WITHIN
24 FIFTEEN BUSINESS DAYS BUT THEN COMMITTED A VIOLATION OF THIS
25 SECTION MORE THAN FIFTEEN BUSINESS DAYS AFTER THE ISSUANCE OF THE
26 ORDER.

27 (e) EACH DISTINCT JOB POSTING VIOLATING THIS SECTION

1 CONSTITUTES A SEPARATE VIOLATION UNDER SUBSECTION (5)(c) OF THIS
2 SECTION. EACH INSTANCE OF AN INDIVIDUAL RESPONDING TO A JOB
3 POSTING DOES NOT CONSTITUTE A VIOLATION UNDER SUBSECTION (5)(c)
4 OF THIS SECTION.

5 (f) THE DEPARTMENT SHALL ADOPT RULES REGARDING
6 PROCEDURES FOR HANDLING COMPLAINTS FILED AGAINST EMPLOYERS
7 ALLEGING A VIOLATION OF THIS SECTION, INCLUDING:

8 (I) REQUIREMENTS FOR PROVIDING NOTICE TO AN EMPLOYER
9 ALLEGED TO HAVE VIOLATED THIS SECTION; AND

10 (II) REQUIREMENTS FOR RETAINING AND MAINTAINING RELEVANT
11 EMPLOYMENT RECORDS DURING A PENDING INVESTIGATION.

12 **SECTION 2. Appropriation.** (1) For the 2023-24 state fiscal
13 year, \$56,468 is appropriated to the department of labor and employment
14 for use by the division of labor standards and statistics. This appropriation
15 is from the general fund and is based on an assumption that the
16 department will require an additional 0.5 FTE. To implement this act, the
17 department may use this appropriation for program costs related to labor
18 standards.

19 **SECTION 3. Act subject to petition - effective date.** This act
20 takes effect at 12:01 a.m. on the day following the expiration of the
21 ninety-day period after final adjournment of the general assembly; except
22 that, if a referendum petition is filed pursuant to section 1 (3) of article V
23 of the state constitution against this act or an item, section, or part of this
24 act within such period, then the act, item, section, or part will not take
25 effect unless approved by the people at the general election to be held in
26 November 2024 and, in such case, will take effect on the date of the
27 official declaration of the vote thereon by the governor.