

SB26-121

HOUSE FLOOR AMENDMENT

Second Reading BY REPRESENTATIVES Martinez and Winter

1 Amend reengrossed bill, page 3, strike line 14 and substitute:

2 "SECTION 2. In Colorado Revised Statutes, 8-4-113, amend
3 (1)(a)(I); and add (1)(a)(I.5)(E) and (1)(a)(I.5)(F) as follows:

4 **8-4-113. Fines pursuant to enforcement - wage theft**
5 **enforcement fund - created - administrative lien and levy of employer**
6 **assets - wage claim payments from the fund - definition - rules.**

7 (1) (a) (I) (A) EXCEPT AS PROVIDED IN SUBSECTION (1)(a)(I)(B) OF
8 THIS SECTION, if a case against an employer is enforced pursuant to
9 section 8-4-111, any employer who without good faith legal justification
10 fails to pay the wages of each of the employer's employees shall forfeit to
11 the people of the state of Colorado a fine in an amount determined by the
12 director or hearing officer but no more than the sum of fifty dollars per
13 day for each such failure to pay each employee, commencing from the
14 date that such wages first became due and payable.

15 (B) FOR AN AGRICULTURAL EMPLOYER, AS DEFINED IN SECTION
16 8-3-104 (1) , WHO, WITHOUT A GOOD FAITH LEGAL JUSTIFICATION,
17 WILLFULLY FAILS TO PAY THE WAGES OF EACH OF THE AGRICULTURAL
18 EMPLOYER'S EMPLOYEES AT LEAST THREE TIMES IN A FIVE-YEAR PERIOD,
19 THE TOTAL AMOUNT FORFEITED TO THE PEOPLE OF THE STATE OF
20 COLORADO PURSUANT TO SUBSECTION (1)(a)(I)(A) OF THIS SECTION MAY
21 BE INCREASED BY TEN PERCENT.

22 (I.5) An employer found to have misclassified an employee as a
23 nonemployee in a way that may affect a wage and hour payment or
24 reporting obligation under a state, federal, or local law, rule, or regulation
25 shall pay a fine in the following amounts, increased by the director by rule
26 by January 1, 2028, and by rule by January 1 every other year based on
27 the prior two years' increase, if any, in the United States department of
28 labor's bureau of labor statistics consumer price index, or a successor
29 index, for Denver-Aurora-Lakewood for urban wage earners and clerical
30 workers, per employee, in addition to any other relief ordered:

31 (E) FOR AN AGRICULTURAL EMPLOYER, AS DEFINED IN SECTION
32 8-3-104 (1), WITH A THIRD OR SUBSEQUENT WILLFUL VIOLATION WITHIN
33 FIVE YEARS, THE FINE UNDER SUBSECTION (1)(a)(I.5)(C) OF THIS SECTION
34 IS INCREASED BY TWENTY THOUSAND DOLLARS; AND

35 (F) FOR AN AGRICULTURAL EMPLOYER, AS DEFINED IN SECTION
36 8-3-104 (1), WITH A THIRD OR SUBSEQUENT WILLFUL VIOLATION THAT IS
37 NOT REMEDIED WITHIN SIXTY DAYS AFTER THE DIVISION'S FINDING, THE
38 FINE UNDER SUBSECTION (1)(a)(I.5)(D) OF THIS SECTION IS INCREASED BY
39 FORTY THOUSAND DOLLARS."

40 Renumber succeeding sections accordingly.

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