

Second Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO

**PREAMENDED**

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

LLS NO. 22-1013.01 Brita Darling x2241

**SENATE BILL 22-210**

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**SENATE SPONSORSHIP**

**Zenzinger and Cooke**, Ginal, Pettersen, Smallwood

**HOUSE SPONSORSHIP**

**Lontine and Soper**,

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Health & Human Services  
Finance  
Appropriations

Finance  
Appropriations

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**A BILL FOR AN ACT**

101     **CONCERNING THE REGULATION OF SUPPLEMENTAL HEALTH-CARE**  
102     **STAFFING AGENCIES BY THE DEPARTMENT OF PUBLIC HEALTH**  
103     **AND ENVIRONMENT, AND, IN CONNECTION THEREWITH,**  
104     **REQUIRING SUPPLEMENTAL HEALTH-CARE STAFFING AGENCIES**  
105     **TO REPORT DATA TO THE DEPARTMENT OF LABOR AND**  
106     **EMPLOYMENT, AND REQUIRING THE DEPARTMENT OF PUBLIC**  
107     **HEALTH AND ENVIRONMENT TO ANALYZE INFORMATION**  
108     **PROVIDED BY SUPPLEMENTAL HEALTH-CARE STAFFING**  
109     **AGENCIES TO DETERMINE THE NEED FOR REGULATION OF**  
110     **STAFFING AGENCIES AND MAKING AN APPROPRIATION.**

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SENATE  
3rd Reading Unamended  
May 3, 2022

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does*

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.*

SENATE  
Amended 2nd Reading  
May 2, 2022

*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 requires the department of public health and environment (department) to license supplemental health-care staffing agencies (staffing agencies) that employ nurses, nurse aids, physical and occupational therapists, and physical therapist and occupational therapy assistants (health-care workers). A staffing agency is defined as an entity that employs health-care workers and, for a fee, assigns them to temporary placements in nursing care facilities or assisted living residences (health-care facilities) on a temporary basis for a fee. The bill differentiates a staffing agency from a health-care worker platform where health-care workers can be listed for hire by a health-care facility.

The bill includes qualifications for a license; criteria for applying for a license and the related fee; and provisions for the issuance, renewal, suspension, or revocation of the license.

On and after April 1, 2023, a person operating an unlicensed staffing agency is guilty of a civil infraction and is subject to a fine and may be subject to civil penalties.

The bill specifies minimum standards for staffing agencies as established by the state board of health (state board) by rule. In part, the minimum standards:

- Require that a staffing agency maintain professional liability insurance, workers' compensation insurance, and a surety bond; and
- Prohibit a staffing agency from restricting employment opportunities of its health-care worker employees, including a prohibition against requiring liquidated damages, employment fees, or other compensation from health-care workers, if the staffing agency employee is hired as a permanent employee by the health-care facility.

A staffing agency shall check the credentials of health-care worker employees and require a background check and a check of the Colorado adult protective services (CAPS) database for employees.

The bill requires each staffing agency to report quarterly to the department concerning the average amount charged for services to health-care facilities and the average amount paid for those services. A staffing agency that fails to report is subject to civil fines and suspension or nonrenewal of its license.

By December 31, 2023, the department shall submit a report to certain committees of the general assembly and to the governor concerning the department's recommendations for caps or other limitations on service rates and amounts charged to health-care facilities

for services provided by a staffing agency's health-care workers. In formulating its recommendations, the department shall conduct a stakeholder process with affected providers and agencies.

The bill requires the department to maintain a current list of licensed staffing agencies and make the list publicly available on the department's website.

The bill creates a cash fund for licensing fees and penalties.

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

2     [REDACTED]

3           **SECTION 1. In Colorado Revised Statutes, add 8-4-125 as**  
4           follows:

5           **8-4-125. Supplemental health-care staffing agencies - annual**  
6           **certification - reporting - definitions.** (1) AS USED IN THIS SECTION,  
7           UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

10           (b) "HEALTH-CARE FACILITY" MEANS A FACILITY LICENSED BY THE  
11           DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT PURSUANT TO  
12           SECTION 25-1.5-103 (1)(a).

13           (c) "HEALTH-CARE WORKER" MEANS A PERSON EMPLOYED BY A  
14           SUPPLEMENTAL HEALTH-CARE STAFFING AGENCY FOR TEMPORARY  
15           PLACEMENT IN A HEALTH-CARE FACILITY.

16           (d) "HEALTH-CARE WORKER PLATFORM" OR "PLATFORM" MEANS  
17           ANY PERSON, FIRM, CORPORATION, PARTNERSHIP, OR ASSOCIATION THAT  
18           MAINTAINS A SYSTEM OR TECHNOLOGY THAT PROVIDES A MEDIA OR  
19           INTERNET PLATFORM FOR A HEALTH-CARE WORKER TO BE LISTED AND  
20           IDENTIFIED AS AVAILABLE FOR HIRE BY HEALTH-CARE FACILITIES SEEKING  
21           HEALTH-CARE WORKERS. UNDER A PLATFORM, THE HEALTH-CARE  
22           FACILITY SETS THE HOURLY RATES AND OTHER TERMS OF HIRE AND THE

1 HEALTH-CARE WORKER, AS AN INDEPENDENT CONTRACTOR AND NOT AS  
2 AN EMPLOYEE OR AGENT OF THE ENTITY THAT MAINTAINS THE PLATFORM,  
3 DECIDES WHETHER TO AGREE TO THE HOURLY RATES AND OTHER TERMS  
4 OF HIRE.

5 (e) (I) "SUPPLEMENTAL HEALTH-CARE STAFFING AGENCY" OR  
6 "STAFFING AGENCY" MEANS AN INDIVIDUAL OR TYPE OF ORGANIZATION,  
7 INCLUDING ANY PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, LIMITED  
8 LIABILITY COMPANY, LIMITED LIABILITY LIMITED PARTNERSHIP,  
9 ASSOCIATION, TRUST, JOINT STOCK COMPANY, INSURANCE COMPANY, OR  
10 CORPORATION, WHETHER DOMESTIC OR FOREIGN, ENGAGED IN THE  
11 BUSINESS OF PROVIDING HEALTH-CARE WORKERS WHO ARE EMPLOYEES OF  
12 THE STAFFING AGENCY, AND, FOR A FEE, ASSIGNING THEM TO TEMPORARY  
13 PLACEMENTS IN HEALTH-CARE FACILITIES.

14 (II) "SUPPLEMENTAL HEALTH-CARE STAFFING AGENCY" DOES NOT  
15 INCLUDE:

16 (A) AN INDIVIDUAL ACTING AS AN INDEPENDENT CONTRACTOR  
17 WHO IS ONLY ENGAGED IN PROVIDING THE INDIVIDUAL'S SERVICES ON A  
18 TEMPORARY BASIS TO HEALTH-CARE FACILITIES; OR  
19 (B) A HEALTH-CARE WORKER PLATFORM.

20 (2) (a) IT IS UNLAWFUL FOR ANY PERSON TO OPERATE A  
21 SUPPLEMENTAL HEALTH-CARE STAFFING AGENCY IN THIS STATE WITHOUT  
22 COMPLETING THE STAFFING AGENCY'S INITIAL CERTIFICATION AND  
23 REQUIRED ANNUAL CERTIFICATION WITH THE DEPARTMENT PURSUANT TO  
24 SECTION 8-70-114.

25 (b) ANY PERSON WHO VIOLATES THIS SECTION COMMITS A CIVIL  
26 INFRACTION AND MAY BE SUBJECT TO FINES DETERMINED BY THE  
27 DEPARTMENT.

1                   (c) ON OR BEFORE SEPTEMBER 1, 2022, AND SEPTEMBER 1, EACH  
2                   YEAR THEREAFTER, THE DEPARTMENT OF PUBLIC HEALTH AND  
3                   ENVIRONMENT AND THE DEPARTMENT OF HEALTH CARE POLICY AND  
4                   FINANCING SHALL PROVIDE THE DEPARTMENT WITH A LIST OF ALL KNOWN  
5                   NAMES AND CONTACT INFORMATION FOR SUPPLEMENTAL HEALTH-CARE  
6                   STAFFING AGENCIES OPERATING IN THE STATE.

7                   (3) (a) NO LATER THAN OCTOBER 1, 2022, EACH SUPPLEMENTAL  
8                   HEALTH-CARE STAFFING AGENCY SHALL MAINTAIN DETAILED DATA  
9                   DESCRIBED IN SUBSECTION (3)(b) OF THIS SECTION. BY THE DEADLINES  
10                   ESTABLISHED IN THIS SUBSECTION (3)(a), EACH STAFFING AGENCY SHALL  
11                   PROVIDE REPORTS TO THE DEPARTMENT THAT CONTAIN THE INFORMATION  
12                   AND CERTIFICATIONS SET FORTH IN SUBSECTION (3)(b) OF THIS SECTION.  
13                   BEGINNING APRIL 30, 2023, AND CONTINUING EACH APRIL 30  
14                   THEREAFTER, A STAFFING AGENCY OPERATING IN THE STATE SHALL  
15                   PROVIDE A REPORT COVERING THE PERIOD BETWEEN OCTOBER 1 OF THE  
16                   PREVIOUS YEAR AND MARCH 31 OF THE CURRENT YEAR. FOR THE  
17                   REPORTING PERIOD BETWEEN APRIL 1 AND SEPTEMBER 30 OF THE  
18                   CURRENT YEAR, THE STAFFING AGENCY SHALL FILE A REPORT ANNUALLY,  
19                   BEGINNING OCTOBER 31, 2023, AND CONTINUING EACH OCTOBER 31  
20                   THEREAFTER.

21                   (b) AT A MINIMUM, A STAFFING AGENCY'S BIANNUAL REPORTS  
22                   REQUIRED PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION MUST  
23                   INCLUDE:

24                   (I) THE NAME OF EACH DIRECT AND INDIRECT OWNER OF THE  
25                   STAFFING AGENCY;  
26                   (II) IF THE STAFFING AGENCY'S DIRECT OWNER IS A CORPORATION,  
27                   COPIES OF THE ARTICLES OF INCORPORATION AND CURRENT BYLAWS;

5 (IV) A DETAILED LISTING OF THE AVERAGE AMOUNT PAID DURING  
6 EACH QUARTER OF THE REPORTING PERIOD TO HEALTH-CARE WORKERS  
7 FOR THEIR SERVICES FOR EACH CATEGORY OF HEALTH-CARE WORKER  
8 PROVIDING SERVICES;

22 (VII) THE STAFFING AGENCY'S CERTIFICATION THAT THE STAFFING  
23 AGENCY MAINTAINED PROFESSIONAL LIABILITY INSURANCE THROUGHOUT  
24 THE ENTIRETY OF THE REPORTING PERIOD FOR EACH HEALTH-CARE  
25 WORKER CONTRACTED TO A HEALTH-CARE FACILITY DURING THE  
26 REPORTING PERIOD.

27 (c) THE DEPARTMENT SHALL ESTABLISH THE MANNER AND FORM

1       OF REPORTING PURSUANT TO THIS SUBSECTION (3).

2       (4) (a) (I) THE DEPARTMENT SHALL IMPOSE A FINE IN THE AMOUNT  
3       OF FIVE HUNDRED DOLLARS FOR A REPORT REQUIRED PURSUANT TO  
4       SUBSECTION (3) OF THIS SECTION THAT:

5       (A) IS NOT SUBMITTED WITHIN THIRTY DAYS AFTER THE  
6       REPORTING DEADLINE; OR

7       (B) THE DEPARTMENT DEEMS NONCOMPLIANT WITH THE  
8       REQUIREMENTS OF SUBSECTION (3) OF THIS SECTION.

9       (II) THE DEPARTMENT MAY WAIVE THE FINE IF THE STAFFING  
10      AGENCY IS ABLE TO SHOW GOOD CAUSE FOR THE DELAY IN SUBMITTING  
11      THE REPORT OR FOR SUBMITTING A NONCOMPLIANT REPORT.

12      (b) THE DEPARTMENT SHALL SEND NOTICE TO EACH STAFFING  
13      AGENCY THAT:

14      (I) HAS NOT SUBMITTED THE REQUIRED BIANNUAL REPORT ON OR  
15      BEFORE THE DEADLINE; OR

16      (II) HAS NOT SUBMITTED A COMPLIANT REPORT.

17      (c) IF THE STAFFING AGENCY DOES NOT SUBMIT A COMPLIANT  
18      REPORT WITHIN THIRTY DAYS AFTER THE DATE OF THE DEPARTMENT'S  
19      NOTICE OF NONCOMPLIANCE, THE DEPARTMENT SHALL IMPOSE A FINE OF  
20      TEN THOUSAND DOLLARS, AND FOR A FAILURE IN ANY SUBSEQUENT  
21      REPORTING PERIOD TO TIMELY SUBMIT A COMPLIANT REPORT WITHIN  
22      THIRTY DAYS AFTER THE DEPARTMENT'S NOTICE OF NONCOMPLIANCE, A  
23      FINE OF TWENTY THOUSAND DOLLARS. THE DEPARTMENT MAY WAIVE OR  
24      REDUCE THE STAFFING AGENCY'S FINE IF THE STAFFING AGENCY IS ABLE TO  
25      SHOW GOOD CAUSE FOR DELAYING THE SUBMISSION OF THE REPORT.

26      (d) THE DEPARTMENT SHALL TRANSMIT ANY PENALTIES IMPOSED  
27      AND COLLECTED PURSUANT TO THIS SUBSECTION (4) TO THE STATE

1       TREASURER, WHO SHALL CREDIT THE MONEY TO THE WAGE THEFT  
2       ENFORCEMENT FUND CREATED IN SECTION 8-4-113 (3).

3       (5) THE DEPARTMENT SHALL PROVIDE COPIES OF THE BIAANNUAL  
4       REPORTS REQUIRED PURSUANT TO SUBSECTION (3) OF THIS SECTION TO THE  
5       DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT AND TO THE  
6       DEPARTMENT OF HEALTH CARE POLICY AND FINANCING FOR PURPOSES OF  
7       ANALYZING THE INFORMATION PROVIDED BY THE SUPPLEMENTAL  
8       HEALTH-CARE STAFFING AGENCIES AND DETERMINING THE NEED FOR  
9       REGULATION OF STAFFING AGENCIES.

10       **SECTION 2. Appropriation.** (1) For the 2022-23 state fiscal  
11       year, \$427,591 is appropriated to the department of labor and employment  
12       for use by the division of labor standards and statistics. This appropriation  
13       is from the general fund. To implement this act, the division may use this  
14       appropriation for program costs, which amount is based on an assumption  
15       that the division will require an additional 2.0 FTE.

16       (2) For the 2022-23 state fiscal year, \$39,358 is appropriated to  
17       the department of public health and environment for use by the health  
18       facilities and emergency medical services division. To implement this act,  
19       the division may use this appropriation as follows:

20           (a) \$24,071 for administration and operations, which amount is  
21       based on an assumption that the division will require an additional 0.3  
22       FTE; and

23           (b) \$15,545 for the purchase of information technology services.

24       (3) For the 2022-23 state fiscal year, \$15,545 is appropriated to  
25       the office of the governor for use by the office of information technology.  
26       This appropriation is from reappropriated funds received from the  
27       department of public health and environment under subsection (1)(b) of

1 this section. To implement this act, the office may use this appropriation  
2 to provide information technology services for the department of public  
3 health and environment.

4 **SECTION 3. Act subject to petition - effective date.** This act  
5 takes effect at 12:01 a.m. on the day following the expiration of the  
6 ninety-day period after final adjournment of the general assembly; except  
7 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
8 of the state constitution against this act or an item, section, or part of this  
9 act within such period, then the act, item, section, or part will not take  
10 effect unless approved by the people at the general election to be held in  
11 November 2022 and, in such case, will take effect on the date of the  
12 official declaration of the vote thereon by the governor.