

HOUSE COMMITTEE OF REFERENCE REPORT

June 3, 2021

Chair of Committee

Date

Committee on State, Civic, Military, & Veterans Affairs.

After consideration on the merits, the Committee recommends the following:

SB21-087 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend reengrossed bill, page 3, strike lines 6 through 8.
- 2 Reletter succeeding paragraphs accordingly.
- 3 Page 4, lines 4 and 5, strike "OR THE AGRICULTURAL EMPLOYEE'S
4 REPRESENTATIVE".
- 5 Page 4, strike lines 10 and 11 and substitute:
6 "(c) AN AGRICULTURAL EMPLOYEE, A PERSON WHO HAS A
7 FAMILIAL OR WORKPLACE RELATIONSHIP WITH THE AGRICULTURAL
8 EMPLOYEE, OR A PERSON WITH WHOM THE AGRICULTURAL EMPLOYEE
9 EXCHANGES CARE OR SUPPORT WHO HAS BEEN AGGRIEVED BY
10 RETALIATION BY A".
- 11 Page 4, strike lines 16 through 23 and substitute:
12 "(4) (a) IF A PERSON WHO HAS ENGAGED IN RETALIATION HAS
13 VIOLATED THIS SECTION OR HAS VIOLATED ARTICLE 3 OR 6 OF THIS TITLE
14 8, PART 2 OF ARTICLE 13.5 OF THIS TITLE 8, OR ARTICLE 14.4 OF THIS TITLE
15 8 IN A MANNER THAT HAS HARMED AN AGRICULTURAL EMPLOYEE, THE
16 DIRECTOR MAY COMMENCE AN ACTION IN DISTRICT COURT ON BEHALF OF
17 THE STATE OF COLORADO AGAINST THE PERSON WHO RETALIATED
18 AGAINST:
19 (I) AN AGRICULTURAL EMPLOYEE;
20 (II) A PERSON WHO HAS A FAMILIAL OR WORKPLACE RELATIONSHIP

1 WITH THE AGRICULTURAL EMPLOYEE; OR
2 (III) A PERSON WITH WHOM THE AGRICULTURAL EMPLOYEE
3 EXCHANGES CARE OR SUPPORT.
4 (b) THE DIRECTOR MAY SEEK AN ORDER".

5 Page 8, strike lines 26 and 27.

6 Page 9, strike lines 1 through 9 and substitute:

7 "(b) THE COLORADO MINIMUM WAGE THAT AN AGRICULTURAL
8 EMPLOYER MUST PAY TO AN AGRICULTURAL WORKER WHO IS PRINCIPALLY
9 ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK, AS DESCRIBED IN 29
10 CFR 780.323 TO 29 CFR 780.329, ON THE OPEN RANGE IS:

11 (I) BEGINNING JANUARY 1, 2022, AND THROUGH DECEMBER 31,
12 2022, FIVE HUNDRED FIFTEEN DOLLARS PER WEEK; AND

13 (II) BEGINNING JANUARY 1, 2023, THE MINIMUM WAGE REQUIRED
14 IN THE PRIOR CALENDAR YEAR ADJUSTED ANNUALLY AS MEASURED BY THE
15 UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS
16 CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD OR IT
17 PREDECESSOR OR SUCCESSOR INDEX. THE DIRECTOR MAY SET A HIGHER
18 MINIMUM WAGE THAN IS REQUIRED IN THIS SUBSECTION (1)(b)(II)
19 CONSISTENT WITH THE DIRECTOR'S AUTHORITY AND DUTIES, INCLUDING
20 UNDER THIS ARTICLE 6."

21 Page 11, strike lines 25 through 27.

22 Page 12, strike line 1.

23 Renumber succeeding subsections accordingly.

24 Page 15, strike line 23, and substitute:

25 "(c) BEGINNING JANUARY 1, 2022, THIS SUBSECTION (2) DOES NOT
26 PROHIBIT:".

27 Page 16, line 12, strike "OR".

28 Page 16, line 14, strike "TOOL." and substitute "TOOL; OR".

29 Page 16, after line 14 insert:

30 "(VII) HAND WEEDING, THINNING, OR TENDING THE SOIL-EXPOSED
31 AREA IMMEDIATELY SURROUNDING AGRICULTURAL OR HORTICULTURAL



1 COMMODITIES GROWN USING POLYETHYLENE FILM OR PLASTIC MULCH.
2 THIS EXEMPTION DOES NOT PERMIT THE HAND WEEDING OF THE SPACES
3 BETWEEN ROWS OF PLANTS GROWN USING POLYETHYLENE FILM OR
4 PLASTIC MULCH.

5 (d) THE COMMISSIONER OF THE DEPARTMENT OF AGRICULTURE
6 SHALL PROMULGATE RULES REGARDING ALLOWANCES FOR AND
7 LIMITATIONS TO HAND WEEDING AND HAND THINNING FOR AGRICULTURAL
8 EMPLOYERS ACTIVELY ENGAGED IN THE TRANSITION TO CERTIFIED
9 ORGANIC AGRICULTURE FOR A PERIOD OF NO MORE THAN THREE YEARS
10 WHILE ENSURING THAT AGRICULTURAL WORKERS ARE NOT AT RISK OF
11 ACUTE, CHRONIC, OR DEBILITATING INJURIES. THE RULES MUST BE
12 PROPOSED ON OR BEFORE OCTOBER 31, 2021, AND ADOPTED ON OR BEFORE
13 JANUARY 31, 2022.

14 (e) ON OR BEFORE JANUARY 31, 2022, THE COMMISSIONER OF THE
15 DEPARTMENT OF AGRICULTURE SHALL PROMULGATE RULES THAT
16 ESTABLISH A PROCEDURE FOR AGRICULTURAL EMPLOYERS TO SEEK A
17 CERTIFICATE OF VARIANCE FROM THE COLORADO DEPARTMENT OF
18 AGRICULTURE THAT ALLOWS FOR MORE THAN OCCASIONAL OR
19 INTERMITTENT HAND WEEDING OF AGRICULTURAL OR HORTICULTURAL
20 PRODUCTS IF THE AGRICULTURAL EMPLOYER ESTABLISHES THAT:

21 (I) THE HAND WEEDING DOES NOT INVOLVE PROLONGED AND
22 UNNECESSARY STOOPING, KNEELING, OR SQUATTING, AND DOES NOT
23 CREATE A RISK OF ACUTE, CHRONIC, OR DEBILITATING INJURIES FOR
24 AGRICULTURAL WORKERS;

25 (II) THERE IS NO SUITABLE LONG-HANDLED TOOL OR OTHER
26 ALTERNATIVE MEANS OF PERFORMING THE WORK THAT IS SUITABLE AND
27 APPROPRIATE TO BOTH THE PRODUCTION OF THE AGRICULTURAL OR
28 HORTICULTURAL COMMODITY AND THE SCALE OF THE OPERATION; AND

29 (III) THE HAND WEEDING CANNOT BE PERFORMED PURSUANT TO
30 AN EXISTING EXEMPTION PURSUANT TO THIS SUBSECTION (2).".

31 Page 17, line 13, strike "(2)" and substitute "(2) (a)".

32 Page 17, line 14, strike "(a)" and substitute "(I)".

33 Page 17, line 16, strike "(b)" and substitute "(II)".

34 Page 17, line 18, strike "(c)" and substitute "(III)".

35 Page 17, after line 18 insert:

36 "(b) ANY AMOUNTS RECOVERED BY A WHISTLEBLOWER OR KEY



1 SERVICE PROVIDER PURSUANT TO THIS SECTION MUST BE DISTRIBUTED TO
2 AGRICULTURAL WORKERS AFFECTED BY THE VIOLATION WHO CAN BE
3 LOCATED, IN SO FAR AS SUCH DISBURSEMENT IS ECONOMICALLY FEASIBLE."

4 Page 17, lines 23 and 24, strike "SEPTEMBER 1, 2021, THE EXECUTIVE
5 DIRECTOR OF THE DEPARTMENT" and substitute "APRIL 1, 2022, THE
6 DIRECTOR OF THE DIVISION".

7 Page 18, line 1, strike "EXECUTIVE DIRECTOR OF THE DEPARTMENT" and
8 substitute "DIRECTOR OF THE DIVISION".

9 Page 18, strike lines 12 through 17 and substitute:
10 "(2) (a) THE TERMS OF THE MEMBERS ARE FOUR YEARS."

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