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 REPRESENTATIVE".

4 Page 4, strike lines 10 and 11 and substitute:
   "(c) AN AGRICULTURAL EMPLOYEE, A PERSON WHO HAS A FAMILIAL OR WORKPLACE RELATIONSHIP WITH THE AGRICULTURAL EMPLOYEE, OR A PERSON WITH WHOM THE AGRICULTURAL EMPLOYEE EXCHANGES CARE OR SUPPORT WHO HAS BEEN AGGRIEVED BY RETALIATION BY A".

5 Page 4, strike lines 16 through 23 and substitute:
   "(4) (a) IF A PERSON WHO HAS ENGAGED IN RETALIATION HAS VIOLATED THIS SECTION OR HAS VIOLATED ARTICLE 3 OR 6 OF THIS TITLE 8, PART 2 OF ARTICLE 13.5 OF THIS TITLE 8, OR ARTICLE 14.4 OF THIS TITLE 8 IN A MANNER THAT HAS HARMED AN AGRICULTURAL EMPLOYEE, THE DIRECTOR MAY COMMENCE AN ACTION IN DISTRICT COURT ON BEHALF OF THE STATE OF COLORADO AGAINST THE PERSON WHO RETALIATED AGAINST:
   (I) AN AGRICULTURAL EMPLOYEE;
   (II) A PERSON WHO HAS A FAMILIAL OR WORKPLACE RELATIONSHIP
WITH THE AGRICULTURAL EMPLOYEE; OR
(III) A PERSON WITH WHOM THE AGRICULTURAL EMPLOYEE
EXCHANGES CARE OR SUPPORT.
(b) THE DIRECTOR MAY SEEK AN ORDER".

Page 8, strike lines 26 and 27.

Page 9, strike lines 1 through 9 and substitute:

"(b) THE COLORADO MINIMUM WAGE THAT AN AGRICULTURAL
EMPLOYER MUST PAY TO AN AGRICULTURAL WORKER WHO IS PRINCIPALLY
ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK, AS DESCRIBED IN 29
CFR 780.323 TO 29 CFR 780.329, ON THE OPEN RANGE IS:
(I) BEGINNING JANUARY 1, 2022, AND THROUGH DECEMBER 31,
2022, FIVE HUNDRED FIFTEEN DOLLARS PER WEEK; AND
(II) BEGINNING JANUARY 1, 2023, THE MINIMUM WAGE REQUIRED
IN THE PRIOR CALENDAR YEAR ADJUSTED ANNUALLY AS MEASURED BY THE
UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS
CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD OR IT
PREDECESSOR OR SUCCESSOR INDEX. THE DIRECTOR MAY SET A HIGHER
MINIMUM WAGE THAN IS REQUIRED IN THIS SUBSECTION (1)(b)(II)
CONSISTENT WITH THE DIRECTOR'S AUTHORITY AND DUTIES, INCLUDING
UNDER THIS ARTICLE 6.".

Page 11, strike lines 25 through 27.

Page 12, strike line 1.

Renumber succeeding subsections accordingly.

Page 15, strike line 23, and substitute:
"(c) BEGINNING JANUARY 1, 2022, THIS SUBSECTION (2) DOES NOT
PROHIBIT:".

Page 16, line 12, strike "OR".

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

Page 16, after line 14 insert:
"(VII) HAND WEEDING, THINNING, OR TENDING THE SOIL-EXPOSED
AREA IMMEDIATELY SURROUNDING AGRICULTURAL OR HORTICULTURAL
COMMODITIES GROWN USING POLYETHYLENE FILM OR PLASTIC MULCH.

This exemption does not permit the hand weeding of the spaces between rows of plants grown using polyethylene film or plastic mulch.

(d) The commissioner of the Department of Agriculture shall promulgate rules regarding allowances for and limitations to hand weeding and hand thinning for agricultural employers actively engaged in the transition to certified organic agriculture for a period of no more than three years while ensuring that agricultural workers are not at risk of acute, chronic, or debilitating injuries. The rules must be proposed on or before October 31, 2021, and adopted on or before January 31, 2022.

(e) On or before January 31, 2022, the commissioner of the Department of Agriculture shall promulgate rules that establish a procedure for agricultural employers to seek a certificate of variance from the Colorado Department of Agriculture that allows for more than occasional or intermittent hand weeding of agricultural or horticultural products if the agricultural employer establishes that:

(I) The hand weeding does not involve prolonged and unnecessary stooping, kneeling, or squatting, and does not create a risk of acute, chronic, or debilitating injuries for agricultural workers;

(II) There is no suitable long-handled tool or other alternative means of performing the work that is suitable and appropriate to both the production of the agricultural or horticultural commodity and the scale of the operation; and

(III) The hand weeding cannot be performed pursuant to an existing exemption pursuant to this subsection (2)."

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

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

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

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

Page 17, after line 18 insert:

"(b) Any amounts recovered by a whistleblower or key
SERVICE PROVIDER PURSUANT TO THIS SECTION MUST BE DISTRIBUTED TO AGRICULTURAL WORKERS AFFECTED BY THE VIOLATION WHO CAN BE LOCATED, IN SO FAR AS SUCH DISBURSEMENT IS ECONOMICALLY FEASIBLE."


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

Page 18, strike lines 12 through 17 and substitute:

"(2) (a) THE TERMS OF THE MEMBERS ARE FOUR YEARS.".

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