

CHAPTER 131

LABOR AND INDUSTRY

HOUSE BILL 16-1323

BY REPRESENTATIVE(S) Kraft-Tharp;
also SENATOR(S) Cooke, Heath, Martinez Humenik, Newell.**AN ACT****CONCERNING CHANGING THE NAME OF THE DIVISION OF LABOR TO THE DIVISION OF LABOR STANDARDS AND STATISTICS.***Be it enacted by the General Assembly of the State of Colorado:***SECTION 1.** In Colorado Revised Statutes, 8-1-101, **amend** (4) and (5) as follows:**8-1-101. Definitions.** As used in this article, unless the context otherwise requires:

(4) "Director" means the director of the division of labor STANDARDS AND STATISTICS.

(5) "Division" means the division of labor STANDARDS AND STATISTICS in the department of labor and employment.

SECTION 2. In Colorado Revised Statutes, 8-1-103, **amend** (1) as follows:**8-1-103. Division of labor standards and statistics - director - employees - qualifications - compensation - expenses.** (1) There is hereby created a division of labor STANDARDS AND STATISTICS in the department of labor and employment. Pursuant to section 13 of article XII of the state constitution, the executive director of the department of labor and employment shall appoint the director of the division, ~~of labor~~ and the director shall appoint such deputies, experts, statisticians, accountants, inspectors, clerks, and other employees as are necessary to carry out the provisions of law and to perform the duties and exercise the powers conferred by law upon the division and the director. The director shall be the chief administrative officer of the division with such powers, duties, and functions as

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

prescribed by law.

SECTION 3. In Colorado Revised Statutes, 8-1-104, **amend** (2) as follows:

8-1-104. Director - seal. (2) The director shall have a seal upon which shall be inscribed the words "Director - Division of Labor STANDARDS AND STATISTICS - Department of Labor and Employment - Colorado - Seal". ~~His~~ THE DIRECTOR'S seal shall be affixed to all orders, awards, and copies thereof of the division and to such other instruments as the director shall direct.

SECTION 4. In Colorado Revised Statutes, **amend** 8-1-128 as follows:

8-1-128. Petition - writ - dissolution. The director of the division, ~~of labor~~ as petitioner, may file in the district court of the city and county of Denver, or of any county in which the place of employment or any part thereof is situated, a verified petition against any employers, or employees, or both, as respondents, and setting forth any violation or threatened or attempted violation of any provisions of section 8-1-125 or 8-1-126, and, thereupon, without bond and without notice, ~~such~~ THE district court shall issue its mandatory writ enjoining the alleged violations, or attempted or threatened violations of this article, and ordering and requiring ~~such~~ THE respondents to maintain all the conditions of employment in status quo and without change until after the dispute or controversy ~~between said employers and employees~~ has been investigated and heard by ~~said~~ THE director and the final findings, decision, order, or award of ~~said~~ THE director made and entered. ~~therein~~. Any respondent may move ~~such~~ THE court to dissolve ~~such~~ THE mandatory writ as to ~~such~~ THAT respondent, and, upon at least five days' ~~previous~~ notice to the director, ~~such~~ THE motion shall be set down for hearing, but ~~such~~ THE mandatory writ shall not be dissolved without proof of full compliance by ~~such~~ THE respondent with all the provisions of this article and orders of the director and that the continuance in effect of ~~such~~ THE mandatory writ is causing or will cause ~~such~~ THE respondent great and irreparable injury. The court may require such security of ~~said~~ THE respondent as the court determines adequate to enforce obedience to the provisions of this article on the part of ~~such~~ THE respondent before ~~such~~ THE mandatory writ ~~shall be~~ IS dissolved.

SECTION 5. In Colorado Revised Statutes, 8-1-146, **amend** (2) as follows:

8-1-146. Effect of transfer of powers, duties, and functions. (2) The division of labor STANDARDS AND STATISTICS, the division of employment and training, the division of unemployment insurance, the state board of pharmacy, and the industrial claim appeals panel in the industrial claim appeals office, which perform any of the powers, duties, and functions performed by the industrial commission prior to its abolishment on July 1, 1986, are the successors in every way with respect to those powers, duties, and functions, except as otherwise provided in this article or by law. Every act performed in the exercise of those powers, duties, and functions has the same force and effect as if performed by the commission prior to July 1, 1986. Whenever the commission is referred to or designated by any law, contract, insurance policy, bond, or other document, the reference or designation applies to the division of labor STANDARDS AND STATISTICS, the division of employment and training, the division of unemployment insurance, the state board of pharmacy, or the industrial claim appeals panel in the industrial claim appeals office, as the case

may be.

SECTION 6. In Colorado Revised Statutes, 8-2-118, **amend** (4) and (5) (a) as follows:

8-2-118. Cost of medical examination - employer and employee defined.

(4) Any employer who violates the provisions of this section is liable to a penalty of not more than one hundred dollars for each violation. It is the duty of the director of the division of labor STANDARDS AND STATISTICS to enforce this section.

(5) (a) The director of the division of labor STANDARDS AND STATISTICS shall enforce this section as it applies to an individual, a partnership, an association, a corporation, OR a legal representative, trustee, receiver, or trustee in bankruptcy doing business in or operating within the state.

SECTION 7. In Colorado Revised Statutes, 8-2-122, **amend** (1) (b) as follows:

8-2-122. Employment verification requirements - audits - fine for fraudulent documents - cash fund created - definitions. (1) As used in this section, unless the context otherwise requires:

(b) "Division" means the division of labor STANDARDS AND STATISTICS in the department of labor and employment.

SECTION 8. In Colorado Revised Statutes, 8-2-126, **amend** (5) and (6) as follows:

8-2-126. Employer use of consumer credit information - violation - short title - definitions. (5) A person who is injured by a violation of this section may file a complaint with the division of labor STANDARDS AND STATISTICS, upon which the division of labor STANDARDS AND STATISTICS shall promptly investigate and issue findings within thirty days after a hearing and may award civil penalties not to exceed two thousand five hundred dollars to a prevailing party in an action brought under this subsection (5).

(6) The director of the division of labor STANDARDS AND STATISTICS in the department of labor and employment shall enforce this section.

SECTION 9. In Colorado Revised Statutes, 8-3-104, **amend** (8), (9), and (10) as follows:

8-3-104. Definitions. As used in this article, unless the context otherwise requires:

(8) "Director" means the director of the division of labor STANDARDS AND STATISTICS.

(9) "Division" means the division of labor STANDARDS AND STATISTICS in the department of labor and employment.

(10) "Election" means a proceeding in which the employees authorized by this

article cast a secret ballot to select a collective bargaining unit or for any other purpose specified in this article, including elections conducted by the division of labor STANDARDS AND STATISTICS or by any tribunal having competent jurisdiction or whose jurisdiction has been accepted by the parties.

SECTION 10. In Colorado Revised Statutes, 8-4-101, **amend** (3) and (4) as follows:

8-4-101. Definitions. As used in this article, unless the context otherwise requires:

(3) "Director" means the director of the division of labor STANDARDS AND STATISTICS or his or her designee.

(4) "Division" means the division of labor STANDARDS AND STATISTICS in the department of labor and employment.

SECTION 11. In Colorado Revised Statutes, 8-5-101, **amend** (2) and (3) as follows:

8-5-101. Definitions. As used in this article, unless the context otherwise requires:

(2) "Director" means the director of the division of labor STANDARDS AND STATISTICS.

(3) "Division" means the division of labor STANDARDS AND STATISTICS in the department of labor and employment.

SECTION 12. In Colorado Revised Statutes, 8-6-103, **amend** (3) and (4) as follows:

8-6-103. Definitions. As used in this article, unless the context otherwise requires:

(3) "Director" means the director of the division of labor STANDARDS AND STATISTICS.

(4) "Division" means the division of labor STANDARDS AND STATISTICS in the department of labor and employment.

SECTION 13. In Colorado Revised Statutes, 8-12-103, **amend** (2) and (3) as follows:

8-12-103. Definitions. As used in this article, unless the context otherwise requires:

(2) "Director" means the director of the division of labor STANDARDS AND STATISTICS.

(3) "Division" means the division of labor STANDARDS AND STATISTICS in the

department of labor and employment.

SECTION 14. In Colorado Revised Statutes, 8-20-101, **amend** (2) as follows:

8-20-101. Division of oil and public safety - creation - appointment of director - transfer of duties. (2) The director of the division of oil and public safety, on and after July 1, 2001, shall execute, administer, perform, and enforce the rights, powers, duties, functions, and obligations vested prior to July 1, 2001, in the state inspector of oils, the state boiler inspector, and, with respect to articles 6 and 7 of title 9, C.R.S., the director of the division of labor STANDARDS AND STATISTICS. On July 1, 2001, all employees of the state inspector of oils, the state boiler inspector, and, with respect to duties performed pursuant to articles 6 and 7 of title 9, C.R.S., the director of the division of labor STANDARDS AND STATISTICS, whose principal duties are concerned with the duties and functions to be performed by the director of the division of oil and public safety and whose employment by the director of the division of oil and public safety is deemed necessary by the director of the division of oil and public safety to carry out the purposes of articles 20 and 20.5 of this title and articles 4, 6, and 7 of title 9, C.R.S., shall be transferred to the director of the division of oil and public safety and shall become employees thereof. ~~Such~~ THESE employees shall retain all rights to the state personnel system and retirement benefits under the laws of this state, and their services shall be deemed ~~to have been~~ continuous. All transfers and any abolishment of positions in the state personnel system shall be made and processed in accordance with state personnel system laws and rules.

SECTION 15. In Colorado Revised Statutes, 8-47-101, **amend** (3) (a), (3) (c), (5), and (6) as follows:

8-47-101. Division of workers' compensation - creation - powers, duties, and functions - transfer of functions - change of statutory references. (3) (a) The division of workers' compensation shall, on and after July 1, 1991, execute, administer, perform, and enforce the rights, powers, duties, functions, and obligations vested in the division of labor STANDARDS AND STATISTICS prior to July 1, 1991, concerning the duties and functions transferred to the division of workers' compensation. On July 1, 1991, all employees of the division of labor STANDARDS AND STATISTICS whose principal duties are concerned with the duties and functions transferred to the division of workers' compensation and whose employment in the division of workers' compensation is deemed necessary by the executive director of the department of labor and employment to carry out the purposes of this article shall be transferred to the division of workers' compensation and shall become employees thereof. Such employees shall retain all rights to the state personnel system and retirement benefits under the laws of this state, and their services shall be deemed to have been continuous. All transfers and any abolishment of positions in the state personnel system shall be made and processed in accordance with state personnel system laws and rules and regulations.

(c) Whenever the division of labor STANDARDS AND STATISTICS is referred to or designated by any contract or other document in connection with the duties and functions transferred to the division of workers' compensation, such reference or designation shall be deemed to apply to the division of workers' compensation. All contracts entered into by the ~~said~~ division of labor STANDARDS AND STATISTICS prior

to July 1, 1991, in connection with the duties and functions transferred to the division of workers' compensation, are hereby validated, with the division of workers' compensation succeeding to all the rights and obligations of such contracts. Any appropriations of funds from prior fiscal years open to satisfy obligations incurred under such contracts are hereby transferred and appropriated to the division of workers' compensation for the payment of such obligations.

(5) On and after July 1, 1991, when any provision of articles 40 to 47 of this title refers to the division of labor STANDARDS AND STATISTICS, said law shall be construed as referring to the division of workers' compensation.

(6) The revisor of statutes is authorized to change all references to the director of the division of labor STANDARDS AND STATISTICS and the division of labor STANDARDS AND STATISTICS in articles 14.5 and 40 to 47 of this title to refer to the director of the division of workers' compensation and the division of workers' compensation.

SECTION 16. In Colorado Revised Statutes, 24-1-121, **amend** (3) (a) (I) as follows:

24-1-121. Department of labor and employment - creation. (3) The department of labor and employment consists of the following divisions and programs:

(a) (I) The division of labor STANDARDS AND STATISTICS, the head of which ~~shall~~ **be** IS the director of the division of labor STANDARDS AND STATISTICS, which division and office are hereby created. The division and the director shall exercise their powers and perform their duties and functions specified by law under the department of labor and employment as if ~~the same~~ THEY were transferred to the department by a **type 2** transfer.

SECTION 17. In Colorado Revised Statutes, **amend** 24-12-103 as follows:

24-12-103. Oaths administered by whom. All courts in this state and each judge, justice, magistrate, referee, clerk, and any deputy clerk thereof, members and referees of the division of labor STANDARDS AND STATISTICS, members of the public utilities commission, and all notaries public ~~shall~~ have power to administer oaths and affirmations to witnesses and others concerning any matter, thing, process, or proceeding pending, commenced, or to be commenced before them respectively. ~~Such~~ THE courts, judges, magistrates, referees, clerks, and deputy clerks within their respective districts or counties, and notaries public within any county of this state, ~~shall~~ have the power to administer all oaths of office and other oaths required to be taken by any person upon any lawful occasion and to take affidavits and depositions concerning any matter or thing, process, or proceeding pending, commenced, or to be commenced in any court or on any occasion wherein such affidavit or deposition is authorized or by law required to be taken.

SECTION 18. In Colorado Revised Statutes, **amend** 24-33.5-809 as follows:

24-33.5-809. Agreement for disposition of claims. The office of emergency management and the adjusting agent shall enter into an agreement requiring the

adjusting agent to adjust and dispose of claims and furnish compensation to civil defense workers and their dependents. The agreement ~~shall~~ MUST authorize the adjusting agent to make all expenditures, including payments to claimants for compensation or for the adjustment or settlement of claims. Nothing in this part 8 means that the adjusting agent or its officers or agents have the final decision with respect to the compensability of any case or the amount of compensation or benefits due. Any civil defense worker or ~~such~~ THE civil defense worker's dependents have the same right to hearings before the division of labor STANDARDS AND STATISTICS in the department of labor and employment and its referees, and to appeal from awards of ~~said~~ THE division and referees to the industrial claim appeals panel and to the courts, as is provided in the hearing and review procedures of the "Workers' Compensation Act of Colorado", ~~found in~~ article 43 of title 8, C.R.S., subject to the limitations prescribed in this part 8.

SECTION 19. In Colorado Revised Statutes, 26-6-103.5, **amend** (2) introductory portion and (2) (b) as follows:

26-6-103.5. Application of part - guest child care facilities - public services short-term child care facilities - definition. (2) ~~No~~ A person or entity shall NOT operate a guest child care facility or a public services short-term child care facility unless the following requirements are met:

(b) The guest child care facility or public services short-term child care facility is inspected not less frequently than one time per year by the local fire department, and it conforms to the fire prevention and protection requirements of the local fire department in the locality of the facility, or in lieu thereof, the division of labor STANDARDS AND STATISTICS;

SECTION 20. In Colorado Revised Statutes, 26-6-104, **amend** (4) as follows:

26-6-104. Licenses - out-of-state notices and consent - demonstration pilot program. (4) ~~No~~ THE DEPARTMENT SHALL NOT ISSUE A license for a child care center, residential child care facility, or secure residential treatment center ~~shall be issued by the department~~ until the facilities to be operated or maintained by the applicant or licensee are approved by the department of public health and environment as conforming to the sanitary standards prescribed by ~~said~~ THE department under the provisions of section 25-1.5-101 (1) (h), C.R.S., and unless ~~such~~ THE facilities conform to fire prevention and protection requirements of local fire departments in the locality of the facility or, in lieu thereof, of the division of labor STANDARDS AND STATISTICS.

SECTION 21. In Colorado Revised Statutes, 32-9-119.5, **amend** (3) (a) (I) as follows:

32-9-119.5. Competition to provide vehicular service within the regional transportation district. (3) (a) (I) Subject to the requirements of the "Federal Transit Act", as amended, the district may request proposals from private providers to provide up to fifty-eight percent of all of the vehicular service of the district as measured by vehicle hours or vehicle hour equivalents. The district's decision as to which vehicular services are subject to requests for proposals ~~shall be representative of~~ MUST REPRESENT the district's total vehicular service operations; except that each

individual request for proposals may designate one type of vehicular service. Service provided by private businesses pursuant to this section shall be accomplished through attrition of the district's full-time employees. No Layoffs shall NOT occur solely as a result of the implementation of this section. If the director of the division of labor STANDARDS AND STATISTICS in the department of labor and employment orders an arbitration pursuant to section 8-3-113 (3), C.R.S., the arbitrator shall not have the power to establish a level of vehicular service to be provided by private businesses in accordance with this section.

SECTION 22. In Colorado Revised Statutes, 33-4-104, **amend** (1) as follows:

33-4-104. Free licenses issued - members or veterans of armed forces - when - rules. (1) Any active or retired member of the United States armed forces while stationed as a resident patient at any United States armed forces hospital or convalescent station located within Colorado, any resident patient at a veterans administration hospital and resident patients of any state institution for the treatment of persons with mental illness or other mental health institution in Colorado while under supervision of a proper staff member thereof, and any resident who is totally and permanently disabled as determined by the social security administration or the division of labor STANDARDS AND STATISTICS or pursuant to rule or regulation of the commission may obtain a fishing license free of charge, valid for taking fish during the period of residency only, under rules ~~and regulations~~ of the commission.

SECTION 23. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2016 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: April 22, 2016