

## CHAPTER 275

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**LABOR AND INDUSTRY**

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## SENATE BILL 16-179

BY SENATOR(S) Roberts and Heath, Crowder, Hodge, Kefalas, Martinez Humenik, Merrifield, Newell, Tate, Todd;  
also REPRESENTATIVE(S) DelGrosso and Lee, Saine, Conti, Ginal, Kraft-Tharp, Young, Hullinghorst.

**AN ACT**

**CONCERNING IMPROVEMENTS TO THE PROCESSES USED BY THE DEPARTMENT OF LABOR AND EMPLOYMENT REGARDING THE EMPLOYMENT CLASSIFICATION OF AN INDIVIDUAL FOR PURPOSES OF UNEMPLOYMENT INSURANCE ELIGIBILITY, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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

**SECTION 1. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) Employee and independent contractor classification in the unemployment insurance program is an important issue for Colorado employers and workers;

(b) Establishing a culture of compliance and education with regard to worker classification should be a priority for the Colorado department of labor and employment (CDLE);

(c) It is more cost effective for the CDLE and in the best interest of Colorado business for the CDLE to enhance employer education and outreach with regard to worker classification and continue to improve its audit processes with compliance in mind;

(d) The CDLE can achieve a more robust culture of compliance by better integrating compliance into its evaluation metrics, including developing, tracking, and improving the percentage of "clean compliance" during random audits, and by making education and compliance assistance a component of auditor development and core job duties; and

(e) The CDLE can also achieve greater compliance by enhancing employer

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

knowledge through measures that include augmenting the current online handbook, tailoring the handbook's application to certain popular industries, and working with industry to refine and augment employer outreach and training.

**SECTION 2.** In Colorado Revised Statutes, 8-70-115, **add** (4) as follows:

**8-70-115. Employment - "Federal Unemployment Tax Act".** (4) TO IMPROVE THE PROCESS OF DETERMINING THE CLASSIFICATION OF AN INDIVIDUAL FOR PURPOSES OF THIS SECTION, INCLUDING ANY AUDITS PERFORMED PURSUANT TO SECTION 8-72-107, THE DEPARTMENT SHALL:

(a) DEVELOP GUIDANCE FOR EMPLOYERS ON THE FACTORS SPECIFIED IN PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION;

(b) CLARIFY THE PROCESS BY WHICH AN EMPLOYER OR INDIVIDUAL MAY SUBMIT FURTHER INFORMATION IN RESPONSE TO A DETERMINATION BY THE DEPARTMENT AND PRIOR TO AN APPEAL;

(c) ESTABLISH AN INDIVIDUAL TO SERVE AS A RESOURCE FOR EMPLOYERS BY PROVIDING GUIDANCE ON:

(I) THE PROPER CLASSIFICATION OF WORKERS;

(II) AUDIT FINDINGS; AND

(III) OPTIONS FOR CURING OR APPEALING AN AUDIT;

(d) ESTABLISH INTERNAL METHODS TO IMPROVE THE CONSISTENCY AMONG AUDITORS; AND

(e) ESTABLISH AN INDEPENDENT REVIEW OF A PORTION OF AUDIT AND APPEAL RESULTS AT LEAST TWICE A YEAR TO MONITOR TRENDS AND MAKE IMPROVEMENTS TO THE AUDIT PROCESS.

**SECTION 3. Appropriation.** For the 2016-17 state fiscal year, \$36,750 is appropriated to the department of labor and employment for use by the division of unemployment insurance. This appropriation is from the general fund and is based on an assumption that the division will require an additional 0.5 FTE. To implement this act, the division may use this appropriation for program costs.

**SECTION 4. 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: June 10, 2016