

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 17-0075.01 Kristen Forrestal x4217

HOUSE BILL 17-1021

HOUSE SPONSORSHIP

Danielson,

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE RELEASE OF INFORMATION BY THE DIVISION OF**
102 **LABOR STANDARDS AND STATISTICS IN THE DEPARTMENT OF**
103 **LABOR AND EMPLOYMENT CONCERNING AN EMPLOYER'S**
104 **VIOLATION OF WAGE LAWS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does 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/>.)

Current law requires employers to release requested information to the division of labor standards and statistics (division) in the department of labor and employment and allows the division to have

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
February 21, 2017

access to employers' premises and all books, records, and payrolls of employers. Current law also prohibits the release of any of this information obtained by the division if the release of the information might reveal a trade secret. The bill clarifies that information obtained by the division that relates to a finding by the division of a violation of wage laws is not confidential and shall be released to the public or for use in a court proceeding, unless the director of the division makes a determination that the information includes specific information that is a trade secret.

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

2 **SECTION 1.** In Colorado Revised Statutes, 8-1-115, **amend** (1)
3 as follows:

4 **8-1-115. Information not public - penalty for divulging.**

5 (1) (a) The information contained in the reports lawfully required to be
6 furnished by the employer in section 8-1-114, ~~such~~ other information ~~as~~
7 ~~may be~~ furnished to the division by employers and employees in
8 pursuance of ~~the provisions of this article~~ ARTICLE 1, and ~~such~~
9 information obtained through inspections or other proceedings ~~of~~ UNDER
10 ~~this article which might reveal~~ ARTICLE 1 THAT REVEALS a trade secret
11 ~~shall be~~ IS for the exclusive use and information of ~~said~~ THE division in
12 the discharge of its official duties. AN EMPLOYER MAY DESIGNATE
13 INFORMATION SUBMITTED TO THE DIVISION AS PROPRIETARY, A TRADE
14 SECRET, OR PRIVILEGED INFORMATION IN ACCORDANCE WITH SECTION
15 24-72-204 (3), AS LONG AS THE DIRECTOR IS NOT BOUND BY THE
16 EMPLOYER'S DESIGNATION. The director may treat and file the information
17 or any part ~~thereof~~ OF THE INFORMATION as confidential, and, when so
18 treated or filed by the director, the ~~same shall be considered to be~~
19 INFORMATION IS confidential, ~~information~~ for the sole use of the division,
20 and ~~shall not be~~ open to the public nor TO be used in any court in any

1 action or proceeding pending therein unless the division is a party to such
2 THE action or proceeding. The court shall issue such orders as may be
3 appropriate to protect the confidentiality of trade secrets. The information
4 contained in this A report may be tabulated and published by the division
5 in statistical form for the use and information of other state departments
6 and the public.

7 (b) NOTWITHSTANDING SUBSECTION (1)(a) OF THIS SECTION, THE
8 DIVISION SHALL TREAT ANY NOTICE OF CITATION OR NOTICE OF
9 ASSESSMENT ISSUED TO AN EMPLOYER FOR VIOLATION OF A WAGE LAW,
10 INCLUDING A VIOLATION OF SECTION 8-4-111 (2) (c), AFTER ALL REMEDIES
11 HAVE BEEN EXHAUSTED PURSUANT TO SECTION 8-4-111.5, AS A PUBLIC
12 RECORD AND SHALL RELEASE THE INFORMATION TO THE PUBLIC UPON
13 REQUEST PURSUANT TO THE "COLORADO OPEN RECORDS ACT", PART 2 OF
14 ARTICLE 72 OF TITLE 24, UNLESS THE DIRECTOR MAKES A DETERMINATION
15 THAT THE INFORMATION IS A TRADE SECRET. BEFORE RELEASING ANY
16 INFORMATION RELATING TO THE VIOLATION OF A WAGE LAW, THE
17 DIRECTOR SHALL NOTIFY THE EMPLOYER OF THE POTENTIAL RELEASE OF
18 THE INFORMATION. THE EMPLOYER THEN HAS TWENTY DAYS TO PROVIDE
19 THE DIRECTOR WITH FURTHER DOCUMENTATION DEMONSTRATING THAT
20 THE INFORMATION, OR SPECIFIC MATTERS INCLUDED IN THE INFORMATION,
21 IS A TRADE SECRET. IF THE DIRECTOR, IN THE DIRECTOR'S DISCRETION,
22 DETERMINES THAT THE INFORMATION, OR ANY PORTION OF THE
23 INFORMATION, IS A TRADE SECRET, THE DIRECTOR SHALL TREAT THE
24 INFORMATION AS CONFIDENTIAL UNDER THIS SUBSECTION (1). FOR
25 PURPOSES OF THIS SUBSECTION (1)(b), "TRADE SECRET" HAS THE SAME
26 MEANING AS SET FORTH IN SECTION 7-74-102 (4).

27 **SECTION 2. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.