A BILL FOR AN ACT

CONCERNING ADDITIONAL PROTECTIONS FOR EMPLOYEES OF A STAFFING AGENCY WHO ARE REFERRED TO WORK-SITE EMPLOYERS FOR EMPLOYMENT.

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.)

The bill requires a staffing agency that places temporary and part-time employees with work-site employers to provide the employees specific information concerning the terms and conditions of employment. The information must be provided in writing before the end of the first pay period.

Shading denotes HOUSE amendment  Double underlining denotes SENATE amendment
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.
The bill requires the staffing agency to post a notice in its workplace that includes the name and telephone number of the division of labor standards and statistics (division) in the department of labor and employment and a description of employees' rights to the receipt of the required terms and conditions of employment.

A staffing agency and a work-site employer are prohibited from charging an employee:

- A fee for certain work-related expenses or deducting expenses from the employee's wages without authorization from the employee;
- The cost of required specific transportation services; or
- More than the actual cost of optional transportation.

The bill prohibits a staffing agency from knowingly issuing, distributing, circulating, or providing false, fraudulent, or misleading information to an employee or applicant for employment and from refusing to refund fees or costs owed to the employee.

The bill requires each staffing agency to annually register and pay a fee to the division. Each staffing agency is required to submit information to the division in a form and manner required by the division. The division is required to maintain a list of the registration status of each staffing agency on its website. Employers who use staffing agencies are required to verify whether the staffing agency is registered with the division. The division may assess a fine for a violation and may revoke or suspend the registration of a staffing agency for any violation.

The division is authorized to promulgate rules, including rules that state the information that a staffing agency is required to submit to the division and that establish circumstances where a staffing agency's registration may be revoked or suspended.

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

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

3 (a) The temporary workforce has been growing rapidly since the end of the great recession;

4 (b) According to a national survey of temporary workers, 22% of the workers experienced racial discrimination, 53% of Latinx workers felt targeted due to their immigration status, and 47% of workers who filed a complaint with authorities about discrimination or other work
conditions experienced retaliation;

(c) In Colorado, the hourly median wage for temporary help and staffing agency workers is 25% lower than that of workers overall. For workers in logistics, the pay gap is 28%, and for construction workers, the pay gap is 39%.

(d) According to a national survey of temporary workers, 74% had experienced at least one form of wage theft, such as not being paid for all hours worked, not being paid overtime, or having illegal deductions from their paychecks, such as deductions for equipment and other job necessities or for required transportation to and from the work site; and

(e) Temporary staffing has shifted from office and clerical to production and transportation. These occupations come with much higher risk of workplace injury and death, and temporary workers do not receive the same training or safety equipment and as a result experience more work-related injuries.

(2) Therefore, the general assembly declares that temporary workers deserve the same workplace protections as permanent workers.

SECTION 2. In Colorado Revised Statutes, add 8-2-131 as follows:

8-2-131. Staffing agencies - temporary and part-time employees - definitions - rules. (1) As used in this section, unless the context otherwise requires:

(a) "Division" means the Division of Labor Standards and Statistics in the Department of Labor and Employment.

(b) "Employee" has the same meaning as section 8-4-101 (5).

(c) "Employer" has the same meaning as section 8-4-101 (6).

(d) "Employment" means any trade, occupation, job,
POSITION, OR PROCESS OF MANUFACTURE OR ANY METHOD OF CARRYING
ON ANY SUCH TRADE, OCCUPATION, JOB, POSITION, OR PROCESS OF
MANUFACTURE IN WHICH ANY PERSON IS ENGAGED.

(e) "STAFFING AGENCY" MEANS AN ENTITY, AS THAT TERM IS
DEFINED IN SECTION 7-90-102 (20), THAT PROCURES OR PROVIDES
TEMPORARY OR PART-TIME EMPLOYMENT TO AN INDIVIDUAL WHO WORKS
UNDER THE SUPERVISION OR DIRECTION OF A WORK-SITE EMPLOYER.

(f) "WORK-SITE EMPLOYER" MEANS A PERSON THAT A STAFFING
AGENCY CONTRACTS WITH OR OTHERWISE AGREES TO PROVIDE
TEMPORARY OR PART-TIME EMPLOYEES.

(2) A STAFFING AGENCY SHALL PROVIDE EACH EMPLOYEE PLACED
FOR EMPLOYMENT IN A NEW ASSIGNMENT WITH A WORK-SITE EMPLOYER
NOTICE OF THE FOLLOWING:

(a) The name and address of:

(I) The staffing agency;

(II) The staffing agency's workers' compensation
insurance carrier;

(III) The work-site employer; and

(IV) The division;

(b) A description of the position that the employee will
fill; an indication of whether any special clothing, equipment,
training, or licenses are required; and whether there is a cost to
the employee for supplies or training;

(c) The designated pay day, the hourly rate of pay, and
whether the employment is eligible for overtime pay;

(d) The daily start time and anticipated end time of the
workday;
(e) The expected duration of employment;

(f) An indication of whether meals are provided by the staffing agency or the work-site employer and, if any, the cost to the employee for the meals; and

(g) Details of the means of transportation to and from the work-site employer's work site and any fees charged to the employee for the transportation.

(3) The notice required in subsection (2) of this section must be in writing and sent to the employee by means designated by the employee before the end of the first pay period. The staffing agency shall provide any change to the initial terms of the notice in writing to the employee at the time the change is made.

(4) A staffing agency shall post in a conspicuous place at each of its locations in a form determined by rule of the director of the division a notice that includes the name and telephone number of the division and a description of employees' rights to the receipt of the information required by subsection (2) of this section.

(5) A staffing agency or a work-site employer shall not charge or accept a fee from an employee:

(a) For the cost of registration of the staffing agency or the cost of procuring employment;

(b) For any good or service unless the fee is charged or accepted pursuant to the terms of a written contract with the employee, which contract clearly states in a language understandable to the employee that the payment of the fee is
VOLUNTARY AND THAT THE STAFFING AGENCY WILL NOT GAIN A PROFIT FROM THE FEE CHARGED TO THE EMPLOYEE;

(c) IN AN AMOUNT THAT EXCEEDS THE ACTUAL COST PER EMPLOYEE FOR A DRUG SCREEN OR FOR THE PROVISION OF A BANK CARD, DEBIT CARD, PAYROLL CARD, VOUCHER, DRAFT, MONEY ORDER, OR SIMILAR FORM OF PAYMENT OR WAGES;

(d) FOR A CRIMINAL HISTORY RECORD CHECK;

(e) FOR TRANSPORTATION, EXCEPT AS PROVIDED IN SUBSECTION (7) OF THIS SECTION;

(f) FOR ANY GOOD OR SERVICE IF THE AMOUNT OF THE FEE IS SUFFICIENT TO CAUSE THE EMPLOYEE TO EARN LESS THAN THE APPLICABLE MINIMUM WAGE; OR

(g) FOR ANY OTHER GOOD OR SERVICE THAT IS OTHERWISE PROHIBITED BY LAW.


(7) (a) IF A STAFFING AGENCY OR WORK-SITE EMPLOYER, OR A PERSON ACTING IN THE INTEREST OF EITHER, OFFERS TRANSPORTATION SERVICES TO AN EMPLOYEE, THE STAFFING AGENCY, WORK-SITE EMPLOYER, OR PERSON MAY NOT CHARGE A FEE THAT EXCEEDS THE ACTUAL COST TO TRANSPORT THE EMPLOYEE TO OR FROM THE PLACE OF
EMPLOYMENT. THE FEE, IF ANY, MAY NOT EXCEED THREE PERCENT OF THE 
EMPLOYEE’S TOTAL DAILY WAGES AND MUST NOT REDUCE THE 
EMPLOYEE’S TOTAL DAILY WAGES BELOW THE APPLICABLE MINIMUM 
wage.

(b) A STAFFING AGENCY OR WORK-SITE EMPLOYER THAT REQUIRES 
THE USE OF SPECIFIC TRANSPORTATION MAY NOT CHARGE A FEE TO THE 
EMPLOYEE FOR THE TRANSPORTATION.

(c) IF A STAFFING AGENCY SENDS AN EMPLOYEE TO A WORK-SITE 
EMPLOYER FOR EMPLOYMENT, NO EMPLOYMENT EXISTS FOR THE 
EMPLOYEE, AND THE STAFFING AGENCY CHARGED THE EMPLOYEE FOR 
TRANSPORTATION, THE STAFFING AGENCY SHALL REFUND TO THE 
EMPLOYEE THE FULL COST OF TRANSPORTATION TO AND FROM THE PLACE 
OF EMPLOYMENT.

(8) A STAFFING AGENCY SHALL NOT:

(a) KNOWINGLY ISSUE, DISTRIBUTE, CIRCULATE, OR PROVIDE ANY 
FALSE, FRAUDULENT, OR MISLEADING INFORMATION, REPRESENTATION, 
PROMISE, NOTICE, OR ADVERTISEMENT TO AN EMPLOYEE OR APPLICANT 
FOR EMPLOYMENT;

(b) ASSIGN OR PLACE AN EMPLOYEE IN EMPLOYMENT BY FORCE OR 
FRAUD, FOR ILLEGAL PURPOSES, OR WHERE THE EMPLOYMENT IS IN 
VIOLATION OF STATE OR FEDERAL LAWS GOVERNING MINIMUM WAGE, 
CHILD LABOR, COMPULSORY SCHOOL ATTENDANCE, OR REQUIRED 
LICENSURE, REGISTRATION, OR CERTIFICATION;

(c) ASSIGN OR PLACE AN EMPLOYEE IN EMPLOYMENT AT ANY 
LOCATION THAT IS ON STRIKE OR LOCKOUT WITHOUT NOTIFYING THE 
EMPLOYEE OF THE STRIKE OR LOCKOUT; OR

(d) REFUSE TO RETURN ON DEMAND ANY PERSONAL PROPERTY
BELONGING TO AN EMPLOYEE OR ANY FEE THAT IS CHARGED OR ACCEPTED
BY A STAFFING AGENCY OR WORK-SITE EMPLOYER IN EXCESS OF THE
AMOUNTS ALLOWED PURSUANT TO THIS SECTION.

(9) (a) On and after January 1, 2021, each staffing agency
doing business in this state shall register annually with the
division. At the time of registration, the staffing agency shall
pay a registration fee to the division in an amount determined by
rule of the director of the division and submit information in a
form and manner determined by the division.

(b) The division shall create and maintain on its public
website a list of staffing agencies in this state whose
registration:

(I) Is in good standing;

(II) Has been suspended, including the reason for the
suspension, the date the suspension was initiated, and the date,
if known, that the suspension is to be lifted; and

(III) Has been revoked, including the reason for the
revocation.

(10) (a) A work-site employer shall verify that a staffing
agency has a registration in good standing before the work-site
employer enters into a contract with the staffing agency for
part-time or temporary employees and on or before March 1 and
September 1 of each year that a contract remains in place. The
division may assess a fine against a work-site employer that does
business with an unregistered staffing agency of up to five
hundred dollars for each day that the violation occurs.

(b) (I) A staffing agency shall:
AT THE TIME OF ENTERING INTO A CONTRACT WITH A WORKSITE EMPLOYER, PROVIDE THE WORK-SITE EMPLOYER WITH PROOF OF VALID REGISTRATION ISSUED BY THE DIVISION; AND

(B) NOTIFY EACH WORK-SITE EMPLOYER WITH WHOM IT HAS A CONTRACT, BY TELEPHONE AND IN WRITING, OF ANY DENIAL, SUSPENSION, OR REVOCATION OF THE STAFFING AGENCY’S REGISTRATION BY THE DIVISION.

(II) A CONTRACT BETWEEN A STAFFING AGENCY AND A WORK-SITE EMPLOYER IS VOID AS OF THE DATE OF THE DENIAL, SUSPENSION, OR REVOCATION OF A STAFFING AGENCY’S REGISTRATION.

(11) THE DIVISION MAY REVOKE OR SUSPEND THE REGISTRATION OF A STAFFING AGENCY AND MAY ASSESS FINES PURSUANT TO SECTION 8-1-140 FOR VIOLATIONS OF THIS SECTION.

(12) THE DIRECTOR OF THE DIVISION MAY PROMULGATE RULES TO IMPLEMENT THIS SECTION, INCLUDING RULES THAT STATE THE INFORMATION THAT A STAFFING AGENCY IS REQUIRED TO SUBMIT TO THE DIVISION AT THE TIME OF REGISTRATION PURSUANT TO SUBSECTION (9)(a) OF THIS SECTION AND THAT ESTABLISH CIRCUMSTANCES UNDER WHICH THE DIVISION MAY REVOKE OR SUSPEND A STAFFING AGENCY’S REGISTRATION.

SECTION 3. 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 5, 2020, if adjournment sine die is on May 6, 2020); 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 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.