

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 21-0538.01 Kristen Forrestal x4217

SENATE BILL 21-087

SENATE SPONSORSHIP

Danielson, Fields, Pettersen

HOUSE SPONSORSHIP

McCormick and Caraveo, Duran, Kennedy, McLachlan, Sirota, Woodrow, Young

Senate Committees

Business, Labor, & Technology
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING AGRICULTURAL WORKERS' RIGHTS.**

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:

- Removes the exemption of agricultural employers and employees from the Colorado "Labor Peace Act" and authorizes agricultural employees to organize and join labor unions; engage in protected, concerted activity; and engage in collective bargaining;
- Removes the exemption of agricultural labor from state and local minimum wage laws;

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.

- Requires the director of the division of labor standards and statistics to promulgate rules to establish the overtime pay of agricultural employees for hours worked in excess of 40 hours per week or 12 hours in one day;
- Grants agricultural employees meal breaks and rest periods throughout each work period, consistent with protections for other employees;
- Requires agricultural employers to provide agricultural employees with access and transportation to key service providers;
- Authorizes agricultural employees to have visitors at employer-provided housing without interference from other persons;
- Requires agricultural employers to provide overwork and health protections to agricultural employees;
- Prohibits the use of the short-handled or long-handled hoe for agricultural labor except in specific circumstances;
- During a public health emergency, requires an agricultural employer to provide extra protections and increased safety precautions for agricultural employees;
- Creates the agricultural work advisory committee to study and analyze agricultural wages and working conditions; and
- Creates rights, remedies, and enforcement actions for aggrieved agricultural employees, whistleblowers, relators, and key service providers.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 8-2-206 as
 3 follows:

4 **8-2-206. Agricultural employers - agricultural employees -**
 5 **violations - penalties - definitions.** (1) AS USED IN THIS SECTION, UNLESS
 6 THE CONTEXT OTHERWISE REQUIRES:

7 (a) "ADVERSE ACTION" MEANS A DEMOTION, REASSIGNMENT TO A
 8 LOWER-RANKED POSITION OR TO A POSITION WITH A LOWER LEVEL OF
 9 COMPENSATION, DECREASE IN COMPENSATION LEVEL, DENIAL OF
 10 PROMOTION, OR TERMINATION OF EMPLOYMENT; OR OTHER DECISION FOR

1 EMPLOYMENT PURPOSES THAT ADVERSELY AFFECTS AN AGRICULTURAL
2 EMPLOYEE.

3 (b) "AGRICULTURAL EMPLOYEE" MEANS A PERSON EMPLOYED BY
4 AN AGRICULTURAL EMPLOYER.

5 (c) "AGRICULTURAL EMPLOYER" HAS THE SAME MEANING SET
6 FORTH IN SECTION 8-3-104 (1).

7 (d) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION.

8 (e) "DIVISION" MEANS THE DIVISION OF LABOR STANDARDS AND
9 STATISTICS IN THE DEPARTMENT OF LABOR AND EMPLOYMENT.

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11 (2) THE RIGHTS, REMEDIES, AND PENALTIES SPECIFIED IN THIS
12 SECTION ARE IN ADDITION TO ANY RIGHTS, REMEDIES, OR PENALTIES
13 AVAILABLE TO AGRICULTURAL EMPLOYEES UNDER ARTICLE 3 OR 6 OF THIS
14 TITLE 8, PART 2 OF ARTICLE 13.5 OF THIS TITLE 8, OR ARTICLE 14.4 OF THIS
15 TITLE 8.

16 (3) (a) AN AGRICULTURAL EMPLOYER SHALL NOT RETALIATE
17 AGAINST ANY PERSON, INCLUDING AN AGRICULTURAL EMPLOYEE,
18 ASSERTING OR SEEKING RIGHTS PROTECTED UNDER ARTICLE 3 OR 6 OF THIS
19 TITLE 8, PART 2 OF ARTICLE 13.5 OF THIS TITLE 8, OR ARTICLE 14.4 OF THIS
20 TITLE 8, INCLUDING COMPLAINING PUBLICLY OR SUPPORTING AN
21 AGRICULTURAL EMPLOYEE SEEKING OR ASSERTING RIGHTS, REMEDIES, OR
22 PENALTIES UNDER THOSE PROVISIONS OF THIS TITLE 8.

23 (b) THERE IS A REBUTTABLE PRESUMPTION THAT AN
24 AGRICULTURAL EMPLOYER THAT TAKES AN ADVERSE ACTION AGAINST AN
25 AGRICULTURAL EMPLOYEE WITHIN NINETY DAYS AFTER THE
26 AGRICULTURAL EMPLOYEE HAS ASSERTED OR SOUGHT ANY PROTECTED
27 RIGHTS, REMEDIES, OR PENALTIES UNDER ARTICLE 3 OR 6 OF THIS TITLE 8,

1 PART 2 OF ARTICLE 13.5 OF THIS TITLE 8, OR ARTICLE 14.4 OF THIS TITLE 8
2 HAS RETALIATED AGAINST THE AGRICULTURAL EMPLOYEE.

3 (c) AN AGRICULTURAL EMPLOYEE OR OTHER PERSON AGGRIEVED
4 BY RETALIATION BY AN AGRICULTURAL EMPLOYER MAY ASSERT A CLAIM
5 IN DISTRICT COURT FOR INJUNCTIVE AND EQUITABLE REMEDIES AND A
6 PENALTY IN THE AMOUNT OF THE GREATER OF THE ACTUAL DAMAGES OR
7 TEN THOUSAND DOLLARS FOR EACH VIOLATION.

8 (4) THE DIRECTOR MAY COMMENCE AN ACTION IN DISTRICT COURT
9 ON BEHALF OF THE STATE OF COLORADO AGAINST AN AGRICULTURAL
10 EMPLOYER THAT HAS RETALIATED AGAINST AN AGRICULTURAL EMPLOYEE
11 OR OTHER PERSON IN VIOLATION OF THIS SECTION. IN THE ACTION, THE
12 DIRECTOR MAY SEEK AN ORDER IMPOSING RESTITUTION, INJUNCTIVE AND
13 EQUITABLE REMEDIES, AND AN APPROPRIATE PENALTY OF MORE THAN ONE
14 HUNDRED DOLLARS BUT NOT MORE THAN ONE THOUSAND DOLLARS PER
15 VIOLATION.

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17 **SECTION 2.** In Colorado Revised Statutes, 8-3-104, **amend** the
18 introductory portion, (1), (11), and (12); and **add** (1.5) as follows:

19 **8-3-104. Definitions.** As used in this ~~article~~ ARTICLE 3, unless the
20 context otherwise requires:

21 (1) (a) ~~"All-union agreement" means a contractual provision~~
22 ~~between an employer or group of employers and a collective bargaining~~
23 ~~unit representing some or all of the employees of the employer or group~~
24 ~~of employers providing for any type of union security and compelling an~~
25 ~~employee's financial support or allegiance to a labor organization.~~
26 ~~"All-union agreement" includes, but is not limited to, contractual~~
27 ~~provision for a union shop, a modified union shop, an agency shop~~

1 ~~(meaning a contractual provision which provides for periodic payment of~~
2 ~~a sum in lieu of union dues but does not require union membership), a~~
3 ~~modified agency shop, a prehire agreement, maintenance of dues, or~~
4 ~~maintenance of membership.~~ "AGRICULTURAL EMPLOYER" MEANS A
5 PERSON THAT:

6 (I) REGULARLY ENGAGES THE SERVICES OF ONE OR MORE
7 EMPLOYEES; AND

8 (II) IS ENGAGED IN ANY SERVICE OR ACTIVITY INCLUDED IN
9 SECTION 203 (f) OF THE FEDERAL "FAIR LABOR STANDARDS ACT OF
10 1938", 29 U.S.C. SEC. 201 ET SEQ., AS AMENDED, OR ENGAGED IN
11 "AGRICULTURAL LABOR" AS DEFINED IN SECTION 3121 (g) OF THE FEDERAL
12 "INTERNAL REVENUE CODE OF 1986", AS AMENDED.

13 (b) THE MEANING OF "AGRICULTURAL EMPLOYER" MUST BE
14 LIBERALLY CONSTRUED FOR THE PROTECTION OF PERSONS PROVIDING
15 SERVICES TO AN EMPLOYER.

16 (1.5) "ALL-UNION AGREEMENT" MEANS A CONTRACTUAL
17 PROVISION BETWEEN AN EMPLOYER OR GROUP OF EMPLOYERS AND A
18 COLLECTIVE BARGAINING UNIT REPRESENTING SOME OR ALL OF THE
19 EMPLOYEES OF THE EMPLOYER OR GROUP OF EMPLOYERS PROVIDING FOR
20 ANY TYPE OF UNION SECURITY AND COMPELLING AN EMPLOYEE'S
21 FINANCIAL SUPPORT OR ALLEGIANCE TO A LABOR ORGANIZATION.
22 "ALL-UNION AGREEMENT" INCLUDES, BUT IS NOT LIMITED TO,
23 CONTRACTUAL PROVISION FOR A UNION SHOP, A MODIFIED UNION SHOP, AN
24 AGENCY SHOP (MEANING A CONTRACTUAL PROVISION THAT PROVIDES FOR
25 PERIODIC PAYMENT OF A SUM IN LIEU OF UNION DUES BUT DOES NOT
26 REQUIRE UNION MEMBERSHIP), A MODIFIED AGENCY SHOP, A PREHIRE
27 AGREEMENT, MAINTENANCE OF DUES, OR MAINTENANCE OF MEMBERSHIP.

1 (11) (a) "Employee" includes any person: ~~other than an~~
2 ~~independent contractor, domestic servants employed in and about private~~
3 ~~homes, and farm and ranch labor,~~

4 (I) Working for another for hire in the state of Colorado in a
5 nonexecutive or nonsupervisory capacity, and ~~shall IS not be~~ limited to the
6 employees of a particular employer and ~~shall include~~ INCLUDES any
7 individual whose work has ceased solely as a consequence of or in
8 connection with any current labor dispute or because of any unfair labor
9 practice on the part of an employer; and

10 ~~(b)~~ (II) (A) Who has not refused or failed to return to work upon
11 the final disposition of a labor dispute or a charge of an unfair labor
12 practice by a tribunal having competent jurisdiction of the same or whose
13 jurisdiction was accepted by the employee or ~~his~~ THE EMPLOYEE'S
14 representative;

15 ~~(c)~~ (B) Who has not been found to have committed or to have
16 been a party to any unfair labor practice under this ~~article~~ ARTICLE 3;

17 ~~(d)~~ (C) Who has not obtained regular and substantially equivalent
18 employment elsewhere; or

19 ~~(e)~~ (D) Who has not been absent from ~~his~~ THE PERSON'S
20 employment for a substantial period of time during which reasonable
21 expectancy of settlement has ceased, except by an employer's unlawful
22 refusal to bargain, and whose place has been filled by another engaged in
23 the regular manner for an indefinite or protracted period and not merely
24 for the duration of a strike or lockout. ~~but shall not include any individual~~
25 ~~employed in the domestic service of a family or person at his home or any~~
26 ~~individual employed by his parent or spouse or any employee who is~~
27 ~~subject to the federal "Railway Labor Act".~~

- 1 (b) "EMPLOYEE" DOES NOT INCLUDE:
2 (I) AN INDEPENDENT CONTRACTOR;
3 (II) DOMESTIC SERVANTS EMPLOYED IN AND ABOUT PRIVATE
4 HOMES;
5 (III) AN INDIVIDUAL EMPLOYED BY THE INDIVIDUAL'S PARENT OR
6 SPOUSE;
7 (IV) AN EMPLOYEE WHO IS SUBJECT TO THE FEDERAL "RAILWAY
8 LABOR ACT", 45 U.S.C. SEC. 151 ET SEQ., AS AMENDED; OR
9 (V) A PARENT, SPOUSE, OR CHILD OF AN AGRICULTURAL
10 EMPLOYER'S IMMEDIATE FAMILY.

11 ~~(f) For purposes of this subsection (11), "farm" means stock,~~
12 ~~dairy, poultry, fur-bearing animal, and truck farms, plantations, ranches,~~
13 ~~nurseries, ranges, greenhouses, orchards, and other structures used for the~~
14 ~~raising of agricultural or horticultural commodities, provided such~~
15 ~~structures are utilized for at least fifty percent of the total output~~
16 ~~produced.~~

17 (12) (a) (I) "Employer" means a person who regularly engages the
18 services of eight or more employees, other than persons within the classes
19 expressly exempted under the terms of subsection (11) of this section. ~~and~~

20 (II) "EMPLOYER" includes:
21 (A) Any person acting on behalf of ~~any such~~ AN employer within
22 the scope of ~~his~~ THE EMPLOYER'S authority, express or implied; ~~The term~~
23 AND

24 (B) AN AGRICULTURAL EMPLOYER.

25 (b) "EMPLOYER" does not include the state or any political
26 subdivision thereof, except where the state or any political subdivision
27 thereof acquires or operates a mass transportation system or any carrier

1 by railroad, express company, or sleeping car company subject to the
2 federal "Railway Labor Act", 45 U.S.C. sec. 151 et seq., AS AMENDED, or
3 any labor organization or anyone acting in behalf of such organization
4 other than when ~~he~~ THE EMPLOYER is acting as an employer-in-fact.

5 **SECTION 3.** In Colorado Revised Statutes, **add** 8-6-101.5 as
6 follows:

7 **8-6-101.5. Minimum wage for agricultural workers - rest**
8 **periods - overwork protections - definitions.** (1) (a) ON AND AFTER
9 JANUARY 1, 2022, EXCEPT AS PROVIDED IN SUBSECTION (1)(b) OF THIS
10 SECTION, THE MINIMUM WAGE REQUIREMENTS OF SECTION 15 OF ARTICLE
11 XVIII OF THE STATE CONSTITUTION, AND ANY MINIMUM WAGE LAWS
12 ENACTED PURSUANT TO THIS ARTICLE 6, APPLY TO AGRICULTURAL
13 WORKERS.

14 (b) STARTING JANUARY 1, 2022, THE COLORADO MINIMUM WAGE
15 FOR AN AGRICULTURAL WORKER PRIMARILY EMPLOYED IN THE RANGE
16 PRODUCTION OF LIVESTOCK IS FIVE HUNDRED FIFTY-THREE DOLLARS AND
17 SIXTY CENTS PER WEEK. ON JANUARY 1, 2023, AND EACH JANUARY 1
18 THEREAFTER, THE MINIMUM WAGE FOR AGRICULTURAL WORKERS
19 PRIMARILY EMPLOYED IN THE RANGE PRODUCTION OF LIVESTOCK IS
20 ADJUSTED ANNUALLY FOR COST OF LIVING INCREASES, AS MEASURED BY
21 THE CONSUMER PRICE INDEX USED FOR COLORADO.

22 (2) (a) AN AGRICULTURAL WORKER IS ENTITLED TO AN
23 UNINTERRUPTED AND DUTY-FREE MEAL PERIOD OF AT LEAST A
24 THIRTY-MINUTE DURATION WHEN THE AGRICULTURAL WORKER'S SHIFT
25 EXCEEDS FIVE CONSECUTIVE HOURS. THE MEAL PERIODS, TO THE EXTENT
26 PRACTICABLE, MUST BE AT LEAST ONE HOUR AFTER THE START, AND ONE
27 HOUR BEFORE THE END, OF THE SHIFT.

1 (b) AN AGRICULTURAL WORKER IS ENTITLED TO AN
2 UNINTERRUPTED AND DUTY-FREE REST PERIOD OF AT LEAST TEN MINUTES
3 WITHIN EACH FOUR HOURS OF WORK.

4 (3) AS USED IN THIS SECTION:

5 (a) "AGRICULTURAL WORKER" HAS THE MEANING SET FORTH IN
6 SECTION 8-13.5-201 (2).

7 (b) "AGRICULTURAL WORKER PRIMARILY EMPLOYED IN THE RANGE
8 PRODUCTION OF LIVESTOCK" MEANS AN AGRICULTURAL WORKER
9 INCLUDED IN THE EXEMPTION IN SECTION 213 (a)(6)(E) OF THE FEDERAL
10 "FAIR LABOR STANDARDS ACT OF 1938 ", 29 U.S.C. SEC. 201 ET SEQ, AS
11 AMENDED.

12 **SECTION 4.** In Colorado Revised Statutes, **add** 8-6-120 as
13 follows:

14 **8-6-120. Overtime wages for agricultural workers - rules -**
15 **definition.** (1) THE DIRECTOR SHALL PROMULGATE RULES TO ESTABLISH
16 THE OVERTIME RATES OF PAY THAT AN EMPLOYER ENGAGED IN
17 AGRICULTURAL EMPLOYMENT MUST PAY EACH EMPLOYEE FOR TIME
18 WORKED IN EXCESS OF ANY OF THE FOLLOWING:

19 (a) FORTY HOURS PER WORK WEEK;

20 (b) TWELVE HOURS PER DAY;

21 (c) TWELVE CONSECUTIVE HOURS OF WORK WITHOUT REGARD TO
22 WHETHER THE START AND END TIME FALL ON THE SAME CALENDAR DAY.

23 (2) AS USED IN THIS SECTION, "AGRICULTURAL EMPLOYMENT" HAS
24 THE MEANING SET FORTH IN SECTION 8-13.5-201 (1).

25 **SECTION 5.** In Colorado Revised Statutes, **add** part 2 to article
26 13.5 of title 8 as follows:

27 **PART 2**

1 LABOR CONDITIONS FOR AGRICULTURAL WORKERS

2 **8-13.5-201. Definitions.** AS USED IN THIS PART 2, UNLESS THE
3 CONTEXT OTHERWISE REQUIRES:

4 (1) "AGRICULTURAL EMPLOYMENT" MEANS EMPLOYMENT IN ANY
5 SERVICE OR ACTIVITY INCLUDED IN SECTION 203 (f) OF THE FEDERAL "FAIR
6 LABOR STANDARDS ACT OF 1938", 29 U.S.C. SEC. 201 ET SEQ., AS
7 AMENDED, OR SECTION 3121 (g) OF THE FEDERAL "INTERNAL REVENUE
8 CODE OF 1986", AS AMENDED.

9 (2) "AGRICULTURAL WORKER" OR "WORKER" MEANS A WORKER
10 ENGAGED IN ANY SERVICE OR ACTIVITY INCLUDED IN SECTION 203 (f) OF
11 THE FEDERAL "FAIR LABOR STANDARDS ACT OF 1938", 29 U.S.C. SEC. 201
12 ET SEQ., AS AMENDED, OR SECTION 3121 (g) OF THE FEDERAL "INTERNAL
13 REVENUE CODE OF 1986", AS AMENDED.

14 (3) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND
15 EMPLOYMENT.

16 (4) "DIVISION" MEANS THE DIVISION OF LABOR STANDARDS AND
17 STATISTICS IN THE DEPARTMENT.

18 (5) "EMPLOYER" HAS THE MEANING SET FORTH IN SECTION
19 8-13.5-103 (1).

20 (6) "KEY SERVICE PROVIDER" MEANS A HEALTH CARE PROVIDER;
21 A COMMUNITY HEALTH WORKER, INCLUDING A PROMOTORA; AN
22 EDUCATION PROVIDER; AN ATTORNEY; A LEGAL ADVOCATE; A
23 GOVERNMENT OFFICIAL, INCLUDING A CONSULAR REPRESENTATIVE; A
24 MEMBER OF THE CLERGY; AND ANY OTHER SERVICE PROVIDER TO WHICH
25 AN AGRICULTURAL WORKER MAY NEED ACCESS.

26 (7) "NORMAL WORKING HOURS" MEANS A PERIOD DETERMINED BY
27 THE EMPLOYER NOT TO EXCEED EIGHT HOURS WITHIN ANY

1 TWENTY-FOUR-HOUR PERIOD. "NORMAL WORKING HOURS" DOES NOT
2 INCLUDE SATURDAY OR SUNDAY.

3 (8) "OCCASIONAL OR INTERMITTENT" MEANS TWENTY PERCENT OR
4 LESS OF AN AGRICULTURAL EMPLOYEE'S WEEKLY WORK TIME.

5 (9) "SHORT-HANDLED HOE" MEANS A HANDHELD TOOL WITH A
6 FLAT BLADE AFFIXED PERPENDICULARLY TO A HANDLE THAT IS LESS THAN
7 EIGHTEEN INCHES LONG. "SHORT-HANDLED HOE" INCLUDES A
8 LONG-HANDLED HAND TOOL THAT HAS BEEN MODIFIED TO BE USED AS A
9 SHORT-HANDLED HOE.

10 (10) "WHISTLEBLOWER" MEANS AN AGRICULTURAL WORKER WITH
11 KNOWLEDGE OF AN ALLEGED VIOLATION OF THIS PART 2 OR THE
12 AGRICULTURAL WORKER'S REPRESENTATIVE.

13 **8-13.5-202. Agricultural workers - right of access to key**
14 **service providers.** (1) (a) AN EMPLOYER SHALL NOT INTERFERE WITH AN
15 AGRICULTURAL WORKER'S REASONABLE ACCESS TO KEY SERVICE
16 PROVIDERS OUTSIDE OF NORMAL WORKING HOURS AT ANY LOCATION,
17 INCLUDING THE AGRICULTURAL WORKER'S EMPLOYER-PROVIDED HOUSING.

18 (b) AN EMPLOYER THAT PROVIDES HOUSING AND TRANSPORTATION
19 FOR AGRICULTURAL WORKERS SHALL, AT LEAST ONE DAY PER WEEK,
20 PROVIDE TRANSPORTATION TO THE AGRICULTURAL WORKERS TO A
21 LOCATION WHERE THE WORKERS CAN ACCESS BASIC NECESSITIES,
22 CONDUCT FINANCIAL TRANSACTIONS, AND MEET WITH KEY SERVICE
23 PROVIDERS.

24 (2) NO PERSON OTHER THAN THE AGRICULTURAL WORKER MAY
25 PROHIBIT, BAR, OR INTERFERE WITH, OR ATTEMPT TO PROHIBIT, BAR, OR
26 INTERFERE WITH, THE ACCESS TO OR EGRESS FROM THE RESIDENCE OF ANY
27 AGRICULTURAL WORKER BY ANY PERSON, EITHER BY THE ERECTION OR

1 MAINTENANCE OF ANY PHYSICAL BARRIER, BY PHYSICAL FORCE OR
2 VIOLENCE OR BY THE THREAT OF PHYSICAL FORCE OR VIOLENCE, OR BY
3 ANY ORDER OR NOTICE GIVEN IN ANY MANNER.

4 (3) AN EMPLOYER SHALL POST NOTICE OF AN AGRICULTURAL
5 WORKER'S RIGHTS UNDER THIS PART 2:

6 (a) IN A CONSPICUOUS LOCATION ON THE EMPLOYER'S PREMISES,
7 INCLUDING IN THE AGRICULTURAL WORKER'S EMPLOYER-PROVIDED
8 HOUSING; AND

9 (b) IN ALL PLACES WHERE NOTICES TO EMPLOYEES, INCLUDING
10 AGRICULTURAL WORKERS, ARE CUSTOMARILY POSTED; AND

11 (c) ELECTRONICALLY, INCLUDING BY E-MAIL AND ON AN INTRANET
12 OR INTERNET SITE, IF THE EMPLOYER CUSTOMARILY COMMUNICATES WITH
13 AGRICULTURAL WORKERS BY THESE MEANS.

14 **8-13.5-203. Extreme overwork protections - heat stress**
15 **training - short-handled hoe prohibited.** (1) (a) AN EMPLOYER SHALL
16 PROVIDE EACH AGRICULTURAL WORKER WITH ACCESS TO AT LEAST ONE
17 QUART OF FRESH, COOL WATER PER HOUR OF WORK FOR THE DURATION
18 OF THE WORKER'S SHIFT. THE ACCESS TO WATER MUST BE AS CLOSE TO THE
19 WORK SITE AS PRACTICABLE.

20 (b) AN EMPLOYER SHALL PROVIDE EACH AGRICULTURAL WORKER
21 WITH AN AREA OF OPEN-AIR SHADE THAT IS LARGE ENOUGH FOR WORKERS
22 TO BE SEATED DURING BREAK PERIODS WITHOUT TOUCHING EACH OTHER.

23 (c) WHEN THE OUTSIDE TEMPERATURE REACHES NINETY DEGREES
24 OR HIGHER, AN EMPLOYER SHALL PROVIDE EACH AGRICULTURAL WORKER
25 WHO IS WORKING OUTSIDE WITH A PAID TEN-MINUTE REST PERIOD FOR
26 EVERY TWO HOURS OF WORK.

27 (2) AN EMPLOYER SHALL PROVIDE TRAINING TO AGRICULTURAL

1 WORKERS CONCERNING SIGNS OF HEAT STRESS AND ENCOURAGE WORKERS
2 TO MONITOR THEMSELVES FOR ANY WARNING SIGNS OF HEAT STRESS. THE
3 EMPLOYER SHALL ENCOURAGE AGRICULTURAL WORKERS TO DRINK
4 WATER, TAKE BREAKS AS NEEDED, AND AVOID HEAT STRESS OR
5 OVEREXERTION.

6 (3) (a) USING A SHORT-HANDLED HOE IS PROHIBITED IN
7 AGRICULTURAL EMPLOYMENT FOR WEEDING AND THINNING IN A STOOPED,
8 KNEELING, OR SQUATTING POSITION.

9 (b) THE PERFORMANCE OF WEEDING AND THINNING BY HAND OR
10 WITH A SHORT-HANDLED TOOL, OTHER THAN A SHORT-HANDLED HOE, IN
11 A STOOPED, KNEELING, OR SQUATTING POSITION IS STRONGLY DISFAVORED
12 UNLESS THERE IS NO SUITABLE LONG-HANDLED TOOL OR OTHER
13 ALTERNATIVE MEANS OF PERFORMING THE WORK THAT IS SUITABLE AND
14 APPROPRIATE TO BOTH THE PRODUCTION OF THE AGRICULTURAL OR
15 HORTICULTURAL COMMODITY AND THE SCALE OF THE OPERATION.
16 NOTHING IN THIS SUBSECTION (3) IS CONSTRUED TO ALLOW THE USE OF
17 THE SHORT-HANDLED HOE.

18 (c) THIS SECTION DOES NOT PROHIBIT:

19 (I) OCCASIONAL OR INTERMITTENT HAND WEEDING OR HAND
20 THINNING IN A STOOPED, KNEELING, OR SQUATTING POSITION THAT IS
21 INCIDENTAL TO A NON-HAND-WEEDING OPERATION; OR

22 (II) SEEDING, PLANTING, TRANSPLANTING, OR HARVESTING BY
23 HAND OR WITH A HAND TOOL.

24 (4) AN EMPLOYER SHALL PROVIDE AGRICULTURAL WORKERS
25 ENGAGED IN HAND WEEDING AND HAND THINNING AN ADDITIONAL FIVE
26 MINUTE REST PERIOD, WHICH, INSOFAR AS IS PRACTICABLE, MUST BE IN
27 THE MIDDLE OF EACH WORK PERIOD. THE AUTHORIZED REST PERIOD MUST

1 BE BASED ON THE TOTAL HOURS WORKED DAILY AT THE RATE OF FIFTEEN
2 MINUTES NET REST TIME PER FOUR HOURS OF WORK, OR A MAJOR FRACTION
3 THEREOF. THE EMPLOYER SHALL COUNT THE AUTHORIZED REST PERIOD AS
4 HOURS WORKED AND NOT DEDUCT THE REST PERIOD FROM THE
5 AGRICULTURAL WORKER'S WAGES.

6 (5) AN EMPLOYER SHALL PROVIDE GLOVES AND KNEE PADS, AS
7 NECESSARY, TO EACH AGRICULTURAL WORKER ENGAGING IN HAND
8 WEEDING, HAND THINNING, OR HAND HOT-CAPPING.

9 **8-13.5-204. Enforcement - penalties - relief - rules.** (1) AN
10 AGGRIEVED AGRICULTURAL WORKER, A WHISTLEBLOWER, OR A KEY
11 SERVICE PROVIDER WHO WAS UNABLE TO ACCESS AN AGRICULTURAL
12 WORKER DUE TO A VIOLATION OF THIS PART 2 MAY COMMENCE AN ACTION
13 IN DISTRICT COURT AGAINST AN EMPLOYER FOR A VIOLATION OF THIS PART
14 2.

15 (2) A COURT MAY:

16 (a) ORDER INJUNCTIVE RELIEF TO ENJOIN THE CONTINUANCE OF
17 THE VIOLATION OF THIS PART 2;

18 (b) AWARD THE PLAINTIFF ACTUAL DAMAGES OR TEN THOUSAND
19 DOLLARS, WHICHEVER IS GREATER; AND

20 (c) AWARD THE PLAINTIFF ATTORNEY FEES.

21 (3) AN AGGRIEVED AGRICULTURAL WORKER OR WHISTLEBLOWER
22 IS ENTITLED TO ALL RIGHTS, REMEDIES, AND PENALTIES AFFORDED UNDER
23 SECTION 8-2-206.

24 **8-13.5-205. Agricultural work advisory committee - creation**
25 **- report - repeal.** (1) ON OR BEFORE SEPTEMBER 1, 2021, THE EXECUTIVE
26 DIRECTOR OF THE DEPARTMENT SHALL ESTABLISH THE AGRICULTURAL
27 WORK ADVISORY COMMITTEE, REFERRED TO IN THIS SECTION AS THE

1 "ADVISORY COMMITTEE". THE ADVISORY COMMITTEE CONSISTS OF NINE
2 MEMBERS AS FOLLOWS:

3 (a) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT SHALL
4 APPOINT:

5 (I) TWO MEMBERS WHO HAVE WORKED AS AGRICULTURAL
6 WORKERS; AND

7 (II) TWO MEMBERS WHO ARE ADVOCATES OF WORKERS' RIGHTS;

8 (b) THE COMMISSIONER OF AGRICULTURE SHALL APPOINT:

9 (I) THREE MEMBERS WHO REPRESENT AGRICULTURAL EMPLOYERS;
10 AND

11 (II) TWO REPRESENTATIVES FROM THE MIGRANT FARM WORKER
12 DIVISION OF COLORADO LEGAL SERVICES, OR ITS SUCCESSOR
13 ORGANIZATION.

14 (2) (a) THE INITIAL TERMS OF ONE AGRICULTURAL WORKER, ONE
15 ADVOCATE OF WORKERS' RIGHTS, TWO AGRICULTURAL EMPLOYERS, AND
16 ONE REPRESENTATIVE FROM THE MIGRANT FARM WORKER DIVISION OF
17 COLORADO LEGAL SERVICES IS TWO YEARS. THE INITIAL TERMS OF THE
18 REMAINING MEMBERS IS THREE YEARS. THEREAFTER, THE TERMS OF THE
19 MEMBERS ARE THREE YEARS.

20 (b) IF A MEMBER FAILS TO COMPLETE THE MEMBER'S TERM, THE
21 APPOINTING AUTHORITY SHALL APPOINT A NEW MEMBER TO COMPLETE
22 THE REMAINDER OF THE TERM.

23 (c) MEMBERS SHALL SERVE WITHOUT COMPENSATION FOR THEIR
24 SERVICE; EXCEPT THAT MEMBERS MAY RECEIVE A PER DIEM AS
25 ESTABLISHED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT AND
26 REIMBURSEMENT FOR TRAVEL AND OTHER NECESSARY EXPENSES
27 INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES.

1 (3) (a) THE ADVISORY COMMITTEE SHALL GATHER AND ANALYZE
2 DATA AND OTHER INFORMATION REGARDING THE WAGES AND WORKING
3 CONDITIONS OF AGRICULTURAL WORKERS AND REPORT ITS FINDINGS AND
4 ANY LEGISLATIVE RECOMMENDATIONS TO THE GENERAL ASSEMBLY.

5 (b) TO THE EXTENT POSSIBLE, THE EXECUTIVE DIRECTOR OF THE
6 DEPARTMENT SHALL ENSURE THAT THE ADVISORY COMMITTEE HAS THE
7 OPPORTUNITY TO MEET WITH APPROPRIATE REPRESENTATIVES FROM THE
8 DEPARTMENT OF LABOR AND EMPLOYMENT, THE DEPARTMENT OF PUBLIC
9 HEALTH AND ENVIRONMENT, THE DEPARTMENT OF AGRICULTURE, AND THE
10 GOVERNOR'S OFFICE FOR PURPOSES OF CONDUCTING ITS WORK PURSUANT
11 TO SUBSECTION (3)(a) OF THIS SECTION.

12 (c) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), ON OR
13 BEFORE JANUARY 1, 2023, AND EACH JANUARY 1 THEREAFTER, THE
14 ADVISORY COMMITTEE SHALL REPORT ITS PROGRESS, FINDINGS, AND
15 LEGISLATIVE RECOMMENDATIONS TO THE AGRICULTURE, LIVESTOCK, AND
16 WATER COMMITTEE AND THE BUSINESS AFFAIRS AND LABOR COMMITTEE
17 OF THE HOUSE OF REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES,
18 AND THE AGRICULTURE AND NATURAL RESOURCES COMMITTEE AND THE
19 BUSINESS, LABOR, AND TECHNOLOGY COMMITTEE OF THE SENATE, OR
20 THEIR SUCCESSOR COMMITTEES.

21 (4) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2031.
22 BEFORE THE REPEAL, THE ADVISORY COMMITTEE IS SCHEDULED FOR
23 REVIEW IN ACCORDANCE WITH SECTION 2-3-1203.

24 **SECTION 6.** In Colorado Revised Statutes, 2-3-1203, **add** (22)
25 as follows:

26 **2-3-1203. Sunset review of advisory committees - legislative**
27 **declaration - definition - repeal.** (22) (a) THE FOLLOWING STATUTORY

1 AUTHORIZATIONS FOR THE DESIGNATED ADVISORY COMMITTEES WILL
2 REPEAL ON SEPTEMBER 1, 2031:

3 (I) THE AGRICULTURAL WORK ADVISORY COMMITTEE CREATED IN
4 SECTION 8-13.5-205.

5 (b) THIS SUBSECTION (22) IS REPEALED, EFFECTIVE SEPTEMBER 1,
6 2033.

7 **SECTION 7.** In Colorado Revised Statutes, 8-14.4-101, **amend**
8 (1), (3)(c), and (3)(d); and **add** (1.5) and (3)(e) as follows:

9 **8-14.4-101. Definitions.** As used in this article 14.4, unless the
10 context otherwise requires:

11 (1) ~~"Department" means the department of labor and employment~~
12 "AGRICULTURAL EMPLOYMENT" HAS THE MEANING SET FORTH IN SECTION
13 8-13.5-201 (1).

14 (1.5) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND
15 EMPLOYMENT.

16 (3) "Principal" means:

17 (c) The state of Colorado, local governments, and political
18 subdivisions of the state as defined in section 1-7.5-103 (6); ~~and~~

19 (d) An entity that contracts with five or more independent
20 contractors in the state each year; AND

21 (e) A PERSON OR ENTITY ENGAGED IN AGRICULTURAL
22 EMPLOYMENT.

23 **SECTION 8.** In Colorado Revised Statutes, **add** 8-14.4-109 as
24 follows:

25 **8-14.4-109. Agricultural employers - responsibilities during**
26 **public health emergency - worker safety protections.** (1) DURING A
27 PUBLIC HEALTH EMERGENCY, IN ADDITION TO THE OTHER PROTECTIONS

1 AND RIGHTS AFFORDED TO WORKERS, A PRINCIPAL ENGAGED IN
2 AGRICULTURAL EMPLOYMENT SHALL:

3 (a) PROVIDE EACH WORKER LIVING IN EMPLOYER-PROVIDED
4 HOUSING WITH:

5 (I) AT LEAST ONE HUNDRED SQUARE FEET OF SLEEPING QUARTERS
6 PER WORKER AND ONE HUNDRED TWENTY FEET OF SPACE PER WORKER IN
7 AREAS USED FOR COMBINED PURPOSES SUCH AS MEAL PREPARATION AND
8 EATING; AND

9 (II) SCREENED WINDOWS THAT OPEN TO THE OUTSIDE OR LIVING
10 SPACE THAT HAS AN AIR FILTRATION SYSTEM;

11 (b) ROUTINELY INSPECT EMPLOYER-PROVIDED HOUSING TO
12 ENSURE COMPLIANCE WITH GUIDELINES ISSUED BY THE DEPARTMENT OF
13 PUBLIC HEALTH AND ENVIRONMENT APPLICABLE TO A PUBLIC HEALTH
14 EMERGENCY AND ANY APPLICABLE EXECUTIVE ORDERS ISSUED BY THE
15 GOVERNOR DURING A DISASTER EMERGENCY DECLARED PURSUANT TO
16 SECTION 24-33.5-704 (4);

17 (c) PROVIDE TRAINING TO WORKERS CONCERNING SAFETY
18 PRECAUTIONS AND PROTECTIONS DURING A PUBLIC HEALTH EMERGENCY;
19 AND

20 (d) PROVIDE INFORMATIONAL AND EDUCATIONAL MATERIALS
21 THROUGH POSTERS AND PAMPHLETS WRITTEN IN ENGLISH AND SPANISH
22 AND ANY OTHER RELEVANT LANGUAGES IN EMPLOYER-PROVIDED
23 HOUSING, WORK SITES, AND OTHER PLACES WHERE THE PRINCIPAL
24 USUALLY POSTS INFORMATION FOR THE WORKERS THAT:

25 (I) LISTS THE CONTACT INFORMATION FOR THE MIGRANT FARM
26 WORKER DIVISION OF COLORADO LEGAL SERVICES, OR ITS SUCCESSOR
27 ORGANIZATION, WHERE A WORKER MAY RECEIVE FREE AND CONFIDENTIAL

1 LEGAL SERVICES; AND

2 (II) INFORMS THE WORKERS REGARDING FEDERAL AND STATE
3 GUIDANCE CONCERNING A PUBLIC HEALTH EMERGENCY.

4 **SECTION 9.** In Colorado Revised Statutes, 8-3-108, **amend**
5 (1)(c)(II)(A) and (1)(c)(II)(B) as follows:

6 **8-3-108. What are unfair labor practices.** (1) It is an unfair
7 labor practice for an employer, individually or in concert with others, to:

8 (c) (II) (A) Any agreement as defined in section 8-3-104 ~~(1.5)~~
9 between an employer and a labor organization in existence on June 29,
10 1977, which has not been voted upon by the employees covered by it
11 may, by written mutual agreement of such employer and labor
12 organization, be ratified and upon such ratification shall be filed with the
13 director. Any agreement as defined in section 8-3-104 ~~(1.5)~~ between
14 an employer and a labor organization in existence on June 29, 1977,
15 which has not been ratified and filed, as provided in this ~~subparagraph (H)~~
16 SUBSECTION (1)(c)(II), shall not be legal, valid, or enforceable during the
17 remaining term of that labor contract unless and until either the employer,
18 the labor organization, or at least twenty percent of the employees
19 covered by such agreement file a petition upon forms provided by the
20 division, demanding an election submitting the question of the all-union
21 agreement to the employees covered by such agreement and said
22 agreement is approved by the affirmative vote of at least a majority of all
23 the employees eligible to vote or three-quarters or more of the employees
24 who actually voted, whichever is greater, by secret ballot in favor of such
25 all-union agreement in an election provided for in this ~~paragraph (c)~~
26 SUBSECTION (1)(c) conducted under the supervision of the director.

27 (B) Upon filing of such instrument of ratification with the

1 director, the director shall certify that such agreement complies with the
2 provisions of section 8-3-104 ~~(1)~~ (1.5) notwithstanding the absence of any
3 other election requirements of this ~~article~~ ARTICLE 3, and by virtue of such
4 ratification and certification, such agreement shall be deemed legal, valid,
5 and enforceable to the extent permitted under the provisions of this ~~article~~
6 ARTICLE 3, subject to the provisions of ~~sub-subparagraph (D)~~ of this
7 ~~subparagraph (H)~~ SUBSECTION (1)(c)(II)(D) OF THIS SECTION.

8 **SECTION 10.** In Colorado Revised Statutes, **amend** 8-13.5-101
9 as follows:

10 **8-13.5-101. Short title.** ~~This article shall be known and may be~~
11 ~~cited as~~ THE SHORT TITLE OF THIS PART 1 IS the "Workplace
12 Accommodations for Nursing Mothers Act".

13 **SECTION 11.** In Colorado Revised Statutes, 8-13.5-102, **amend**
14 (2) as follows:

15 **8-13.5-102. Legislative declaration.** (2) The general assembly
16 further declares that the purpose of this ~~article~~ PART 1 is for the state of
17 Colorado to become involved in the national movement to recognize the
18 medical importance of breastfeeding, within the scope of complete
19 pediatric care, and to encourage removal of boundaries placed on nursing
20 mothers in the workplace.

21 **SECTION 12.** In Colorado Revised Statutes, 8-13.5-103, **amend**
22 the introductory portion as follows:

23 **8-13.5-103. Definitions.** As used in this ~~article~~ PART 1, unless the
24 context otherwise requires:

25 **SECTION 13.** In Colorado Revised Statutes, **amend** 44-10-105
26 as follows:

27 **44-10-105. Marijuana employee designation.** An employee of

1 a licensee is not an agricultural worker unless the employee is a farm
2 laborer ~~as described in section 8-3-104 (11)~~ AT A FARM, PLANTATION,
3 RANCH, NURSERY, RANGE, GREENHOUSE, ORCHARD, OR OTHER STRUCTURE
4 USED FOR THE RAISING OF AGRICULTURAL OR HORTICULTURAL
5 COMMODITIES, AS LONG AS THE STRUCTURE IS UTILIZED FOR AT LEAST
6 FIFTY PERCENT OF THE TOTAL OUTPUT PRODUCED.

7 **SECTION 14. Safety clause.** The general assembly hereby finds,
8 determines, and declares that this act is necessary for the immediate
9 preservation of the public peace, health, or safety.