

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

REENGROSSED

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

LLS NO. 22-0835.01 Christy Chase x2008

SENATE BILL 22-161

SENATE SPONSORSHIP

Danielson and Jaquez Lewis, Buckner, Ginal, Gonzales, Hansen, Kolker, Lee, Moreno, Pettersen, Rodriguez, Story

HOUSE SPONSORSHIP

Duran and Froelich,

Senate Committees

Business, Labor, & Technology
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE MODERNIZATION OF PROCEDURES FOR THE**
102 **ENFORCEMENT OF LAWS GOVERNING THE**
103 **EMPLOYER-EMPLOYEE RELATIONSHIP, AND, IN CONNECTION**
104 **THEREWITH, MAKING AN APPROPRIATION.**

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 updates and modifies laws pertaining to the payment of wages, employee misclassification, and workplace safety, and the enforcement procedures and remedies for violations of those laws, as

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.*

SENATE
3rd Reading Unamended
May 3, 2022

SENATE
Amended 2nd Reading
May 2, 2022

follows:

- Changes the penalty for failure to provide requested information to the division of labor standards and statistics in the department of labor and employment (DLSS) from a misdemeanor criminal offense to a daily penalty of up to \$50 (**section 1** of the bill);
- Requires an employer to: Provide notice to an employee, within 10 days after the employment terminates, before deducting from wages or compensation any amount of money or property the employee failed to return or repay upon termination of employment; pay the employee the deducted amount within 14 days after the employee returns or repays the money or property if the employee did so within 14 days after notice is provided; and pay 2 times the amount of the deduction if the employer fails to provide the required notice (**section 2**);
- Imposes automatic penalties, and adjusts the amount of the penalties for multiple violations within 5 years, on an employer that fails to pay past-due wages within 14 days after a written demand or civil or administrative action for the past-due wages is sent to or served on the employer (**section 3**);
- Repeals the requirement that an employee dismiss an action against an employer after the employer makes a legal tender for the full amount claimed in the action (**section 3**), and eliminates the authority of a court to award an employer reasonable attorney fees and costs in an action in which the employee claimed wages in excess of the greater of \$7,500 or the jurisdictional limit for small claims court and the employee does not recover an amount greater than the amount the employer tendered (**section 4**);
- For wage claims on or after January 1, 2023, increases the threshold for wage claims the director of the DLSS may adjudicate from \$7,500 or less to \$15,000 or less (**section 5**);
- Allows the director of the DLSS to use existing authority under labor laws to gather information pertinent to wage claims from employers, employees, and other persons or entities (**section 5**);
- If the DLSS determines that an employer has violated wage laws, allows employees who filed the wage claims to request the DLSS to notify similarly situated employees that the employer may be engaging in a pattern or practice of nonpayment of wages (**section 5**);
- Allows recovery of attorney fees, an additional fine of 50%

of the amount of past-due wages, and a penalty of the greater of 50% of past-due wages or \$3,000 from an employer that fails to pay an employee past-due wages within 60 days after the determination in favor of the employee (**section 5**);

- For a citation, notice of assessment, or order issued against an employer on or after January 1, 2023, requires the DLSS, upon request of an employee, to file a certified copy of the citation, notice, or order with the appropriate clerk of court, after which the clerk is required to enter the citation, notice, or order as a judgment of the court, and the judgment becomes a lien against the employer's property that is superior to all other liens except property tax liens (**section 6**);
- Authorizes the DLSS to issue a notice of administrative lien and levy, similar to a child support enforcement lien, when an employer fails to pay past-due wages, fines, or penalties, which lien attaches to the employer's real or personal property that is in the possession, custody, or control of another person (**section 6**);
- Allows an employee who alleges that the employee's employer discriminated or retaliated against the employee for filing or participating in a wage claim to file a civil action to seek relief, including back pay, reinstatement or front pay, payment of unlawfully withheld wages, interest on past-due wages, penalties, liquidated damages, injunctive relief, and attorney fees and costs. The DLSS, after an investigation of a discrimination or retaliation claim, may also order similar relief to an employee, other than attorney fees and costs (**section 7**);
- Requires employers to ensure the workplace is constructed, operated, and equipped, and any machinery and equipment in the workplace is placed, operated, and lighted, in a manner that provides reasonable and adequate protections to the lives, health, and safety of all employees, and authorizes a new worker and employee unit in the department of law, in addition to an employee injured or threatened with injury, to enforce the workplace safety requirements (**section 8**);
- Establishes the worker and employee unit (unit) in the department of law to investigate and enforce wage theft, unemployment insurance and misclassification of employees, and workplace safety claims under specified circumstances (**sections 9 through 12**); and
- Modifies certain provisions of the mechanics' lien law to

streamline its use in the context of workers enforcing wage claims for work performed on real property (**sections 13 through 23**).

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

2 **SECTION 1.** In Colorado Revised Statutes, 8-1-114, **amend** (2)
3 as follows:

4 **8-1-114. Employers and employees to furnish information -**
5 **penalty.** (2) Any employer or employee who fails or refuses to furnish
6 ~~such~~ information as may be required by the division under authority of
7 ~~this article is guilty of a misdemeanor and, upon conviction thereof, shall~~
8 ~~be punished by a fine of two hundred dollars if an employer and~~
9 ~~twenty-five dollars if an employee~~ ARTICLE 1 SHALL PAY A PENALTY OF
10 NOT LESS THAN FIFTY DOLLARS FOR EACH DAY THAT THE FAILURE OR
11 REFUSAL CONTINUES. THE DIVISION SHALL TRANSMIT ANY PENALTY
12 IMPOSED AND COLLECTED PURSUANT TO THIS SECTION TO THE STATE
13 TREASURER, WHO SHALL CREDIT THE MONEY TO THE WAGE THEFT
14 ENFORCEMENT FUND CREATED IN SECTION 8-4-113 (3).

15 **SECTION 2.** In Colorado Revised Statutes, 8-1-116, **amend** (2)
16 as follows:

17 **8-1-116. Investigators to have access to premises - penalty.**
18 (2) Any person who hinders or obstructs the director or any such person
19 authorized by the director in the exercise of any power conferred by this
20 article 1, or any employer who in bad faith refuses reasonable access to
21 the employer's premises, or any person who gives advance notice of any
22 inspection to be conducted under this article 1 without authority from the
23 director or the director's designee commits a class 2 misdemeanor IS
24 SUBJECT TO A PENALTY OF NOT LESS THAN FIFTY DOLLARS FOR EACH DAY

1 THAT THE CONDUCT CONTINUES. THE DIVISION SHALL TRANSMIT ANY
2 PENALTY IMPOSED AND COLLECTED PURSUANT TO THIS SECTION TO THE
3 STATE TREASURER, WHO SHALL CREDIT THE MONEY TO THE WAGE THEFT
4 ENFORCEMENT FUND CREATED IN SECTION 8-4-113 (3).

5 **SECTION 3.** In Colorado Revised Statutes, 8-1-117, **amend** (2)
6 as follows:

7 **8-1-117. Director to have access to books - penalty.** (2) Any
8 employer ~~who~~ THAT refuses to exhibit and furnish ~~said~~ THE director or
9 any agents of the division an inspection of any books, records, and
10 payrolls of ~~such~~ THE employer, showing or reflecting in any way upon the
11 amount of wage expenditure of ~~such employers~~ THE EMPLOYER, and other
12 data, facts, and statistics appertaining to the purposes of this article
13 ARTICLE 1 or ~~who~~ THAT refuses to admit ~~such~~ THE director or any agent
14 of the division to any place of employment shall pay a penalty of not less
15 than fifty dollars for each day that ~~such~~ THE failure, neglect, or refusal
16 continues. THE DIVISION SHALL TRANSMIT ANY PENALTY IMPOSED AND
17 COLLECTED PURSUANT TO THIS SECTION TO THE STATE TREASURER, WHO
18 SHALL CREDIT THE MONEY TO THE WAGE THEFT ENFORCEMENT FUND
19 CREATED IN SECTION 8-4-113 (3).

20 **SECTION 4.** In Colorado Revised Statutes, 8-1-140, **amend** (2)
21 as follows:

22 **8-1-140. Violation - penalty.** (2) If any employer, employee, or
23 any other person fails, refuses, or neglects to perform any duty lawfully
24 enjoined within the time prescribed by the director or fails, neglects, or
25 refuses to obey any lawful order made by the director or any judgment or
26 decree made by any court as provided in this article ARTICLE 1, for each
27 such violation, ~~such~~ THE employer, employee, or any other person shall

1 pay a penalty of not less than one hundred dollars for each day such THE
2 violation, failure, neglect, or refusal continues. THE DIVISION SHALL
3 TRANSMIT ANY PENALTY IMPOSED AND COLLECTED PURSUANT TO THIS
4 SECTION TO THE STATE TREASURER, WHO SHALL CREDIT THE MONEY TO
5 THE WAGE THEFT ENFORCEMENT FUND CREATED IN SECTION 8-4-113 (3).

6 **SECTION 5.** In Colorado Revised Statutes, **amend 8-1-142** as
7 follows:

8 **8-1-142. Collection of penalties.** All penalties provided for in this
9 article ARTICLE 1 shall be collected in a civil action brought against the
10 employer or employee in the name of the director, WHICH CIVIL ACTION
11 MAY BE AN ADMINISTRATIVE ACTION OR A JUDICIAL ACTION AUTHORIZED
12 BY LAW. Any fine provided in this article ARTICLE 1 is considered a
13 penalty and recoverable in a civil action as provided in this section unless
14 the violation of this article ARTICLE 1, for the punishment of which said
15 fine is provided, is designated as a misdemeanor or other crime.

16 **SECTION 6.** In Colorado Revised Statutes, 8-4-105, **amend** (1)
17 introductory portion and (1)(e) as follows:

18 **8-4-105. Payroll deductions permitted - notice required.**

19 (1) ~~NO~~ AN employer shall NOT make a deduction from the wages or
20 compensation of an employee except as follows:

21 (e) (I) A deduction for the amount of money or the value of
22 property that the employee failed to properly pay or return to the
23 employer in the case where a terminated employee was entrusted during
24 ~~his or her~~ THE EMPLOYEE'S employment with the collection, disbursement,
25 or handling of such money or property, BUT ONLY AFTER PROVIDING
26 NOTICE OF THE DEDUCTION AS SPECIFIED IN SUBSECTION (1)(e)(II) OF THIS
27 SECTION.

1 (II) The employer ~~shall have~~ HAS ten calendar days after the
2 termination of employment to:

3 (A) Audit and adjust the accounts and property value of any items
4 entrusted to the employee before the employee's wages or compensation
5 shall be paid as provided in section 8-4-109. This is an exception to the
6 pay requirements in section 8-4-109. The penalty provided in section
7 8-4-109 shall apply only from the date of demand made after the
8 expiration of the ten-day period allowed for payment of the employee's
9 wages or compensation.

10 (B) PROVIDE NOTICE TO THE EMPLOYEE THAT THE EMPLOYER IS
11 DEDUCTING FROM THE EMPLOYEE'S WAGES OR COMPENSATION THE
12 AMOUNT OF MONEY OR THE VALUE OF PROPERTY THAT THE EMPLOYEE
13 FAILED TO PROPERLY PAY OR RETURN TO THE EMPLOYER, WHICH NOTICE
14 MUST INCLUDE A WRITTEN ACCOUNTING SPECIFYING THE AMOUNT OF
15 MONEY OR THE SPECIFIC PROPERTY THAT THE EMPLOYEE FAILED TO PAY
16 OR RETURN, THE REPLACEMENT VALUE OF THE PROPERTY, AND, TO THE
17 EXTENT KNOWN, WHEN THE MONEY OR PROPERTY WAS PROVIDED TO THE
18 EMPLOYEE AND WHEN THE EMPLOYER BELIEVES THE EMPLOYEE SHOULD
19 HAVE PAID THE MONEY OR RETURNED THE PROPERTY TO THE EMPLOYER.

20 (III) AFTER AN EMPLOYER PROVIDES THE NOTICE REQUIRED BY
21 SUBSECTION (1)(e)(II)(B) OF THIS SECTION AND MAKES A DEDUCTION
22 FROM THE WAGES OR COMPENSATION OF AN EMPLOYEE, IF THE EMPLOYEE,
23 WITHIN FOURTEEN DAYS AFTER THE EMPLOYER PROVIDES THE NOTICE,
24 PAYS THE MONEY OR RETURNS THE PROPERTY THAT WAS THE BASIS FOR
25 THE DEDUCTION, THE EMPLOYER SHALL PAY THE EMPLOYEE THE AMOUNT
26 OF THE DEDUCTION WITHIN FOURTEEN DAYS AFTER THE EMPLOYEE PAYS
27 THE MONEY OR RETURNS THE PROPERTY TO THE EMPLOYER.

1 (IV) If, ~~upon such audit and adjustment of~~ AFTER AUDITING AND
2 ADJUSTING the accounts and property value of any items entrusted to the
3 employee PURSUANT TO SUBSECTION (1)(e)(II)(A) OF THIS SECTION AND
4 PROVIDING NOTICE PURSUANT TO SUBSECTION (1)(e)(II)(B) OF THIS
5 SECTION, it is found that any money or property entrusted to the employee
6 by the employer has not been properly paid or returned TO the employer
7 as provided by the terms of any agreement between the employer and the
8 employee, the employee ~~shall not be~~ IS NOT entitled to the benefit of
9 payment pursuant to section 8-4-109, but the EMPLOYEE'S claim for
10 unpaid wages or compensation ~~of such employee~~ shall be disposed of as
11 provided for by this ~~article~~ ARTICLE 4.

12 **SECTION 7.** In Colorado Revised Statutes, 8-4-109, **amend**
13 (3) as follows:

14 **8-4-109. Termination of employment - payments required -**
15 **civil penalties - payments to surviving spouse or heir.** (3) (a) If an
16 employer refuses to pay wages or compensation in accordance with
17 subsection (1) of this section OR SECTION 8-4-103 (1)(a), the employee,
18 ~~his or her~~ THE EMPLOYEE'S designated agent, or the division may send a
19 written demand for the payment ON BEHALF OF THE EMPLOYEE OR A
20 GROUP OF SIMILARLY SITUATED EMPLOYEES OR MAY FILE AN
21 ADMINISTRATIVE CLAIM OR CIVIL ACTION FOR THE PAYMENT.

22 (a.5) If the employer disputes the amount of wages or
23 compensation claimed by an employee under this ~~article~~ ARTICLE 4 and
24 if, within fourteen days after the written demand is sent OR THE
25 ADMINISTRATIVE CLAIM OR CIVIL ACTION IS SENT TO OR SERVED ON THE
26 EMPLOYER, the employer makes a legal tender of the FULL amount ~~that the~~
27 ~~employer in good faith believes is due~~ OF ALL WAGES THAT THE

1 EMPLOYEE, THE EMPLOYEE'S DESIGNATED AGENT, OR THE DIVISION IN
2 GOOD FAITH DEMANDS ARE OWED FOR ANY VIOLATION OF THIS ARTICLE 4,
3 the employer shall not be liable for any penalty unless, in a legal
4 proceeding, including a civil action or an administrative procedure under
5 sections 8-4-111 and 8-4-111.5, the employee recovers a greater sum than
6 the amount ~~so~~ THE EMPLOYER tendered.

7 (b) ON OR AFTER JANUARY 1, 2023, if AN EMPLOYER FAILS OR
8 REFUSES TO PAY, IN THE MANNER SPECIFIED IN SUBSECTION (3)(d) OF THIS
9 SECTION, ~~an employee's~~ ALL earned, vested, and determinable wages or
10 compensation ~~is not paid~~ within fourteen days after the written demand
11 is sent ~~in the manner set forth in paragraph (d) of this subsection (3) OR~~
12 WITHIN FOURTEEN DAYS AFTER A CIVIL ACTION OR ADMINISTRATIVE CLAIM
13 FOR THE WAGES OR COMPENSATION IS SENT TO OR SERVED ON THE
14 EMPLOYER, the employer ~~shall be~~ IS liable to the employee OR GROUP OF
15 SIMILARLY SITUATED EMPLOYEES for the AMOUNT OF THE EARNED,
16 VESTED, DETERMINABLE, AND UNPAID wages or compensation ~~and a~~ PLUS
17 AN AUTOMATIC penalty of: ~~the sum of the following amounts of wages or~~
18 ~~compensation due or, if greater, the employee's average daily earnings for~~
19 ~~each day, not to exceed ten days, until such payment or other settlement~~
20 ~~satisfactory to the employee is made:~~

21 (I) ~~One hundred twenty-five percent of that~~ THE GREATER OF TWO
22 TIMES THE amount of ~~such~~ THE UNPAID wages or compensation up to and
23 ~~including seven thousand five hundred dollars; and~~ OR ONE THOUSAND
24 DOLLARS; OR

25 (II) ~~Fifty percent of that~~ IF THE EMPLOYEE CAN SHOW THAT THE
26 EMPLOYER'S FAILURE OR REFUSAL TO PAY WAGES OR COMPENSATION WAS
27 WILLFUL, THE GREATER OF THREE TIMES THE amount of such THE UNPAID

1 wages or compensation ~~that exceed seven~~ OR THREE thousand five
2 hundred dollars.

3 (c) If the employee can show that the employer's failure to pay is
4 willful, the penalty required under paragraph (b) of this subsection (3)
5 shall increase by fifty percent. Evidence that a JUDGMENT OR WAGE
6 DETERMINATION OF THE DIVISION has, within the previous five years, been
7 entered against the employer for failure to pay wages or compensation is
8 admissible as evidence of willful conduct. AN EMPLOYER'S FAILURE OR
9 REFUSAL TO PAY WAGES OR COMPENSATION IS PER SE WILLFUL IF THE
10 EMPLOYEE CAN SHOW THAT THE CLAIM FOR WHICH A PENALTY UNDER
11 SUBSECTION (3)(b) OF THIS SECTION IS ASSESSED IS THE EMPLOYER'S
12 SECOND OR SUBSEQUENT FAILURE OR REFUSAL TO PAY TO EMPLOYEES
13 WAGES OR COMPENSATION OF THE SAME OR SIMILAR TYPE WITHIN THE
14 FIVE YEARS IMMEDIATELY PRECEDING THE CLAIM.

15 (d) (I) The employer shall send or deliver payment, by check,
16 draft, or voucher in the employee's name, to the employee at the address
17 contained in the written demand OR ADMINISTRATIVE CLAIM OR CIVIL
18 ACTION; or make the payment by direct deposit authorized under section
19 8-4-102 (2) if the employee has not revoked the authorization. The
20 employer may, but is not required to, make the payment by direct deposit
21 to an account specified by the employee in the demand, ADMINISTRATIVE
22 CLAIM, OR COURT ACTION, even if the employee has not previously
23 authorized direct deposit of the employee's compensation, or make the
24 payment by another method requested by the employee in the demand,
25 ADMINISTRATIVE CLAIM, OR COURT ACTION, if applicable. If the employee
26 has not previously authorized direct deposit of compensation and the
27 demand, ADMINISTRATIVE CLAIM, OR COURT ACTION does not state an

1 address to which the payment should be mailed, the employer shall make
2 the payment as follows:

3 (A) To the employee's last-known address according to the
4 records of the employer; or

5 (B) If applicable and if the employer so elects, as otherwise
6 requested by the employee in the demand, ADMINISTRATIVE CLAIM, OR
7 COURT ACTION.

8 (II) The employee or ~~his or her~~ THE EMPLOYEE'S designated agent
9 may commence a civil action to recover the penalty set forth in this
10 subsection (3). ~~For an action filed in a small claims court, established~~
11 ~~pursuant to part 4 of article 6 of title 13, C.R.S., if the employer has not~~
12 ~~received a written demand at least fourteen days before the employer is~~
13 ~~served with the complaint or other document commencing the action,~~
14 ~~service of the complaint or other document serves as the written demand~~
15 under this subsection (3): If, an WITHIN FOURTEEN DAYS AFTER A WRITTEN
16 DEMAND IS SENT TO OR AN ADMINISTRATIVE CLAIM OR A CIVIL ACTION IS
17 SENT TO OR SERVED ON THE EMPLOYER, THE employer makes a FULL legal
18 tender of the full amount claimed in the action within fourteen days after
19 service of the complaint or other document commencing the action ALL
20 AMOUNTS DEMANDED IN GOOD FAITH FOR ALL EMPLOYEES, the employee
21 shall dismiss the action.

22 **SECTION 8.** In Colorado Revised Statutes, 8-4-110, **amend** (1)
23 as follows:

24 **8-4-110. Disputes - fees.** (1) THE COURT MAY AWARD THE
25 EMPLOYER REASONABLE COSTS AND ATTORNEY FEES INCURRED IN A CIVIL
26 ACTION IF, WITHIN FOURTEEN DAYS AFTER A WRITTEN DEMAND LETTER IS
27 SENT TO OR A CIVIL ACTION IS SERVED ON THE EMPLOYER FOR UNPAID

1 WAGES OR COMPENSATION:

2 (I) THE EMPLOYER MAKES FULL LEGAL TENDER OF ALL AMOUNTS
3 DEMANDED IN GOOD FAITH FOR ALL EMPLOYEES; AND

4 (II) THE EMPLOYEES RECEIVING SUCH TENDER ULTIMATELY FAIL
5 TO RECOVER A TOTAL SUM THAT IS GREATER THAN THE AMOUNT THE
6 EMPLOYER TENDERED.

7 (b) If, in any AN ADMINISTRATIVE CLAIM OR CIVIL action the
8 employee fails to recover a greater sum than the amount tendered by the
9 employer, the court may award the employer reasonable costs and
10 attorney fees incurred in such action when, in any pleading or other court
11 filing, the employee claims wages or compensation that exceed the
12 greater of seven thousand five hundred dollars in wages or compensation
13 or the jurisdictional limit for the small claims court, whether or not the
14 case was filed in small claims court or whether or not the total amount
15 sought in the action was within small claims court jurisdictional limits. If,
16 in any such action in which the employee seeks to recover any amount of
17 wages or compensation, the employee recovers a sum greater than the
18 amount tendered by the employer:

19 (I) The court, IN A CIVIL ACTION, may award the employee
20 reasonable costs and attorney fees incurred in ~~such~~ THE CIVIL action; AND

21 (II) THE DIVISION, IN AN ADMINISTRATIVE CLAIM, MAY AWARD THE
22 EMPLOYEE REASONABLE COSTS INCURRED IN THE ADMINISTRATIVE CLAIM
23 AND MAY ALSO AWARD ATTORNEY FEES TO AN EMPLOYEE WHO RECOVERS
24 MORE THAN FIVE THOUSAND DOLLARS IN UNPAID WAGES IN THE
25 ADMINISTRATIVE CLAIM.

26 (c) If an employer fails or refuses to make a tender within fourteen
27 days after the demand OR ADMINISTRATIVE CLAIM OR CIVIL ACTION, then

1 such failure or refusal ~~shall~~ MUST be treated as a tender of no money for
2 any purpose under this ~~article~~ ARTICLE 4.

3 **SECTION 9.** In Colorado Revised Statutes, 8-4-111, **amend** (1),
4 (2)(a)(I) introductory portion, and (2)(c); and **add** (2)(f) as follows:

5 **8-4-111. Enforcement - duty of director - duties of district or**
6 **city attorneys - rules.** (1) (a) (I) It is the duty of the director to:

7 (A) Inquire diligently for any violation of this ~~article, and to~~
8 ARTICLE 4;

9 (B) Institute the actions for penalties or fines provided for in this
10 ~~article~~ ARTICLE 4 in such cases as ~~he or she may deem~~ THE DIRECTOR
11 DEEMS proper; and ~~to~~

12 (C) Enforce generally the provisions of this ~~article. For wages and~~
13 ~~compensation earned on and after January 1, 2015~~ ARTICLE 4.

14 (II) The director may establish an administrative procedure to
15 receive complaints and adjudicate claims for nonpayment of wages or
16 compensation of seven thousand five hundred dollars or less.

17 ==
18 (III) The procedures ESTABLISHED PURSUANT TO SUBSECTION
19 (1)(a)(II) OF THIS SECTION may include claims of employees where no
20 interruption of the employer-employee relationship has occurred.

21 (IV) The penalties AND FINES established by section 8-4-109 (3)
22 apply to actions instituted by the director OR ADJUDICATED AFTER A
23 COMPLAINT WAS RECEIVED under this ~~article~~ ARTICLE 4 when no
24 interruption of the employer-employee relationship has occurred.

25 (b) The director shall promulgate rules providing for notice to
26 employees of an employee's rights under this section and section
27 8-4-111.5, of the limitations on the amount of wages, compensation, and

1 penalties available under the administrative remedy, and of the
2 employee's option to bring a claim for wages and compensation in court
3 without pursuing the administrative remedy unless the employee has
4 accepted payment pursuant to ~~paragraph (c) of subsection (2)~~ SUBSECTION
5 (2)(e) of this section.

6 (c) FOR PURPOSES OF INVESTIGATING WAGE COMPLAINTS AND
7 FACILITATING THE COLLECTION OF UNPAID WAGES BEFORE OR AFTER A
8 DETERMINATION PURSUANT TO THIS SECTION, THE DIVISION MAY APPLY
9 THE INFORMATION-GATHERING PROVISIONS OF ARTICLE 1 OF THIS TITLE 8
10 TO ANY EMPLOYER, EMPLOYEE, OR OTHER PERSON OR ENTITY.

11 (2) (a) (I) If one or more employees files a wage complaint with
12 the division claiming unpaid wages or compensation of seven thousand
13 five hundred dollars or less per employee, exclusive of penalties and
14 finer, the division shall investigate the wage complaint. THE DIVISION
15 MAY INVESTIGATE ANY WAGE COMPLAINT MADE ON BEHALF OF A GROUP
16 OF SIMILARLY SITUATED EMPLOYEES. IF THE DIVISION DECLINES TO
17 INVESTIGATE A GROUP COMPLAINT, SIMILARLY SITUATED EMPLOYEES MAY
18 CONSENT IN WRITING TO PARTICIPATE AS PARTIES TO THAT COMPLAINT,
19 AND THE DIVISION MAY PURSUE A DIRECT INVESTIGATION INFORMED BY
20 AND CONCURRENT WITH THAT COMPLAINT. The division shall initiate the
21 administrative procedure by sending a notice of complaint to the
22 employer by mail or electronic means in accordance with rules as the
23 director may promulgate when the complaint states a claim for relief. The
24 notice of the complaint must include:

25 (c) (I) If the division determines that an employer has violated
26 this ~~article~~ ARTICLE 4 for nonpayment of wages or compensation, the
27 division shall issue a citation and notice of assessment for the amount

1 determined that is owed, which amount must include all wages and
2 compensation owed, penalties pursuant to section 8-4-109, and any fines
3 pursuant to section 8-4-113.

4 (II) THE DIVISION SHALL NOTIFY THE WORKER AND EMPLOYEE
5 PROTECTION UNIT IN THE DEPARTMENT OF LAW CREATED IN SECTION
6 24-31-1202, AT LEAST ONCE EVERY SIX MONTHS, OF ANY
7 DETERMINATIONS PURSUANT TO THIS SUBSECTION (2)(c) THAT WERE
8 BASED, IN WHOLE OR IN PART, ON A FINDING THAT THE EMPLOYER
9 MISCLASSIFIED ONE OR MORE EMPLOYEES AS INDEPENDENT CONTRACTORS.

10

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11 (f) IF AN EMPLOYER FAILS TO PAY AN EMPLOYEE THE AMOUNT THE
12 DIVISION DETERMINES, PURSUANT TO SUBSECTION (2)(c) OF THIS SECTION,
13 OR A HEARING OFFICER DETERMINES, PURSUANT TO SECTION 8-4-111.5, TO
14 BE OWED WITHIN SIXTY DAYS AFTER THE DIVISION'S DETERMINATION OR
15 THE HEARING OFFICER'S DECISION, WHICHEVER IS APPLICABLE, THE
16 FOLLOWING MAY BE RECOVERED FROM THE EMPLOYER:

17 (I) ATTORNEY FEES INCURRED IN PURSUING A CIVIL ACTION TO
18 ENFORCE THE DIVISION'S DETERMINATION OR THE HEARING OFFICER'S
19 DECISION;

20 (II) AN ADDITIONAL FINE EQUAL TO FIFTY PERCENT OF THE
21 AMOUNT DETERMINED PURSUANT TO SUBSECTION (2)(c) OF THIS SECTION;
22 AND

23 (III) A PENALTY EQUAL TO THE GREATER OF FIFTY PERCENT OF THE
24 AMOUNT DETERMINED PURSUANT TO SUBSECTION (2)(c) OF THIS SECTION
25 OR THREE THOUSAND DOLLARS.

26 **SECTION 10.** In Colorado Revised Statutes, **amend** 8-4-113 as
27 follows:

1 **8-4-113. Fines pursuant to enforcement - wage theft**
2 **enforcement fund - created - administrative lien and levy of employer**

3 **assets - definition.** (1) (a) (I) If a case against an employer is enforced
4 pursuant to section 8-4-111, any employer who without good faith legal
5 justification fails to pay the wages of each of ~~his or her~~ THE EMPLOYER'S
6 employees shall forfeit to the people of the state of Colorado a fine in an
7 amount determined by the director or hearing officer but no more than the
8 sum of fifty dollars per day for each such failure to pay each employee,
9 commencing from the date that such wages first became due and payable.

10 (II) The division may collect the fine IMPOSED PURSUANT TO
11 THIS SUBSECTION (1)(a) through its citation and notice of assessment
12 issued pursuant to section 8-4-111 (2) or after a hearing conducted
13 pursuant to section 8-4-111.5.

14 (b) The director or hearing officer shall impose a fine of two
15 hundred fifty dollars on an employer who fails to respond to a notice of
16 complaint or to any other notice from the division to which a response is
17 required. The director or hearing officer may waive or reduce the fine
18 only if ~~he or she~~ THE DIRECTOR OR HEARING OFFICER finds good cause for
19 an extension of the time for the employer to file the response.

20 (2) (a) THE DIVISION MAY, AND, ON OR AFTER JANUARY 1, 2023,
21 AT THE REQUEST OF A WORKER SHALL, FILE a certified copy of any
22 citation, notice of assessment, or order imposing wages due, fines, ~~or~~
23 penalties, OR OTHER RELIEF pursuant to this ~~article may be filed~~ ARTICLE
24 4 with the clerk of any court having jurisdiction over the parties at any
25 time after the entry of the CITATION, NOTICE, OR order. ~~The certified copy~~
26 ~~shall be recorded by~~ THE DIVISION MAY FILE ONE CERTIFIED COPY OF THE
27 CITATION, NOTICE, OR ORDER FOR ALL AMOUNTS OWED TO, OR FOR OTHER

1 RELIEF FOR, ALL EMPLOYEES.

2 (b) The clerk of the ~~district~~ court SHALL RECORD THE CITATION,
3 NOTICE, OR ORDER in the judgment book of ~~said~~ THE court and MAKE AN
4 entry ~~thereof made~~ in the judgment docket. ~~and it shall thenceforth have~~
5 ~~all~~ UPON RECORDING, THE CITATION, NOTICE OF ASSESSMENT, OR ORDER
6 HAS the effect of AND MAY BE EXECUTED AS a judgment of the ~~district~~
7 court. ~~and execution may issue thereon out of said court as in other cases.~~

8 (c) (I) UPON RECORDING PURSUANT TO SUBSECTION (2)(b) OF
9 THIS SECTION, THE JUDGMENT IS SUFFICIENT TO SUPPORT THE ISSUANCE OF
10 WRITS OF GARNISHMENT IN THE MANNER PROVIDED BY LAW IN THE CASE
11 OF A JUDGMENT THAT IS WHOLLY OR PARTIALLY UNSATISFIED.

12 (II) THE COURT SHALL MAIL A COPY OF THE JUDGMENT TO THE
13 EMPLOYER WITHIN THREE DAYS AFTER THE DIVISION HAS FILED THE
14 CITATION, NOTICE, OR ORDER WITH THE CLERK OF THE COURT.

15
16 (3) (a) The division shall transmit all fines collected FOR THE
17 STATE pursuant to this section OR SECTION 8-1-114 (2), 8-1-116 (2),
18 8-1-117 (2), OR 8-1-140 (2) to the state treasurer, who shall credit the
19 same to the wage theft enforcement fund, which fund is created and
20 referred to in this section as the "fund". The ~~moneys~~ MONEY in the fund
21 ~~are~~ IS subject to annual appropriation by the general assembly to the
22 division for the direct and indirect costs associated with implementing
23 this ~~article~~ ARTICLE 4.

24 (b) The state treasurer may invest any ~~moneys~~ MONEY in the fund
25 not expended for the purpose of this ~~article~~ ARTICLE 4 as provided by law.
26 The state treasurer shall credit all interest and income derived from the
27 investment and deposit of ~~moneys~~ MONEY in the fund to the fund. Any

1 unexpended and unencumbered ~~moneys~~ MONEY remaining in the fund at
2 the end of a fiscal year ~~remain~~ REMAINS in the fund and must not be
3 credited or transferred to the general fund or another fund.

4 (4) (a) ON OR AFTER JANUARY 1, 2023, IF AN EMPLOYER FAILS TO
5 PAY WAGES DETERMINED TO BE DUE TO THE EMPLOYER'S EMPLOYEES OR
6 FINES OR PENALTIES DETERMINED TO BE DUE PURSUANT TO THIS ARTICLE
7 4, WITHIN SIXTY DAYS AFTER RECEIVING A WRITTEN EMPLOYEE REQUEST
8 OR UPON ITS OWN INITIATIVE, THE DIVISION MAY ISSUE A NOTICE OF
9 ADMINISTRATIVE LIEN AND LEVY TO THE EMPLOYER OR ANY OTHER
10 PERSON THAT HAS POSSESSION, CUSTODY, OR CONTROL OF THE
11 EMPLOYER'S ASSETS. THE DIVISION MAY ISSUE THE NOTICE OF
12 ADMINISTRATIVE LIEN AND LEVY WHEN AN EMPLOYER IS PAST DUE ON
13 PAYING WAGES DETERMINED TO BE DUE TO ITS EMPLOYEES AND ANY FINES
14 OR PENALTIES DETERMINED TO BE DUE PURSUANT TO THIS ARTICLE 4
15 WITHOUT AN ORDER STAYING OR REVERSING THE APPLICABLE DEADLINE
16 FOR PAYMENT. THE NOTICE MUST INCLUDE THE FOLLOWING STATEMENTS
17 AND INFORMATION:

18 (I) THE NAME AND ADDRESS OF THE PERSON THAT HAS
19 POSSESSION, CUSTODY, OR CONTROL OF THE EMPLOYER'S ASSETS;

20 (II) THE EMPLOYER'S NAME, LAST-KNOWN ADDRESS, AND
21 TAXPAYER IDENTIFICATION NUMBER, IF KNOWN;

22 (III) THE TOTAL AMOUNT OWED FOR PAST-DUE WAGES, FINES, AND
23 PENALTIES, AS IDENTIFIED BY THE DIVISION AS PROVIDED IN THIS ARTICLE
24 4;

25 (IV) THE NAMES OF ALL EMPLOYEES DETERMINED TO BE OWED
26 WAGES OR PENALTIES AND THE AMOUNTS DUE TO EACH NAMED EMPLOYEE;

27 (V) A STATEMENT THAT:

1 (A) THE NOTICE OF ADMINISTRATIVE LIEN AND LEVY TAKES
2 EFFECT, AND IS SUPERIOR TO ANY OTHER LIEN ON THE SAME ASSETS THAT
3 IS FILED LATER IN TIME; ==

4 (B) UNLESS THE DIVISION CONSENTS TO AN EARLIER DISPOSITION,
5 THE PERSON MAY NOT TRANSFER OR DISPOSE OF THE ASSETS IN THE
6 POSSESSION, CUSTODY, OR CONTROL OF THE PERSON FROM THE DATE THE
7 PERSON RECEIVED THE NOTICE UNTIL FURTHER ORDER; AND

8 (C) A PERSON THAT RECEIVES NOTICE PURSUANT TO THIS
9 SUBSECTION (4) AND THAT TRANSFERS OR DISPOSES OF THE ASSETS AFTER
10 RECEIPT OF THE NOTICE IS LIABLE FOR THE AMOUNT OF THE PAST-DUE
11 WAGES, FINES, AND PENALTIES OWED BY THE EMPLOYER, TO THE EXTENT
12 OF THE VALUE OF THE TRANSFERRED OR DISPOSED OF ASSETS;

13 (VI) INSTRUCTIONS ON THE REMITTANCE, TRANSMISSION, OR
14 TRANSFER OF THE WITHHELD OR SURRENDERED AMOUNTS OR OTHER
15 ASSETS, INCLUDING THE REQUIREMENT THAT EACH CHECK, REMITTANCE,
16 TRANSMISSION, OR TRANSFER:

17 (A) FOR PAST-DUE WAGES AND PENALTIES, BE PAYABLE TO,
18 TRANSMITTED TO, OR TRANSFERRED TO THE EMPLOYEE, EMPLOYEES,
19 PAYEE, OR TRANSFEREE DESIGNATED BY THE DIVISION IN THE NOTICE AND
20 SENT TO THE ADDRESS INDICATED IN THE NOTICE OR OTHERWISE
21 TRANSMITTED OR TRANSFERRED AS SPECIFIED IN THE NOTICE;

22 (B) FOR FINES, BE PAYABLE TO, TRANSMITTED TO, OR
23 TRANSFERRED TO THE DIVISION OR OTHER PAYEE OR TRANSFEREE
24 DESIGNATED BY THE DIVISION IN THE NOTICE AND SENT TO THE ADDRESS
25 INDICATED IN THE NOTICE OR OTHERWISE TRANSMITTED OR TRANSFERRED
26 AS SPECIFIED IN THE NOTICE;

27 (C) BE SURRENDERED WITHIN THIRTY DAYS AFTER THE DATE OF

1 THE NOTICE OF THE LIEN AND LEVY; AND

2 (D) INCLUDE THE DIVISION CASE NUMBER ON THE FACE OF THE
3 CHECK, REMITTANCE, TRANSMISSION, OR TRANSFER;

4 (VII) A STATEMENT THAT, IF INSUFFICIENT ASSETS ARE AVAILABLE
5 TO COVER ALL AMOUNTS DETERMINED TO BE OWED BY THE EMPLOYER,
6 THE PERSON MUST FIRST PAY WAGES AND PENALTIES DETERMINED TO BE
7 DUE TO THE EMPLOYEE OR EMPLOYEES AND THEREAFTER PAY FINES
8 DETERMINED TO BE OWED TO THE STATE;

9 (VIII) A STATEMENT THAT, IF NO ASSETS ARE AVAILABLE FOR
10 SURRENDER, THE PERSON MUST RETURN THE REMITTANCE NOTICE WITHIN
11 THIRTY DAYS AFTER THE DATE OF THE NOTICE OF THE LIEN AND LEVY; AND

12 (IX) A STATEMENT THAT THE ADMINISTRATIVE LIEN AND LEVY IS
13 AUTOMATICALLY INACTIVATED ONCE THE PERSON RETURNS THE
14 REMITTANCE NOTICE OR SURRENDERS THE ASSETS HELD BY THE PERSON.

15 (b) (I) IN ORDER TO ATTACH AND COLLECT AN EMPLOYER'S ASSETS
16 THAT ARE IN THE POSSESSION, CUSTODY, OR CONTROL OF ANOTHER
17 PERSON FOR PURPOSES OF COLLECTING PAST-DUE WAGES, FINES, AND
18 PENALTIES, THE DIVISION IS AUTHORIZED TO SERVE, BY FIRST-CLASS OR
19 OVERNIGHT MAIL, BY PERSONAL DELIVERY, OR, IF MUTUALLY AGREED
20 UPON, THROUGH ELECTRONIC MEANS PUBLISHED BY THE PERSON, A NOTICE
21 OF ADMINISTRATIVE LIEN AND LEVY ON ANY PERSON THAT HAS
22 POSSESSION, CUSTODY, OR CONTROL OF THE EMPLOYER'S ASSETS. A
23 NOTICE OF ADMINISTRATIVE LIEN AND LEVY IS EFFECTIVE IF IT IS
24 DELIVERED OR MAILED TO THE PRINCIPAL OFFICE OR ANY BRANCH OFFICE
25 OF THE PERSON THAT HAS POSSESSION, CUSTODY, OR CONTROL OF THE
26 EMPLOYER'S ASSETS.

27 (II) THE ADMINISTRATIVE LIEN AND LEVY APPLIES AGAINST ALL

1 ASSETS OF THE EMPLOYER THAT ARE IN THE POSSESSION, CUSTODY, OR
2 CONTROL OF THE PERSON SERVED WITH THE NOTICE AT THE TIME OF, AND
3 WITHIN SIXTY DAYS AFTER, RECEIPT OF THE NOTICE.

4 (III) THE DIVISION SHALL PROVIDE A COPY OF THE
5 ADMINISTRATIVE LIEN AND LEVY TO THE EMPLOYER AND SHALL INCLUDE
6 INFORMATION ON THE EMPLOYER'S RIGHT TO FILE AN APPLICABLE
7 EXCEPTION, EXEMPTION, OR APPEAL, AS SPECIFIED BY THE DIRECTOR BY
8 RULE, INCLUDING AN EXCEPTION, EXEMPTION, OR APPEAL FOR CUSTODIAL
9 ACCOUNTS PURSUANT TO SECTION 11-50-110, THE EARNINGS LIMITATIONS
10 SET FORTH IN SECTION 13-54-104 (3), OR THE APPEAL POLICY FOR JOINTLY
11 OWNED OR SHARED ACCOUNTS.

12 (IV) UPON SATISFACTION OF THE PAST-DUE WAGE, FINE, OR
13 PENALTY OBLIGATIONS GIVING RISE TO THE ADMINISTRATIVE LIEN AND
14 LEVY, THE EMPLOYER MAY REQUEST AND BE PROVIDED CONFIRMATION
15 THAT THE LIEN IS EXTINGUISHED.

16 (c) THIS SUBSECTION (4) APPLIES TO ALL PAST-DUE WAGE, FINE,
17 AND PENALTY OBLIGATIONS ORDERED AS PART OF ANY PROCEEDING,
18 REGARDLESS OF WHEN THE ORDER WAS ENTERED, AND ALL EMPLOYERS
19 THAT OWE WAGES, FINES, OR PENALTIES ARE SUBJECT TO NOTICE OF
20 ADMINISTRATIVE LIEN AND LEVY AS DESCRIBED IN THIS SUBSECTION (4).

21 (d) THE DIRECTOR MAY ADOPT RULES AS NECESSARY TO
22 IMPLEMENT THIS SUBSECTION (4).

23 (e) AS USED IN THIS SUBSECTION (4), "ASSET" MEANS ANY:

24 (I) REAL, INTANGIBLE, OR PERSONAL PROPERTY OF AN EMPLOYER;

25 (II) AN EMPLOYER'S RIGHT TO REAL, INTANGIBLE, OR PERSONAL
26 PROPERTY;

27 (III) PAYMENTS DUE TO AND ACCOUNTS RECEIVABLE OF AN

1 EMPLOYER; AND

2 (IV) CREDITS OR DEBTS INVOLVING THE EMPLOYER.

3 **SECTION 11.** In Colorado Revised Statutes, **amend** 8-4-120 as
4 follows:

5 **8-4-120. Discrimination and retaliation prohibited - employee**
6 **protections - criminal penalties - civil remedies.** (1) ~~No~~ AN employer
7 shall NOT intimidate, threaten, restrain, coerce, blacklist, discharge, or in
8 any manner discriminate OR RETALIATE against any employee who has:

9 (a) Filed any complaint or instituted or caused to be instituted any
10 proceeding under this article 4 or ~~related~~ ANY OTHER law OR RULE
11 RELATED TO WAGES OR HOURS; or ~~who has~~

12 (b) Testified OR PROVIDED OTHER EVIDENCE, or may testify OR
13 PROVIDE OTHER EVIDENCE, in any proceeding on behalf of ~~himself,~~
14 ~~herself,~~ THE EMPLOYEE or another PERSON regarding afforded protections
15 under this article 4 OR UNDER ANY OTHER LAW OR RULE RELATED TO
16 WAGES OR HOURS.

17 (2) ~~Any~~ AN employer who violates ~~the provisions of~~ this section
18 commits a class 2 misdemeanor.

19 (3) (a) AN EMPLOYEE WHO ALLEGES A VIOLATION OF SUBSECTION
20 (1) OF THIS SECTION MAY FILE A CIVIL ACTION IN A COURT OF COMPETENT
21 JURISDICTION AGAINST THE EMPLOYER ALLEGED TO HAVE VIOLATED THIS
22 SECTION TO SEEK LEGAL AND EQUITABLE RELIEF AS APPROPRIATE TO
23 REMEDY THE VIOLATION, INCLUDING:

24 (I) BACK PAY;

25 (II) REINSTATEMENT OF EMPLOYMENT OR, IF REINSTATEMENT IS
26 NOT FEASIBLE, FRONT PAY;

27 (III) THE PAYMENT OF WAGES UNLAWFULLY WITHHELD;

1 (IV) INTEREST ON UNPAID WAGES AT A RATE OF TWELVE PERCENT
2 PER ANNUM FROM THE DATE THE WAGES WERE FIRST DUE;

3 (V) THE PAYMENT OF A PENALTY OF FIFTY DOLLARS PER DAY FOR
4 EACH EMPLOYEE WHOSE RIGHTS UNDER THIS SECTION WERE VIOLATED
5 AND FOR EACH DAY THAT THE VIOLATION OCCURRED OR CONTINUED;

6 (VI) LIQUIDATED DAMAGES IN AN AMOUNT EQUAL TO THE
7 GREATER OF TWO TIMES THE AMOUNT OF THE UNPAID WAGES OR TWO
8 THOUSAND DOLLARS; AND

9 (VII) INJUNCTIVE RELIEF.

10 (b) IF THE EMPLOYEE PREVAILS IN A CIVIL ACTION BROUGHT
11 PURSUANT TO THIS SUBSECTION (3), THE COURT SHALL AWARD THE
12 EMPLOYEE REASONABLE ATTORNEY FEES AND COSTS.

13 (4) THE DIVISION MAY INVESTIGATE AND ENFORCE
14 DISCRIMINATION OR RETALIATION PROHIBITED BY THIS ARTICLE 4 OR
15 ARTICLE 6 OF THIS TITLE 8 AND, AFTER INVESTIGATION, MAY ORDER THE
16 RELIEF SPECIFIED IN SUBSECTION (3)(a) OF THIS SECTION.

17 == ==

18 **SECTION 12.** In Colorado Revised Statutes, 8-72-114, **amend**
19 (9) as follows:

20 **8-72-114. Employee misclassification - investigations -**
21 **enforcement - advisory opinions - rules - employee misclassification**
22 **advisory opinion fund - statewide study - report - definitions -**
23 **legislative declaration.** (9) (a) Subject to the approval of the executive
24 director, the director may enter into an interagency agreement with the
25 department of law for assistance in enforcing this section. The director is
26 authorized to transfer to the department of law from the unemployment
27 revenue fund created in section 8-77-106 such money as is necessary to

1 pay for reasonable costs associated with enforcement actions by the
2 department of law.

3 (b) REGARDLESS OF WHETHER THE DIRECTOR HAS ENTERED INTO
4 AN INTERAGENCY AGREEMENT WITH THE DEPARTMENT OF LAW PURSUANT
5 TO SUBSECTION (9)(a) OF THIS SECTION, AT LEAST ONCE EVERY TWELVE
6 MONTHS, BEGINNING JANUARY 1, 2024, THE DIRECTOR SHALL SHARE WITH
7 THE WORKER AND EMPLOYEE PROTECTION UNIT IN THE DEPARTMENT OF
8 LAW CREATED IN SECTION 24-31-1202 ANY ORDERS ISSUED PURSUANT TO
9 THIS SECTION FINDING THAT ANY EMPLOYERS HAVE ENGAGED IN THE
10 MISCLASSIFICATION OF EMPLOYEES.

11 **SECTION 13.** In Colorado Revised Statutes, 24-31-101, **amend**
12 (1)(i) as follows:

13 **24-31-101. Powers and duties of attorney general.** (1) The
14 attorney general:

15 (i) May INDEPENDENTLY INITIATE AND bring civil and criminal
16 actions to enforce state laws, including actions brought pursuant to:

17 (I) The "Colorado Antitrust Act of 1992", ~~in~~ article 4 of title 6;

18 (II) The "Colorado Consumer Protection Act", ~~in~~ article 1 of title
19 6;

20 (III) The "Unfair Practices Act", ~~in~~ article 2 of title 6;

21 (IV) Article 12 of title 6; ~~and sections~~

22 (V) SECTION 6-1-110;

23 (VI) SECTION 11-51-603.5;

24 (VII) SECTION 24-34-505.5; ~~and~~

25 (VIII) SECTION 25.5-4-306;

26 (IX) ARTICLE 4 OF TITLE 8, SUBJECT TO SECTION 24-31-1203 (2);

27 AND

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(X) THE "COLORADO EMPLOYMENT SECURITY ACT", ARTICLES 70
TO 82 OF TITLE 8, SUBJECT TO SECTION 24-31-1203 (1).

SECTION 14. In Colorado Revised Statutes, 24-31-102, **amend**
(1)(h); repeal (1)(i); and add (1)(j) and (1)(k) as follows:

24-31-102. Offices, boards, and divisions. (1) The department
of law, the chief executive officer of which is the attorney general,
includes the following:

(h) The financial empowerment office, created in part 11 of this
article 31; **and**

~~(i) Notwithstanding section 24-1-107, any other division, office,
or unit established by the attorney general or by law. ==~~

(j) THE WORKER AND EMPLOYEE PROTECTION UNIT, CREATED IN
PART 12 OF THIS ARTICLE 31; AND

(k) NOTWITHSTANDING SECTION 24-1-107, ANY OTHER DIVISION,
OFFICE, OR UNIT ESTABLISHED BY THE ATTORNEY GENERAL OR BY LAW.

SECTION 15. In Colorado Revised Statutes, **add** part 12 to
article 31 of title 24 as follows:

PART 12

ENFORCEMENT OF WORKER PROTECTION LAWS

24-31-1201. Definitions. AS USED IN THIS PART 12, UNLESS THE
CONTEXT OTHERWISE REQUIRES:

(1) "DIVISION OF LABOR STANDARDS AND STATISTICS" MEANS THE
DIVISION OF LABOR STANDARDS AND STATISTICS IN THE DEPARTMENT OF
LABOR AND EMPLOYMENT CREATED PURSUANT TO SECTION 8-1-103.

(2) "DIVISION OF UNEMPLOYMENT INSURANCE" MEANS THE
DIVISION OF UNEMPLOYMENT INSURANCE IN THE DEPARTMENT OF LABOR

1 AND EMPLOYMENT CREATED PURSUANT TO SECTION 8-71-101.

2 (3) "UNIT" MEANS THE WORKER AND EMPLOYEE PROTECTION UNIT
3 CREATED IN SECTION 24-31-1202.

4 **24-31-1202. Worker and employee protection unit - creation**
5 **- duties.** (1) THERE IS CREATED WITHIN THE DEPARTMENT OF LAW AND
6 UNDER THE CONTROL OF THE OFFICE OF THE ATTORNEY GENERAL THE
7 WORKER AND EMPLOYEE PROTECTION UNIT.

8 (2) IN ADDITION TO ANY OTHER AUTHORITIES GRANTED BY LAW,
9 THE UNIT HAS THE FOLLOWING POWERS AND DUTIES:

10 (a) ISSUE OR CAUSE TO BE ISSUED CIVIL INVESTIGATIVE DEMANDS
11 AND SUBPOENAS OR OTHER PROCESS IN AID OF INVESTIGATIONS AND
12 PROSECUTIONS;

13 (b) ADMINISTER OATHS AND TAKE SWORN STATEMENTS UNDER
14 PENALTY OF PERJURY; AND

15 (c) SERVE AND EXECUTE, IN ANY COUNTY, SEARCH WARRANTS
16 THAT RELATE TO INVESTIGATIONS.

17 **24-31-1203. Worker misclassification - wage determinations**
18 **- investigation and enforcement by the unit - coordination with**
19 **department of labor and employment.** (1) (a) THE UNIT MAY
20 INVESTIGATE ALLEGED VIOLATIONS OF, AND BRING AN ACTION AGAINST
21 AN EMPLOYER TO ENFORCE, SECTION 8-72-114, REGARDLESS OF WHETHER
22 A COMPLAINT IS FILED AGAINST THE EMPLOYER PURSUANT TO SAID
23 SECTION, TO ENFORCE THAT SECTION IF THE DIVISION OF UNEMPLOYMENT
24 INSURANCE DIRECTLY REFERS A FINDING OF MISCLASSIFICATION TO THE
25 UNIT TO PURSUE FURTHER REMEDIES.

26 (b) THE UNIT MAY INVESTIGATE AND ENFORCE AN ALLEGED
27 MISCLASSIFICATION THAT IS NOT DESCRIBED IN SUBSECTION (1)(a) OF THIS

1 SECTION IF THE UNIT PROVIDES WRITTEN NOTICE TO THE DIVISION OF
2 UNEMPLOYMENT INSURANCE OF THE UNIT'S INTENT TO PURSUE A
3 MISCLASSIFICATION INVESTIGATION AND THE DIVISION OF UNEMPLOYMENT
4 INSURANCE:

5 (I) DECLINES TO INVESTIGATE THE MATTER;

6 (II) HAS INVESTIGATED THE MATTER AND MADE A FORMAL
7 DETERMINATION; OR

8 (III) FAILS TO RESPOND TO THE UNIT WITHIN THIRTY DAYS AFTER
9 THE DATE OF THE NOTICE.

10 (2) (a) THE UNIT MAY ENFORCE WAGE DETERMINATIONS MADE BY
11 THE DIVISION OF LABOR STANDARDS AND STATISTICS PURSUANT TO
12 ARTICLE 4 OF TITLE 8 IF THE DIVISION OF LABOR STANDARDS AND
13 STATISTICS REFERS THE WAGE DETERMINATION TO THE UNIT FOR
14 ENFORCEMENT.

15 (b) IF THE DIVISION OF LABOR STANDARDS AND STATISTICS HAS
16 NOT REFERRED A WAGE DETERMINATION TO THE UNIT, THE UNIT MAY
17 ENFORCE THE WAGE DETERMINATION IF THE UNIT PROVIDES WRITTEN
18 NOTICE TO THE DIVISION OF LABOR STANDARDS AND STATISTICS OF THE
19 UNIT'S INTENT TO ENFORCE THE WAGE DETERMINATION AND THE DIVISION
20 OF LABOR STANDARDS AND STATISTICS:

21 (I) DECLINES TO PURSUE ENFORCEMENT OF THE WAGE
22 DETERMINATION;

23 (II) HAS ATTEMPTED TO PURSUE ENFORCEMENT OF THE WAGE
24 DETERMINATION AND HAS BEEN UNSUCCESSFUL IN ENFORCING THE
25 DETERMINATION IN FULL AFTER THE LATER OF TWELVE MONTHS AFTER
26 THE DETERMINATION OR THE CONCLUSION OF ANY APPEALS; OR

27 (III) FAILS TO RESPOND TO THE UNIT WITHIN THIRTY DAYS AFTER

1 THE DATE OF THE NOTICE; OR

2 (IV) HAS NOT INITIATED AN INVESTIGATION.

3

4 SECTION 16. Appropriation. (1) For the 2022-23 state fiscal
5 year, \$504,419 is appropriated to the department of labor and
6 employment. This appropriation is from the general fund. To implement
7 this act, the department may use this appropriation as follows:

8 (a) \$473,369 for use by division of labor standards and statistics
9 for program costs related to labor standards, which amount is based on an
10 assumption that the subdivision will require an additional 4.8 FTE; and

11 (b) \$31,050 for the purchase of legal services.

12 (2) For the 2022-23 state fiscal year, \$31,050 is appropriated to
13 the department of law. This appropriation is from reappropriated funds
14 received from the department of labor and employment under subsection
15 (1)(b) of this section and is based on an assumption that the department
16 of law will require an additional 0.2 FTE. To implement this act, the
17 department of law may use this appropriation to provide legal services for
18 the department of labor and employment.

19 (3) For the 2022-23 state fiscal year, \$95,200 is appropriated to
20 the department of law for use by consumer protection. This appropriation
21 is from the general fund and is based on an assumption that the
22 department will require an additional 0.8 FTE. To implement this act, the
23 department may use this appropriation for consumer protection and
24 antitrust.

25 SECTION 17. Act subject to petition - effective date. Sections
26 6, 7, 8, and 9 of this act take effect January 1, 2023, and the remainder of
27 this act takes effect at 12:01 a.m. on the day following the expiration of

1 the ninety-day period after final adjournment of the general assembly;
2 except that, if a referendum petition is filed pursuant to section 1 (3) of
3 article V of the state constitution against this act or an item, section, or
4 part of this act within such period, then the act, item, section, or part will
5 not take effect unless approved by the people at the general election to be
6 held in November 2022 and, in such case, will take effect on the date of
7 the official declaration of the vote thereon by the governor; except that
8 sections 6, 7, 8, and 9 of this act take effect on January 1, 2023.