

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

REENGROSSED

This Version Includes All Amendments

Adopted in the House of Introduction

LLS NO. 23-0063.01 Josh Schultz x5486

SENATE BILL 23-058

SENATE SPONSORSHIP

Danielson and Jaquez Lewis, Buckner, Cutter, Ginal, Gonzales, Kolker, Marchman, Priola, Sullivan, Winter F.

HOUSE SPONSORSHIP

Willford and Young,

Senate Committees

Business, Labor, & Technology
Appropriations

House Committees

A BILL FOR AN ACT

101 CONCERNING REQUIRED DISCLOSURES OF AGE-RELATED INFORMATION
102 ON JOB APPLICATIONS, AND, IN CONNECTION THEREWITH,
103 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>.)

Starting July 1, 2024, the bill prohibits employers from inquiring about a prospective employee's age, date of birth, and dates of attendance at or date of graduation from an educational institution on an employment application.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

SENATE
3rd Reading Unamended
March 15, 2023

SENATE
Amended 2nd Reading
March 14, 2023

An employer may request an individual to verify compliance with age requirements imposed pursuant to or required by:

- A bona fide occupational qualification pertaining to public or occupational safety;
- A federal law or regulation; or
- A state or local law or regulation based on a bona fide occupational qualification.

The department of labor and employment (department) is charged with enforcing the requirements of the bill and may issue warnings and orders of compliance for violations and, for second or subsequent violations, impose civil penalties. A violation of the restrictions does not create a private cause of action. The department is directed to adopt rules regarding procedures for handling complaints against employers.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 8-2-131 as
3 follows:

4 **8-2-131. Age of job applicants - limits on applications -**
5 **exceptions - enforcement - rules - short title - definitions.** (1) **Short**
6 **title.** THE SHORT TITLE OF THIS SECTION IS THE "JOB APPLICATION
7 FAIRNESS ACT".

8 (2) **Definitions.** AS USED IN THIS SECTION:

9 (a) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND
10 EMPLOYMENT.

11 (b) "EMPLOYER" MEANS A PERSON ENGAGED IN A BUSINESS,
12 INDUSTRY, PROFESSION, TRADE, OR OTHER ENTERPRISE IN THE STATE OR
13 A UNIT OF STATE OR LOCAL GOVERNMENT. "EMPLOYER" INCLUDES AN
14 AGENT, A REPRESENTATIVE, OR A DESIGNEE OF THE EMPLOYER.

15 (3) **Job applicant's age - limits on applications.** ON AND AFTER
16 JULY 1, 2024, AN EMPLOYER SHALL NOT REQUEST OR REQUIRE AN
17 INDIVIDUAL TO INCLUDE THE INDIVIDUAL'S AGE, DATE OF BIRTH, OR DATES
18 OF ATTENDANCE AT OR DATE OF GRADUATION FROM AN EDUCATIONAL

1 INSTITUTION ON AN INITIAL EMPLOYMENT APPLICATION.

2 (4) **Verification permitted.** (a) THE EMPLOYER MAY REQUEST AN
3 INDIVIDUAL TO VERIFY COMPLIANCE WITH AGE REQUIREMENTS IMPOSED
4 PURSUANT TO OR REQUIRED BY:

5 (I) A BONA FIDE OCCUPATIONAL QUALIFICATION PERTAINING TO
6 PUBLIC OR OCCUPATIONAL SAFETY;

7 (II) A FEDERAL LAW OR REGULATION; OR

8 (III) A STATE OR LOCAL LAW OR REGULATION BASED ON A BONA
9 FIDE OCCUPATIONAL QUALIFICATION.

10 (b) VERIFICATION REQUESTS MADE UNDER THIS SUBSECTION (4)
11 MUST NOT REQUIRE DISCLOSURE OF AN INDIVIDUAL'S SPECIFIC AGE, DATE
12 OF BIRTH, OR DATES OF ATTENDANCE AT OR DATE OF GRADUATION FROM
13 AN EDUCATIONAL INSTITUTION ON AN INITIAL EMPLOYMENT APPLICATION.

14 (5) **Enforcement - notice and records retention rules.** (a) THIS
15 SECTION DOES NOT CREATE OR AUTHORIZE A PRIVATE CAUSE OF ACTION
16 BY A PERSON AGGRIEVED BY A VIOLATION OF THIS SECTION. THE
17 PENALTIES SET FORTH IN THIS SUBSECTION (5) ARE THE SOLE REMEDY FOR
18 A VIOLATION OF THIS SECTION. THE ISSUANCE OF A WARNING, ORDER, OR
19 PENALTY FOR A VIOLATION OF THIS SECTION IS NOT EVIDENCE OF A
20 VIOLATION OF PART 4 OF ARTICLE 34 OF TITLE 24.

21 (b) A PERSON WHO IS AGGRIEVED BY A VIOLATION OF THIS SECTION
22 MAY FILE A COMPLAINT WITH THE DEPARTMENT. IF THE DEPARTMENT
23 RECEIVES A COMPLAINT WITHIN TWELVE MONTHS AFTER THE ACT THAT IS
24 ALLEGED TO VIOLATE THIS SECTION OCCURRED, THE DEPARTMENT SHALL
25 INVESTIGATE THE COMPLAINT UNLESS THE DEPARTMENT DETERMINES
26 THAT THE COMPLAINT IS WITHOUT MERIT.

27 (c) AN EMPLOYER THAT VIOLATES THIS SECTION IS LIABLE FOR ONE

1 OF THE FOLLOWING PENALTIES:

2 (I) FOR THE FIRST VIOLATION, A WARNING AND AN ORDER
3 REQUIRING COMPLIANCE WITHIN FIFTEEN BUSINESS DAYS;

4 (II) FOR THE SECOND VIOLATION, AN ORDER REQUIRING
5 COMPLIANCE WITHIN FIFTEEN BUSINESS DAYS AND A CIVIL PENALTY NOT
6 TO EXCEED ONE THOUSAND DOLLARS; OR

7 (III) FOR A THIRD OR SUBSEQUENT VIOLATION, AN ORDER
8 REQUIRING COMPLIANCE WITHIN FIFTEEN BUSINESS DAYS AND A CIVIL
9 PENALTY NOT TO EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS.

10 (d) AN EMPLOYER IS NOT SUBJECT TO PENALTIES FOR A SECOND OR
11 SUBSEQUENT VIOLATION UNDER SUBSECTION (5)(c) OF THIS SECTION
12 UNLESS THE EMPLOYER:

13 (I) FAILED TO COMPLY WITH AN ORDER REQUIRING COMPLIANCE
14 WITHIN FIFTEEN BUSINESS DAYS AFTER THE DATE OF THE ORDER; OR

15 (II) COMPLIED WITH AN ORDER REQUIRING COMPLIANCE WITHIN
16 FIFTEEN BUSINESS DAYS BUT THEN COMMITTED A VIOLATION OF THIS
17 SECTION MORE THAN FIFTEEN BUSINESS DAYS AFTER THE ISSUANCE OF THE
18 ORDER.

19 (e) EACH DISTINCT JOB POSTING VIOLATING THIS SECTION
20 CONSTITUTES A SEPARATE VIOLATION UNDER SUBSECTION (5)(c) OF THIS
21 SECTION. EACH INSTANCE OF AN INDIVIDUAL RESPONDING TO A JOB
22 POSTING DOES NOT CONSTITUTE A VIOLATION UNDER SUBSECTION (5)(c)
23 OF THIS SECTION.

24 (f) THE DEPARTMENT SHALL ADOPT RULES REGARDING
25 PROCEDURES FOR HANDLING COMPLAINTS FILED AGAINST EMPLOYERS
26 ALLEGING A VIOLATION OF THIS SECTION, INCLUDING:

27 (I) REQUIREMENTS FOR PROVIDING NOTICE TO AN EMPLOYER

1 ALLEGED TO HAVE VIOLATED THIS SECTION; AND

2 (II) REQUIREMENTS FOR RETAINING AND MAINTAINING RELEVANT
3 EMPLOYMENT RECORDS DURING A PENDING INVESTIGATION.

4 **SECTION 2. Appropriation.** (1) For the 2023-24 state fiscal
5 year, \$56,468 is appropriated to the department of labor and employment
6 for use by the division of labor standards and statistics. This appropriation
7 is from the general fund and is based on an assumption that the
8 department will require an additional 0.5 FTE. To implement this act, the
9 department may use this appropriation for program costs related to labor
10 standards.

11 **SECTION 3. Act subject to petition - effective date.** This act
12 takes effect at 12:01 a.m. on the day following the expiration of the
13 ninety-day period after final adjournment of the general assembly; except
14 that, if a referendum petition is filed pursuant to section 1 (3) of article V
15 of the state constitution against this act or an item, section, or part of this
16 act within such period, then the act, item, section, or part will not take
17 effect unless approved by the people at the general election to be held in
18 November 2024 and, in such case, will take effect on the date of the
19 official declaration of the vote thereon by the governor.