

## CHAPTER 74

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**LABOR AND INDUSTRY**

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**HOUSE BILL 99-1072**

BY REPRESENTATIVES McPherson, Berry, Dean, Decker, Grossman, Hagedorn, Kester, Larson, Lawrence, Lee, McElhany, McKay, Miller, Pfiffner, Sinclair, Spradley, Stengel, Sullivant, Tapia, Veiga, Webster, and Young;  
also SENATORS Blickensderfer, Andrews, Arnold, Chlouber, Congrove, Epps, Hillman, Owen, Powers, and Tebedo.

**AN ACT**

CONCERNING IMMUNITY FROM CIVIL LIABILITY FOR AN EMPLOYER WHO PROVIDES INFORMATION ABOUT AN EMPLOYEE TO SUCH EMPLOYEE'S PROSPECTIVE EMPLOYER.

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

**SECTION 1.** 8-2-114, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

**8-2-114. Immunity from civil liability for employer disclosing information - employer shall not maintain blacklist - credit lists excepted.** (1) FOR PURPOSES OF THIS SECTION, "JOB PERFORMANCE" MEANS:

- (a) THE SUITABILITY OF THE EMPLOYEE FOR REEMPLOYMENT;
- (b) THE EMPLOYEE'S WORK-RELATED SKILLS, ABILITIES, AND HABITS AS THEY MAY RELATE TO SUITABILITY FOR FUTURE EMPLOYMENT; AND
- (c) IN THE CASE OF A FORMER EMPLOYEE, THE REASON FOR THE EMPLOYEE'S SEPARATION.

(2) IT IS UNLAWFUL FOR ANY EMPLOYER TO MAINTAIN A BLACKLIST, OR TO NOTIFY ANY OTHER EMPLOYER THAT ANY CURRENT OR FORMER EMPLOYEE HAS BEEN BLACKLISTED BY SUCH EMPLOYER, FOR THE PURPOSE OF PREVENTING SUCH EMPLOYEE FROM RECEIVING EMPLOYMENT. SECTIONS 8-2-112 TO 8-2-115 SHALL NOT BE CONSTRUED TO PREVENT ANY MERCHANT OR PROFESSIONAL PERSON, OR ANY ASSOCIATION THEREOF, FROM MAINTAINING OR PUBLISHING A LIST CONCERNING THE CREDIT OR FINANCIAL RESPONSIBILITY OF ANY PERSON DEALING WITH THEM ON CREDIT.

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(3) ANY EMPLOYER WHO PROVIDES INFORMATION ABOUT A CURRENT OR FORMER EMPLOYEE'S JOB HISTORY OR JOB PERFORMANCE TO A PROSPECTIVE EMPLOYER OF THE CURRENT OR FORMER EMPLOYEE UPON REQUEST OF THE PROSPECTIVE EMPLOYER OR THE CURRENT OR FORMER EMPLOYEE IS IMMUNE FROM CIVIL LIABILITY AND IS NOT LIABLE IN CIVIL DAMAGES FOR THE DISCLOSURE OR ANY CONSEQUENCES OF THE DISCLOSURE. THIS IMMUNITY SHALL NOT APPLY WHEN SUCH EMPLOYEE SHOWS BY A PREPONDERANCE OF THE EVIDENCE BOTH OF THE FOLLOWING:

(a) THE INFORMATION DISCLOSED BY THE CURRENT OR FORMER EMPLOYER WAS FALSE; AND

(b) THE EMPLOYER PROVIDING THE INFORMATION KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE INFORMATION WAS FALSE.

(4) THIS SECTION APPLIES TO ANY EMPLOYEE, AGENT, OR OTHER REPRESENTATIVE OF THE CURRENT OR FORMER EMPLOYER WHO IS AUTHORIZED TO PROVIDE AND WHO PROVIDES INFORMATION IN ACCORDANCE WITH THIS SECTION.

(5) ANY EMPLOYER THAT PROVIDES WRITTEN INFORMATION TO A PROSPECTIVE EMPLOYER ABOUT A CURRENT OR A FORMER EMPLOYEE SHALL SEND, UPON THE REQUEST OF SUCH CURRENT OR FORMER EMPLOYEE, A COPY OF THE INFORMATION PROVIDED TO THE LAST-KNOWN ADDRESS OF THE PERSON WHO IS THE SUBJECT OF THE REFERENCE. ANY PERSON WHO IS THE SUBJECT OF SUCH A REFERENCE MAY OBTAIN A COPY OF THE REFERENCE INFORMATION BY APPEARING AT THE EMPLOYER'S OR FORMER EMPLOYER'S PLACE OF BUSINESS DURING NORMAL BUSINESS HOURS. THE EMPLOYER OR FORMER EMPLOYER MAY CHARGE A FAIR AND REASONABLE AMOUNT FOR REPRODUCTION COSTS IF MULTIPLE COPIES ARE REQUESTED.

(6) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO ABROGATE OR CONTRADICT THE PROVISIONS OF PART 4 OF ARTICLE 34 OF TITLE 24, C.R.S.

**SECTION 2. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 31, 1999