

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-1079.01 Kip Kolkmeier x4510

HOUSE BILL 18-1303

HOUSE SPONSORSHIP

Wist and Garnett,

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING EXEMPTION OF NONPROFIT YOUTH SPORTS
102 ORGANIZATION COACHES FROM THE "COLORADO
103 EMPLOYMENT SECURITY ACT".

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 exempts from the definition of "employment" under the "Colorado Employment Security Act" nonprofit youth sports organization coaches if there is a written agreement between the coach and the organization that meets certain requirements, including a statement that the coach is an independent contractor. A written contract that meets the

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.

bill's requirements is conclusive evidence that the coach is an independent contractor for purposes of the employment security statute, but not conclusive evidence of an independent contractor relationship for purposes of a civil action by a third party.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 8-70-140.6 as
3 follows:

4 **8-70-140.6. Employment does not include - nonprofit youth**
5 **sports organization coach - definition.** (1) "EMPLOYMENT" DOES NOT
6 INCLUDE SERVICES PERFORMED BY AN INDIVIDUAL AS A COACH FOR A
7 NONPROFIT YOUTH SPORTS ORGANIZATION IF:

8 (a) THERE IS A WRITTEN AGREEMENT BETWEEN THE NONPROFIT
9 YOUTH SPORTS ORGANIZATION AND THE COACH THAT INCLUDES THE
10 FOLLOWING:

11 (I) A STATEMENT THAT THE COACH IS AN INDEPENDENT
12 CONTRACTOR AND NOT AN EMPLOYEE OF THE NONPROFIT YOUTH SPORTS
13 ORGANIZATION;

14 (II) A STATEMENT THAT THE COACH IS NOT ENTITLED TO
15 UNEMPLOYMENT SECURITY BENEFITS IN CONNECTION WITH HIS OR HER
16 CONTRACT WITH THE NONPROFIT YOUTH SPORTS ORGANIZATION; AND

17 (III) A DISCLOSURE IN BOLD-FACED, UNDERLINED, OR LARGE TYPE,
18 IN A CONSPICUOUS LOCATION, AND ACKNOWLEDGED BY THE PARTIES THAT
19 THE PARTIES HAVE READ AND UNDERSTAND THE DISCLOSURE INDICATING
20 THAT THE COACH IS AN INDEPENDENT CONTRACTOR RATHER THAN AN
21 EMPLOYEE OF THE NONPROFIT YOUTH SPORTS ORGANIZATION; AND

22 (b) THE COACH PAYS FEDERAL AND STATE INCOME TAX ON MONEY
23 PAID TO THE COACH PURSUANT TO THE CONTRACT FOR COACHING

1 SERVICES AND THE NONPROFIT YOUTH SPORTS ORGANIZATION DOES NOT
2 WITHHOLD ANY AMOUNT FROM THE COACH FOR PURPOSES OF SATISFYING
3 THE COACH'S INCOME TAX LIABILITY.

4 (2) A WRITTEN AGREEMENT MEETING THE REQUIREMENTS OF THIS
5 SECTION IS CONCLUSIVE EVIDENCE THAT THE RELATIONSHIP BETWEEN THE
6 NONPROFIT YOUTH SPORTS ORGANIZATION AND THE COACH IS AN
7 INDEPENDENT CONTRACTOR RELATIONSHIP RATHER THAN AN
8 EMPLOYMENT RELATIONSHIP AND THAT THE COACH IS NOT ENTITLED TO
9 ANY BENEFITS IN ACCORDANCE WITH THE "COLORADO EMPLOYMENT
10 SECURITY ACT", ARTICLES 70 TO 82 OF THIS TITLE 8.

11 (3) A WRITTEN AGREEMENT BETWEEN A NONPROFIT YOUTH SPORTS
12 ORGANIZATION AND A COACH IN ACCORDANCE WITH THIS SECTION IS NOT
13 CONCLUSIVE EVIDENCE OF AN INDEPENDENT CONTRACTOR RELATIONSHIP
14 FOR PURPOSES OF ANY CIVIL ACTION INSTITUTED BY A THIRD PARTY.

15 (4) AS USED IN THIS SECTION, "NONPROFIT YOUTH SPORTS
16 ORGANIZATION" MEANS AN ORGANIZATION THAT IS EXEMPT FROM
17 FEDERAL TAXATION UNDER SECTION 501 (c)(3) OF THE FEDERAL
18 "INTERNAL REVENUE CODE OF 1986", AS AMENDED, AND IS PRIMARILY
19 ENGAGED IN CONDUCTING ORGANIZED SPORTS PROGRAMS FOR PERSONS
20 UNDER TWENTY-ONE YEARS OF AGE.

21 **SECTION 2. Act subject to petition - effective date.** This act
22 takes effect at 12:01 a.m. on the day following the expiration of the
23 ninety-day period after final adjournment of the general assembly (August
24 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
25 referendum petition is filed pursuant to section 1 (3) of article V of the
26 state constitution against this act or an item, section, or part of this act
27 within such period, then the act, item, section, or part will not take effect

1 unless approved by the people at the general election to be held in
2 November 2018 and, in such case, will take effect on the date of the
3 official declaration of the vote thereon by the governor.