

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

INTRODUCED

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

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.

10 (f) "RELATOR" MEANS A PERSON OR ENTITY WITH KNOWLEDGE OF
11 A VIOLATION OF LAW WHO COMMENCES AN ACTION ON BEHALF OF THE
12 STATE AND RECEIVES AN AWARD.

13 (g) "REPRESENTATIVE OF AN AGRICULTURAL EMPLOYEE" MEANS
14 A PERSON OR ENTITY DESIGNATED AS AN AGRICULTURAL EMPLOYEE IN A
15 CONFIDENTIAL FORM THAT IS SUBJECT TO REVIEW BY THE DIRECTOR.

16 (2) THE RIGHTS, REMEDIES, AND PENALTIES SPECIFIED IN THIS
17 SECTION ARE IN ADDITION TO ANY RIGHTS, REMEDIES, OR PENALTIES
18 AVAILABLE TO AGRICULTURAL EMPLOYEES 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.

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

1 (b) THERE IS A REBUTTABLE PRESUMPTION THAT AN
2 AGRICULTURAL EMPLOYER THAT TAKES AN ADVERSE ACTION AGAINST AN
3 AGRICULTURAL EMPLOYEE WITHIN NINETY DAYS AFTER THE
4 AGRICULTURAL EMPLOYEE HAS ASSERTED OR SOUGHT ANY PROTECTED
5 RIGHTS, REMEDIES, OR PENALTIES UNDER ARTICLE 3 OR 6 OF THIS TITLE 8,
6 PART 2 OF ARTICLE 13.5 OF THIS TITLE 8, OR ARTICLE 14.4 OF THIS TITLE 8
7 HAS RETALIATED AGAINST THE AGRICULTURAL EMPLOYEE.

8 (c) AN AGRICULTURAL EMPLOYEE OR OTHER PERSON AGGRIEVED
9 BY RETALIATION BY AN AGRICULTURAL EMPLOYER MAY ASSERT A CLAIM
10 IN DISTRICT COURT FOR INJUNCTIVE AND EQUITABLE REMEDIES AND A
11 PENALTY IN THE AMOUNT OF THE GREATER OF THE ACTUAL DAMAGES OR
12 TEN THOUSAND DOLLARS FOR EACH VIOLATION.

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

21 (5) A RELATOR WHO HAS KNOWLEDGE OF A VIOLATION OF THIS
22 SECTION, ARTICLE 3 OR 6 OF THIS TITLE 8, PART 2 OF ARTICLE 13.5 OF THIS
23 TITLE 8, OR ARTICLE 14.4 OF THIS TITLE 8 MAY COMMENCE AN ACTION FOR
24 THE VIOLATION.

25 (6) (a) A RELATOR MAY BRING A CIVIL ACTION FOR A VIOLATION
26 OF THIS SECTION ON BEHALF OF THE STATE. THE ACTION SHALL BE
27 BROUGHT IN THE NAME OF THE STATE. THE ACTION MAY BE DISMISSED

1 ONLY IF THE COURT AND THE ATTORNEY GENERAL GIVE WRITTEN CONSENT
2 TO THE DISMISSAL AND THEIR REASONS FOR CONSENTING.

3 (b) (I) A RELATOR WHO WISHES TO COMMENCE AN ACTION
4 PURSUANT TO THIS SUBSECTION (6) SHALL FIRST FILE A WRITTEN NOTICE
5 OF CLAIM WITH THE DIRECTOR EITHER BY MAIL OR ELECTRONICALLY. IF
6 THE DIRECTOR DOES NOT COMMENCE AN ACTION ON BEHALF OF THE STATE
7 WITHIN SIXTY DAYS AFTER THE RECEIPT OF THE NOTICE OF CLAIM, THE
8 RELATOR MAY COMMENCE THE ACTION ON BEHALF OF THE STATE.

9 (II) A RELATOR MUST SUBMIT ANY PROPOSED SETTLEMENT TO THE
10 DIRECTOR BEFORE AGREEING TO THE TERMS OF ANY SETTLEMENT. THE
11 DIRECTOR MAY PRESENT THE POSITION OF THE DIVISION ON THE PROPOSED
12 SETTLEMENT TO THE COURT.

13 (III) UPON REQUEST OF THE DIRECTOR, THE RELATOR SHALL
14 PROVIDE THE DIRECTOR WITH COPIES OF ALL PLEADINGS FILED IN THE
15 ACTION AND TRANSCRIPTS OF ALL DEPOSITIONS AT THE COST OF THE
16 DIVISION.

17 (IV) THE RELATOR MAY SETTLE A CLAIM IF THE COURT HAS
18 DETERMINED THAT THE SETTLEMENT IS FAIR, ADEQUATE, REASONABLE,
19 AND IN THE PUBLIC INTEREST.

20 (c) THE DIRECTOR MAY INTERVENE ON BEHALF OF THE STATE
21 WITHIN THIRTY DAYS AFTER THE RELATOR HAS COMMENCED THE ACTION
22 OR A LATER DATE UPON A SHOWING OF GOOD CAUSE. IF THE DIRECTOR
23 INTERVENES IN THE ACTION, THE DIRECTOR ASSUMES ALL RESPONSIBILITY
24 FOR LITIGATING THE ACTION AND IS NOT BOUND BY ANY ACT OF THE
25 RELATOR. THE RELATOR MAY REMAIN A PARTY TO THE ACTION. THE
26 DIRECTOR MAY DISMISS OR SETTLE THE ACTION AFTER ALL PERSONS WHO
27 REMAIN A PARTY TO THE ACTION ARE NOTIFIED AND GIVEN AN

1 OPPORTUNITY TO BE HEARD AND THE COURT HAS DETERMINED THAT THE
2 DISMISSAL OR SETTLEMENT IS FAIR, ADEQUATE, REASONABLE, AND IN THE
3 PUBLIC INTEREST.

4 (d) IN ADDITION TO INJUNCTIVE RELIEF, EQUITABLE REMEDIES, AND
5 AN AWARD OF ATTORNEY FEES:

6 (I) IF THE DIRECTOR DOES NOT INTERVENE IN THE ACTION, THE
7 RELATOR IS ENTITLED TO RECEIVE THIRTY-FIVE PERCENT OF THE
8 PENALTIES AWARDED TO THE STATE.

9 (II) IF THE DIRECTOR INTERVENES IN THE ACTION, THE RELATOR IS
10 ENTITLED TO FIFTEEN PERCENT OF THE PENALTIES AWARDED TO THE
11 STATE.

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

14 **8-3-104. Definitions.** As used in this ~~article~~ ARTICLE 3, unless the
15 context otherwise requires:

16 (1) (a) ~~"All-union agreement" means a contractual provision~~
17 ~~between an employer or group of employers and a collective bargaining~~
18 ~~unit representing some or all of the employees of the employer or group~~
19 ~~of employers providing for any type of union security and compelling an~~
20 ~~employee's financial support or allegiance to a labor organization.~~
21 ~~"All-union agreement" includes, but is not limited to, contractual~~
22 ~~provision for a union shop, a modified union shop, an agency shop~~
23 ~~(meaning a contractual provision which provides for periodic payment of~~
24 ~~a sum in lieu of union dues but does not require union membership), a~~
25 ~~modified agency shop, a prehire agreement, maintenance of dues, or~~
26 ~~maintenance of membership.~~ "AGRICULTURAL EMPLOYER" MEANS A
27 PERSON THAT:

1 (I) REGULARLY ENGAGES THE SERVICES OF ONE OR MORE
2 EMPLOYEES; AND

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

8 (b) THE MEANING OF "AGRICULTURAL EMPLOYER" MUST BE
9 LIBERALLY CONSTRUED FOR THE PROTECTION OF PERSONS PROVIDING
10 SERVICES TO AN EMPLOYER.

11 (1.5) "ALL-UNION AGREEMENT" MEANS A CONTRACTUAL
12 PROVISION BETWEEN AN EMPLOYER OR GROUP OF EMPLOYERS AND A
13 COLLECTIVE BARGAINING UNIT REPRESENTING SOME OR ALL OF THE
14 EMPLOYEES OF THE EMPLOYER OR GROUP OF EMPLOYERS PROVIDING FOR
15 ANY TYPE OF UNION SECURITY AND COMPELLING AN EMPLOYEE'S
16 FINANCIAL SUPPORT OR ALLEGIANCE TO A LABOR ORGANIZATION.
17 "ALL-UNION AGREEMENT" INCLUDES, BUT IS NOT LIMITED TO,
18 CONTRACTUAL PROVISION FOR A UNION SHOP, A MODIFIED UNION SHOP, AN
19 AGENCY SHOP (MEANING A CONTRACTUAL PROVISION THAT PROVIDES FOR
20 PERIODIC PAYMENT OF A SUM IN LIEU OF UNION DUES BUT DOES NOT
21 REQUIRE UNION MEMBERSHIP), A MODIFIED AGENCY SHOP, A PREHIRE
22 AGREEMENT, MAINTENANCE OF DUES, OR MAINTENANCE OF MEMBERSHIP.

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

26 (I) Working for another for hire in the state of Colorado in a
27 nonexecutive or nonsupervisory capacity, and ~~shall~~ IS not be limited to the

1 employees of a particular employer and ~~shall include~~ INCLUDES any
2 individual whose work has ceased solely as a consequence of or in
3 connection with any current labor dispute or because of any unfair labor
4 practice on the part of an employer; and

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

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

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

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

23 (b) "EMPLOYEE" DOES NOT INCLUDE:

24 (I) AN INDEPENDENT CONTRACTOR;

25 (II) DOMESTIC SERVANTS EMPLOYED IN AND ABOUT PRIVATE
26 HOMES;

27 (III) AN INDIVIDUAL EMPLOYED BY THE INDIVIDUAL'S PARENT OR

1 SPOUSE;

2 (IV) AN EMPLOYEE WHO IS SUBJECT TO THE FEDERAL "RAILWAY
3 LABOR ACT", 45 U.S.C. SEC. 151 ET SEQ., AS AMENDED; OR

4 (V) A PARENT, SPOUSE, OR CHILD OF AN AGRICULTURAL
5 EMPLOYER'S IMMEDIATE FAMILY.

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

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

15 (II) "EMPLOYER" includes:

16 (A) Any person acting on behalf of ~~any such~~ AN employer within
17 the scope of ~~his~~ THE EMPLOYER'S authority, express or implied; ~~The term~~
18 AND

19 (B) AN AGRICULTURAL EMPLOYER.

20 (b) "EMPLOYER" does not include the state or any political
21 subdivision thereof, except where the state or any political subdivision
22 thereof acquires or operates a mass transportation system or any carrier
23 by railroad, express company, or sleeping car company subject to the
24 federal "Railway Labor Act", 45 U.S.C. sec. 151 et seq., AS AMENDED, or
25 any labor organization or anyone acting in behalf of such organization
26 other than when ~~he~~ THE EMPLOYER is acting as an employer-in-fact.

27 **SECTION 3.** In Colorado Revised Statutes, **add** 8-6-101.5 as

1 follows:

2 **8-6-101.5. Minimum wage for agricultural workers - rest**
3 **periods - overwork protections - definitions.** (1) (a) ON AND AFTER
4 JANUARY 1, 2022, EXCEPT AS PROVIDED IN SUBSECTION (1)(b) OF THIS
5 SECTION, THE MINIMUM WAGE REQUIREMENTS OF SECTION 15 OF ARTICLE
6 XVIII OF THE STATE CONSTITUTION, AND ANY MINIMUM WAGE LAWS
7 ENACTED PURSUANT TO THIS ARTICLE 6, APPLY TO AGRICULTURAL
8 WORKERS.

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

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

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

26 (3) AS USED IN THIS SECTION:

27 (a) "AGRICULTURAL WORKER" HAS THE MEANING SET FORTH IN

1 SECTION 8-13.5-201 (2).

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

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

9 **8-6-120. Overtime wages for agricultural workers - rules -**
10 **definition.** (1) THE DIRECTOR SHALL PROMULGATE RULES TO ESTABLISH
11 THE OVERTIME RATES OF PAY THAT AN EMPLOYER ENGAGED IN
12 AGRICULTURAL EMPLOYMENT MUST PAY EACH EMPLOYEE FOR TIME
13 WORKED IN EXCESS OF ANY OF THE FOLLOWING:

14 (a) FORTY HOURS PER WORK WEEK;

15 (b) TWELVE HOURS PER DAY;

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

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

20 **SECTION 5.** In Colorado Revised Statutes, **add** part 2 to article
21 13.5 of title 8 as follows:

22 PART 2

23 LABOR CONDITIONS FOR AGRICULTURAL WORKERS

24 **8-13.5-201. Definitions.** AS USED IN THIS PART 2, UNLESS THE
25 CONTEXT OTHERWISE REQUIRES:

26 (1) "AGRICULTURAL EMPLOYMENT" MEANS EMPLOYMENT IN ANY
27 SERVICE OR ACTIVITY INCLUDED IN SECTION 203 (f) OF THE FEDERAL "FAIR

1 LABOR STANDARDS ACT OF 1938", 29 U.S.C. SEC. 201 ET SEQ., AS
2 AMENDED, OR SECTION 3121 (g) OF THE FEDERAL "INTERNAL REVENUE
3 CODE OF 1986", AS AMENDED.

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

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

11 (4) "DIVISION" MEANS THE DIVISION OF LABOR STANDARDS AND
12 STATISTICS IN THE DEPARTMENT.

13 (5) "EMPLOYER" HAS THE MEANING SET FORTH IN SECTION
14 8-13.5-103 (1).

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

21 (7) "NORMAL WORKING HOURS" MEANS A PERIOD DETERMINED BY
22 THE EMPLOYER NOT TO EXCEED EIGHT HOURS WITHIN ANY
23 TWENTY-FOUR-HOUR PERIOD. "NORMAL WORKING HOURS" DOES NOT
24 INCLUDE SATURDAY OR SUNDAY.

25 (8) "WHISTLEBLOWER" MEANS AN AGRICULTURAL WORKER WITH
26 KNOWLEDGE OF AN ALLEGED VIOLATION OF THIS PART 2 OR THE
27 AGRICULTURAL WORKER'S REPRESENTATIVE.

1 **8-13.5-202. Agricultural workers - right of access to key**

2 **service providers.** (1) (a) AN EMPLOYER SHALL NOT INTERFERE WITH AN
3 AGRICULTURAL WORKER'S REASONABLE ACCESS TO KEY SERVICE
4 PROVIDERS OUTSIDE OF NORMAL WORKING HOURS AT ANY LOCATION,
5 INCLUDING THE AGRICULTURAL WORKER'S EMPLOYER-PROVIDED HOUSING.

6 (b) AN EMPLOYER THAT PROVIDES HOUSING AND TRANSPORTATION
7 FOR AGRICULTURAL WORKERS SHALL, AT LEAST ONE DAY PER WEEK,
8 PROVIDE TRANSPORTATION TO THE AGRICULTURAL WORKERS TO A
9 LOCATION WHERE THE WORKERS CAN ACCESS BASIC NECESSITIES,
10 CONDUCT FINANCIAL TRANSACTIONS, AND MEET WITH KEY SERVICE
11 PROVIDERS.

12 (2) NO PERSON OTHER THAN THE AGRICULTURAL WORKER MAY
13 PROHIBIT, BAR, OR INTERFERE WITH, OR ATTEMPT TO PROHIBIT, BAR, OR
14 INTERFERE WITH, THE ACCESS TO OR EGRESS FROM THE RESIDENCE OF ANY
15 AGRICULTURAL WORKER BY ANY PERSON, EITHER BY THE ERECTION OR
16 MAINTENANCE OF ANY PHYSICAL BARRIER, BY PHYSICAL FORCE OR
17 VIOLENCE OR BY THE THREAT OF PHYSICAL FORCE OR VIOLENCE, OR BY
18 ANY ORDER OR NOTICE GIVEN IN ANY MANNER.

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

21 (a) IN A CONSPICUOUS LOCATION ON THE EMPLOYER'S PREMISES,
22 INCLUDING IN THE AGRICULTURAL WORKER'S EMPLOYER-PROVIDED
23 HOUSING; AND

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

26 (c) ELECTRONICALLY, INCLUDING BY E-MAIL AND ON AN INTRANET
27 OR INTERNET SITE, IF THE EMPLOYER CUSTOMARILY COMMUNICATES WITH

1 AGRICULTURAL WORKERS BY THESE MEANS.

2 **8-13.5-203. Extreme overwork protections - heat stress**
3 **training - short-handled hoe prohibited.** (1) (a) AN EMPLOYER SHALL
4 PROVIDE EACH AGRICULTURAL WORKER WITH ACCESS TO AT LEAST ONE
5 QUART OF FILTERED, FRESH, COOL WATER PER HOUR OF WORK FOR THE
6 DURATION OF THE WORKER'S SHIFT. THE ACCESS TO WATER MUST BE AS
7 CLOSE TO THE WORK SITE AS PRACTICABLE.

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

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

15 (2) AN EMPLOYER SHALL PROVIDE TRAINING TO AGRICULTURAL
16 WORKERS CONCERNING SIGNS OF HEAT STRESS AND ENCOURAGE WORKERS
17 TO MONITOR THEMSELVES FOR ANY WARNING SIGNS OF HEAT STRESS. THE
18 EMPLOYER SHALL ENCOURAGE AGRICULTURAL WORKERS TO DRINK
19 WATER, TAKE BREAKS AS NEEDED, AND AVOID HEAT STRESS OR
20 OVEREXERTION.

21 (3) THE USE OF A SHORT-HANDLED HOE OR ANY OTHER
22 SHORT-HANDLED, HANDHELD TOOL THAT IS LESS THAN EIGHTEEN INCHES
23 LONG OR A LONG-HANDLED HOE DESIGNED FOR USE WHILE STANDING IS
24 PROHIBITED IN AGRICULTURAL EMPLOYMENT WHEN USED IN A STOOPED,
25 KNEELING, OR SQUATTING POSITION.

26 **8-13.5-204. Enforcement - penalties - relief - rules.** (1) AN
27 AGGRIEVED AGRICULTURAL WORKER, A WHISTLEBLOWER, OR A KEY

1 SERVICE PROVIDER WHO WAS UNABLE TO ACCESS AN AGRICULTURAL
2 WORKER DUE TO A VIOLATION OF THIS PART 2 MAY COMMENCE AN ACTION
3 IN DISTRICT COURT AGAINST AN EMPLOYER FOR A VIOLATION OF THIS PART
4 2.

5 (2) A COURT MAY:

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

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

10 (c) AWARD THE PLAINTIFF ATTORNEY FEES.

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

14 **8-13.5-205. Agricultural work advisory committee - creation**
15 **- report - repeal.** (1) ON OR BEFORE SEPTEMBER 1, 2021, THE EXECUTIVE
16 DIRECTOR OF THE DEPARTMENT SHALL ESTABLISH THE AGRICULTURAL
17 WORK ADVISORY COMMITTEE, REFERRED TO IN THIS SECTION AS THE
18 "ADVISORY COMMITTEE". THE ADVISORY COMMITTEE CONSISTS OF NINE
19 MEMBERS AS FOLLOWS:

20 (a) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT SHALL
21 APPOINT:

22 (I) TWO MEMBERS WHO HAVE WORKED AS AGRICULTURAL
23 WORKERS; AND

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

25 (b) THE COMMISSIONER OF AGRICULTURE SHALL APPOINT:

26 (I) THREE MEMBERS WHO REPRESENT AGRICULTURAL EMPLOYERS;

27 AND

1 (II) TWO REPRESENTATIVES FROM THE MIGRANT FARM WORKER
2 DIVISION OF COLORADO LEGAL SERVICES, OR ITS SUCCESSOR
3 ORGANIZATION.

4 (2) (a) THE INITIAL TERMS OF ONE AGRICULTURAL WORKER, ONE
5 ADVOCATE OF WORKERS' RIGHTS, TWO AGRICULTURAL EMPLOYERS, AND
6 ONE REPRESENTATIVE FROM THE MIGRANT FARM WORKER DIVISION OF
7 COLORADO LEGAL SERVICES IS TWO YEARS. THE INITIAL TERMS OF THE
8 REMAINING MEMBERS IS THREE YEARS. THEREAFTER, THE TERMS OF THE
9 MEMBERS ARE THREE YEARS.

10 (b) IF A MEMBER FAILS TO COMPLETE THE MEMBER'S TERM, THE
11 APPOINTING AUTHORITY SHALL APPOINT A NEW MEMBER TO COMPLETE
12 THE REMAINDER OF THE TERM.

13 (c) MEMBERS SHALL SERVE WITHOUT COMPENSATION FOR THEIR
14 SERVICE; EXCEPT THAT MEMBERS MAY RECEIVE A PER DIEM AS
15 ESTABLISHED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT AND
16 REIMBURSEMENT FOR TRAVEL AND OTHER NECESSARY EXPENSES
17 INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES.

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

22 (b) TO THE EXTENT POSSIBLE, THE EXECUTIVE DIRECTOR OF THE
23 DEPARTMENT SHALL ENSURE THAT THE ADVISORY COMMITTEE HAS THE
24 OPPORTUNITY TO MEET WITH APPROPRIATE REPRESENTATIVES FROM THE
25 DEPARTMENT OF LABOR AND EMPLOYMENT, THE DEPARTMENT OF PUBLIC
26 HEALTH AND ENVIRONMENT, THE DEPARTMENT OF AGRICULTURE, AND THE
27 GOVERNOR'S OFFICE FOR PURPOSES OF CONDUCTING ITS WORK PURSUANT

1 TO SUBSECTION (3)(a) OF THIS SECTION.

2 (c) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), ON OR
3 BEFORE JANUARY 1, 2023, AND EACH JANUARY 1 THEREAFTER, THE
4 ADVISORY COMMITTEE SHALL REPORT ITS PROGRESS, FINDINGS, AND
5 LEGISLATIVE RECOMMENDATIONS TO THE AGRICULTURE, LIVESTOCK, AND
6 WATER COMMITTEE AND THE BUSINESS AFFAIRS AND LABOR COMMITTEE
7 OF THE HOUSE OF REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES,
8 AND THE AGRICULTURE AND NATURAL RESOURCES COMMITTEE AND THE
9 BUSINESS, LABOR, AND TECHNOLOGY COMMITTEE OF THE SENATE, OR
10 THEIR SUCCESSOR COMMITTEES.

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

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

16 **2-3-1203. Sunset review of advisory committees - legislative**
17 **declaration - definition - repeal.** (22) (a) THE FOLLOWING STATUTORY
18 AUTHORIZATIONS FOR THE DESIGNATED ADVISORY COMMITTEES WILL
19 REPEAL ON SEPTEMBER 1, 2031:

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

22 (b) THIS SUBSECTION (22) IS REPEALED, EFFECTIVE SEPTEMBER 1,
23 2033.

24 **SECTION 7.** In Colorado Revised Statutes, 8-14.4-101, **amend**
25 (1), (3)(c), and (3)(d); and **add** (1.5) and (3)(e) as follows:

26 **8-14.4-101. Definitions.** As used in this article 14.4, unless the
27 context otherwise requires:

1 (1) ~~"Department" means the department of labor and employment~~
2 "AGRICULTURAL EMPLOYMENT" HAS THE MEANING SET FORTH IN SECTION
3 8-13.5-201 (1).

4 (1.5) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND
5 EMPLOYMENT.

6 (3) "Principal" means:

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

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

11 (e) A PERSON OR ENTITY ENGAGED IN AGRICULTURAL
12 EMPLOYMENT.

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

15 **8-14.4-109. Agricultural employers - responsibilities during**
16 **public health emergency - worker safety protections.** (1) DURING A
17 PUBLIC HEALTH EMERGENCY, IN ADDITION TO THE OTHER PROTECTIONS
18 AND RIGHTS AFFORDED TO WORKERS, A PRINCIPAL ENGAGED IN
19 AGRICULTURAL EMPLOYMENT SHALL:

20 (a) PROVIDE EACH WORKER LIVING IN EMPLOYER-PROVIDED
21 HOUSING WITH:

22 (I) AT LEAST ONE HUNDRED SQUARE FEET OF SLEEPING QUARTERS
23 PER WORKER AND ONE HUNDRED TWENTY FEET OF SPACE PER WORKER IN
24 AREAS USED FOR COMBINED PURPOSES SUCH AS MEAL PREPARATION AND
25 EATING; AND

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

1 (b) ROUTINELY INSPECT EMPLOYER-PROVIDED HOUSING TO
2 ENSURE COMPLIANCE WITH GUIDELINES ISSUED BY THE DEPARTMENT OF
3 PUBLIC HEALTH AND ENVIRONMENT APPLICABLE TO A PUBLIC HEALTH
4 EMERGENCY AND ANY APPLICABLE EXECUTIVE ORDERS ISSUED BY THE
5 GOVERNOR DURING A DISASTER EMERGENCY DECLARED PURSUANT TO
6 SECTION 24-33.5-704 (4);

7 (c) PROVIDE TRAINING TO WORKERS CONCERNING SAFETY
8 PRECAUTIONS AND PROTECTIONS DURING A PUBLIC HEALTH EMERGENCY;
9 AND

10 (d) PROVIDE INFORMATIONAL AND EDUCATIONAL MATERIALS
11 THROUGH POSTERS AND PAMPHLETS WRITTEN IN ENGLISH AND SPANISH
12 AND ANY OTHER RELEVANT LANGUAGES IN EMPLOYER-PROVIDED
13 HOUSING, WORK SITES, AND OTHER PLACES WHERE THE PRINCIPAL
14 USUALLY POSTS INFORMATION FOR THE WORKERS THAT:

15 (I) LISTS THE CONTACT INFORMATION FOR THE MIGRANT FARM
16 WORKER DIVISION OF COLORADO LEGAL SERVICES, OR ITS SUCCESSOR
17 ORGANIZATION, WHERE A WORKER MAY RECEIVE FREE AND CONFIDENTIAL
18 LEGAL SERVICES; AND

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

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

23 **8-3-108. What are unfair labor practices.** (1) It is an unfair
24 labor practice for an employer, individually or in concert with others, to:

25 (c) (II) (A) Any agreement as defined in section 8-3-104 ~~(1)~~ (1.5)
26 between an employer and a labor organization in existence on June 29,
27 1977, which has not been voted upon by the employees covered by it

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

17 (B) Upon filing of such instrument of ratification with the
18 director, the director shall certify that such agreement complies with the
19 provisions of section 8-3-104 ~~(+)~~ (1.5) notwithstanding the absence of any
20 other election requirements of this ~~article~~ ARTICLE 3, and by virtue of such
21 ratification and certification, such agreement shall be deemed legal, valid,
22 and enforceable to the extent permitted under the provisions of this ~~article~~
23 ARTICLE 3, subject to the provisions of ~~sub-subparagraph (D)~~ of this
24 ~~subparagraph (H)~~ SUBSECTION (1)(c)(II)(D) OF THIS SECTION.

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

27 **8-13.5-101. Short title.** ~~This article shall be known and may be~~

1 ~~cited as~~ THE SHORT TITLE OF THIS PART 1 IS the "Workplace
2 Accommodations for Nursing Mothers Act".

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

5 **8-13.5-102. Legislative declaration.** (2) The general assembly
6 further declares that the purpose of this ~~article~~ PART 1 is for the state of
7 Colorado to become involved in the national movement to recognize the
8 medical importance of breastfeeding, within the scope of complete
9 pediatric care, and to encourage removal of boundaries placed on nursing
10 mothers in the workplace.

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

13 **8-13.5-103. Definitions.** As used in this ~~article~~ PART 1, unless the
14 context otherwise requires:

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

17 **44-10-105. Marijuana employee designation.** An employee of
18 a licensee is not an agricultural worker unless the employee is a ~~farm~~
19 laborer ~~as described in section 8-3-104 (11)~~ AT A FARM, PLANTATION,
20 RANCH, NURSERY, RANGE, GREENHOUSE, ORCHARD, OR OTHER STRUCTURE
21 USED FOR THE RAISING OF AGRICULTURAL OR HORTICULTURAL
22 COMMODITIES, AS LONG AS THE STRUCTURE IS UTILIZED FOR AT LEAST
23 FIFTY PERCENT OF THE TOTAL OUTPUT PRODUCED.

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