

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0727.01 Renee Leone x2695

SENATE BILL 26-091

SENATE SPONSORSHIP

Snyder and Cutter,

HOUSE SPONSORSHIP

Soper,

Senate Committees

Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 CONCERNING ADDING THE EXCLUSION OF CERTAIN PRINTED NEWS
102 DELIVERERS FROM THE DEFINITION OF "EMPLOYEE" IN THE
103 "COLORADO EMPLOYMENT SECURITY ACT" TO OTHER STATE
104 LABOR LAWS.

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 "Colorado Employment Security Act" excludes certain individuals engaged in the trade or business of delivering or distributing newspapers or shopping news from the definition of "employee". The bill

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.

adds the same exclusion to the "Workers' Compensation Act of Colorado", the "Paid Family and Medical Leave Insurance Act", and provisions concerning wages.

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

2 **SECTION 1.** In Colorado Revised Statutes, 8-4-101, **amend** (5)
3 as follows:

4 **8-4-101. Definitions.**

5 As used in this article 4, unless the context otherwise requires:

6 (5) (a) "Employee" means ~~any person~~ AN INDIVIDUAL, including
7 a migratory laborer, performing labor or services for the benefit of an
8 employer. For the purpose of this article 4, relevant factors in determining
9 whether ~~a person~~ AN INDIVIDUAL is an employee include the degree of
10 control the employer may or does exercise over the ~~person~~ INDIVIDUAL
11 and the degree to which the ~~person~~ INDIVIDUAL performs work that is the
12 primary work of the employer; except that an individual primarily free
13 from control and direction in the performance of the service, both under
14 ~~his or her~~ THE INDIVIDUAL'S contract for the performance of service and
15 in fact, and who is customarily engaged in an independent trade,
16 occupation, profession, or business related to the service performed is not
17 an "employee".

18 (b) "EMPLOYEE" DOES NOT INCLUDE AN INDIVIDUAL ENGAGED IN
19 THE TRADE OR BUSINESS OF DELIVERING OR DISTRIBUTING NEWSPAPERS OR
20 SHOPPING NEWS IF:

21 (I) ALL THE REMUNERATION, WHETHER OR NOT PAID IN CASH, FOR
22 THE PERFORMANCE OF SUCH SERVICES IS DIRECTLY RELATED TO SALES OR
23 OTHER OUTPUT, INCLUDING THE PERFORMANCE OF SERVICES, INSTEAD OF
24 THE NUMBER OF HOURS WORKED; AND

1 (II) THE SERVICES ARE PERFORMED PURSUANT TO A WRITTEN
2 CONTRACT BETWEEN SUCH PERSON AND THE PERSON FOR WHOM THE
3 SERVICES ARE PERFORMED AND IF SUCH CONTRACT PROVIDES THAT THE
4 PERSON SHALL NOT BE TREATED AS AN EMPLOYEE WITH RESPECT TO SUCH
5 SERVICES FOR FEDERAL TAX PURPOSES.

6 **SECTION 2.** In Colorado Revised Statutes, 8-13.3-503, **amend**
7 (7) as follows:

8 **8-13.3-503. Definitions.**

9 As used in this part 5, unless the context otherwise requires:

10 (7) (a) (I) "Employee" means ~~any~~ AN individual, including a
11 migratory laborer, performing labor or services for the benefit of another,
12 irrespective of whether the common-law relationship of master and
13 servant exists.

14 (II) For the purposes of this part 5, an individual primarily free
15 from control and direction in the performance of the labor or services,
16 both under the individual's contract for the performance of the labor or
17 services and in fact, and who is customarily engaged in an independent
18 trade, occupation, profession, or business related to the labor or services
19 performed is not an "employee".

20 (b) "Employee" does not include:

21 (I) An "employee", as defined by 45 U.S.C. ~~section~~ SEC. 351 (d),
22 who is subject to the federal "Railroad Unemployment Insurance Act", 45
23 U.S.C. ~~section~~ SEC. 351 et seq.; OR

24 (II) AN INDIVIDUAL ENGAGED IN THE TRADE OR BUSINESS OF
25 DELIVERING OR DISTRIBUTING NEWSPAPERS OR SHOPPING NEWS IF:

26 (A) ALL THE REMUNERATION, WHETHER OR NOT PAID IN CASH, FOR
27 THE PERFORMANCE OF SUCH SERVICES IS DIRECTLY RELATED TO SALES OR

1 OTHER OUTPUT, INCLUDING THE PERFORMANCE OF SERVICES, INSTEAD OF
2 THE NUMBER OF HOURS WORKED; AND

3 (B) THE SERVICES ARE PERFORMED PURSUANT TO A WRITTEN
4 CONTRACT BETWEEN SUCH PERSON AND THE PERSON FOR WHOM THE
5 SERVICES ARE PERFORMED AND IF SUCH CONTRACT PROVIDES THAT THE
6 PERSON SHALL NOT BE TREATED AS AN EMPLOYEE WITH RESPECT TO SUCH
7 SERVICES FOR FEDERAL TAX PURPOSES.

8 **SECTION 3.** In Colorado Revised Statutes, 8-40-301, **add** (8.5)
9 as follows:

10 **8-40-301. Scope of term "employee" - definition.**

11 (8.5) FOR THE PURPOSES OF ARTICLES 40 TO 47 OF THIS TITLE 8,
12 "EMPLOYEE" EXCLUDES AN INDIVIDUAL ENGAGED IN THE TRADE OR
13 BUSINESS OF DELIVERING OR DISTRIBUTING NEWSPAPERS OR SHOPPING
14 NEWS IF:

15 (a) ALL THE REMUNERATION, WHETHER OR NOT PAID IN CASH, FOR
16 THE PERFORMANCE OF SUCH SERVICES IS DIRECTLY RELATED TO SALES OR
17 OTHER OUTPUT, INCLUDING THE PERFORMANCE OF SERVICES, INSTEAD OF
18 THE NUMBER OF HOURS WORKED; AND

19 (b) THE SERVICES ARE PERFORMED PURSUANT TO A WRITTEN
20 CONTRACT BETWEEN SUCH PERSON AND THE PERSON FOR WHOM THE
21 SERVICES ARE PERFORMED AND IF SUCH CONTRACT PROVIDES THAT THE
22 PERSON SHALL NOT BE TREATED AS AN EMPLOYEE WITH RESPECT TO SUCH
23 SERVICES FOR FEDERAL TAX PURPOSES.

24 **SECTION 4. Act subject to petition - effective date -**
25 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
26 the expiration of the ninety-day period after final adjournment of the
27 general assembly (August 12, 2026, if adjournment sine die is on May 13,

1 2026); except that, if a referendum petition is filed pursuant to section 1
2 (3) of article V of the state constitution against this act or an item, section,
3 or part of this act within such period, then the act, item, section, or part
4 will not take effect unless approved by the people at the general election
5 to be held in November 2026 and, in such case, will take effect on the
6 date of the official declaration of the vote thereon by the governor.

7 (2) This act applies to services provided on or after the applicable
8 effective date of this act.