

## CHAPTER 296

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**LABOR AND INDUSTRY**

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## SENATE BILL 20-207

BY SENATOR(S) Hansen and Winter, Bridges, Danielson, Pettersen, Fenberg, Fields, Foote, Ginal, Lee, Moreno, Story, Williams A.;

also REPRESENTATIVE(S) Gray and Sullivan, Buckner, Buentello, Cutter, Duran, Esgar, Exum, Froelich, Hooton, Jackson, Jaquez Lewis, Kipp, Lontine, McLachlan, Melton, Michaelson Jenet, Mullica, Roberts, Titone, Valdez A., Valdez D., Young, Becker.

**AN ACT****CONCERNING UNEMPLOYMENT INSURANCE.**

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

**SECTION 1.** In Colorado Revised Statutes, 8-70-103, **amend** the introductory portion and (6.5) as follows:

**8-70-103. Definitions.** As used in articles 70 to 82 of this ~~title~~ TITLE 8, unless the context otherwise requires:

(6.5) (a) "Chargeable wages" means those wages paid to an individual employee during a calendar year on which the employer of that employee is required to pay premiums as provided by article 76 of this ~~title~~ TITLE 8, including all wages subject to a tax under federal law, which imposes a tax against which credit may be taken for premiums required to be paid into ~~a state~~ THE unemployment COMPENSATION fund. For each calendar year, chargeable wages is ~~the first ten thousand dollars paid to an individual; except that, effective January 1, 2012, chargeable wages for each calendar year is the first eleven thousand dollars paid to an individual and except that, after January 1, 2013, chargeable wages is the first eleven thousand dollars paid to an individual, adjusted by the change in the average weekly earnings prescribed in section 8-73-102, rounded to the nearest one hundred dollars.~~ AS FOLLOWS:

(I) FOR THE CALENDAR YEAR BEGINNING JANUARY 1, 2021, THE FIRST THIRTEEN THOUSAND SIX HUNDRED DOLLARS PAID TO AN INDIVIDUAL;

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

(II) FOR THE CALENDAR YEAR BEGINNING JANUARY 1, 2022, THE FIRST SEVENTEEN THOUSAND DOLLARS PAID TO AN INDIVIDUAL;

(III) FOR THE CALENDAR YEAR BEGINNING JANUARY 1, 2023, THE FIRST TWENTY THOUSAND FOUR HUNDRED DOLLARS PAID TO AN INDIVIDUAL;

(IV) FOR THE CALENDAR YEAR BEGINNING JANUARY 1, 2024, THE FIRST TWENTY-THREE THOUSAND EIGHT HUNDRED DOLLARS PAID TO AN INDIVIDUAL;

(V) FOR THE CALENDAR YEAR BEGINNING JANUARY 1, 2025, THE FIRST TWENTY-SEVEN THOUSAND TWO HUNDRED DOLLARS PAID TO AN INDIVIDUAL; AND

(VI) FOR THE CALENDAR YEAR BEGINNING JANUARY 1, 2026, AND EACH CALENDAR YEAR THEREAFTER, THE FIRST THIRTY THOUSAND SIX HUNDRED DOLLARS PAID TO AN INDIVIDUAL, ADJUSTED BY THE CHANGE IN THE AVERAGE WEEKLY EARNINGS PRESCRIBED IN SECTION 8-73-102, ROUNDED TO THE NEAREST ONE HUNDRED DOLLARS.

(b) As used in articles 70 to 82 of this ~~title~~ TITLE 8, chargeable wages paid includes chargeable wages constructively paid as well as chargeable wages actually paid.

**SECTION 2.** In Colorado Revised Statutes, 8-73-102, **amend** (4); and **add** (8) as follows:

**8-73-102. Weekly benefit amount for total unemployment - definitions - repeal.** (4) (a) There shall be deducted from the weekly benefit amount that part of wages payable to ~~such~~ AN individual with respect to ~~such~~ A week that is in excess of twenty-five percent of the weekly benefit amount, and the weekly benefit amount resulting shall be computed to the next lower multiple of one dollar.

(b) (I) NOTWITHSTANDING SUBSECTION (4)(a) OF THIS SECTION, ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, AS AMENDED, AND FOR TWO CALENDAR YEARS THEREAFTER, THERE SHALL BE DEDUCTED FROM THE WEEKLY BENEFIT AMOUNT THAT PART OF WAGES PAYABLE TO AN INDIVIDUAL WITH RESPECT TO A WEEK THAT IS IN EXCESS OF FIFTY PERCENT OF THE WEEKLY BENEFIT AMOUNT, AND THE WEEKLY BENEFIT AMOUNT RESULTING SHALL BE COMPUTED TO THE NEXT LOWEST MULTIPLE OF ONE DOLLAR.

(II) THIS SUBSECTION (4)(b) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2022.

(8) AS USED IN THIS SECTION:

(a) "ELECTION JUDGE" HAS THE SAME MEANING AS IN SECTION 1-6-101 (1).

(b) "WAGES" DOES NOT INCLUDE PAYMENT MADE TO AN ELECTION JUDGE FOR SERVICES; EXCEPT THAT "WAGES" INCLUDES PAYMENT MADE TO AN ELECTION JUDGE IF THE PAYMENT EXCEEDS THE MAXIMUM AMOUNT PERMISSIBLE PURSUANT TO FEDERAL LAW.

**SECTION 3.** In Colorado Revised Statutes, 8-73-103, **amend** (1) as follows:

**8-73-103. Benefits for partial unemployment - repeal.** (1) (a) Each eligible individual who is partially unemployed shall be paid a partial benefit. Partial benefits shall be in an amount equal to the eligible individual's weekly benefit amount for total unemployment, minus that part of wages payable to ~~such~~ THE individual with respect to ~~such~~ THE week ~~which~~ THAT is in excess of twenty-five percent of ~~his~~ THE INDIVIDUAL'S weekly benefit amount as computed in accordance with section 8-73-102, and the benefit payment resulting shall be computed to the next lower multiple of one dollar.

(b) (I) NOTWITHSTANDING SUBSECTION (1)(a) OF THIS SECTION, ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, AS AMENDED, AND FOR TWO CALENDAR YEARS THEREAFTER, PARTIAL BENEFITS SHALL BE IN AN AMOUNT EQUAL TO THE ELIGIBLE INDIVIDUAL'S WEEKLY BENEFIT AMOUNT FOR TOTAL UNEMPLOYMENT, MINUS THAT PART OF WAGES PAYABLE TO THE INDIVIDUAL WITH RESPECT TO THE WEEK THAT IS IN EXCESS OF FIFTY PERCENT OF THE INDIVIDUAL'S WEEKLY BENEFIT AMOUNT AS COMPUTED IN ACCORDANCE WITH SECTION 8-73-102, AND THE BENEFIT PAYMENT RESULTING SHALL BE COMPUTED TO THE NEXT LOWER MULTIPLE OF ONE DOLLAR.

(II) THIS SUBSECTION (1)(b) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2022.

**SECTION 4.** In Colorado Revised Statutes, 8-73-108, **amend** (5)(b) introductory portion; and **add** (4)(w), (4)(x), (4)(y), (5)(b)(IV), (5)(b)(V), and (5)(b)(VI) as follows:

**8-73-108. Benefit awards. (4) Full award.** An individual separated from a job must be given a full award of benefits if the division determines that any of the following reasons and pertinent related conditions exist. The determination of whether or not the separation from employment must result in a full award of benefits is the responsibility of the division. The following reasons must be considered, along with any other factors that may be pertinent to such determination:

(w) SEPARATING FROM EMPLOYMENT BECAUSE THE EMPLOYER REQUIRES THE EMPLOYEE TO WORK IN AN ENVIRONMENT THAT IS NOT IN COMPLIANCE WITH:

(I) FEDERAL CENTERS FOR DISEASE CONTROL AND PREVENTION GUIDELINES APPLICABLE TO THE EMPLOYER'S BUSINESS AND WORKPLACE AT THE TIME OF THE DETERMINATION;

(II) STATE AND FEDERAL LAWS, RULES, AND REGULATIONS CONCERNING DISEASE MITIGATION AND WORKPLACE SAFETY;

(III) AN EXECUTIVE ORDER ISSUED BY THE GOVERNOR REQUIRING THE EMPLOYER TO CLOSE THE BUSINESS OR MODIFY THE OPERATION OF THE BUSINESS; AND

(IV) ANY PUBLIC HEALTH ORDER ISSUED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT OR A LOCAL GOVERNMENT TO CLOSE THE BUSINESS OR MODIFY THE OPERATION OF THE BUSINESS;

(x) SEPARATING FROM EMPLOYMENT BECAUSE THE EMPLOYEE IS THE PRIMARY

CARETAKER OF:

(I) A CHILD ENROLLED IN A SCHOOL THAT IS CLOSED DUE TO A PUBLIC HEALTH EMERGENCY; OR

(II) A FAMILY MEMBER OR HOUSEHOLD MEMBER WHO IS QUARANTINED DUE TO AN ILLNESS DURING A PUBLIC HEALTH EMERGENCY;

(y) SEPARATING FROM EMPLOYMENT BECAUSE THE EMPLOYEE IS IMMUNOCOMPROMISED AND MORE SUSCEPTIBLE TO ILLNESS OR DISEASE DURING A PUBLIC HEALTH EMERGENCY AS EVIDENCED BY THE EMPLOYEE'S HEALTH CARE PROVIDER.

(5) **Disqualification.** (b) The DIVISION SHALL CONSIDER THE refusal of suitable work or refusal of referral to suitable work at any time after the last separation from employment that occurred prior to the time of filing the initial claim ~~shall be considered~~ in determining the direct and proximate cause of the separation. In determining whether or not any work is suitable for an individual, THE DIVISION SHALL CONSIDER the degree of risk involved to ~~his~~ THE INDIVIDUAL'S health, safety, and morals, ~~his~~ THE INDIVIDUAL'S physical fitness and prior training, ~~his~~ THE INDIVIDUAL'S experience and prior earnings, ~~his~~ THE INDIVIDUAL'S length of unemployment and prospects for securing work in ~~his~~ THE INDIVIDUAL'S customary occupation, and the distance of the available local work from ~~his~~ THE INDIVIDUAL'S residence. ~~shall be considered.~~ Notwithstanding any other provisions of articles 70 to 82 of this title, ~~no~~ TITLE 8, THE DIVISION SHALL NOT DEEM work ~~shall be deemed~~ TO BE suitable and SHALL NOT DENY benefits ~~shall not be denied~~ under articles 70 to 82 of this title TITLE 8 to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(IV) THE EMPLOYER REQUIRES THE INDIVIDUAL TO WORK IN AN ENVIRONMENT THAT IS NOT IN COMPLIANCE WITH:

(A) FEDERAL CENTERS FOR DISEASE CONTROL AND PREVENTION GUIDELINES APPLICABLE TO THE EMPLOYER'S BUSINESS AND WORKPLACE AT THE TIME OF THE DETERMINATION;

(B) STATE OR FEDERAL LAWS, RULES, AND REGULATIONS CONCERNING DISEASE MITIGATION AND WORKPLACE SAFETY;

(C) AN EXECUTIVE ORDER ISSUED BY THE GOVERNOR REQUIRING THE EMPLOYER TO CLOSE THE BUSINESS OR MODIFY THE OPERATION OF THE BUSINESS; AND

(D) ANY PUBLIC HEALTH ORDER ISSUED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT OR A LOCAL GOVERNMENT TO CLOSE THE BUSINESS OR MODIFY THE OPERATION OF THE BUSINESS;

(V) THE INDIVIDUAL IS THE PRIMARY CARETAKER OF:

(A) A CHILD ENROLLED IN A SCHOOL THAT IS CLOSED DUE TO A PUBLIC HEALTH EMERGENCY; OR

(B) A FAMILY MEMBER OR HOUSEHOLD MEMBER WHO IS QUARANTINED DUE TO AN ILLNESS DURING A PUBLIC HEALTH EMERGENCY; OR

(VI) THE EMPLOYEE IS IMMUNOCOMPROMISED AND MORE SUSCEPTIBLE TO ILLNESS OR DISEASE DURING A PUBLIC HEALTH EMERGENCY AS EVIDENCED BY THE EMPLOYEE'S HEALTH CARE PROVIDER.

**SECTION 5.** In Colorado Revised Statutes, 8-74-102, **amend** (1) as follows:

**8-74-102. Deputy's decision - rules.** (1) Upon receipt of a claim, the division shall notify any other interested parties of the claim by mail or electronic means in accordance with such rules as the director of the division may promulgate. ~~Such~~ THE interested parties ~~shall~~ MUST be afforded ~~twelve~~ SEVEN calendar days after the date of ~~such~~ THE notice of the claim to present any information pertinent to the claim by mail, telephone, or electronic means in accordance with such rules as the director of the division may promulgate. ~~Such~~ THE information ~~shall~~ MUST be received by the division within ~~twelve~~ SEVEN calendar days after said date. If the ~~twelfth~~ SEVENTH calendar day falls on a weekend or a state holiday, ~~such~~ THE date ~~shall~~ MUST be moved to the first working day immediately following such weekend or holiday. The interested party may present information out of time only if good cause is shown. A deputy to be designated by the director of the division shall promptly examine all materials submitted. Whenever information submitted is not clearly adequate to substantiate a decision, the deputy shall promptly seek the necessary information. If it is necessary to obtain information by mail from any source, the information shall be received by the division no later than seven calendar days after the date of the request for information. On the basis of the deputy's review, the deputy shall determine the validity of the claim and, if valid, when payment shall commence, the amount payable, and the duration of payment. The deputy shall issue a decision in all cases, even if the claimant has insufficient qualifying wages, unless the interested employer did not receive notice of the claim, except when the separation from employment is due to a lack of work and no alleged disqualifying circumstances are indicated, or unless the claimant did not file a continued claim. The deputy's decision shall set forth findings of fact, conclusions of law, and an order. The division shall promptly provide all interested parties with copies of the deputy's decision.

**SECTION 6.** In Colorado Revised Statutes, 8-75-203, **amend** (1)(b)(I) and (2)(c) as follows:

**8-75-203. Work share program - work share plan - eligibility of employer - approval - denial - rules.** (1) (b) (I) The director shall establish a voluntary work share program for the purpose of allowing the payment of unemployment compensation benefits to employees whose wages and hours have been reduced. In order to participate in the work share program, an employer shall submit a work share plan in writing to the director for approval. If the employer is subject to a collective bargaining agreement, the collective bargaining unit must agree in writing to the work share plan prior to implementation. An employer that is a negative excess employer pursuant to section 8-76-102.5 (3) ~~is not~~ MAY BE eligible to participate in the work share program IN ACCORDANCE WITH RULES ADOPTED BY THE DIRECTOR CONCERNING ELIGIBILITY REQUIREMENTS.

(2) An employer must submit a work share plan to the division on forms and following procedures required by the director. The director may approve a work share plan if:

(c) The plan reduces the normal work for an employee in the affected unit by at least ten percent and not more than ~~forty percent~~ AN AMOUNT CONSISTENT WITH RULES PROMULGATED BY THE DIRECTOR AND AUTHORIZED UNDER 26 U.S.C. SEC. 3306 (v);

**SECTION 7.** In Colorado Revised Statutes, 8-75-204, **amend** (1) introductory portion and (1)(b) as follows:

**8-75-204. Employee eligibility for unemployment benefits under the work share plan - employee eligibility for job training.** (1) Notwithstanding any other provision of this ~~title~~ TITLE 8, an employee may be eligible for unemployment compensation benefits for a particular week pursuant to this part 2 if:

(b) The employee's normal ~~weekly work hours have~~ REMUNERATION HAS BEEN reduced by ~~at least ten percent but not more than forty percent and the employee has received a corresponding reduction in wages for that week~~ AN AMOUNT CONSISTENT WITH A REDUCTION IN HOURS RULES AS ESTABLISHED IN AN APPROVED WORK SHARE PLAN PURSUANT TO SECTION 8-75-203 (2)(c); and

**SECTION 8.** In Colorado Revised Statutes, 8-77-109, **amend** (1)(b); and **repeal** (2)(a.7) and (2)(a.8) as follows:

**8-77-109. Employment support fund - employment and training technology fund - created - uses.** (1) (b) ~~(f)~~ There is hereby established the employment support fund. This fund consists of the first 0.0011 assessed as part of each employer's premium under section 8-76-102.5 (3)(a). ~~or the amount expended from the employment support fund in the year prior to July 1, 2011, adjusted by the same percentage change prescribed in section 8-70-103 (6.5), whichever is less. The division must transfer to the unemployment compensation fund amounts in excess of the amount expended from the employment support fund in the year prior to July 1, 2011, adjusted each year by the same percentage change prescribed in section 8-70-103 (6.5). In addition, revenues to pay nonprincipal-related bond costs for bonds issued under section 29-4-710.7, C.R.S., or section 8-71-103 (2)(d) may be added to amounts assessed under this section. The division may transfer any moneys in the employment support fund to the unemployment bond repayment account created in section 8-77-103.5 to pay nonprincipal-related bond costs for bonds issued under section 29-4-710.7, C.R.S., or section 8-71-103 (2)(d). The employment support fund is not included in or administered by the enterprise established pursuant to section 8-71-103 (2).~~

~~(f) This paragraph (b) is effective December 31, 2012.~~

~~(2) (a.7) Notwithstanding any provision of this subsection (2) to the contrary, on March 5, 2003, the state treasurer shall deduct five million four hundred thousand dollars from the employment support fund and transfer such sum to the general fund.~~

~~(a.8) Notwithstanding any provision of this subsection (2) to the contrary, on April 20, 2009, the state treasurer shall deduct five million dollars from the employment support fund and transfer such sum to the general fund.~~

**SECTION 9.** In Colorado Revised Statutes, 8-76-102.5, **add** (3)(a.5) and (7)(c) as follows:

**8-76-102.5. Rates effective upon fund solvency - repeal of prior rates - solvency surcharge - definitions - repeal.** (3) (a.5) NOTWITHSTANDING SUBSECTION (3)(a) OF THIS SECTION, IF THE RESERVE RATIO IS ONE AND FOUR-TENTHS PERCENT OR GREATER ON JUNE 30 OF ANY YEAR, THE DEPARTMENT SHALL REDUCE EMPLOYER PREMIUMS UP TO FIFTEEN PERCENT FOR THE FOLLOWING CALENDAR YEAR.

(7) (c) (I) NOTWITHSTANDING SUBSECTION (7)(a) OF THIS SECTION, FOR THE CALENDAR YEARS 2021 AND 2022, THE DIVISION SHALL NOT ASSESS A SOLVENCY SURCHARGE ON ANY EMPLOYER.

(II) THIS SUBSECTION (7)(c) IS REPEALED, EFFECTIVE JANUARY 1, 2023.

**SECTION 10.** In Colorado Revised Statutes, **add** 8-77-101.5 as follows:

**8-77-101.5. CARES act funds - administration - transfer - unemployment compensation fund - legislative declaration.** (1) THE GENERAL ASSEMBLY FINDS THAT:

(a) ON MARCH 27, 2020, THE FEDERAL GOVERNMENT ENACTED THE "CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT" ("CARES ACT"), PUB.L. 116-136, PURSUANT TO WHICH COLORADO RECEIVED APPROXIMATELY ONE BILLION SIX HUNDRED SEVENTY-FOUR MILLION DOLLARS FROM THE FEDERAL CORONAVIRUS RELIEF FUND TO USE FOR NECESSARY EXPENDITURES INCURRED DUE TO THE CURRENT COVID-19 PUBLIC HEALTH EMERGENCY;

(b) THE PUBLIC HEALTH EMERGENCY CAUSED BY COVID-19 CAUSED A HISTORIC INCREASE IN UNEMPLOYMENT IN THE STATE AND THIS HAS CAUSED A DRAMATIC INCREASE IN THE NUMBER OF CLAIMS FOR BENEFITS FROM THE UNEMPLOYMENT COMPENSATION FUND CREATED IN SECTION 8-77-101;

(c) AS A RESULT, IT IS ESTIMATED THAT THE UNEMPLOYMENT COMPENSATION FUND, CREATED IN SECTION 8-77-101, WILL HAVE A DEFICIT OF APPROXIMATELY TWO BILLION DOLLARS BY THE END OF FISCAL YEAR 2020-21;

(d) THESE COSTS WILL NOT BE REIMBURSED BY THE FEDERAL GOVERNMENT, NOR ARE THEY ACCOUNTED FOR IN THE BUDGET APPROVED AS OF MARCH 27, 2020;

(e) THE UNITED STATES DEPARTMENT OF TREASURY HAS STATED THAT PAYMENTS TO THE STATE UNEMPLOYMENT COMPENSATION FUND, CREATED IN SECTION 8-77-101, ARE AN ALLOWABLE USE OF THE MONEY FROM THE FEDERAL CORONAVIRUS RELIEF FUND, UNDER SECTION 42 U.S.C. SEC. 801 (d); AND

(f) THE TRANSFER OF MONEY FROM THE "CARES ACT" TO THE STATE

UNEMPLOYMENT COMPENSATION FUND, CREATED IN SECTION 8-77-101, IS A NECESSARY EXPENDITURE INCURRED DUE TO THE PUBLIC HEALTH EMERGENCY WITH RESPECT TO COVID-19.

(2) IF, AS OF DECEMBER 30, 2020, THERE IS ANY UNEXPENDED MONEY THAT THE STATE RECEIVED THROUGH SECTION 42 U.S.C. SEC. 801 (d) OF THE "CARES ACT", THEN JUST PRIOR TO THE CLOSE OF BUSINESS ON DECEMBER 30, 2020, THE STATE TREASURER SHALL TRANSFER THE UNEXPENDED AMOUNT OF FEDERAL FUNDS TO THE UNEMPLOYMENT COMPENSATION FUND CREATED IN SECTION 8-77-101.

**SECTION 11.** In Colorado Revised Statutes, **add** 8-77-110 as follows:

**8-77-110. Office of future of work - study - report.** (1) THE OFFICE OF FUTURE OF WORK IN THE DEPARTMENT OF LABOR AND EMPLOYMENT, CREATED BY EXECUTIVE ORDER B 2019 009, SHALL, WITHIN THE SCOPE OF THE EXECUTIVE ORDER, STUDY UNEMPLOYMENT ASSISTANCE AS PART OF ITS STUDY ON THE MODERNIZATION OF WORKER BENEFITS AND PROTECTIONS.

(2) ON OR BEFORE JANUARY 15, 2021, THE OFFICE OF THE FUTURE OF WORK SHALL SUBMIT AN INITIAL REPORT AS DIRECTED BY THE EXECUTIVE ORDER TO THE GOVERNOR AND TO THE BUSINESS, LABOR, AND TECHNOLOGY COMMITTEE OF THE SENATE AND THE BUSINESS AFFAIRS AND LABOR COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES.

**SECTION 12. Effective date.** This act takes effect upon passage; except that section 1 of this act takes effect January 1, 2021.

**SECTION 13. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: July 14, 2020