

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 21-0538.01 Kristen Forrester 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
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING AGRICULTURAL WORKERS' RIGHTS, AND, IN CONNECTION**
102 **THEREWITH, MAKING AN APPROPRIATION.**

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;

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.

- Removes the exemption of agricultural labor from state and local minimum wage laws;
- 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

1 PROMOTION, OR TERMINATION OF EMPLOYMENT; OR OTHER DECISION FOR
2 EMPLOYMENT PURPOSES THAT ADVERSELY AFFECTS AN AGRICULTURAL
3 EMPLOYEE.

4 (b) "AGRICULTURAL EMPLOYEE" MEANS A PERSON EMPLOYED BY
5 AN AGRICULTURAL EMPLOYER.

6 (c) "AGRICULTURAL EMPLOYER" HAS THE SAME MEANING SET
7 FORTH IN SECTION 8-3-104 (1).

8 (d) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION.

9 (e) "DIVISION" MEANS THE DIVISION OF LABOR STANDARDS AND
10 STATISTICS IN THE DEPARTMENT OF LABOR AND EMPLOYMENT.

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12 (2) THE RIGHTS, REMEDIES, AND PENALTIES SPECIFIED IN THIS
13 SECTION ARE IN ADDITION TO ANY RIGHTS, REMEDIES, OR PENALTIES
14 AVAILABLE TO AGRICULTURAL EMPLOYEES UNDER ARTICLE 3 OR 6 OF THIS
15 TITLE 8, PART 2 OF ARTICLE 13.5 OF THIS TITLE 8, OR ARTICLE 14.4 OF THIS
16 TITLE 8.

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

24 (b) THERE IS A REBUTTABLE PRESUMPTION THAT AN
25 AGRICULTURAL EMPLOYER THAT TAKES AN ADVERSE ACTION AGAINST AN
26 AGRICULTURAL EMPLOYEE WITHIN NINETY DAYS AFTER THE
27 AGRICULTURAL EMPLOYEE HAS ASSERTED OR SOUGHT ANY PROTECTED

1 RIGHTS, REMEDIES, OR PENALTIES UNDER ARTICLE 3 OR 6 OF THIS TITLE 8,
2 PART 2 OF ARTICLE 13.5 OF THIS TITLE 8, OR ARTICLE 14.4 OF THIS TITLE 8
3 HAS RETALIATED AGAINST THE AGRICULTURAL EMPLOYEE.

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

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

17 == =====

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

20 **8-3-104. Definitions.** As used in this ~~article~~ ARTICLE 3, unless the
21 context otherwise requires:

22 (1) (a) ~~"All-union agreement" means a contractual provision~~
23 ~~between an employer or group of employers and a collective bargaining~~
24 ~~unit representing some or all of the employees of the employer or group~~
25 ~~of employers providing for any type of union security and compelling an~~
26 ~~employee's financial support or allegiance to a labor organization.~~
27 ~~"All-union agreement" includes, but is not limited to, contractual~~

1 ~~provision for a union shop, a modified union shop, an agency shop~~
2 ~~(meaning a contractual provision which provides for periodic payment of~~
3 ~~a sum in lieu of union dues but does not require union membership), a~~
4 ~~modified agency shop, a prehire agreement, maintenance of dues, or~~
5 ~~maintenance of membership.~~ "AGRICULTURAL EMPLOYER" MEANS A
6 PERSON THAT:

7 (I) REGULARLY ENGAGES THE SERVICES OF ONE OR MORE
8 EMPLOYEES; AND

9 (II) IS ENGAGED IN ANY SERVICE OR ACTIVITY INCLUDED IN
10 SECTION 203 (f) OF THE FEDERAL "FAIR LABOR STANDARDS ACT OF
11 1938", 29 U.S.C. SEC. 201 ET SEQ., AS AMENDED, OR ENGAGED IN
12 "AGRICULTURAL LABOR" AS DEFINED IN SECTION 3121 (g) OF THE FEDERAL
13 "INTERNAL REVENUE CODE OF 1986", AS AMENDED.

14 (b) THE MEANING OF "AGRICULTURAL EMPLOYER" MUST BE
15 LIBERALLY CONSTRUED FOR THE PROTECTION OF PERSONS PROVIDING
16 SERVICES TO AN EMPLOYER.

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

1 AGREEMENT, MAINTENANCE OF DUES, OR MAINTENANCE OF MEMBERSHIP.

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

5 (I) Working for another for hire in the state of Colorado in a
6 nonexecutive or nonsupervisory capacity, and ~~shall~~ IS not be limited to the
7 employees of a particular employer and ~~shall include~~ INCLUDES any
8 individual whose work has ceased solely as a consequence of or in
9 connection with any current labor dispute or because of any unfair labor
10 practice on the part of an employer; and

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

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

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

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

1 subject to the federal "Railway Labor Act".

2 (b) "EMPLOYEE" DOES NOT INCLUDE:

3 (I) AN INDEPENDENT CONTRACTOR;

4 (II) DOMESTIC SERVANTS EMPLOYED IN AND ABOUT PRIVATE
5 HOMES;

6 (III) AN INDIVIDUAL EMPLOYED BY THE INDIVIDUAL'S PARENT OR
7 SPOUSE;

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

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

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

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

21 (II) "EMPLOYER" includes:

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

25 (B) AN AGRICULTURAL EMPLOYER.

26 (b) "EMPLOYER" does not include the state or any political
27 subdivision thereof, except where the state or any political subdivision

1 thereof acquires or operates a mass transportation system or any carrier
2 by railroad, express company, or sleeping car company subject to the
3 federal "Railway Labor Act", 45 U.S.C. sec. 151 et seq., AS AMENDED, or
4 any labor organization or anyone acting in behalf of such organization
5 other than when ~~he~~ THE EMPLOYER is acting as an employer-in-fact.

6 **SECTION 3.** In Colorado Revised Statutes, **add** 8-6-101.5 as
7 follows:

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

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

23 (2) (a) AN AGRICULTURAL WORKER IS ENTITLED TO AN
24 UNINTERRUPTED AND DUTY-FREE MEAL PERIOD OF AT LEAST A
25 THIRTY-MINUTE DURATION WHEN THE AGRICULTURAL WORKER'S SHIFT
26 EXCEEDS FIVE CONSECUTIVE HOURS. THE MEAL PERIODS, TO THE EXTENT
27 PRACTICABLE, MUST BE AT LEAST ONE HOUR AFTER THE START, AND ONE

1 HOUR BEFORE THE END, OF THE SHIFT.

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

5 (3) AS USED IN THIS SECTION:

6 (a) "AGRICULTURAL WORKER" HAS THE MEANING SET FORTH IN
7 SECTION 8-13.5-201 (2).

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

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

15 **8-6-120. Overtime wages for agricultural workers - rules -**
16 **definition.** (1) THE DIRECTOR SHALL PROMULGATE RULES TO ESTABLISH
17 THE OVERTIME RATES OF PAY THAT AN EMPLOYER ENGAGED IN
18 AGRICULTURAL EMPLOYMENT MUST PAY EACH EMPLOYEE FOR TIME
19 WORKED IN EXCESS OF ANY OF THE FOLLOWING:

20 (a) FORTY HOURS PER WORK WEEK;

21 (b) TWELVE HOURS PER DAY;

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

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

26 **SECTION 5.** In Colorado Revised Statutes, **add** part 2 to article
27 13.5 of title 8 as follows:

1 PART 2

2 LABOR CONDITIONS FOR AGRICULTURAL WORKERS

3 **8-13.5-201. Definitions.** AS USED IN THIS PART 2, UNLESS THE
4 CONTEXT OTHERWISE REQUIRES:

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

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

15 (3) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND
16 EMPLOYMENT.

17 (4) "DIVISION" MEANS THE DIVISION OF LABOR STANDARDS AND
18 STATISTICS IN THE DEPARTMENT.

19 (5) "EMPLOYER" HAS THE MEANING SET FORTH IN SECTION
20 8-13.5-103 (1).

21 (6) "KEY SERVICE PROVIDER" MEANS A HEALTH CARE PROVIDER;
22 A COMMUNITY HEALTH WORKER, INCLUDING A PROMOTORA; AN
23 EDUCATION PROVIDER; AN ATTORNEY; A LEGAL ADVOCATE; A
24 GOVERNMENT OFFICIAL, INCLUDING A CONSULAR REPRESENTATIVE; A
25 MEMBER OF THE CLERGY; AND ANY OTHER SERVICE PROVIDER TO WHICH
26 AN AGRICULTURAL WORKER MAY NEED ACCESS.

27 (7) "NORMAL WORKING HOURS" MEANS A PERIOD DETERMINED BY

1 THE EMPLOYER NOT TO EXCEED EIGHT HOURS WITHIN ANY
2 TWENTY-FOUR-HOUR PERIOD. "NORMAL WORKING HOURS" DOES NOT
3 INCLUDE SATURDAY OR SUNDAY.

4 (8) "OCCASIONAL OR INTERMITTENT" MEANS TWENTY PERCENT OR
5 LESS OF AN AGRICULTURAL EMPLOYEE'S WEEKLY WORK TIME.

6 (9) "SHORT-HANDLED HOE" MEANS A HANDHELD TOOL WITH A
7 FLAT BLADE AFFIXED PERPENDICULARLY TO A HANDLE THAT IS LESS THAN
8 EIGHTEEN INCHES LONG. "SHORT-HANDLED HOE" INCLUDES A
9 LONG-HANDLED HAND TOOL THAT HAS BEEN MODIFIED TO BE USED AS A
10 SHORT-HANDLED HOE.

11 (10) "WHISTLEBLOWER" MEANS AN AGRICULTURAL WORKER WITH
12 KNOWLEDGE OF AN ALLEGED VIOLATION OF THIS PART 2 OR THE
13 AGRICULTURAL WORKER'S REPRESENTATIVE.

14 **8-13.5-202. Agricultural workers - right of access to key**
15 **service providers.** (1) (a) AN EMPLOYER SHALL NOT INTERFERE WITH AN
16 AGRICULTURAL WORKER'S REASONABLE ACCESS TO KEY SERVICE
17 PROVIDERS OUTSIDE OF NORMAL WORKING HOURS AT ANY LOCATION,
18 INCLUDING THE AGRICULTURAL WORKER'S EMPLOYER-PROVIDED HOUSING.

19 (b) AN EMPLOYER THAT PROVIDES HOUSING AND TRANSPORTATION
20 FOR AGRICULTURAL WORKERS SHALL, AT LEAST ONE DAY PER WEEK,
21 PROVIDE TRANSPORTATION TO THE AGRICULTURAL WORKERS TO A
22 LOCATION WHERE THE WORKERS CAN ACCESS BASIC NECESSITIES,
23 CONDUCT FINANCIAL TRANSACTIONS, AND MEET WITH KEY SERVICE
24 PROVIDERS.

25 (2) NO PERSON OTHER THAN THE AGRICULTURAL WORKER MAY
26 PROHIBIT, BAR, OR INTERFERE WITH, OR ATTEMPT TO PROHIBIT, BAR, OR
27 INTERFERE WITH, THE ACCESS TO OR EGRESS FROM THE RESIDENCE OF ANY

1 AGRICULTURAL WORKER BY ANY PERSON, EITHER BY THE ERECTION OR
2 MAINTENANCE OF ANY PHYSICAL BARRIER, BY PHYSICAL FORCE OR
3 VIOLENCE OR BY THE THREAT OF PHYSICAL FORCE OR VIOLENCE, OR BY
4 ANY ORDER OR NOTICE GIVEN IN ANY MANNER.

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

7 (a) IN A CONSPICUOUS LOCATION ON THE EMPLOYER'S PREMISES,
8 INCLUDING IN THE AGRICULTURAL WORKER'S EMPLOYER-PROVIDED
9 HOUSING; AND

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

12 (c) ELECTRONICALLY, INCLUDING BY E-MAIL AND ON AN INTRANET
13 OR INTERNET SITE, IF THE EMPLOYER CUSTOMARILY COMMUNICATES WITH
14 AGRICULTURAL WORKERS BY THESE MEANS.

15 **8-13.5-203. Extreme overwork protections - heat stress**
16 **training - short-handled hoe prohibited.** (1) (a) AN EMPLOYER SHALL
17 PROVIDE EACH AGRICULTURAL WORKER WITH ACCESS TO AT LEAST ONE
18 QUART OF FRESH, COOL WATER PER HOUR OF WORK FOR THE DURATION
19 OF THE WORKER'S SHIFT. THE ACCESS TO WATER MUST BE AS CLOSE TO THE
20 WORK SITE AS PRACTICABLE.

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

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

1 (2) AN EMPLOYER SHALL PROVIDE TRAINING TO AGRICULTURAL
2 WORKERS CONCERNING SIGNS OF HEAT STRESS AND ENCOURAGE WORKERS
3 TO MONITOR THEMSELVES FOR ANY WARNING SIGNS OF HEAT STRESS. THE
4 EMPLOYER SHALL ENCOURAGE AGRICULTURAL WORKERS TO DRINK
5 WATER, TAKE BREAKS AS NEEDED, AND AVOID HEAT STRESS OR
6 OVEREXERTION.

7 (3) (a) USING A SHORT-HANDLED HOE IS PROHIBITED IN
8 AGRICULTURAL EMPLOYMENT FOR WEEDING AND THINNING IN A STOOPED,
9 KNEELING, OR SQUATTING POSITION.

10 (b) THE PERFORMANCE OF WEEDING AND THINNING BY HAND OR
11 WITH A SHORT-HANDLED TOOL, OTHER THAN A SHORT-HANDLED HOE, IN
12 A STOOPED, KNEELING, OR SQUATTING POSITION IS STRONGLY DISFAVORED
13 UNLESS THERE IS NO SUITABLE LONG-HANDLED TOOL OR OTHER
14 ALTERNATIVE MEANS OF PERFORMING THE WORK THAT IS SUITABLE AND
15 APPROPRIATE TO BOTH THE PRODUCTION OF THE AGRICULTURAL OR
16 HORTICULTURAL COMMODITY AND THE SCALE OF THE OPERATION.
17 NOTHING IN THIS SUBSECTION (3) IS CONSTRUED TO ALLOW THE USE OF
18 THE SHORT-HANDLED HOE.

19 (c) THIS SECTION DOES NOT PROHIBIT:

20 (I) OCCASIONAL OR INTERMITTENT HAND WEEDING OR HAND
21 THINNING IN A STOOPED, KNEELING, OR SQUATTING POSITION THAT IS
22 INCIDENTAL TO A NON-HAND-WEEDING OPERATION; OR

23 (II) SEEDING, PLANTING, TRANSPLANTING, OR HARVESTING BY
24 HAND OR WITH A HAND TOOL.

25 (4) AN EMPLOYER SHALL PROVIDE AGRICULTURAL WORKERS
26 ENGAGED IN HAND WEEDING AND HAND THINNING AN ADDITIONAL FIVE
27 MINUTE REST PERIOD, WHICH, INsofar AS IS PRACTICABLE, MUST BE IN

1 THE MIDDLE OF EACH WORK PERIOD. THE AUTHORIZED REST PERIOD MUST
2 BE BASED ON THE TOTAL HOURS WORKED DAILY AT THE RATE OF FIFTEEN
3 MINUTES NET REST TIME PER FOUR HOURS OF WORK, OR A MAJOR FRACTION
4 THEREOF. THE EMPLOYER SHALL COUNT THE AUTHORIZED REST PERIOD AS
5 HOURS WORKED AND NOT DEDUCT THE REST PERIOD FROM THE
6 AGRICULTURAL WORKER'S WAGES.

7 (5) AN EMPLOYER SHALL PROVIDE GLOVES AND KNEE PADS, AS
8 NECESSARY, TO EACH AGRICULTURAL WORKER ENGAGING IN HAND
9 WEEDING, HAND THINNING, OR HAND HOT-CAPPING.

10 **8-13.5-204. Enforcement - penalties - relief - rules.** (1) AN
11 AGGRIEVED AGRICULTURAL WORKER, A WHISTLEBLOWER, OR A KEY
12 SERVICE PROVIDER WHO WAS UNABLE TO ACCESS AN AGRICULTURAL
13 WORKER DUE TO A VIOLATION OF THIS PART 2 MAY COMMENCE AN ACTION
14 IN DISTRICT COURT AGAINST AN EMPLOYER FOR A VIOLATION OF THIS PART
15 2.

16 (2) A COURT MAY:

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

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

21 (c) AWARD THE PLAINTIFF ATTORNEY FEES.

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

25 **8-13.5-205. Agricultural work advisory committee - creation**
26 **- report - repeal.** (1) ON OR BEFORE SEPTEMBER 1, 2021, THE EXECUTIVE
27 DIRECTOR OF THE DEPARTMENT SHALL ESTABLISH THE AGRICULTURAL

1 WORK ADVISORY COMMITTEE, REFERRED TO IN THIS SECTION AS THE
2 "ADVISORY COMMITTEE". THE ADVISORY COMMITTEE CONSISTS OF NINE
3 MEMBERS AS FOLLOWS:

4 (a) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT SHALL
5 APPOINT:

6 (I) TWO MEMBERS WHO HAVE WORKED AS AGRICULTURAL
7 WORKERS; AND

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

9 (b) THE COMMISSIONER OF AGRICULTURE SHALL APPOINT:

10 (I) THREE MEMBERS WHO REPRESENT AGRICULTURAL EMPLOYERS;
11 AND

12 (II) TWO REPRESENTATIVES FROM THE MIGRANT FARM WORKER
13 DIVISION OF COLORADO LEGAL SERVICES, OR ITS SUCCESSOR
14 ORGANIZATION.

15 (2) (a) THE INITIAL TERMS OF ONE AGRICULTURAL WORKER, ONE
16 ADVOCATE OF WORKERS' RIGHTS, TWO AGRICULTURAL EMPLOYERS, AND
17 ONE REPRESENTATIVE FROM THE MIGRANT FARM WORKER DIVISION OF
18 COLORADO LEGAL SERVICES IS TWO YEARS. THE INITIAL TERMS OF THE
19 REMAINING MEMBERS IS THREE YEARS. THEREAFTER, THE TERMS OF THE
20 MEMBERS ARE THREE YEARS.

21 (b) IF A MEMBER FAILS TO COMPLETE THE MEMBER'S TERM, THE
22 APPOINTING AUTHORITY SHALL APPOINT A NEW MEMBER TO COMPLETE
23 THE REMAINDER OF THE TERM.

24 (c) MEMBERS SHALL SERVE WITHOUT COMPENSATION FOR THEIR
25 SERVICE; EXCEPT THAT MEMBERS MAY RECEIVE A PER DIEM AS
26 ESTABLISHED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT AND
27 REIMBURSEMENT FOR TRAVEL AND OTHER NECESSARY EXPENSES

1 INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES.

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

6 (b) TO THE EXTENT POSSIBLE, THE EXECUTIVE DIRECTOR OF THE
7 DEPARTMENT SHALL ENSURE THAT THE ADVISORY COMMITTEE HAS THE
8 OPPORTUNITY TO MEET WITH APPROPRIATE REPRESENTATIVES FROM THE
9 DEPARTMENT OF LABOR AND EMPLOYMENT, THE DEPARTMENT OF PUBLIC
10 HEALTH AND ENVIRONMENT, THE DEPARTMENT OF AGRICULTURE, AND THE
11 GOVERNOR'S OFFICE FOR PURPOSES OF CONDUCTING ITS WORK PURSUANT
12 TO SUBSECTION (3)(a) OF THIS SECTION.

13 (c) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), ON OR
14 BEFORE JANUARY 1, 2023, AND EACH JANUARY 1 THEREAFTER, THE
15 ADVISORY COMMITTEE SHALL REPORT ITS PROGRESS, FINDINGS, AND
16 LEGISLATIVE RECOMMENDATIONS TO THE AGRICULTURE, LIVESTOCK, AND
17 WATER COMMITTEE AND THE BUSINESS AFFAIRS AND LABOR COMMITTEE
18 OF THE HOUSE OF REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES,
19 AND THE AGRICULTURE AND NATURAL RESOURCES COMMITTEE AND THE
20 BUSINESS, LABOR, AND TECHNOLOGY COMMITTEE OF THE SENATE, OR
21 THEIR SUCCESSOR COMMITTEES.

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

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

27 **2-3-1203. Sunset review of advisory committees - legislative**

1 **declaration - definition - repeal.** (22) (a) THE FOLLOWING STATUTORY
2 AUTHORIZATIONS FOR THE DESIGNATED ADVISORY COMMITTEES WILL
3 REPEAL ON SEPTEMBER 1, 2031:

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

6 (b) THIS SUBSECTION (22) IS REPEALED, EFFECTIVE SEPTEMBER 1,
7 2033.

8 **SECTION 7.** In Colorado Revised Statutes, 8-14.4-101, **amend**
9 (1), (3)(c), and (3)(d); and **add** (1.5) and (3)(e) as follows:

10 **8-14.4-101. Definitions.** As used in this article 14.4, unless the
11 context otherwise requires:

12 (1) ~~"Department" means the department of labor and employment~~
13 "AGRICULTURAL EMPLOYMENT" HAS THE MEANING SET FORTH IN SECTION
14 8-13.5-201 (1).

15 (1.5) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND
16 EMPLOYMENT.

17 (3) "Principal" means:

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

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

22 (e) A PERSON OR ENTITY ENGAGED IN AGRICULTURAL
23 EMPLOYMENT.

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

26 **8-14.4-109. Agricultural employers - responsibilities during**
27 **public health emergency - worker safety protections.** (1) DURING A

1 PUBLIC HEALTH EMERGENCY, IN ADDITION TO THE OTHER PROTECTIONS
2 AND RIGHTS AFFORDED TO WORKERS, A PRINCIPAL ENGAGED IN
3 AGRICULTURAL EMPLOYMENT SHALL:

4 (a) PROVIDE EACH WORKER LIVING IN EMPLOYER-PROVIDED
5 HOUSING WITH:

6 (I) AT LEAST ONE HUNDRED SQUARE FEET OF SLEEPING QUARTERS
7 PER WORKER AND ONE HUNDRED TWENTY FEET OF SPACE PER WORKER IN
8 AREAS USED FOR COMBINED PURPOSES SUCH AS MEAL PREPARATION AND
9 EATING; AND

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

12 (b) ROUTINELY INSPECT EMPLOYER-PROVIDED HOUSING TO
13 ENSURE COMPLIANCE WITH GUIDELINES ISSUED BY THE DEPARTMENT OF
14 PUBLIC HEALTH AND ENVIRONMENT APPLICABLE TO A PUBLIC HEALTH
15 EMERGENCY AND ANY APPLICABLE EXECUTIVE ORDERS ISSUED BY THE
16 GOVERNOR DURING A DISASTER EMERGENCY DECLARED PURSUANT TO
17 SECTION 24-33.5-704 (4);

18 (c) PROVIDE TRAINING TO WORKERS CONCERNING SAFETY
19 PRECAUTIONS AND PROTECTIONS DURING A PUBLIC HEALTH EMERGENCY;
20 AND

21 (d) PROVIDE INFORMATIONAL AND EDUCATIONAL MATERIALS
22 THROUGH POSTERS AND PAMPHLETS WRITTEN IN ENGLISH AND SPANISH
23 AND ANY OTHER RELEVANT LANGUAGES IN EMPLOYER-PROVIDED
24 HOUSING, WORK SITES, AND OTHER PLACES WHERE THE PRINCIPAL
25 USUALLY POSTS INFORMATION FOR THE WORKERS THAT:

26 (I) LISTS THE CONTACT INFORMATION FOR THE MIGRANT FARM
27 WORKER DIVISION OF COLORADO LEGAL SERVICES, OR ITS SUCCESSOR

1 ORGANIZATION, WHERE A WORKER MAY RECEIVE FREE AND CONFIDENTIAL
2 LEGAL SERVICES; AND

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

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

7 **8-3-108. What are unfair labor practices.** (1) It is an unfair
8 labor practice for an employer, individually or in concert with others, to:

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

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

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

11 **8-13.5-101. Short title.** ~~This article shall be known and may be~~
12 ~~cited as~~ THE SHORT TITLE OF THIS PART 1 IS the "Workplace
13 Accommodations for Nursing Mothers Act".

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

16 **8-13.5-102. Legislative declaration.** (2) The general assembly
17 further declares that the purpose of this ~~article~~ PART 1 is for the state of
18 Colorado to become involved in the national movement to recognize the
19 medical importance of breastfeeding, within the scope of complete
20 pediatric care, and to encourage removal of boundaries placed on nursing
21 mothers in the workplace.

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

24 **8-13.5-103. Definitions.** As used in this ~~article~~ PART 1, unless the
25 context otherwise requires:

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

1 **44-10-105. Marijuana employee designation.** An employee of
2 a licensee is not an agricultural worker unless the employee is a farm
3 laborer ~~as described in section 8-3-104 (11)~~ AT A FARM, PLANTATION,
4 RANCH, NURSERY, RANGE, GREENHOUSE, ORCHARD, OR OTHER STRUCTURE
5 USED FOR THE RAISING OF AGRICULTURAL OR HORTICULTURAL
6 COMMODITIES, AS LONG AS THE STRUCTURE IS UTILIZED FOR AT LEAST
7 FIFTY PERCENT OF THE TOTAL OUTPUT PRODUCED.

8 **SECTION 14. Appropriation.** (1) For the 2021-22 state fiscal
9 year, \$409,949 is appropriated to the department of labor and
10 employment. This appropriation is from the employment support fund
11 created in section 8-77-109 (1)(b)(I), C.R.S. To implement this act, the
12 department may use this appropriation as follows:

13 (a) \$371,667 for use by the division of labor standards and
14 statistics for program costs related to labor standards, which amount is
15 based on an assumption that the division will require an additional 4.4
16 FTE; and

17 (b) \$38,282 for the purchase of legal services.

18 (2) For the 2021-22 state fiscal year, \$38,282 is appropriated to
19 the department of law. This appropriation is from reappropriated funds
20 received from the department of labor and employment under subsection
21 (1)(b) of this section and is based on an assumption that the department
22 of law will require an additional 0.2 FTE. To implement this act, the
23 department of law may use this appropriation to provide legal services for
24 the department of labor and employment.

25 **SECTION 15. Safety clause.** The general assembly hereby finds,
26 determines, and declares that this act is necessary for the immediate
27 preservation of the public peace, health, or safety.