

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.



HOUSE BILL 23-1146

BY REPRESENTATIVE(S) Valdez, Amabile, Bird, Boesenecker, Brown, Dickson, Duran, Garcia, Gonzales-Gutierrez, Hamrick, Jodeh, Joseph, Lieder, Lindsay, Lindstedt, Lynch, Mabrey, Martinez, Mauro, McCormick, Ortiz, Sharbini, Snyder, Woodrow;
also SENATOR(S) Rodriguez, Cutter, Danielson, Jaquez Lewis, Priola, Winter F.

CONCERNING A PROHIBITION AGAINST AN EMPLOYER TAKING ADVERSE ACTION AGAINST AN EMPLOYEE WHO ACCEPTS A GRATUITY, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 8-4-103, **add (7)** as follows:

8-4-103. Payment of wages - insufficient funds - pay statement - record retention - gratuity notification - penalties - definition.
(7)(a) IT IS UNLAWFUL FOR AN EMPLOYER ENGAGED IN A BUSINESS TO TAKE ADVERSE ACTION AGAINST AN EMPLOYEE WHO ACCEPTS A CASH GRATUITY OFFERED BY A PATRON OF THE BUSINESS.

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.

(b) NOTHING IN THIS SUBSECTION (7) PROHIBITS AN EMPLOYER FROM REQUIRING EMPLOYEES WHO ACCEPT A CASH GRATUITY OFFERED BY A PATRON OF THE BUSINESS TO SHARE OR ALLOCATE THE GRATUITY ON A PREESTABLISHED BASIS AMONG THE EMPLOYEES.

(c) THIS SUBSECTION (7) DOES NOT APPLY TO:

(I) AN EMPLOYER THAT IS REGULATED BY THE DIVISION OF GAMING, CREATED IN SECTION 44-30-201, IN THE DEPARTMENT OF REVENUE;

(II) AN EMPLOYEE WHO IS LICENSED, CERTIFIED, OR REGISTERED PURSUANT TO TITLE 12 AND WHO IS REQUIRED TO MAINTAIN SUCH LICENSURE, CERTIFICATION, OR REGISTRATION AS A CONDITION OF EMPLOYMENT WITH THE EMPLOYEE'S EMPLOYER;

(III) AN EMPLOYEE WORKING IN A HEALTH-CARE FACILITY REGULATED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT;

(IV) AN EMPLOYEE WORKING FOR THE PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY, CREATED IN SECTION 25.5-5-412; OR

(V) AN EMPLOYEE PROVIDING HOUSING AND SERVICES TO ADULTS SIXTY YEARS OF AGE OR OLDER.

(d) AS USED IN THIS SUBSECTION (7), "ADVERSE ACTION" HAS THE MEANING SET FORTH IN SECTION 8-2-126 (2)(a).

SECTION 2. Appropriation. For the 2023-24 state fiscal year, \$38,436 is appropriated to the department of labor and employment for use by the division of labor standards and statistics. This appropriation is from the general fund and is based on an assumption that the division will require an additional 0.4 FTE. To implement this act, the division may use this appropriation for program costs related to labor standards.

SECTION 3. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or

part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to conduct occurring on or after the applicable effective date of this act.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Steve Fenberg
PRESIDENT OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO