

**Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 24-0950.01 Yelana Love x2295

HOUSE BILL 24-1324

HOUSE SPONSORSHIP

Clifford, Bird, deGruy Kennedy, Duran, Lindstedt, Mabrey, Rutinel, Sirota, Snyder, Weissman

SENATE SPONSORSHIP

Liston and Hinrichsen,

House Committees
Business Affairs & Labor

Senate Committees
Business, Labor, & Technology

A BILL FOR AN ACT

101 **CONCERNING THE ATTORNEY GENERAL'S OVERSIGHT OF RESTRICTIVE**
102 **EMPLOYMENT AGREEMENTS.**

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 grants the attorney general rule-making authority over restrictive employment agreements.

Current law allows an employer to recover the expense of educating and training a worker where the training is distinct from normal, on-the-job training. The bill regulates the recoverable expense as other consumer debt and student debt.

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.

SENATE
Amended 2nd Reading
April 26, 2024

HOUSE
3rd Reading Unamended
March 21, 2024

HOUSE
Amended 2nd Reading
March 20, 2024

The bill also adds the requirement that, for an employer to recover the expense, the training must comply with rules promulgated by the attorney general regarding the transferability of the training or credentialing that is available to the employee as a result of the training.

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

2 **SECTION 1.** In Colorado Revised Statutes, 5-1-301, **add**
3 (11)(a.5) and (15)(a.5) as follows:

4 **5-1-301. General definitions.** In addition to definitions appearing
5 in subsequent articles, as used in this code, unless the context otherwise
6 requires:

7 (11)(a.5) "CONSUMER CREDIT SALE" INCLUDES THE RECOVERABLE
8 EXPENSE OF EDUCATING AND TRAINING A WORKER PURSUANT TO SECTION
9 8-2-113 (3)(a).

10 (15) (a.5) "CONSUMER LOAN" INCLUDES THE RECOVERABLE
11 EXPENSE OF EDUCATING AND TRAINING A WORKER PURSUANT TO SECTION
12 8-2-113 (3)(a).

13 **SECTION 2.** In Colorado Revised Statutes, 5-16-103, **add**
14 (8)(a.5) as follows:

15 **5-16-103. Definitions.** As used in this article 16, unless the
16 context otherwise requires:

17 (8) (a.5) "DEBT" INCLUDES THE RECOVERABLE EXPENSE OF
18 EDUCATING AND TRAINING A WORKER PURSUANT TO SECTION 8-2-113
19 (3)(a).

20 **SECTION 3.** In Colorado Revised Statutes, 5-20-202, **amend** (4)
21 and (5) as follows:

22 **5-20-202. Definitions.** As used in this part 2, unless the context
23 otherwise requires:

1 (4) "Postsecondary educational institution" means an institution
2 that provides postsecondary instruction, as defined in section 23-60-103
3 (3), INCLUDING AN EMPLOYER THAT PROVIDES EDUCATION AND TRAINING
4 TO A WORKER WHERE THE EXPENSE OF THE EDUCATION AND TRAINING IS
5 RECOVERABLE PURSUANT TO SECTION 8-2-113 (3)(a).

6 (5) "Postsecondary education expense" means any expense
7 associated with a student's enrollment in, or attendance at, a
8 postsecondary educational institution, INCLUDING AN EMPLOYER'S
9 RECOVERABLE EXPENSE OF EDUCATING AND TRAINING A WORKER
10 PURSUANT TO SECTION 8-2-113 (3)(a).

11 **SECTION 4.** In Colorado Revised Statutes, 5-20-203, **add (8)** as
12 follows:

13 **5-20-203. Registration of private education creditors -**
14 **penalties - rules.** (8) THE ADMINISTRATOR MAY WAIVE REGISTRATION
15 FEES FOR:

- 16 (a) PRIVATE EDUCATION CREDITORS THAT MAKE, EXTEND, OR
17 HOLD FEWER THAN FIVE PRIVATE EDUCATION CREDIT OBLIGATIONS IN THE
18 YEAR STARTING SEPTEMBER 1 PRECEDING THE REGISTRATION; AND
- 19 (b) STATE OR LOCAL GOVERNMENTAL ENTITIES.

20 **SECTION 5.** In Colorado Revised Statutes, 8-2-113, **amend**
21 (3)(a), (8)(a), and (8)(b); and **add (8)(d) and (9)** as follows:

22 **8-2-113. Unlawful to intimidate worker - agreement not to**
23 **compete - prohibition - exceptions - notice - rules - definitions.**

24 (3) The following covenants are not prohibited by subsection (2) of this
25 section:

- 26 (a) A provision providing for an employer's recovery of the
27 expense of educating and training a worker where the training is distinct

1 from normal, on-the-job training AND SATISFIES ANY OTHER
2 REQUIREMENTS ESTABLISHED BY THE ATTORNEY GENERAL, BY RULE,
3 REGARDING THE TRANSFERABILITY OF THE TRAINING OR CREDENTIALING
4 THAT IS AVAILABLE TO THE EMPLOYEE AS A RESULT OF THE TRAINING. The
5 employer's recovery is limited to the reasonable costs of the training and
6 decreases over the course of the two years subsequent to the training
7 proportionately based on the number of months that have passed since the
8 completion of the training, and the employer recovering for the costs of
9 the training would not violate the FEDERAL "Fair Labor Standards Act of
10 1938", 29 U.S.C. sec. 201 et seq., or article 4 of this title 8; EXCEPT THAT
11 A PUBLIC EMPLOYER'S RECOVERY OF THE COSTS OF THE TRAINING MAY
12 DECREASE OVER A PERIOD LONGER THAN TWO YEARS.

13 (8) (a) An employer shall not enter into, present to a worker or
14 prospective worker as a term of employment, or attempt to enforce any
15 covenant ~~not to compete~~ that is void under this section.

16 (b) An employer that violates subsection (8)(a) of this section is
17 liable for actual damages and a penalty of five thousand dollars per
18 worker or prospective worker harmed by the conduct. The attorney
19 general and any worker or prospective worker harmed by an employer's
20 conduct may bring an action for injunctive relief and to recover penalties.
21 THE ATTORNEY GENERAL MAY RECOVER THREE TIMES THE AMOUNT OF
22 ANY RECOVERY OR ATTEMPTED RECOVERY BY AN EMPLOYER IN VIOLATION
23 OF SUBSECTION (3)(a) OF THIS SECTION. In addition to injunctive relief and
24 the penalty allowed in this subsection (8)(b), a worker or prospective
25 worker may recover actual damages, reasonable costs, and attorney fees
26 in any private action brought under this section.

27 (d) WHERE THE ATTORNEY GENERAL HAS BROUGHT AN ACTION

1 UNDER SUBSECTION (2), (3), (4), (6), OR (8)(a) OF THIS SECTION AND HAS
2 RECOVERED ACTUAL DAMAGES, PENALTIES, OR INJUNCTIVE RELIEF
3 PURSUANT TO SUBSECTION (8)(b) OF THIS SECTION, A WORKER OR
4 PROSPECTIVE WORKER IS PRECLUDED FROM RECOVERING THE ACTUAL
5 DAMAGES, PENALTIES, OR INJUNCTIVE RELIEF THAT WAS RECOVERED IN
6 THE ATTORNEY GENERAL'S ACTION.

7 (9) (a) THE ATTORNEY GENERAL MAY ENFORCE SUBSECTIONS (2),
8 (3), (4), (6), AND (8)(a) OF THIS SECTION.

9 (b) THE ATTORNEY GENERAL MAY PROMULGATE RULES
10 NECESSARY TO IMPLEMENT AND ENFORCE SUBSECTION (3)(a) OF THIS
11 SECTION.

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13 **SECTION 6. Act subject to petition - effective date.** This act
14 takes effect at 12:01 a.m. on the day following the expiration of the
15 ninety-day period after final adjournment of the general assembly; except
16 that, if a referendum petition is filed pursuant to section 1 (3) of article V
17 of the state constitution against this act or an item, section, or part of this
18 act within such period, then the act, item, section, or part will not take
19 effect unless approved by the people at the general election to be held in
20 November 2024 and, in such case, will take effect on the date of the
21 official declaration of the vote thereon by the governor.