

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

REVISED

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

LLS NO. 16-0977.01 Yelana Love x2295

HOUSE BILL 16-1323

HOUSE SPONSORSHIP

Kraft-Tharp,

SENATE SPONSORSHIP

Cooke,

House Committees
Business Affairs and Labor

Senate Committees
Business, Labor, & Technology

A BILL FOR AN ACT

101 CONCERNING CHANGING THE NAME OF THE DIVISION OF LABOR TO THE
102 DIVISION OF LABOR STANDARDS AND STATISTICS.

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://www.leg.state.co.us/billsummaries>.)

The bill changes the division of labor within the department of labor and employment to the division of labor standards and statistics.

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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
2nd Reading Unamended
March 31, 2016

HOUSE
3rd Reading Unamended
March 16, 2016

HOUSE
2nd Reading Unamended
March 15, 2016

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

3 **8-1-101. Definitions.** As used in this article, unless the context
4 otherwise requires:

5 (4) "Director" means the director of the division of labor
6 STANDARDS AND STATISTICS.

7 (5) "Division" means the division of labor STANDARDS AND
8 STATISTICS in the department of labor and employment.

9 **SECTION 2.** In Colorado Revised Statutes, 8-1-103, **amend** (1)
10 as follows:

11 **8-1-103. Division of labor standards and statistics - director -**
12 **employees - qualifications - compensation - expenses.** (1) There is
13 hereby created a division of labor STANDARDS AND STATISTICS in the
14 department of labor and employment. Pursuant to section 13 of article XII
15 of the state constitution, the executive director of the department of labor
16 and employment shall appoint the director of the division, ~~of labor~~ and the
17 director shall appoint such deputies, experts, statisticians, accountants,
18 inspectors, clerks, and other employees as are necessary to carry out the
19 provisions of law and to perform the duties and exercise the powers
20 conferred by law upon the division and the director. The director shall be
21 the chief administrative officer of the division with such powers, duties,
22 and functions as prescribed by law.

23 **SECTION 3.** In Colorado Revised Statutes, 8-1-104, **amend** (2)
24 as follows:

25 **8-1-104. Director - seal.** (2) The director shall have a seal upon
26 which shall be inscribed the words "Director - Division of Labor
27 STANDARDS AND STATISTICS - Department of Labor and Employment -

1 Colorado - Seal". His THE DIRECTOR'S seal shall be affixed to all orders,
2 awards, and copies thereof of the division and to such other instruments
3 as the director shall direct.

4 **SECTION 4.** In Colorado Revised Statutes, **amend** 8-1-128 as
5 follows:

6 **8-1-128. Petition - writ - dissolution.** The director of the
7 division, ~~of labor~~ as petitioner, may file in the district court of the city and
8 county of Denver, or of any county in which the place of employment or
9 any part thereof is situated, a verified petition against any employers, or
10 employees, or both, as respondents, and setting forth any violation or
11 threatened or attempted violation of any provisions of section 8-1-125 or
12 8-1-126, and, thereupon, without bond and without notice, ~~such~~ THE
13 district court shall issue its mandatory writ enjoining the alleged
14 violations, or attempted or threatened violations of this article, and
15 ordering and requiring ~~such~~ THE respondents to maintain all the
16 conditions of employment in status quo and without change until after the
17 dispute or controversy ~~between said employers and employees~~ has been
18 investigated and heard by ~~said~~ THE director and the final findings,
19 decision, order, or award of ~~said~~ THE director made and entered. ~~therein.~~
20 Any respondent may move ~~such~~ THE court to dissolve ~~such~~ THE
21 mandatory writ as to ~~such~~ THAT respondent, and, upon at least five days'
22 ~~previous~~ notice to the director, ~~such~~ THE motion shall be set down for
23 hearing, but ~~such~~ THE mandatory writ shall not be dissolved without proof
24 of full compliance by ~~such~~ THE respondent with all the provisions of this
25 article and orders of the director and that the continuance in effect of ~~such~~
26 THE mandatory writ is causing or will cause ~~such~~ THE respondent great
27 and irreparable injury. The court may require such security of ~~said~~ THE

1 respondent as the court determines adequate to enforce obedience to the
2 provisions of this article on the part of ~~such~~ THE respondent before ~~such~~
3 THE mandatory writ ~~shall be~~ IS dissolved.

4 **SECTION 5.** In Colorado Revised Statutes, 8-1-146, **amend** (2)
5 as follows:

6 **8-1-146. Effect of transfer of powers, duties, and functions.**

7 (2) The division of labor STANDARDS AND STATISTICS, the division of
8 employment and training, the division of unemployment insurance, the
9 state board of pharmacy, and the industrial claim appeals panel in the
10 industrial claim appeals office, which perform any of the powers, duties,
11 and functions performed by the industrial commission prior to its
12 abolishment on July 1, 1986, are the successors in every way with respect
13 to those powers, duties, and functions, except as otherwise provided in
14 this article or by law. Every act performed in the exercise of those
15 powers, duties, and functions has the same force and effect as if
16 performed by the commission prior to July 1, 1986. Whenever the
17 commission is referred to or designated by any law, contract, insurance
18 policy, bond, or other document, the reference or designation applies to
19 the division of labor STANDARDS AND STATISTICS, the division of
20 employment and training, the division of unemployment insurance, the
21 state board of pharmacy, or the industrial claim appeals panel in the
22 industrial claim appeals office, as the case may be.

23 **SECTION 6.** In Colorado Revised Statutes, 8-2-118, **amend** (4)
24 and (5) (a) as follows:

25 **8-2-118. Cost of medical examination - employer and**
26 **employee defined.** (4) Any employer who violates the provisions of this
27 section is liable to a penalty of not more than one hundred dollars for each

1 violation. It is the duty of the director of the division of labor STANDARDS
2 AND STATISTICS to enforce this section.

3 (5) (a) The director of the division of labor STANDARDS AND
4 STATISTICS shall enforce this section as it applies to an individual, a
5 partnership, an association, a corporation, OR a legal representative,
6 trustee, receiver, or trustee in bankruptcy doing business in or operating
7 within the state.

8 **SECTION 7.** In Colorado Revised Statutes, 8-2-122, **amend** (1)
9 (b) as follows:

10 **8-2-122. Employment verification requirements - audits - fine**
11 **for fraudulent documents - cash fund created - definitions.** (1) As
12 used in this section, unless the context otherwise requires:

13 (b) "Division" means the division of labor STANDARDS AND
14 STATISTICS in the department of labor and employment.

15 **SECTION 8.** In Colorado Revised Statutes, 8-2-126, **amend** (5)
16 and (6) as follows:

17 **8-2-126. Employer use of consumer credit information -**
18 **violation - short title - definitions.** (5) A person who is injured by a
19 violation of this section may file a complaint with the division of labor
20 STANDARDS AND STATISTICS, upon which the division of labor
21 STANDARDS AND STATISTICS shall promptly investigate and issue findings
22 within thirty days after a hearing and may award civil penalties not to
23 exceed two thousand five hundred dollars to a prevailing party in an
24 action brought under this subsection (5).

25 (6) The director of the division of labor STANDARDS AND
26 STATISTICS in the department of labor and employment shall enforce this
27 section.

1 **SECTION 9.** In Colorado Revised Statutes, 8-3-104, **amend** (8),
2 (9), and (10) as follows:

3 **8-3-104. Definitions.** As used in this article, unless the context
4 otherwise requires:

5 (8) "Director" means the director of the division of labor
6 STANDARDS AND STATISTICS.

7 (9) "Division" means the division of labor STANDARDS AND
8 STATISTICS in the department of labor and employment.

9 (10) "Election" means a proceeding in which the employees
10 authorized by this article cast a secret ballot to select a collective
11 bargaining unit or for any other purpose specified in this article, including
12 elections conducted by the division of labor STANDARDS AND STATISTICS
13 or by any tribunal having competent jurisdiction or whose jurisdiction has
14 been accepted by the parties.

15 **SECTION 10.** In Colorado Revised Statutes, 8-4-101, **amend** (3)
16 and (4) as follows:

17 **8-4-101. Definitions.** As used in this article, unless the context
18 otherwise requires:

19 (3) "Director" means the director of the division of labor
20 STANDARDS AND STATISTICS or his or her designee.

21 (4) "Division" means the division of labor STANDARDS AND
22 STATISTICS in the department of labor and employment.

23 **SECTION 11.** In Colorado Revised Statutes, 8-5-101, **amend** (2)
24 and (3) as follows:

25 **8-5-101. Definitions.** As used in this article, unless the context
26 otherwise requires:

27 (2) "Director" means the director of the division of labor

1 STANDARDS AND STATISTICS.

2 (3) "Division" means the division of labor STANDARDS AND
3 STATISTICS in the department of labor and employment.

4 **SECTION 12.** In Colorado Revised Statutes, 8-6-103, **amend** (3)
5 and (4) as follows:

6 **8-6-103. Definitions.** As used in this article, unless the context
7 otherwise requires:

8 (3) "Director" means the director of the division of labor
9 STANDARDS AND STATISTICS.

10 (4) "Division" means the division of labor STANDARDS AND
11 STATISTICS in the department of labor and employment.

12 **SECTION 13.** In Colorado Revised Statutes, 8-12-103, **amend**
13 (2) and (3) as follows:

14 **8-12-103. Definitions.** As used in this article, unless the context
15 otherwise requires:

16 (2) "Director" means the director of the division of labor
17 STANDARDS AND STATISTICS.

18 (3) "Division" means the division of labor STANDARDS AND
19 STATISTICS in the department of labor and employment.

20 **SECTION 14.** In Colorado Revised Statutes, 8-20-101, **amend**
21 (2) as follows:

22 **8-20-101. Division of oil and public safety - creation -**
23 **appointment of director - transfer of duties.** (2) The director of the
24 division of oil and public safety, on and after July 1, 2001, shall execute,
25 administer, perform, and enforce the rights, powers, duties, functions, and
26 obligations vested prior to July 1, 2001, in the state inspector of oils, the
27 state boiler inspector, and, with respect to articles 6 and 7 of title 9,

1 C.R.S., the director of the division of labor STANDARDS AND STATISTICS.
2 On July 1, 2001, all employees of the state inspector of oils, the state
3 boiler inspector, and, with respect to duties performed pursuant to articles
4 6 and 7 of title 9, C.R.S., the director of the division of labor STANDARDS
5 AND STATISTICS, whose principal duties are concerned with the duties and
6 functions to be performed by the director of the division of oil and public
7 safety and whose employment by the director of the division of oil and
8 public safety is deemed necessary by the director of the division of oil and
9 public safety to carry out the purposes of articles 20 and 20.5 of this title
10 and articles 4, 6, and 7 of title 9, C.R.S., shall be transferred to the
11 director of the division of oil and public safety and shall become
12 employees thereof. ~~Such~~ THESE employees shall retain all rights to the
13 state personnel system and retirement benefits under the laws of this state,
14 and their services shall be deemed to have been continuous. All transfers
15 and any abolishment of positions in the state personnel system shall be
16 made and processed in accordance with state personnel system laws and
17 rules.

18 **SECTION 15.** In Colorado Revised Statutes, 8-47-101, **amend**
19 (3) (a), (3) (c), (5), and (6) as follows:

20 **8-47-101. Division of workers' compensation - creation -**
21 **powers, duties, and functions - transfer of functions - change of**
22 **statutory references.** (3) (a) The division of workers' compensation
23 shall, on and after July 1, 1991, execute, administer, perform, and enforce
24 the rights, powers, duties, functions, and obligations vested in the division
25 of labor STANDARDS AND STATISTICS prior to July 1, 1991, concerning the
26 duties and functions transferred to the division of workers' compensation.
27 On July 1, 1991, all employees of the division of labor STANDARDS AND

1 STATISTICS whose principal duties are concerned with the duties and
2 functions transferred to the division of workers' compensation and whose
3 employment in the division of workers' compensation is deemed
4 necessary by the executive director of the department of labor and
5 employment to carry out the purposes of this article shall be transferred
6 to the division of workers' compensation and shall become employees
7 thereof. Such employees shall retain all rights to the state personnel
8 system and retirement benefits under the laws of this state, and their
9 services shall be deemed to have been continuous. All transfers and any
10 abolishment of positions in the state personnel system shall be made and
11 processed in accordance with state personnel system laws and rules and
12 regulations.

13 (c) Whenever the division of labor STANDARDS AND STATISTICS
14 is referred to or designated by any contract or other document in
15 connection with the duties and functions transferred to the division of
16 workers' compensation, such reference or designation shall be deemed to
17 apply to the division of workers' compensation. All contracts entered into
18 by the ~~said~~ division of labor STANDARDS AND STATISTICS prior to July 1,
19 1991, in connection with the duties and functions transferred to the
20 division of workers' compensation, are hereby validated, with the division
21 of workers' compensation succeeding to all the rights and obligations of
22 such contracts. Any appropriations of funds from prior fiscal years open
23 to satisfy obligations incurred under such contracts are hereby transferred
24 and appropriated to the division of workers' compensation for the
25 payment of such obligations.

26 (5) On and after July 1, 1991, when any provision of articles 40
27 to 47 of this title refers to the division of labor STANDARDS AND

1 STATISTICS, said law shall be construed as referring to the division of
2 workers' compensation.

3 (6) The revisor of statutes is authorized to change all references
4 to the director of the division of labor STANDARDS AND STATISTICS and
5 the division of labor STANDARDS AND STATISTICS in articles 14.5 and 40
6 to 47 of this title to refer to the director of the division of workers'
7 compensation and the division of workers' compensation.

8 **SECTION 16.** In Colorado Revised Statutes, 24-1-121, **amend**
9 (3) (a) (I) as follows:

10 **24-1-121. Department of labor and employment - creation.**

11 (3) The department of labor and employment consists of the following
12 divisions and programs:

13 (a) (I) The division of labor STANDARDS AND STATISTICS, the head
14 of which ~~shall be~~ IS the director of the division of labor STANDARDS AND
15 STATISTICS, which division and office are hereby created. The division
16 and the director shall exercise their powers and perform their duties and
17 functions specified by law under the department of labor and employment
18 as if ~~the same~~ THEY were transferred to the department by a **type 2**
19 transfer.

20 **SECTION 17.** In Colorado Revised Statutes, **amend** 24-12-103
21 as follows:

22 **24-12-103. Oaths administered by whom.** All courts in this state
23 and each judge, justice, magistrate, referee, clerk, and any deputy clerk
24 thereof, members and referees of the division of labor STANDARDS AND
25 STATISTICS, members of the public utilities commission, and all notaries
26 public ~~shall~~ have power to administer oaths and affirmations to witnesses
27 and others concerning any matter, thing, process, or proceeding pending,

1 commenced, or to be commenced before them respectively. ~~Such~~ THE
2 courts, judges, magistrates, referees, clerks, and deputy clerks within their
3 respective districts or counties, and notaries public within any county of
4 this state, ~~shall~~ have the power to administer all oaths of office and other
5 oaths required to be taken by any person upon any lawful occasion and to
6 take affidavits and depositions concerning any matter or thing, process,
7 or proceeding pending, commenced, or to be commenced in any court or
8 on any occasion wherein such affidavit or deposition is authorized or by
9 law required to be taken.

10 **SECTION 18.** In Colorado Revised Statutes, **amend** 24-33.5-809
11 as follows:

12 **24-33.5-809. Agreement for disposition of claims.** The office of
13 emergency management and the adjusting agent shall enter into an
14 agreement requiring the adjusting agent to adjust and dispose of claims
15 and furnish compensation to civil defense workers and their dependents.
16 The agreement ~~shall~~ MUST authorize the adjusting agent to make all
17 expenditures, including payments to claimants for compensation or for
18 the adjustment or settlement of claims. Nothing in this part 8 means that
19 the adjusting agent or its officers or agents have the final decision with
20 respect to the compensability of any case or the amount of compensation
21 or benefits due. Any civil defense worker or ~~such~~ THE civil defense
22 worker's dependents have the same right to hearings before the division
23 of labor STANDARDS AND STATISTICS in the department of labor and
24 employment and its referees, and to appeal from awards of ~~said~~ THE
25 division and referees to the industrial claim appeals panel and to the
26 courts, as is provided in the hearing and review procedures of the
27 "Workers' Compensation Act of Colorado", ~~found in~~ article 43 of title 8,

1 C.R.S., subject to the limitations prescribed in this part 8.

2 **SECTION 19.** In Colorado Revised Statutes, 26-6-103.5, **amend**
3 (2) introductory portion and (2) (b) as follows:

4 **26-6-103.5. Application of part - guest child care facilities -**
5 **public services short-term child care facilities - definition.** (2) ~~No~~ A
6 person or entity shall NOT operate a guest child care facility or a public
7 services short-term child care facility unless the following requirements
8 are met:

9 (b) The guest child care facility or public services short-term child
10 care facility is inspected not less frequently than one time per year by the
11 local fire department, and it conforms to the fire prevention and
12 protection requirements of the local fire department in the locality of the
13 facility, or in lieu thereof, the division of labor STANDARDS AND
14 STATISTICS;

15 **SECTION 20.** In Colorado Revised Statutes, 26-6-104, **amend**
16 (4) as follows:

17 **26-6-104. Licenses - out-of-state notices and consent -**
18 **demonstration pilot program.** (4) ~~No~~ THE DEPARTMENT SHALL NOT
19 ISSUE A license for a child care center, residential child care facility, or
20 secure residential treatment center ~~shall be issued by the department~~ until
21 the facilities to be operated or maintained by the applicant or licensee are
22 approved by the department of public health and environment as
23 conforming to the sanitary standards prescribed by ~~said~~ THE department
24 under ~~the provisions of~~ section 25-1.5-101 (1) (h), C.R.S., and unless
25 ~~such~~ THE facilities conform to fire prevention and protection requirements
26 of local fire departments in the locality of the facility or, in lieu thereof,
27 of the division of labor STANDARDS AND STATISTICS.

1 **SECTION 21.** In Colorado Revised Statutes, 32-9-119.5, **amend**
2 (3) (a) (I) as follows:

3 **32-9-119.5. Competition to provide vehicular service within**
4 **the regional transportation district.** (3) (a) (I) Subject to the
5 requirements of the "Federal Transit Act", as amended, the district may
6 request proposals from private providers to provide up to fifty-eight
7 percent of all of the vehicular service of the district as measured by
8 vehicle hours or vehicle hour equivalents. The district's decision as to
9 which vehicular services are subject to requests for proposals ~~shall be~~
10 ~~representative of~~ MUST REPRESENT the district's total vehicular service
11 operations; except that each individual request for proposals may
12 designate one type of vehicular service. Service provided by private
13 businesses pursuant to this section shall be accomplished through attrition
14 of the district's full-time employees. ~~No~~ Layoffs shall NOT occur solely as
15 a result of the implementation of this section. If the director of the
16 division of labor STANDARDS AND STATISTICS in the department of labor
17 and employment orders an arbitration pursuant to section 8-3-113 (3),
18 C.R.S., the arbitrator shall not have the power to establish a level of
19 vehicular service to be provided by private businesses in accordance with
20 this section.

21 **SECTION 22.** In Colorado Revised Statutes, 33-4-104, **amend**
22 (1) as follows:

23 **33-4-104. Free licenses issued - members or veterans of armed**
24 **forces - when - rules.** (1) Any active or retired member of the United
25 States armed forces while stationed as a resident patient at any United
26 States armed forces hospital or convalescent station located within
27 Colorado, any resident patient at a veterans administration hospital and

1 resident patients of any state institution for the treatment of persons with
2 mental illness or other mental health institution in Colorado while under
3 supervision of a proper staff member thereof, and any resident who is
4 totally and permanently disabled as determined by the social security
5 administration or the division of labor STANDARDS AND STATISTICS or
6 pursuant to rule ~~or regulation~~ of the commission may obtain a fishing
7 license free of charge, valid for taking fish during the period of residency
8 only, under rules ~~and regulations~~ of the commission.

9 **SECTION 23. Act subject to petition - effective date.** This act
10 takes effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly (August
12 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
13 referendum petition is filed pursuant to section 1 (3) of article V of the
14 state constitution against this act or an item, section, or part of this act
15 within such period, then the act, item, section, or part will not take effect
16 unless approved by the people at the general election to be held in
17 November 2016 and, in such case, will take effect on the date of the
18 official declaration of the vote thereon by the governor.