

CHAPTER 383

LABOR AND INDUSTRY

HOUSE BILL 18-1303

BY REPRESENTATIVE(S) Wist and Garnett, Carver, Covarrubias, Herod, Humphrey, Liston, McKean, Michaelson Jenet, Neville P., Pettersen, Ransom, Reyher, Rosenthal, Saine, Sias, Williams D., Winkler, Young;
also SENATOR(S) Tate, Kerr, Scott.

AN ACT**CONCERNING EXEMPTION OF NONPROFIT YOUTH SPORTS ORGANIZATION COACHES FROM THE "COLORADO EMPLOYMENT SECURITY ACT".**

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

SECTION 1. In Colorado Revised Statutes, **add** 8-70-140.6 as follows:

8-70-140.6. Employment does not include - nonprofit youth sports organization coach - definition. (1) "EMPLOYMENT" DOES NOT INCLUDE SERVICES PERFORMED BY AN INDIVIDUAL AS A COACH FOR A NONPROFIT YOUTH SPORTS ORGANIZATION IF:

(a) THERE IS A WRITTEN AGREEMENT BETWEEN THE NONPROFIT YOUTH SPORTS ORGANIZATION AND THE COACH THAT INCLUDES THE FOLLOWING:

(I) A STATEMENT THAT THE COACH IS AN INDEPENDENT CONTRACTOR AND NOT AN EMPLOYEE OF THE NONPROFIT YOUTH SPORTS ORGANIZATION;

(II) A STATEMENT THAT THE COACH IS NOT ENTITLED TO UNEMPLOYMENT SECURITY BENEFITS IN CONNECTION WITH HIS OR HER CONTRACT WITH THE NONPROFIT YOUTH SPORTS ORGANIZATION; AND

(III) A DISCLOSURE IN BOLD-FACED, UNDERLINED, OR LARGE TYPE, IN A CONSPICUOUS LOCATION, AND ACKNOWLEDGED BY THE PARTIES THAT THE PARTIES HAVE READ AND UNDERSTAND THE DISCLOSURE INDICATING THAT THE COACH IS AN INDEPENDENT CONTRACTOR RATHER THAN AN EMPLOYEE OF THE NONPROFIT YOUTH SPORTS ORGANIZATION;

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

(b) THE YOUTH SPORTS ORGANIZATION DOES NOT HAVE THE RIGHT TO CONTROL THE MEANS AND METHODS BY WHICH THE COACH PROVIDES COACHING SERVICES. FOR THE PURPOSE OF DETERMINING WHETHER THE YOUTH SPORTS ORGANIZATION IS EXERCISING CONTROL, THE ANALYSIS TO DETERMINE IF THE COACH IS AN EMPLOYEE DOES NOT INCLUDE ANY REQUIREMENT OF A YOUTH SPORTS GOVERNING BODY.

(c) THE COACH IS NOT ECONOMICALLY DEPENDENT ON INCOME FROM PART-TIME YOUTH SPORTS COACHING OR IS EMPLOYED IN A FULL-TIME COVERED EMPLOYMENT POSITION; AND

(d) THE SERVICES OF THE COACH MAY NOT BE TERMINATED EXCEPT FOR BREACH OF THE AGREEMENT, FAILURE TO MEET THE REQUIREMENTS OF A YOUTH COACH GOVERNING BODY, OR FAILURE TO MEET GENERALLY ACCEPTED STANDARDS OF CONDUCT WITHIN THE INDUSTRY.

(2) IF IT IS DEMONSTRATED TO THE DIVISION THAT THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION ARE MET, THE COACH SHALL BE CONSIDERED AN INDEPENDENT CONTRACTOR FOR THE PURPOSES OF THIS SECTION AND NOT IN COVERED EMPLOYMENT OR ENTITLED TO ANY BENEFITS IN ACCORDANCE WITH THE "COLORADO EMPLOYMENT SECURITY ACT", ARTICLES 70 TO 82 OF THIS TITLE 8.

(3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "COACH" MEANS AN INDIVIDUAL WHO:

(I) PERFORMS SERVICES PURSUANT TO A WRITTEN AND SIGNED CONTRACT THAT COMPLIES WITH THE REQUIREMENTS SET FORTH IN THIS SECTION; AND

(II) PERFORMS COACHING SERVICES FIFTEEN HOURS OR LESS IN ANY CONSECUTIVE SEVEN-DAY PERIOD.

(b) "NONPROFIT YOUTH SPORTS ORGANIZATION" MEANS AN ORGANIZATION THAT IS EXEMPT FROM FEDERAL TAXATION UNDER SECTION 501 (c)(3) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, AND IS PRIMARILY ENGAGED IN CONDUCTING ORGANIZED SPORTS PROGRAMS FOR PERSONS UNDER TWENTY-ONE YEARS OF AGE.

(4) THIS SECTION DOES NOT ALTER OR DIMINISH OTHERWISE APPLICABLE EXEMPTIONS FROM COVERED EMPLOYMENT FOR THE FOLLOWING:

(a) SERVICES PERFORMED IN THE EMPLOY OF THE STATE OF COLORADO, A POLITICAL SUBDIVISION, OR AN INDIAN TRIBE, OR AN INSTRUMENTALITY OF THE STATE, A POLITICAL SUBDIVISION, OR AN INDIAN TRIBE IF THE SERVICE IS EXCLUDED FROM EMPLOYMENT AS DEFINED IN THE "FEDERAL UNEMPLOYMENT TAX ACT", 26 U.S.C. SEC. 3301 ET SEQ.; OR

(b) SERVICES PERFORMED IN THE EMPLOY OF A RELIGIOUS, CHARITABLE, EDUCATIONAL, OR OTHER ORGANIZATION THAT IS EXCLUDED FROM EMPLOYMENT AS DEFINED IN THE "FEDERAL UNEMPLOYMENT TAX ACT".

SECTION 2. Act subject to petition - effective date. 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 (August 8, 2018, if adjournment sine die is on May 9, 2018); 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 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 6, 2018