

Second Regular Session

Sixty-second General Assembly

LLS NO. 00-0286.01 Pam Cybyske

SENATE BILL 00-038

STATE OF COLORADO

BY SENATOR Thiebaut

A BILL FOR AN ACT

101 CONCERNING THE ESTABLISHMENT OF PARAMETERS FOR COLORADO
102 MINIMUM FAIR WAGES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Cites provisions relating to the minimum wage as the "Colorado Minimum Fair Wages Act". Defines the following terms: "Agricultural and farm work", "employee", "employer", "fair wage", and "oppressive and unreasonable wage". Expands the definition of "occupation" to include businesses or branches of business and allows the director of the division of labor in the department of labor and employment ("director") to exempt some occupations from application of the minimum fair wage.

Makes the payment of an oppressive and unreasonable wage unlawful. Requires the director to investigate if there is reason to believe a substantial number of employees are being paid an oppressive and unreasonable wage.

Authorizes the director to determine what oppressive and unreasonable wages are for an occupation. Provides the director with the authority to determine what occupations may be exempted from the minimum fair wage rate such as professional services, agricultural and farm work, and occupations where the employee receives compensation other than wages such as room and board, commissions, experience, training, and the like.

Establishes the minimum fair wage rate and mandates that the director shall not set a minimum fair wage rate for any occupation below \$6.50 per hour beginning July 1, 2000. Commencing July 1, 2001, requires the director to readjust the minimum fair wage rate annually, based on the increase, if any, for the preceding calendar year in the

consumer price index for all urban consumers as published by the United States bureau of labor statistics. Prohibits the director from decreasing the minimum fair wage rate. Allows the director to establish a minimum wage rate higher than an increase based on the consumer price index.

Permits the director, or wage board at the request of the director, to establish a lower minimum fair wage rate for minors and occupations declared by the director to be exempt. Allows the wage board, at the request of the director, to determine if a wage paid to an employee by an employer is oppressive and unreasonable.

Requires the director to review established minimum fair wage rates as deemed necessary by the director, rather than every 4 years.

Makes conforming amendments.

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

2 **SECTION 1.** Article 6 of title 8, Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW SECTION to read:

4 **8-6-100.1. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY
5 BE CITED AS THE "COLORADO MINIMUM FAIR WAGES ACT".

6 **SECTION 2.** 8-6-101 (1), (2), and (3) (a), Colorado Revised
7 Statutes, are amended to read:

8 **8-6-101. Legislative declaration - minimum wage of workers**
9 **- matter of statewide concern - prohibition on local minimum wage**
10 **enactments.** (1) The welfare of the state of Colorado demands that
11 workers be protected from conditions of labor ~~that have a pernicious~~
12 ~~HAVING A DETRIMENTAL~~ effect on their health and morals, and it is
13 therefore declared, in the exercise of the police and sovereign power of
14 the state of Colorado, ~~that inadequate wages and unsanitary conditions of~~
15 ~~labor exert such pernicious effect~~ TO BE AGAINST PUBLIC POLICY FOR ANY
16 EMPLOYER TO EMPLOY ANY PERSON IN AN OCCUPATION IN THIS STATE AT
17 AN OPPRESSIVE AND UNREASONABLE WAGE.

18 (2) The general assembly hereby finds and determines that issues

1 related to the wages of workers in Colorado have important statewide
2 ramifications for the labor force in this state. The general assembly,
3 therefore, declares that the minimum FAIR wages of workers in this state
4 are a matter of statewide concern.

5 (3) (a) No unit of local government, whether by acting through its
6 governing body or an initiative, a referendum, or any other process, shall
7 enact any jurisdiction-wide laws with respect to minimum FAIR wages;
8 except that a unit of local government may set minimum FAIR wages paid
9 to its own employees.

10 **SECTION 3.** 8-6-103 (5) and (6), Colorado Revised Statutes, are
11 amended, and the said 8-6-103 is further amended BY THE ADDITION
12 OF THE FOLLOWING NEW SUBSECTIONS, to read:

13 **8-6-103. Definitions.** As used in this article, unless the context
14 otherwise requires:

15 (2.5) "AGRICULTURAL AND FARM WORK" MEANS LABOR ON A FARM
16 AND THE GROWING AND HARVESTING OF AGRICULTURAL, FLORICULTURAL,
17 AND HORTICULTURAL COMMODITIES.

18 (5) ~~"Minor" means any person of either sex under the age of~~
19 ~~eighteen years.~~ "EMPLOYEE" MEANS EVERY PERSON IN THE SERVICE OF AN
20 EMPLOYER, UNDER ANY CONTRACT OF HIRE, EXPRESS OR IMPLIED, NOT
21 INCLUDING AN ELECTIVE OFFICIAL OF THE STATE OR OF ANY CITY, COUNTY,
22 CITY AND COUNTY, TOWN, OR ANY IRRIGATION, DRAINAGE, SCHOOL, OR
23 SPECIAL DISTRICT, AND NOT INCLUDING ANY OFFICER OR ENLISTED PERSON
24 OF THE NATIONAL GUARD OF THE STATE OF COLORADO.

25 (6) ~~"Occupation" means every vocation, trade, pursuit, and~~
26 ~~industry.~~ "EMPLOYER" MEANS:

1 (a) THE STATE, EACH CITY, COUNTY, CITY AND COUNTY, TOWN,
2 AND EACH IRRIGATION, DRAINAGE, SCHOOL, AND SPECIAL DISTRICT, AND
3 ALL PUBLIC INSTITUTIONS AND ADMINISTRATIVE BOARDS THEREOF HAVING
4 FOUR OR MORE EMPLOYEES;

5 (b) EVERY PERSON, AS DEFINED IN SECTION 2-4-402 (8), C.R.S.,
6 THAT HAS FOUR OR MORE PERSONS REGULARLY ENGAGED IN THE SAME
7 BUSINESS OR EMPLOYMENT, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED
8 IN THIS ARTICLE, IN SERVICE UNDER ANY CONTRACT OF HIRE, EXPRESS OR
9 IMPLIED.

10 (7.1) "FAIR WAGE" MEANS A WAGE FAIRLY AND REASONABLY
11 COMMENSURATE WITH THE VALUE OF THE SERVICE OR CLASS OF SERVICE
12 RENDERED.

13 (8) "MINOR" MEANS ANY PERSON UNDER THE AGE OF EIGHTEEN
14 YEARS.

15 (9) "OCCUPATION" MEANS EVERY VOCATION, TRADE, PURSUIT,
16 INDUSTRY, AND BUSINESS OR BRANCH OR CLASS OF WORK OF SAID
17 VOCATION, TRADE, PURSUIT, INDUSTRY, AND BUSINESS, WHETHER
18 OPERATED FOR PROFIT OR OTHERWISE, AND ANY OTHER CLASS OF WORK IN
19 WHICH PERSONS ARE GAINFULLY EMPLOYED.

20 (10) "OPPRESSIVE AND UNREASONABLE WAGE" MEANS A WAGE
21 THAT IS BOTH LESS THAN THE FAIR AND REASONABLE VALUE OF THE
22 SERVICES RENDERED AND INADEQUATE TO SUPPLY THE COST OF LIVING
23 NECESSARY TO MAINTAIN THE HEALTH OF THE WORKERS SO EMPLOYED.

24 **SECTION 4.** 8-6-104, Colorado Revised Statutes, is amended to
25 read:

26 **8-6-104. Wages shall be adequate - conditions healthful and**

1 **moral.** It is unlawful to employ workers in any occupation within the
2 state of Colorado for ~~wages which are inadequate to supply the necessary~~
3 ~~cost of living and to maintain the health of the workers so employed~~ AN
4 OPPRESSIVE AND UNREASONABLE WAGE. It is unlawful to employ workers
5 in any occupation within this state under conditions of labor detrimental
6 to their health or morals.

7 **SECTION 5.** 8-6-105, Colorado Revised Statutes, is amended to
8 read:

9 **8-6-105. Director to investigate.** It is the duty of the director to
10 inquire into the wages paid to employees and into the conditions of labor
11 surrounding said employees in any occupation in this state if the director
12 has reason to believe that said conditions of labor are detrimental to the
13 health or morals of said employees or that the wages paid to a substantial
14 number of employees are ~~inadequate to supply the necessary cost of~~
15 ~~living and to maintain such employees in health~~ OPPRESSIVE AND
16 UNREASONABLE. At the request of not less than twenty-five persons
17 engaged in any occupation, the director shall forthwith make such
18 investigation as is provided in this article. Such investigation may be
19 made at any time, upon the initiative of the director.

20 **SECTION 6.** 8-6-106, Colorado Revised Statutes, is amended to
21 read:

22 **8-6-106. Determination of minimum wage and conditions.**

23 (1) The director shall determine the minimum FAIR wages sufficient for
24 living wages for persons of ordinary ability, including: THE minimum
25 FAIR wages sufficient for living wages, whether paid according to time
26 rate or piece rate; ~~the minimum wages sufficient for living wages for~~

1 ~~learners and apprentices~~; standards of conditions of labor and hours of
2 employment not detrimental to health or morals for workers; WHAT ARE
3 OPPRESSIVE AND UNREASONABLE WAGES FOR AN OCCUPATION; WHAT
4 OCCUPATIONS ARE EXEMPT FROM THE APPLICATION OF THE MINIMUM FAIR
5 WAGE; and what are unreasonably long hours.

6 (2) ALL WAGES ESTABLISHED BY THE DIRECTOR SHALL BE A FAIR
7 WAGE AND SHALL NOT BE OPPRESSIVE AND UNREASONABLE.

8 (3) IN ESTABLISHING A MINIMUM FAIR WAGE FOR ANY SERVICE OR
9 CLASS OF SERVICE UNDER THIS ARTICLE, THE DIRECTOR AND WAGE BOARD,
10 WITHOUT BEING BOUND BY ANY TECHNICAL RULES OF EVIDENCE OR
11 PROCEDURE, SHALL:

12 (a) TAKE INTO ACCOUNT THE COST OF LIVING AND ALL OTHER
13 RELEVANT CIRCUMSTANCES AFFECTING THE VALUE OF THE SERVICE OR
14 CLASS OF SERVICE RENDERED;

15 (b) BE GUIDED BY LIKE CONSIDERATIONS AS WOULD GUIDE A
16 COURT IN A SUIT FOR THE REASONABLE VALUE OF SERVICES RENDERED
17 WHERE SERVICES ARE RENDERED AT THE REQUEST OF AN EMPLOYER IN THE
18 ABSENCE OF AN EXPRESS CONTRACT AS TO THE AMOUNT OF THE WAGE TO
19 BE PAID; AND

20 (c) CONSIDER THE WAGES PAID IN THE STATE FOR WORK OF LIKE OR
21 COMPARABLE CHARACTER BY EMPLOYERS WHO VOLUNTARILY MAINTAIN
22 MINIMUM FAIR WAGE STANDARDS.

23 (4) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, THE
24 DIRECTOR SHALL NOT ESTABLISH A MINIMUM FAIR WAGE RATE FOR ANY
25 OCCUPATION LOWER THAN THE AMOUNTS PROVIDED IN SECTION 8-6-108.5
26 (1).

1 **SECTION 7.** 8-6-107 (2), Colorado Revised Statutes, is amended
2 to read:

3 **8-6-107. Powers of director - duty of employer.** (2) Every
4 employer shall keep a register of the names, ages, dates of employment,
5 and residence addresses of all employees. It is the duty of every such
6 employer ~~whether a person, firm, or corporation,~~ to furnish to the
7 director, upon request, any reports or information ~~which~~ THAT the
8 director may require to carry out the purposes of this article, such reports
9 and information to be verified by the oath of the person, ~~or a member, of~~
10 ~~the firm or the~~ president, secretary, or manager of the ~~corporation~~
11 EMPLOYER, furnishing the same if and when so requested by the director;
12 and the director or any authorized representative shall be allowed free
13 access to the place of business of such employer for the purpose of
14 making any investigation authorized by this article.

15 **SECTION 8.** 8-6-108.5, Colorado Revised Statutes, is amended
16 to read:

17 **8-6-108.5. Minimum wage.** (1) (a) ~~Effective July 1, 1977, the~~
18 ~~minimum wage for minors may be fifteen percent below the minimum~~
19 ~~wage for other workers; except that the full minimum wage shall be paid~~
20 ~~to any emancipated minor. An emancipated minor shall mean any~~
21 ~~individual less than eighteen years of age who:~~

- 22 (a) ~~Has the sole or primary responsibility for his own support;~~
- 23 (b) ~~Is married and living away from parents or guardian;~~
- 24 (c) ~~Is able to show that his well-being is substantially dependent~~
25 ~~upon being gainfully employed.~~ THE MINIMUM FAIR WAGE RATE FOR ANY
26 OCCUPATION AS PROVIDED IN THIS ARTICLE SHALL BE A RATE OF NOT LESS

1 THAN SIX DOLLARS AND FIFTY CENTS PER HOUR BEGINNING JULY 1, 2000.
2 COMMENCING JULY 1, 2001, THE DIRECTOR SHALL ANNUALLY READJUST
3 THE MINIMUM FAIR WAGE RATE, BASED ON THE INCREASE, IF ANY, FOR THE
4 PRECEDING CALENDAR YEAR IN THE CONSUMER PRICE INDEX FOR ALL
5 URBAN CONSUMERS AS PUBLISHED BY THE UNITED STATES BUREAU OF
6 LABOR STATISTICS; EXCEPT THAT IN NO EVENT SHALL THE DIRECTOR
7 DECREASE THE MINIMUM WAGE RATE. THE DIRECTOR MAY READJUST THE
8 MINIMUM FAIR WAGE RATE HIGHER THAN THE AMOUNT BASED ON THE
9 CONSUMER PRICE INDEX, EVEN IF THERE IS NO INCREASE IN THE CONSUMER
10 PRICE INDEX, IN ACCORDANCE WITH THIS SECTION.

11 (b) NOTHING IN PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL
12 PROHIBIT THE DIRECTOR FROM ESTABLISHING A LOWER MINIMUM FAIR
13 WAGE RATE FOR OCCUPATIONS THAT ARE EXEMPT PURSUANT TO
14 SUBSECTION (2) OF THIS SECTION.

15 (2) ~~An employer may pay a rate of fifteen percent lower than the~~
16 ~~minimum wage to persons certified by the director to be less efficient due~~
17 ~~to a physical disability.~~ THE DIRECTOR MAY ESTABLISH A MINIMUM FAIR
18 WAGE RATE LOWER THAN THAT IDENTIFIED IN SUBSECTION (1) OF THIS
19 SECTION FOR MINORS AND OCCUPATIONS DECLARED BY THE DIRECTOR TO
20 BE EXEMPT, SUCH AS PROFESSIONAL SERVICE, AGRICULTURAL AND FARM
21 WORK, OR WORK IN WHICH AN EMPLOYEE RECEIVES COMPENSATION OTHER
22 THAN WAGES, SUCH AS ROOM AND BOARD, COMMISSIONS, TRAINING,
23 EXPERIENCE, AND THE LIKE; EXCEPT THAT THE FULL MINIMUM FAIR WAGE
24 RATE SHALL BE PAID TO ANY EMANCIPATED MINOR. AN "EMANCIPATED
25 MINOR" MEANS ANY INDIVIDUAL LESS THAN EIGHTEEN YEARS OF AGE WHO:

26 (a) HAS BEEN DECLARED EMANCIPATED BY ANY COURT OF

1 COMPETENT JURISDICTION;

2 (b) HAS THE SOLE OR PRIMARY RESPONSIBILITY FOR HIS OR HER
3 OWN SUPPORT;

4 (c) IS MARRIED AND LIVING AWAY FROM A PARENT, LEGAL
5 GUARDIAN, OR CUSTODIAN; OR

6 (d) IS ABLE TO ESTABLISH THAT HIS OR HER WELL-BEING IS
7 SUBSTANTIALLY DEPENDENT UPON BEING GAINFULLY EMPLOYED.

8 (3) The director may issue only such ~~regulations~~ RULES as are
9 necessary to carry out the provisions of this article and as are consistent
10 with the purposes and intent of section 8-6-101.

11 **SECTION 9.** 8-6-109 (1), Colorado Revised Statutes, is amended
12 to read:

13 **8-6-109. Methods of establishing minimum wages - wage**
14 **board.** (1) If, after investigation, the director is of the opinion that the
15 conditions of employment surrounding said employees are detrimental to
16 the health or morals or that a substantial number of workers in any
17 occupation are receiving OPPRESSIVE AND UNREASONABLE wages, whether
18 by time rate or piece rate, ~~inadequate to supply the necessary costs of~~
19 ~~living and to maintain the workers in health,~~ the director shall proceed to
20 establish minimum FAIR wage rates either directly or by the indirect
21 method described in subsection (2) of this section. ~~If he~~ THE DIRECTOR
22 selects the direct method, the director shall establish the minimum FAIR
23 wage rates.

24 **SECTION 10.** 8-6-110, Colorado Revised Statutes, is amended
25 to read:

26 **8-6-110. Wage board - duties - report - quorum.** The director

1 may transmit to each wage board all pertinent information in his OR HER
2 possession relative to the wages paid or material to the subject of inquiry
3 of the occupation in question. Each wage board shall endeavor to
4 determine, if requested so to do by the director, the standard conditions
5 of employment; the minimum FAIR wage, whether by time rate or piece
6 rate, ~~adequate to maintain in health and to supply with the necessary cost~~
7 ~~of living an employee of ordinary ability~~ in the occupation in question,
8 or in any branches thereof; WHETHER THE WAGES PAID TO THE EMPLOYEE
9 BY THE EMPLOYER ARE OPPRESSIVE AND UNREASONABLE; and suitable
10 minimum FAIR wages ~~graded, so far as practicable, on a rising scale~~
11 ~~toward the minimum allowed experienced workers, for learners and~~
12 ~~apprentices~~ FOR MINORS AND THOSE OCCUPATIONS DECLARED BY THE
13 DIRECTOR TO BE EXEMPT. When a majority of the members of a wage
14 board agree upon standard conditions of employment or minimum wage
15 board determinations, they shall report such determinations to the
16 director, together with the reasons therefor and the facts relating thereto.
17 A majority of the members of any such wage board shall constitute a
18 quorum.

19 **SECTION 11.** 8-6-112, Colorado Revised Statutes, is amended
20 to read:

21 **8-6-112. New determination of wages and conditions.**
22 Whenever a minimum FAIR wage rate or a new standard of conditions of
23 employment has been established in any occupation, the director, if he OR
24 SHE deems proper or necessary so to do, upon petition of either employers
25 or employees, may reconvene the wage board or establish a new wage
26 board, and any recommendation made by such board shall be dealt with

1 in the same manner as the original recommendation of a wage board.
2 Pending any new determination, any minimum FAIR wage rate and any
3 new standard of conditions of employment theretofore established shall
4 be and continue in force and effect. It is the duty of the director to survey
5 and review for adequacy established wage orders made pursuant to the
6 provisions of section 8-6-111 ~~at least every four years~~ AS DEEMED
7 NECESSARY BY THE DIRECTOR, whether or not the director is petitioned to
8 do so by either employers or employees.

9 **SECTION 12.** 8-6-116, Colorado Revised Statutes, is amended
10 to read:

11 **8-6-116. Violation - penalty.** The minimum FAIR wages fixed by
12 the director, as provided in this article, shall be the minimum FAIR wages
13 paid to the employees, and the payment to such employees of a wage less
14 than the minimum so fixed is unlawful, and every employer or other
15 person who, individually or as an officer, agent, or employee of a
16 ~~corporation~~ AN EMPLOYER, or other person, pays or causes to be paid to
17 any such employee a wage less than the minimum FAIR WAGE is guilty of
18 a misdemeanor and, upon conviction thereof, shall be punished by a fine
19 of not less than one hundred dollars nor more than five hundred dollars,
20 or by imprisonment in the county jail for not less than thirty days nor
21 more than one year, or by both such fine and imprisonment.

22 **SECTION 13.** 8-6-117, Colorado Revised Statutes, is amended
23 to read:

24 **8-6-117. Minimum fair wage presumed reasonable -**
25 **conclusiveness.** In every prosecution for the violation of any provision
26 of this article, the minimum FAIR wage established by the director shall

1 be prima facie presumed to be reasonable and lawful and the wage
2 required to be paid. The findings of fact made by the director acting
3 within prescribed powers, in the absence of fraud, shall be conclusive.

4 **SECTION 14.** 8-6-118, Colorado Revised Statutes, is amended
5 to read:

6 **8-6-118. Recovery of balance of minimum fair wage.** An
7 employee receiving less than the legal minimum FAIR wage applicable to
8 such employee is entitled to recover in a civil action the unpaid balance
9 of the full amount of such minimum FAIR wage, together with costs of
10 suit, notwithstanding any agreement to work for a lesser wage.

11 **SECTION 15.** 8-6-119, Colorado Revised Statutes, is amended
12 to read:

13 **8-6-119. Investigation of complaints.** Any person may register
14 with the division a complaint that the wages paid to an employee for
15 whom a rate has been established are less than that rate, and the director
16 shall investigate the matter and take all proceedings necessary to enforce
17 the payment of the minimum FAIR wage rate.

18 **SECTION 16. Effective date.** This act shall take effect July 1,
19 2000.

20 **SECTION 17. Safety clause.** The general assembly hereby
21 finds, determines, and declares that this act is necessary for the immediate
22 preservation of the public peace, health, and safety.