

**Second Regular Session
Sixty-third General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 02-0449.01 Thomas Morris

HOUSE BILL 02-1069

HOUSE SPONSORSHIP

Sanchez

SENATE SPONSORSHIP

(None)

House Committees
State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE ESTABLISHMENT OF THE FEDERAL MINIMUM WAGE**

102 **AS THE STATE MINIMUM WAGE.**

Bill Summary

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

Establishes the state minimum wage as that which is provided by section 206 (a) (1) of the federal "Fair Labor Standards Act of 1938", as amended. Repeals state laws referring to the state's establishment of a state minimum wage, including wage boards.

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.*

1 **SECTION 1.** 8-6-104, Colorado Revised Statutes, is amended to
2 read:

3 **8-6-104. Minimum wage - conditions healthful and moral.** It
4 is unlawful to employ workers in any occupation within the state of
5 Colorado for wages which are inadequate to supply the necessary cost of
6 living and to maintain the health of the workers so employed. THE
7 MINIMUM WAGE SHALL BE THAT WHICH IS PROVIDED BY SECTION 206 (a)
8 (1) OF THE "FAIR LABOR STANDARDS ACT OF 1938", AS AMENDED. It is
9 unlawful to employ workers in any occupation within this state under
10 conditions of labor detrimental to their health or morals.

11 **SECTION 2.** 8-6-106, Colorado Revised Statutes, is amended to
12 read:

13 **8-6-106. Determination of conditions.** The director shall
14 determine the minimum wages sufficient for living wages for persons of
15 ordinary ability, including minimum wages sufficient for living wages,
16 whether paid according to time rate or piece rate; the minimum wages
17 sufficient for living wages for learners and apprentices; standards of
18 conditions of labor and hours of employment not detrimental to health or
19 morals for workers and what are unreasonably long hours.

20 **SECTION 3.** 8-6-108(1), Colorado Revised Statutes, is amended
21 to read:

22 **8-6-108. Public hearings - witness fees - contempt - director to
23 make rules.** (1) The director may hold public hearings at such times and
24 places as he THE DIRECTOR deems proper for the purpose of investigating
25 any of the matters he THE DIRECTOR is authorized to investigate by this
26 article at which hearings employers, employees, or other interested
27 persons may appear and give testimony as to the matter under

1 consideration. The director has the power to subpoena and compel the
2 attendance of any witness and to administer oaths, also, by subpoena, to
3 compel the production of any books, papers, or other evidence at any
4 public hearing of the director. ~~or at any session of any wage board.~~ All
5 witnesses subpoenaed by said director shall be paid the same mileage and
6 per diem as are allowed by law to witnesses in civil cases before the
7 district court of the state of Colorado. If any person fails to attend as a
8 witness or to bring with him OR HER any books, papers, or other evidence
9 when subpoenaed by the director or refuses to testify when ordered so to
10 do, the director may apply to any district court in this state to compel
11 obedience on the part of such person. The district court shall thereupon
12 compel obedience by proceedings for contempt as in cases of
13 disobedience of any order of said court in a proceeding pending before
14 said court. The director shall not be bound by the technical rules of
15 evidence. Said director may hold meetings for the transaction of any of
16 his THE DIRECTOR'S business at such times and places as he OR SHE
17 prescribes.

18 **SECTION 4. Repeal.** 8-6-109, 8-6-110, 8-6-111, and 8-6-112,
19 Colorado Revised Statutes, are repealed.

20 **SECTION 5.** 8-6-115, Colorado Revised Statutes, is amended to
21 read:

22 **8-6-115. Discrimination by employer - penalty - prosecutions.**
23 Any employer who discharges or threatens to discharge, or in any other
24 way discriminates against an employee because ~~such employee serves~~
25 ~~upon a wage board, or is active in its formation, or has testified or is~~
26 ~~about to testify, or because~~ the employer believes that the employee may
27 testify in any investigation or proceeding relative to enforcement of this

1 article is guilty of a misdemeanor and, upon conviction thereof, shall be
2 punished by a fine of not less than two hundred dollars nor more than one
3 thousand dollars for each violation. The director shall investigate and
4 report to the proper prosecuting officials whether employers in each
5 occupation investigated are obeying his OR HER decrees, and the director
6 or employees of the division may cause informations to be filed with and
7 prosecutions to be instituted by the proper prosecuting officials for any
8 violation of the provisions of this article.

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

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

22 **SECTION 7.** 8-6-117, Colorado Revised Statutes, is amended to
23 read:

24 **8-6-117. Conclusiveness of findings of fact.** In every prosecution
25 for the violation of any provision of this article, the minimum wage
26 established by ~~the director~~ THIS ARTICLE shall be prima facie presumed
27 to be reasonable and lawful and the wage required to be paid. The

1 findings of fact made by the director acting within prescribed powers, in
2 the absence of fraud, shall be conclusive.

3 **SECTION 8.** 8-12-105 (4) and (5), Colorado Revised Statutes,
4 are amended to read:

5 **8-12-105. Minimum age requirements - maximum hours of**
6 **work.** (4) Except for the provisions of subsection (5) of this section, no
7 employer shall be permitted to work a minor more than forty hours in a
8 week or more than eight hours in any twenty-four-hour period. In case
9 of emergencies ~~which~~ THAT may arise in the conduct of an industry or
10 occupation (not subject to a wage order promulgated under article 6 of
11 this title) the director may authorize an employer to allow a minor to
12 work more than eight hours in a twenty-four-hour period. In such
13 emergencies an employee shall be paid at a rate of one and one-half times
14 his OR HER time rate ~~as determined in accordance with the provisions of~~
15 ~~section 8-6-106~~ for each hour worked in excess of forty hours in a week.

16 (5) In seasonal employment for the culture, harvest, or care of
17 perishable products where wages are paid on a piece basis, ~~as determined~~
18 ~~in accordance with the provisions of section 8-6-106~~, a minor fourteen
19 years of age or older may be permitted to work hours in excess of the
20 limitations of subsection (4) of this section; but in no case is ~~he~~ THE
21 MINOR permitted to work more than twelve hours in any twenty-four-hour
22 period nor more than thirty hours in any seventy-two-hour period; except
23 that a minor fourteen or fifteen years of age may work more than eight
24 hours per day on only ten days in any thirty-day period. Overtime wage
25 provisions of subsection (4) shall not apply to this subsection (5).

26 **SECTION 9.** 8-75-103.5 (3) (b), Colorado Revised Statutes, is
27 amended to read:

1 **8-75-103.5. Additional extended benefit requirements.** (3) For
2 the purposes of this section, "suitable work" means, with respect to any
3 individual, any work which is within such individual's capabilities. The
4 gross average weekly remuneration payable for such work shall:

5 (b) Not be less than the higher of the minimum wage provided by
6 section 206 (a) (1) of the "Fair Labor Standards Act of 1938", as
7 amended, without regard to any exemption, or the applicable state or
8 local minimum wage.

9 **SECTION 10. Effective date - applicability.** (1) This act shall
10 take effect January 1, 2003, unless a referendum petition is filed during
11 the ninety-day period after final adjournment of the general assembly that
12 is allowed for submitting a referendum petition pursuant to article V,
13 section 1 (3) of the state constitution. If such a referendum petition is
14 filed against this act or an item, section, or part of this act within such
15 period, then the act, item, section, or part shall take effect on the specified
16 date only if approved by the people.

17 (2) The provisions of this act shall apply to wages earned on or
18 after the applicable effective date of this act.