

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

March 25, 2009
Date

Committee on Business Affairs and Labor.

After consideration on the merits, the Committee recommends the following:

HB09-1310 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, page 2, line 15, strike "EMPLOYEES, EITHER" and
- 2 substitute "EMPLOYEES";
- 3 line 16, strike "INTENTIONALLY OR DUE TO OVERSIGHT,".
- 4 Page 3, line 20, strike "8-70-115," and substitute "8-70-103 (11),".
- 5 Page 4, line 18, strike "ADVANTAGE." and substitute "ADVANTAGE OR TO
- 6 AVOID THE PAYMENT OF TAXES.";
- 7 strike lines 20 through 23 and substitute the following:
- 8 "THE DIRECTOR SHALL DETERMINE WHETHER OR NOT AN INVESTIGATION
- 9 IS WARRANTED. IF THE DIRECTOR DETERMINES THAT AN INVESTIGATION
- 10 IS WARRANTED, THE DIRECTOR SHALL NOTIFY THE COMPLAINANT AND
- 11 RESPONDENT THAT AN INVESTIGATION WILL BE CONDUCTED AND";
- 12 line 24, strike "DIRECTOR";
- 13 line 25, strike "ACT, AND THE" and substitute "ACT. THE".
- 14 Page 5, line 9, strike "RECKLESS" and substitute "WILLFUL";
- 15 line 10, strike "DISREGARD," and substitute "DISREGARD OF THE LAW,";

- 1 line 13, strike "RECKLESS" and substitute "WILLFUL";
- 2 line 14, strike "RECKLESS" and substitute "WILLFUL";
- 3 line 16, strike "ISSUE" and substitute "UPON A SECOND OR SUBSEQUENT
4 MISCLASSIFICATION WITH WILLFUL DISREGARD, ISSUE";
- 5 line 22, strike "COPIES" and substitute "A COPY";
- 6 strike line 23 and substitute the following:
- 7 "TO THE RESPONDENT. THOSE PORTIONS OF THE WRITTEN ORDER THAT
8 ARE NOT CONFIDENTIAL UNDER THE ACT SHALL";
- 9 after line 26, insert the following:
- 10 "(4) (a) AN EMPLOYER MAY REQUEST A WRITTEN ADVISORY
11 OPINION FROM THE DIRECTOR CONCERNING WHETHER THE EMPLOYER
12 SHOULD CLASSIFY THE INDIVIDUAL AS AN EMPLOYEE FOR PURPOSES OF
13 COMPLYING WITH THE ACT. THE EMPLOYER SHALL PROVIDE THE DIRECTOR
14 WITH INFORMATION NECESSARY FOR THE DIRECTOR TO ISSUE AN ADVISORY
15 OPINION.
- 16 (b) UPON RECEIPT OF A REQUEST AND PERTINENT INFORMATION
17 FROM AN EMPLOYER, THE DIRECTOR SHALL ISSUE AN ADVISORY OPINION
18 TO THE EMPLOYER, INDICATING WHETHER THE EMPLOYER SHOULD
19 CLASSIFY THE INDIVIDUAL AS AN EMPLOYEE IN ORDER TO COMPLY WITH
20 THE ACT. AN OPINION ISSUED PURSUANT TO THIS SUBSECTION (4) IS ONLY
21 ADVISORY, BASED ON THE INFORMATION PROVIDED BY THE EMPLOYER AND
22 THE DIRECTOR'S UNDERSTANDING OF THE CIRCUMSTANCES AT THE TIME
23 ISSUED, AND IS NOT BINDING ON THE DIVISION, THE EMPLOYER, OR ANY
24 OTHER STATE OR LOCAL GOVERNMENTAL ENTITY.
- 25 (c) THE DIRECTOR SHALL PROMULGATE RULES IN ACCORDANCE
26 WITH ARTICLE 4 OF TITLE 24, C.R.S., ESTABLISHING THE PROCESS FOR
27 ISSUING AN ADVISORY OPINION."
- 28 Renumber succeeding subsections accordingly.
- 29 Page 7, line 5, strike "(5)" and substitute "(6)";

- 1 line 23, strike "(5) AND (6)" and substitute "(6) AND (7)";
- 2 line 24, strike "(7)" and substitute "(8)".

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