

HB1118_L.001
HOUSE COMMITTEE OF REFERENCE AMENDMENT
Committee on Business Affairs & Labor.
HB23-1118 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, **add** article 12.5 to
4 title 8 as follows:

5 **ARTICLE 12.5**

6 **Fair Workweek Employment Standards**

7 **8-12.5-101. Definitions - rules.** AS USED IN THIS ARTICLE 12.5,
8 UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 (1) "ANTICIPATED WORK PLAN" MEANS A WRITTEN STATEMENT
10 DESCRIBING A COVERED EMPLOYER'S GOOD FATH ESTIMATE OF WHEN A
11 COVERED EMPLOYEE CAN EXPECT TO WORK THAT THE COVERED
12 EMPLOYER PROVIDES TO A COVERED EMPLOYEE PURSUANT TO SECTION
13 8-12.5-102 (1).

14 (2) "AT THE TIME OF HIRE" MEANS AFTER AN OFFER OF
15 EMPLOYMENT AND BEFORE OR UPON THE COMMENCEMENT OF
16 EMPLOYMENT.

17 (3) "COVERED EMPLOYEE" MEANS AN EMPLOYEE OF A COVERED
18 EMPLOYER WHO IS NOT EXEMPT FROM OVERTIME AND MINIMUM PAY
19 STANDARDS ADOPTED PURSUANT TO RULES PROMULGATED BY THE
20 DIVISION, INCLUDING THE MOST RECENT COLORADO OVERTIME AND
21 MINIMUM PAY STANDARDS ORDER AND THE MOST RECENT PUBLICATION
22 AND YEARLY CALCULATION OF ADJUSTED LABOR COMPENSATION ORDER.

23 (4) (a) "COVERED EMPLOYER" MEANS AN ENTITY THAT OPERATES
24 AN ESTABLISHMENT THAT:

25 (I) IS PRIMARILY ENGAGED AS A FOOD OR BEVERAGE
26 ESTABLISHMENT, FOOD OR BEVERAGE MANUFACTURING ESTABLISHMENT,
27 OR RETAIL ESTABLISHMENT; AND

28 (II) EMPLOYS TWO HUNDRED FIFTY OR MORE EMPLOYEES
29 WORLDWIDE, CALCULATED IN ACCORDANCE WITH RULES PROMULGATED
30 BY THE DIRECTOR PURSUANT TO SUBSECTION (4)(b) OF THIS SECTION.

31 (b) THE RULES REGARDING THE CALCULATION OF THE NUMBER OF
32 EMPLOYEES EMPLOYED BY THE COVERED EMPLOYER MUST REQUIRE THE
33 CALCULATION TO INCLUDE:

34 (I) ALL FULL-TIME, PART-TIME, SEASONAL, AND TEMPORARY
35 EMPLOYEES EMPLOYED DIRECTLY BY THE COVERED EMPLOYER;

36 (II) ALL FULL-TIME, PART-TIME, SEASONAL, AND TEMPORARY
37 EMPLOYEES EMPLOYED INDIRECTLY THROUGH A CONTRACTOR THAT
38 PROCURES OR PROVIDES THE COVERED EMPLOYER WITH:

39 (A) JANITORIAL OR SECURITY EMPLOYEES; OR

40 (B) OTHER LABOR OR EMPLOYEES THAT ARE INTEGRAL TO THE

- 1 BUSINESS OF THE COVERED EMPLOYER; AND
- 2 (III) ALL FULL-TIME, PART-TIME, SEASONAL, AND TEMPORARY
- 3 EMPLOYEES EMPLOYED BY ESTABLISHMENTS, REGARDLESS OF THE TYPE
- 4 OF OWNERSHIP OF EACH ESTABLISHMENT AND INCLUDING CHAIN
- 5 ESTABLISHMENTS OR FRANCHISES ASSOCIATED WITH A FRANCHISOR OR
- 6 NETWORK OF FRANCHISES THAT:
- 7 (A) DO BUSINESS UNDER THE SAME TRADE NAME AS THE COVERED
- 8 EMPLOYER OR THAT SHARE A BRAND WITH, THE COVERED EMPLOYER; AND
- 9 (B) ARE CHARACTERIZED BY STANDARDIZED OPTIONS FOR DECOR,
- 10 MARKETING, PACKAGING, PRODUCTS, OR SERVICES.
- 11 (5) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND
- 12 EMPLOYMENT CREATED IN SECTION 24-1-121.
- 13 (6) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION.
- 14 (7) "DIVISION" MEANS THE DIVISION OF LABOR STANDARDS AND
- 15 STATISTICS CREATED IN SECTION 8-1-103 IN THE DEPARTMENT.
- 16 (8) "EMPLOYEE" HAS THE MEANING SET FORTH IN SECTION 8-4-101
- 17 (5).
- 18 (9) "EMPLOYER" HAS THE MEANING SET FORTH IN SECTION 8-4-101
- 19 (6).
- 20 (10) "FOOD OR BEVERAGE ESTABLISHMENT" MEANS A FOOD
- 21 SERVICE CONTRACTOR; CATERER; MOBILE FOOD SERVICE; ALCOHOLIC
- 22 BEVERAGE DRINKING PLACE; FULL-SERVICE RESTAURANT;
- 23 LIMITED-SERVICE RESTAURANT, GRILL, OR BUFFET; OR SNACK AND
- 24 NONALCOHOLIC BEVERAGE BAR, AS DESCRIBED IN THE 2022 NORTH
- 25 AMERICAN INDUSTRY CLASSIFICATION SYSTEM ACCOMMODATION AND
- 26 FOOD SERVICES SECTOR 722, OR OTHER CLASSIFICATION OR SUBSEQUENT
- 27 EDITION OF THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM
- 28 PURSUANT TO RULES PROMULGATED BY THE DIVISION.
- 29 (11) "FOOD OR BEVERAGE MANUFACTURING ESTABLISHMENT"
- 30 MEANS AN ESTABLISHMENT WHERE FOOD OR ALCOHOLIC OR
- 31 NONALCOHOLIC BEVERAGES ARE PREPARED, PACKAGED, PROCESSED, OR
- 32 MANUFACTURED, AS DESCRIBED IN THE 2022 NORTH AMERICAN INDUSTRY
- 33 CLASSIFICATION SYSTEM SUBSECTORS 3111 TO 3119 AND SUBSECTOR
- 34 3121, OR OTHER CLASSIFICATION OR SUBSEQUENT EDITION OF THE NORTH
- 35 AMERICAN CLASSIFICATION SYSTEM PURSUANT TO RULES PROMULGATED
- 36 BY THE DIVISION. "FOOD OR BEVERAGE MANUFACTURING
- 37 ESTABLISHMENT" DOES NOT INCLUDE AN ESTABLISHMENT THAT PRIMARILY
- 38 ENGAGES IN THE SERVICES PROVIDED BY AN AGRICULTURAL EMPLOYER AS
- 39 DEFINED IN SECTION 8-3-104 (1).
- 40 (12) "LOCATION" MEANS A GEOGRAPHIC LOCATION OR PLACE ON
- 41 THE PLANET.
- 42 (13) "ON-CALL SHIFT" MEANS ANY TIME THAT AN EMPLOYER
- 43 REQUIRES AN EMPLOYEE TO BE AVAILABLE TO WORK OR TO CONTACT THE
- 44 EMPLOYER OR ITS DESIGNEE, OR TO WAIT TO BE CONTACTED BY THE

1 EMPLOYER OR ITS DESIGNEE, TO DETERMINE WHETHER THE EMPLOYEE
2 MUST REPORT TO WORK.

3 (14) "PREDICTABILITY PAY" MEANS PAY THAT IS PROVIDED TO A
4 COVERED EMPLOYEE PURSUANT TO SECTION 8-12.5-104 (1)(c).

5 (15) "REGULAR RATE OF PAY" MEANS THE HOURLY RATE OF PAY
6 ACTUALLY PAID TO AN EMPLOYEE. THE DIRECTOR SHALL PROMULGATE
7 RULES ESTABLISHING THE MEANING OF "REGULAR RATE OF PAY" FOR AN
8 EMPLOYEE WHOSE PAY IS BASED ON A PIECE-RATE, SALARY, COMMISSION,
9 OR OTHER NON-HOURLY-BASIS.

10 (16) "REST SHORTFALL PAY" MEANS PAY THAT IS PROVIDED TO A
11 COVERED EMPLOYEE PURSUANT TO SECTION 8-12.5-105 (2).

12 (17) "RETAIL ESTABLISHMENT" MEANS A RETAIL TRADE
13 ESTABLISHMENT:

14 (a) AS DESCRIBED IN THE 2022 NORTH AMERICAN INDUSTRY
15 CLASSIFICATION SYSTEM RETAIL TRADE SECTOR 44-45, INCLUDING
16 SUBSECTORS 4411 TO 4599, OR OTHER CLASSIFICATION OR SUBSEQUENT
17 EDITION OF THE SAME CLASSIFICATION SYSTEM PURSUANT TO RULES
18 PROMULGATED BY THE DIVISION; AND

19 (b) WITH ONE OR MORE STORES IN THE STATE.

20 (18) "SHIFT" MEANS A SET OF CONSECUTIVE HOURS THAT AN
21 EMPLOYER REQUIRES AN EMPLOYEE TO WORK OR TO BE ON CALL TO WORK;
22 EXCEPT THAT BREAKS TOTALING TWO HOURS OR LESS DURING A SINGLE
23 SHIFT ARE NOT CONSIDERED AN INTERRUPTION OF CONSECUTIVE HOURS.

24 (19) "STORE" MEANS A FIXED, POINT-OF-SALE LOCATION, LOCATED
25 AND DESIGNED TO ATTRACT WALK-IN CUSTOMERS.

26 (20) "WORK SCHEDULE" MEANS A WRITTEN DESCRIPTION OF ALL
27 OF THE REGULAR SHIFTS AND ON-CALL SHIFTS THAT A COVERED EMPLOYEE
28 WILL WORK OR WILL BE REQUIRED TO BE AVAILABLE TO WORK, INCLUDING
29 SPECIFIC START AND END TIMES AND LOCATIONS FOR EACH SHIFT, DURING
30 A PERIOD OF SEVEN OR MORE CONSECUTIVE DAYS.

31 (21) "WRITTEN" OR "IN WRITING" MEANS COMMUNICATION BY
32 PRINT OR ELECTRONIC MEANS, INCLUDING E-MAIL, TEXT MESSAGE, USE OF
33 SCHEDULING APPLICATIONS, OR OTHER FORMS OF COMMUNICATION THAT
34 CAN BE SAVED IN THEIR ORIGINAL FORMAT.

35 **8-12.5-102. Written statements - anticipated work plans -**
36 **rules.** (1) IN ACCORDANCE WITH RULES PROMULGATED BY THE DIRECTOR,
37 AS SOON AS PRACTICABLE AFTER THE EFFECTIVE DATE OF THIS ARTICLE
38 12.5 OR AT THE TIME OF HIRE, EACH COVERED EMPLOYER SHALL:

39 (a) OBTAIN FROM EACH COVERED EMPLOYEE A WRITTEN
40 STATEMENT, WHICH MAY BE A FORM CREATED BY RULE OF THE DIRECTOR
41 AND COMPLETED BY THE EMPLOYEE OR THE EMPLOYEE'S AGENT,
42 DESCRIBING THE COVERED EMPLOYEE'S DESIRED NUMBER OF WEEKLY
43 WORK HOURS AND THE DAYS AND TIMES THAT THE COVERED EMPLOYEE IS

1 AVAILABLE TO WORK;
2 (b) INFORM EACH COVERED EMPLOYEE IN WRITING OF THE RIGHT
3 TO MODIFY THE WRITTEN STATEMENT IN WRITING AT ANY TIME; AND
4 (c) PROVIDE TO EACH COVERED EMPLOYEE A GOOD FAITH
5 ANTICIPATED WORK PLAN THAT INCLUDES:
6 (I) AN ESTIMATE OF THE AVERAGE NUMBER OF HOURS THE
7 COVERED EMPLOYEE CAN EXPECT TO WORK EACH WEEK;
8 (II) THE MINIMUM NUMBER OF HOURS THE COVERED EMPLOYEE
9 CAN EXPECT TO WORK EACH WEEK;
10 (III) WHETHER THE COVERED EMPLOYEE CAN EXPECT TO WORK
11 ANY ON-CALL SHIFTS;
12 (IV) A SUBSET OF DAYS AND TIMES OR SHIFTS THAT THE COVERED
13 EMPLOYEE CAN TYPICALLY EXPECT TO WORK; AND
14 (V) THE ANTICIPATED LOCATION OR LOCATIONS OF MOST OR ALL
15 SCHEDULED SHIFTS.
16 (2) THE COVERED EMPLOYER SHALL REVISE THE ANTICIPATED
17 WORK PLAN WHEN THERE IS A SIGNIFICANT CHANGE TO THE COVERED
18 EMPLOYEE'S WORK SCHEDULE AND IN ACCORDANCE WITH RULES
19 PROMULGATED BY THE DIRECTOR.
20 **8-12.5-103. Notice of covered employees' work schedules -**
21 **posting and transmitting work schedules.** (1) A COVERED EMPLOYER
22 SHALL PROVIDE EACH COVERED EMPLOYEE A WRITTEN WORK SCHEDULE:
23 (a) BEFORE THE COVERED EMPLOYEE'S FIRST DAY OF WORK; AND
24 (b) NOT LATER THAN FOURTEEN DAYS BEFORE THE FIRST DAY OF
25 WORK DESCRIBED IN ANY SUBSEQUENT WORK SCHEDULE.
26 (2) A COVERED EMPLOYER SHALL PROVIDE COVERED EMPLOYEES
27 WITH NOTICE OF THE WORK SCHEDULE BY:
28 (a) POSTING THE WRITTEN WORK SCHEDULE IN A CONSPICUOUS
29 PHYSICAL OR VIRTUAL PLACE THAT IS READILY ACCESSIBLE AND VISIBLE
30 TO COVERED EMPLOYEES AND IS WHERE NOTICES TO COVERED EMPLOYEES
31 ARE CUSTOMARILY POSTED; AND
32 (b) TRANSMITTING THE WRITTEN WORK SCHEDULE TO COVERED
33 EMPLOYEES BY MEANS REGULARLY USED TO COMMUNICATE
34 WORK-RELATED INFORMATION.
35 (3) (a) NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE 12.5
36 TO THE CONTRARY, A COVERED EMPLOYEE WHO HAS REASONABLE
37 PRIVACY CONCERNS ABOUT WORK SCHEDULE POSTING MAY MAKE AN ORAL
38 REQUEST THAT THE COVERED EMPLOYER:
39 (I) NOT POST THE COVERED EMPLOYEE'S WORK SCHEDULE OR
40 TRANSMIT IT TO OTHERS; AND
41 (II) TRANSMIT THE COVERED EMPLOYEE'S WORK SCHEDULE ONLY
42 TO THE COVERED EMPLOYEE BY A METHOD OF DELIVERY DETERMINED BY
43 THE COVERED EMPLOYEE TO ENSURE PRIVACY.

1 (b) A COVERED EMPLOYER SHALL COMPLY WITH A COVERED
2 EMPLOYEE'S REQUEST MADE PURSUANT TO SUBSECTION (3)(a) OF THIS
3 SECTION IMMEDIATELY UPON RECEIVING THE REQUEST.

4 (c) A COVERED EMPLOYER MAY REQUEST A WRITTEN STATEMENT
5 FROM THE COVERED EMPLOYEE STATING THAT THE COVERED EMPLOYEE
6 HAS REASONABLE PRIVACY CONCERNS ABOUT WORK SCHEDULE POSTING.
7 HOWEVER, A COVERED EMPLOYER SHALL NOT REQUIRE SUCH A WRITTEN
8 STATEMENT FROM A COVERED EMPLOYEE AS A CONDITION OF THE
9 COVERED EMPLOYER'S COMPLIANCE WITH THIS SUBSECTION (3).

10 **8-12.5-104. Work schedule changes - consent - predictability**
11 **pay - exceptions.** (1) IF A COVERED EMPLOYER INITIATES A CHANGE TO
12 A COVERED EMPLOYEE'S WORK SCHEDULE AFTER PROVIDING THE NOTICE
13 DESCRIBED IN SECTION 8-12.5-103, THE COVERED EMPLOYER MUST:

14 (a) OBTAIN THE COVERED EMPLOYEE'S WRITTEN CONSENT TO
15 WORK ANY HOURS NOT INCLUDED IN THE WRITTEN WORK SCHEDULE
16 PROVIDED PURSUANT TO SECTION 8-12.5-103;

17 (b) RECORD THE CHANGE ON THE POSTED WORK SCHEDULE AND
18 TRANSMIT THE UPDATED WORK SCHEDULE TO THE COVERED EMPLOYEE AS
19 SOON AS POSSIBLE AND BEFORE THE CHANGE TAKES EFFECT; AND

20 (c) PAY THE COVERED EMPLOYEE PREDICTABILITY PAY AT THE
21 FOLLOWING RATES:

22 (I) ONE HOUR OF PREDICTABILITY PAY AT THE COVERED
23 EMPLOYEE'S REGULAR RATE OF PAY WHEN THE COVERED EMPLOYER ADDS
24 TIME TO A SHIFT OR CHANGES THE LOCATION OF A SHIFT; AND

25 (II) TWO HOURS OF PREDICTABILITY PAY WHEN THE COVERED
26 EMPLOYER SUBTRACTS TIME FROM A SHIFT OR CHANGES THE DATE OR TIME
27 OF THE SHIFT.

28 (2) A COVERED EMPLOYER IS NOT REQUIRED TO PAY
29 PREDICTABILITY PAY UNDER THIS SECTION IF:

30 (a) THE COVERED EMPLOYEE'S WORK HOURS ARE CHANGED DUE TO
31 TERMINATION OF THE COVERED EMPLOYEE'S EMPLOYMENT;

32 (b) THE COVERED EMPLOYEE INITIATES THE CHANGE THROUGH A
33 MUTUALLY AGREED-UPON SHIFT TRADE OR COVERAGE ARRANGEMENT
34 BETWEEN COVERED EMPLOYEES, SUBJECT TO ANY POLICY OF THE COVERED
35 EMPLOYER REGARDING REQUIRED CONDITIONS UNDER WHICH COVERED
36 EMPLOYEES MAY EXCHANGE SHIFTS;

37 (c) THE COVERED EMPLOYER OFFERS WORK HOURS BY WAY OF A
38 MASS WRITTEN COMMUNICATION TO COVERED EMPLOYEES WHOSE
39 REGULAR WORKPLACE IS THE LOCATION WHERE THE WORK WILL BE
40 PERFORMED OR, IF IT IS THE PREFERENCE OR PRACTICE OF THE COVERED
41 EMPLOYER TO SCHEDULE EMPLOYEES ACROSS MULTIPLE LOCATIONS, TO
42 COVERED EMPLOYEES ACROSS LOCATIONS, AND A COVERED EMPLOYEE
43 VOLUNTEERS TO WORK THOSE HOURS, IF:

1 (I) THE MASS COMMUNICATION IS USED ONLY FOR ADDITIONAL
2 HOURS THAT ARE THE RESULT OF ANOTHER COVERED EMPLOYEE'S
3 INABILITY TO WORK SCHEDULED HOURS; AND

4 (II) THE COMMUNICATION CLEARLY STATES THAT ACCEPTING THE
5 ADDITIONAL HOURS IS VOLUNTARY AND THAT COVERED EMPLOYEES HAVE
6 THE RIGHT TO DECLINE THE ADDITIONAL HOURS;

7 (d) THE COVERED EMPLOYEE INITIATES THE CHANGE BY WRITTEN
8 COMMUNICATION, INCLUDING:

9 (I) VOLUNTARY ADDITIONS OR SUBTRACTIONS OF HOURS; OR

10 (II) THE USE OF SICK LEAVE, VACATION LEAVE, OR OTHER LEAVE
11 POLICIES OFFERED BY THE COVERED EMPLOYER.

12 (e) THE COVERED EMPLOYER'S OPERATIONS CANNOT BEGIN OR
13 CONTINUE DUE TO:

14 (I) A RECOMMENDATION FROM CIVIL AUTHORITIES BASED ON
15 THREATS TO THE HEALTH AND SAFETY OF COVERED EMPLOYERS OR
16 EMPLOYEES;

17 (II) A FAILURE OF PUBLIC UTILITIES THAT SUPPLY ELECTRICITY,
18 WATER, GAS, OR SEWER SERVICES TO THE COVERED EMPLOYER'S WORK
19 LOCATIONS; OR

20 (III) FLOOD, FIRE, BLIZZARD, OR OTHER NATURAL DISASTER.

21 (3) RETALIATING AGAINST A COVERED EMPLOYEE WHO DOES NOT
22 CONSENT TO PERFORM WORK PURSUANT TO SUBSECTION (1)(a) OF THIS
23 SECTION IS A VIOLATION OF THE PROTECTIONS AGAINST RETALIATION
24 DESCRIBED IN SECTION 8-12.5-109.

25 **8-12.5-105. Minimum daily rest - rest shortfall pay.** (1) AFTER
26 COMPLETION OF A SHIFT, EVERY COVERED EMPLOYEE IS ENTITLED TO A
27 MINIMUM DAILY REST PERIOD OF TWELVE CONSECUTIVE HOURS.

28 (2) A COVERED EMPLOYER SHALL NOT REQUIRE OR PERMIT A
29 COVERED EMPLOYEE TO WORK DURING THE MINIMUM DAILY REST PERIOD
30 UNLESS THE COVERED EMPLOYEE:

31 (a) CONSENTS TO THE WORK IN WRITING; AND

32 (b) IS COMPENSATED AT LEAST ONE AND ONE-HALF TIMES THE
33 COVERED EMPLOYEE'S REGULAR RATE OF PAY FOR THE HOURS WORKED
34 DURING THE DAILY REST PERIOD.

35 (3) RETALIATING AGAINST A COVERED EMPLOYEE WHO DOES NOT
36 CONSENT TO PERFORM WORK DURING THE DAILY REST PERIOD IS A
37 VIOLATION OF THE PROTECTIONS AGAINST RETALIATION DESCRIBED IN
38 SECTION 8-12.5-109.

39 **8-12.5-106. Offer of work to existing covered employees -**
40 **compensation- rules.** (1) BEFORE HIRING A NEW COVERED EMPLOYEE
41 FROM AN EXTERNAL APPLICANT POOL OR THROUGH A CONTRACTOR,
42 INCLUDING HIRING THROUGH THE USE OF TEMPORARY SERVICES, STAFFING
43 AGENCIES, OR OTHER CONTRACTORS, A COVERED EMPLOYER SHALL:

1 (a) MAKE EVERY REASONABLE EFFORT TO SCHEDULE COVERED
2 EMPLOYEES TO WORK THE NUMBER OF WEEKLY WORK HOURS IDENTIFIED
3 BY COVERED EMPLOYEES AS DESIRED WEEKLY HOURS IN THEIR WRITTEN
4 STATEMENTS UNDER SECTION 8-12.5-102 (1)(a); AND

5 (b) OFFER AND DISTRIBUTE AVAILABLE HOURS OF WORK TO
6 EXISTING COVERED EMPLOYEES AS SPECIFIED IN RULES PROMULGATED BY
7 THE DIRECTOR. HOURS MUST BE OFFERED AND DISTRIBUTED TO COVERED
8 EMPLOYEES WHOSE REGULAR WORKPLACE IS THE LOCATION WHERE THE
9 WORK WILL BE PERFORMED OR, IF IT IS THE PREFERENCE OR PRACTICE OF
10 THE COVERED EMPLOYER TO SCHEDULE COVERED EMPLOYEES ACROSS
11 MULTIPLE LOCATIONS, TO COVERED EMPLOYEES WHO REGULARLY WORK
12 AT ANY LOCATION.

13 (2) A COVERED EMPLOYER MAY HIRE A NEW COVERED EMPLOYEE
14 FROM AN EXTERNAL APPLICANT POOL OR THROUGH A CONTRACTOR,
15 INCLUDING HIRING THROUGH THE USE OF TEMPORARY SERVICES, STAFFING
16 AGENCIES, OR OTHER CONTRACTORS, IF AN INSUFFICIENT NUMBER OF
17 EXISTING COVERED EMPLOYEES:

18 (a) ARE AVAILABLE TO WORK THE ADDITIONAL HOURS;

19 (b) HAVE, OR CAN OBTAIN WITH REASONABLE TRAINING, THE
20 QUALIFICATIONS NECESSARY TO PERFORM THE WORK; OR

21 (c) ARE ABLE TO WORK THE OFFERED HOURS WITHOUT REQUIRING
22 PAYMENT OF OVERTIME OR OTHER COMPENSATION AT A RATE NOT LESS
23 THAN ONE AND ONE-HALF TIMES THE EXISTING COVERED EMPLOYEE'S
24 REGULAR RATE OF PAY.

25 (3) IF A COVERED EMPLOYER FAILS TO OFFER EXISTING COVERED
26 EMPLOYEES OPPORTUNITIES TO WORK THEIR DESIRED NUMBER OF WEEKLY
27 WORK HOURS BEFORE HIRING A NEW COVERED EMPLOYEE, THE COVERED
28 EMPLOYER SHALL COMPENSATE EXISTING COVERED EMPLOYEES AT THE
29 EXISTING COVERED EMPLOYEES' REGULAR RATE OF PAY FOR THE HOURS
30 WORKED BY A NEWLY HIRED COVERED EMPLOYEE FOR SIX MONTHS.

31 **8-12.5-107. Fair treatment of part-time, seasonal, and**
32 **temporary employees.** (1) A COVERED EMPLOYER SHALL NOT OFFER TO
33 A COVERED EMPLOYEE LESS FAVORABLE EMPLOYMENT TERMS THAN
34 THOSE APPLICABLE TO OTHER EMPLOYMENT RELATIONSHIPS BASED ON THE
35 COVERED EMPLOYEE'S STATUS AS A PART-TIME, SEASON, OR TEMPORARY
36 EMPLOYEE.

37 (2) FOR PURPOSES OF THIS SECTION, EMPLOYMENT TERMS INCLUDE
38 COMPENSATION, OPPORTUNITIES FOR PROMOTION, ACCESS TO TRAINING,
39 AND ELIGIBILITY FOR BENEFITS ACCRUED BASED ON TIME WORKED.

40 (3) IN DISPUTES, WHEN A COVERED EMPLOYEE DEMONSTRATES
41 LESS FAVORABLE EMPLOYMENT TERMS COMPARED TO OTHER EMPLOYEES
42 WITH SIMILAR QUALIFICATIONS, JOB TENURE, RESPONSIBILITIES, JOB
43 TITLES, OR WORKING CONDITIONS, THE COVERED EMPLOYER SHALL PROVE

1 THAT THE LESS FAVORABLE EMPLOYMENT TERMS ARE NOT BASED ON THE
2 PART-TIME, SEASONAL, OR TEMPORARY NATURE OF THE COVERED
3 EMPLOYEE'S SCHEDULE.

4 (4) THIS SECTION DOES NOT PROHIBIT DIFFERENCES IN HOURLY
5 WAGES OR OTHER CONDITIONS OF EMPLOYMENT FOR REASONS OTHER
6 THAN AN EMPLOYEE'S PART-TIME, SEASONAL, OR TEMPORARY STATUS.

7 **8-12.5-108. Right of employees to request modified work**
8 **schedule or flexible working arrangement.** (1) ALL EMPLOYEES HAVE
9 THE RIGHT TO REQUEST A MODIFIED WORK SCHEDULE OR FLEXIBLE
10 WORKING ARRANGEMENT, WHICH MAY INCLUDE REQUESTS:

11 (a) TO NOT WORK CERTAIN SHIFTS, DAYS, TIMES, OR AT CERTAIN
12 LOCATIONS;

13 (b) FOR CHANGES IN DAYS OF WORK;

14 (c) FOR CHANGES IN SHIFT START AND END TIMES;

15 (d) TO NOT WORK ON-CALL SHIFTS;

16 (e) TO LIMIT AVAILABILITY TO CERTAIN DAYS AND TIMES;

17 (f) FOR PART-TIME EMPLOYMENT;

18 (g) FOR JOB-SHARING ARRANGEMENTS;

19 (h) FOR A REDUCTION OR CHANGE IN WORK DUTIES; OR

20 (i) FOR PART-YEAR EMPLOYMENT.

21 (2) EMPLOYEES MUST MAKE REQUESTS FOR A MODIFIED WORK
22 SCHEDULE OR FLEXIBLE WORKING ARRANGEMENT PURSUANT TO
23 SUBSECTION (1) OF THIS SECTION IN WRITING AT LEAST FOURTEEN DAYS
24 BEFORE THE EMPLOYEE WOULD LIKE THE MODIFIED WORK SCHEDULE OR
25 FLEXIBLE WORKING ARRANGEMENT TO GO INTO EFFECT, OR FEWER DAYS
26 PER EMPLOYER POLICY.

27 (3) EMPLOYERS MAY DENY REQUESTS FOR A MODIFIED WORK
28 SCHEDULE OR FLEXIBLE WORKING ARRANGEMENT PURSUANT TO
29 SUBSECTION (1) OF THIS SECTION FOR ANY REASON THAT IS NOT
30 UNLAWFUL. IF AN EMPLOYER DENIES A REQUEST FOR A MODIFIED WORK
31 SCHEDULE OR FLEXIBLE WORKING ARRANGEMENT AS DESCRIBED IN
32 SUBSECTION (1) OF THIS SECTION, THE EMPLOYER SHALL PROVIDE THE
33 EMPLOYEE WITH THE REASON FOR THE DENIAL IN WRITING.

34 (4) RETALIATING AGAINST AN EMPLOYEE FOR REQUESTING A
35 MODIFIED WORK SCHEDULE OR FLEXIBLE WORKING ARRANGEMENT
36 PURSUANT TO SUBSECTION (1) OF THIS SECTION IS A VIOLATION OF THE
37 PROTECTIONS AGAINST RETALIATION DESCRIBED IN SECTION 8-12.5-109.

38 **8-12.5-109. Retaliation prohibited - rebuttable presumption**
39 **of retaliation.** (1) THE RETALIATION PROTECTIONS DESCRIBED IN SECTION
40 8-4-120 PROTECT ANY INDIVIDUAL ATTEMPTING TO EXERCISE ANY RIGHT
41 PROTECTED UNDER THIS ARTICLE 12.5.

42 (2) IF AN EMPLOYER RETALIATES AGAINST AN EMPLOYEE WITHIN
43 NINETY CALENDAR DAYS AFTER THE EMPLOYEE EXERCISES A RIGHT

1 PROTECTED IN THIS ARTICLE 12.5, THERE IS A REBUTTABLE PRESUMPTION
2 THAT THE EMPLOYER HAS RETALIATED.

3 (3) IN THE CASE OF SEASONAL EMPLOYMENT THAT ENDS BEFORE
4 THE EXPIRATION OF THE NINETY-DAY PERIOD DESCRIBED IN SUBSECTION
5 (2) OF THIS SECTION, THE PRESUMPTION DESCRIBED IN SAID SUBSECTION
6 (2) APPLIES IF THE EMPLOYER FAILS TO REHIRE A FORMER EMPLOYEE AT
7 THE NEXT OPPORTUNITY TO HIRE THE FORMER EMPLOYEE FOR WORK IN
8 THE SAME POSITION.

9 **8-12.5-110. Notice of rights - rules.** (1) (a) THE DIRECTOR SHALL
10 PROMULGATE RULES TO ESTABLISH THE FORM OF A POSTER AND A
11 WRITTEN NOTICE, IN ENGLISH AND IN THE PRIMARY LANGUAGES SPOKEN
12 BY COVERED EMPLOYEES IN THE STATE, DESCRIBING COVERED EMPLOYEES'
13 RIGHTS AND PRIVILEGES UNDER THIS ARTICLE 12.5.

14 (b) COVERED EMPLOYERS SHALL DISPLAY THE POSTER IN THE
15 PRIMARY LANGUAGES SPOKEN BY FIVE PERCENT OR MORE OF COVERED
16 EMPLOYEES IN THE STATE IN A CONSPICUOUS PHYSICAL OR VIRTUAL PLACE
17 THAT IS READILY ACCESSIBLE AND VISIBLE TO COVERED EMPLOYEES AND
18 WHERE NOTICES TO COVERED EMPLOYEES ARE CUSTOMARILY POSTED.

19 (c) COVERED EMPLOYERS SHALL DISTRIBUTE THE WRITTEN NOTICE
20 TO EACH COVERED EMPLOYEE WITH THE COVERED EMPLOYEE'S FIRST
21 PAYCHECK ON OR AFTER JANUARY 1, 2024.

22 (2) THE DIRECTOR SHALL PROMULGATE RULES TO ESTABLISH THE
23 FORM AND DISTRIBUTION OF A SEPARATE WRITTEN NOTICE AND A
24 SEPARATE POSTER, IN ENGLISH AND IN THE PRIMARY LANGUAGES SPOKEN
25 BY FIVE PERCENT OR MORE OF COVERED EMPLOYEES, CONCERNING
26 EMPLOYEE RIGHTS UNDER SECTION 8-12.5-108.

27 **8-12.5-111. Employer records - compliance - identification of**
28 **pay in paychecks - rules.** (1) (a) EMPLOYERS SHALL KEEP RECORDS
29 NECESSARY TO DEMONSTRATE COMPLIANCE WITH THIS ARTICLE 12.5 AND
30 AS REQUIRED BY RULES PROMULGATED BY THE DIRECTOR.

31 (b) EMPLOYERS SHALL RETAIN THE RECORDS DESCRIBED IN
32 SUBSECTION (1)(a) OF THIS SECTION FOR THREE YEARS OR FOR THE
33 DURATION OF A CLAIM, CIVIL ACTION, OR INVESTIGATION PENDING
34 PURSUANT TO THIS ARTICLE 12.5, WHICHEVER IS LONGER.

35 (2) WHEN AN ISSUE ARISES AS TO AN EMPLOYER'S COMPLIANCE
36 WITH THIS ARTICLE 12.5, IF THE EMPLOYER DOES NOT MAINTAIN OR RETAIN
37 ADEQUATE RECORDS DOCUMENTING COMPLIANCE, IT IS PRESUMED THAT
38 THE EMPLOYER DID NOT COMPLY WITH THIS ARTICLE 12.5.

39 (3) A COVERED EMPLOYER SHALL INCLUDE IN EACH COVERED
40 EMPLOYEE'S REGULAR PAYCHECK ANY PAY PROVIDED TO THE COVERED
41 EMPLOYEE PURSUANT TO SECTIONS 8-12.5-104, 8-12.5-105, OR
42 8-12.5-106, AS APPLICABLE, FOR THE PERIOD IN WHICH THE PAY IS
43 ACCRUED. THE COVERED EMPLOYER SHALL IDENTIFY EACH TYPE OF

1 COMPENSATION INCLUDED IN THE PAYCHECK AS REQUIRED BY RULE
2 PROMULGATED BY THE DIRECTOR.

3 (4) UPON THE REQUEST OF ANY COVERED EMPLOYEE, AND IN
4 ACCORDANCE WITH SAFETY, PRIVACY, AND OTHER RULES PROMULGATED
5 BY THE DIRECTOR, A COVERED EMPLOYER SHALL PROVIDE TO THE
6 COVERED EMPLOYEE THE WORK SCHEDULES OF ALL COVERED EMPLOYEES
7 AT THE COVERED EMPLOYEE'S WORK LOCATION IN WRITING FOR ANY
8 PREVIOUS WEEK DURING THE PRECEDING TWO YEARS, INCLUDING THE
9 ORIGINALLY POSTED WORK SCHEDULES AND ANY MODIFIED VERSIONS OF
10 THEM.

11 **8-12.5-112. Mechanisms for seeking relief - rules.** (1) THE
12 DIRECTOR OR THE DIRECTOR'S DESIGNATED REPRESENTATIVE MAY
13 INVESTIGATE AND GATHER DATA PERTINENT TO MATTERS THAT MAY AID
14 IN CARRYING OUT THE PROVISIONS OF THIS ARTICLE 12.5. IN ANY CASE
15 WHERE A COMPLAINT HAS BEEN FILED WITH THE DIVISION REGARDING A
16 VIOLATION OF THIS ARTICLE 12.5, OR WHERE THE DIRECTOR HAS
17 REASONABLE GROUNDS TO BELIEVE THAT AN EMPLOYER HAS VIOLATED
18 PROVISIONS OF THIS ARTICLE 12.5, THE DIRECTOR OR THE DIRECTOR'S
19 DESIGNEE MAY INVESTIGATE AS PROVIDED BY ARTICLE 1 OF THIS TITLE 8.

20 (2) A PERSON WHO IS AGGRIEVED BY A VIOLATION OF THIS ARTICLE
21 12.5 MAY SEEK RELIEF BY:

22 (a) FILING A COMPLAINT WITH THE DIVISION WITHIN THREE YEARS
23 AFTER AN ALLEGED VIOLATION OF THIS ARTICLE 12.5 PURSUANT TO RULES
24 PROMULGATED BY THE DIRECTOR ESTABLISHING AN ADMINISTRATIVE
25 PROCEDURE TO RECEIVE COMPLAINTS AND ADJUDICATE CLAIMS FOR A
26 VIOLATION OF THIS ARTICLE 12.5. DETERMINATIONS MADE BY THE
27 DIVISION MAY BE:

28 (I) APPEALED PURSUANT TO SECTION 8-4-111.5 AND RULES
29 PROMULGATED BY THE DIRECTOR; AND

30 (II) ENFORCED BY THE DIVISION IN ACCORDANCE WITH ARTICLES
31 4 AND 6 OF THIS TITLE 8; OR

32 (b) BRINGING A CIVIL ACTION IN DISTRICT COURT.

33 **8-12.5-113. Available relief - equitable relief - damages - fines
34 and penalties.** (1) COVERED EMPLOYERS THAT OWN THREE OR FEWER
35 FRANCHISES WITH TWENTY OR FEWER EMPLOYEES AT EACH FRANCHISE
36 LOCATION ARE NOT SUBJECT TO ANY REMEDIES, FINES, PENALTIES, OR
37 STATUTORY DAMAGES FOR VIOLATIONS OF THIS ARTICLE 12.5 COMMITTED
38 BEFORE JANUARY 1, 2028.

39 (2) THE PAYMENTS OWED TO COVERED EMPLOYEES PURSUANT TO
40 SECTIONS 8-12.5-104, 8-12.5-105, AND 8-12.5-106 ARE WAGES
41 RECOVERABLE UNDER ARTICLES 4 AND 6 OF THIS TITLE 8 AND RULES
42 PROMULGATED PURSUANT TO SUCH ARTICLES 4 AND 6.

43 (3) IF THE DIVISION OR A COURT DETERMINES THAT THE RIGHTS

1 UNDER THIS ARTICLE 12.5 OF MULTIPLE EMPLOYEES HAVE BEEN VIOLATED,
2 EACH VIOLATION FOR EACH EMPLOYEE IS A SEPARATE VIOLATION FOR
3 PURPOSES OF FINES, PENALTIES, AND OTHER REMEDIES.

4 (4) THE COURT OR THE DIVISION MAY ORDER SUCH RELIEF AS THE
5 COURT OR THE DIVISION DEEMS APPROPRIATE, INCLUDING:

6 (a) AN ORDER DIRECTING COMPLIANCE WITH THIS ARTICLE 12.5 OR
7 WITH RULES PROMULGATED PURSUANT TO THIS ARTICLE 12.5;

8 (b) FOR EACH VIOLATION OF SECTION 8-12.5-102, 8-12.5-103,
9 8-12.5-104, 8-12.5-105, 8-12.5-106, OR 8-12.5-107, AN ORDER DIRECTING
10 COMPLIANCE WITH THE APPROPRIATE SECTION ON AN EMPLOYER-WIDE
11 BASIS; AND

12 (c) IF THE COURT OR THE DIVISION DETERMINES THAT AN
13 EMPLOYER VIOLATED SECTION 8-12.5-108, REINSTATEMENT OR REHIRING
14 OF THE EMPLOYEE, WITH OR WITHOUT BACK PAY, OR ANY OTHER
15 EQUITABLE RELIEF.

16 (5) (a) THE COURT OR THE DIVISION MAY ORDER STATUTORY
17 DAMAGES ON A PER-COVERED-EMPLOYEE AND PER-INSTANCE BASIS FOR
18 EACH VIOLATION, PAYABLE TO THE COVERED EMPLOYEE EACH CALENDAR
19 DAY AS FOLLOWS:

20 (I) FOR A VIOLATION OF SECTION 8-12.5-102, TWO HUNDRED
21 DOLLARS;

22 (II) FOR A VIOLATION OF SECTION 8-12.5-103, TWO HUNDRED
23 DOLLARS;

24 (III) FOR A VIOLATION OF SECTION 8-12.5-104, THREE HUNDRED
25 DOLLARS;

26 (IV) FOR A VIOLATION OF SECTION 8-12.5-105, FIVE HUNDRED
27 DOLLARS;

28 (V) FOR A VIOLATION OF SECTION 8-12.5-106, FIVE HUNDRED
29 DOLLARS; AND

30 (VI) FOR A VIOLATION OF SECTION 8-12.5-107, FIVE HUNDRED
31 DOLLARS.

32 (b) FOR EACH YEAR BEGINNING WITH CALENDAR YEAR 2025, THE
33 DIRECTOR SHALL INCREASE THE MAXIMUM AMOUNTS FOR THE PENALTIES
34 DESCRIBED IN SUBSECTION (5)(a) OF THIS SECTION BY AN AMOUNT
35 CORRESPONDING TO THE PRIOR YEAR'S INCREASE, IF ANY, OR BY THE
36 UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS
37 CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL
38 ITEMS PAID BY ALL URBAN CONSUMERS, OR ITS APPLICABLE PREDECESSOR
39 OR SUCCESSOR INDEX.

40 (6) THE COURT MAY ORDER THE EMPLOYER TO PAY PUNITIVE
41 DAMAGES TO AN AGGRIEVED PERSON IF THE AGGRIEVED PERSON
42 DEMONSTRATES BY CLEAR AND CONVINCING EVIDENCE THAT THE
43 COVERED EMPLOYER VIOLATED ANY PROVISION OF THIS ARTICLE 12.5
44 WITH MALICE OR RECKLESS INDIFFERENCE TO THE RIGHTS OF THE

1 AGGRIEVED PERSON.

2 (7) IF AN AGGRIEVED PERSON FILES A CIVIL ACTION IN DISTRICT
3 COURT UNDER THIS ARTICLE 12.5 SEEKING COMPENSATORY OR PUNITIVE
4 DAMAGES PURSUANT TO THIS SECTION, A PARTY TO THE CIVIL ACTION MAY
5 DEMAND A TRIAL BY JURY.

6 (8) IF THE COURT OR THE DIVISION DETERMINES THAT A VIOLATION
7 HAS OCCURRED, IN ADDITION TO ANY OTHER REMEDY PROVIDED IN THIS
8 TITLE 8, THE COURT OR THE DIVISION SHALL AWARD REASONABLE
9 ATTORNEY FEES AND COSTS TO THE AGGRIEVED PERSON WHO PREVAILED
10 IN THE ACTION.

11 (9) AN EMPLOYER BEARS THE BURDEN OF PROVING THAT AN
12 INDIVIDUAL IS, PURSUANT TO APPLICABLE LAW, AN INDEPENDENT
13 CONTRACTOR RATHER THAN AN EMPLOYEE.

14 **8-12.5-114. Collective bargaining.** (1) NOTWITHSTANDING ANY
15 PROVISIONS OF THIS ARTICLE 12.5 TO THE CONTRARY, THIS ARTICLE 12.5
16 DOES NOT APPLY TO EMPLOYEES COVERED BY A BONA FIDE COLLECTIVE
17 BARGAINING AGREEMENT IN EFFECT ON THE EFFECTIVE DATE OF THIS
18 ARTICLE 12.5 IF THE COLLECTIVE BARGAINING AGREEMENT PROVIDES FOR
19 EQUIVALENT OR MORE GENEROUS SCHEDULING PRACTICES FOR THE
20 EMPLOYEES COVERED BY THE COLLECTIVE BARGAINING AGREEMENT.

21 (2) FOR EMPLOYEES COVERED BY A BONA FIDE COLLECTIVE
22 BARGAINING AGREEMENT THAT IS INITIALLY NEGOTIATED OR NEGOTIATED
23 FOR THE NEXT COLLECTIVE BARGAINING AGREEMENT AFTER THE
24 EFFECTIVE DATE OF THIS ARTICLE 12.5, THIS ARTICLE 12.5 DOES NOT
25 APPLY TO SUCH EMPLOYEES IF SOME OR ALL OF THE REQUIREMENTS OF
26 THIS ARTICLE 12.5 ARE EXPRESSLY WAIVED IN THE COLLECTIVE
27 BARGAINING AGREEMENT AND THE COLLECTIVE BARGAINING AGREEMENT
28 PROVIDES FOR EQUIVALENT OR MORE GENEROUS SCHEDULING POLICIES
29 FOR THE EMPLOYEES COVERED BY THE COLLECTIVE BARGAINING
30 AGREEMENT.

31 **8-12.5-115. No avoidance of application.** (1) IT IS UNLAWFUL
32 FOR A COVERED EMPLOYER TO TAKE ANY ACTION TO AVOID THE
33 APPLICABILITY OF THIS ARTICLE 12.5, INCLUDING:

34 (a) CHANGING A REGULAR RATE OF PAY FOR ANY COVERED
35 EMPLOYEE;

36 (b) INTERFERING WITH, RESTRAINING, DENYING, OR CHANGING
37 SCHEDULED WORKDAYS OR HOURS FOR ANY COVERED EMPLOYEE;

38 (c) HIRING, REHIRING, TERMINATING, OR SUSPENDING, EVEN
39 TEMPORARILY, A COVERED EMPLOYEE; OR

40 (d) SCHEDULING ON-CALL SHIFTS IN A MANNER THAT DOES NOT
41 REFLECT THE GOOD FAITH SCHEDULING NEEDS OF THE COVERED
42 EMPLOYER.

43 (2) EXCEPT AS DESCRIBED IN SECTION 8-12.5-114, ANY

1 AGREEMENT BY ANY COVERED EMPLOYEE TO WAIVE THE COVERED
2 EMPLOYEE'S RIGHTS UNDER THIS ARTICLE 12.5 IS VOID AS AGAINST PUBLIC
3 POLICY.

4 **8-12.5-116. Rules.** THE DIRECTOR SHALL PROMULGATE RULES AS
5 REQUIRED BY THIS ARTICLE 12.5 AND SUCH ADDITIONAL RULES AS ARE
6 NECESSARY TO IMPLEMENT THIS ARTICLE 12.5.

7 **8-12.5-117. Severability.** IF ANY PROVISION OR APPLICATION OF
8 THIS ARTICLE 12.5 TO ANY PERSON OR CIRCUMSTANCE IS JUDGED INVALID,
9 THE INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS
10 OF THIS ARTICLE 12.5 THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID
11 PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS
12 ARTICLE 12.5 ARE DECLARED SEVERABLE.

13 **SECTION 2. Act subject to petition - effective date -**
14 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
15 the expiration of the ninety-day period after final adjournment of the
16 general assembly; except that, if a referendum petition is filed pursuant
17 to section 1 (3) of article V of the state constitution against this act or an
18 item, section, or part of this act within such period, then the act, item,
19 section, or part will not take effect unless approved by the people at the
20 general election to be held in November 2024 and, in such case, will take
21 effect on the date of the official declaration of the vote thereon by the
22 governor.

23 (2) This act applies to conduct occurring on or after April 1,
24 2024."

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