

1969

Amending 80-21-6, 82-3-7 (1), 82-3-10 (2), 82-4-2 (2), 82-4-8 (4) and (7) (a), 82-4-10 (4), 82-5-2 (1), 82-6-3, 82-6-4 (1) (a), and 82-11-1 (4) (a), Colorado Revised Statutes 1963, as Amended, Concerning Employment.

Colorado General Assembly

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Recommended Citation

Colorado General Assembly, "Amending 80-21-6, 82-3-7 (1), 82-3-10 (2), 82-4-2 (2), 82-4-8 (4) and (7) (a), 82-4-10 (4), 82-5-2 (1), 82-6-3, 82-6-4 (1) (a), and 82-11-1 (4) (a), Colorado Revised Statutes 1963, as Amended, Concerning Employment." (1969). *Session Laws 1951-2000*. 4996.
<https://scholar.law.colorado.edu/session-laws-1951-2000/4996>

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CHAPTER 206

**LABOR I — INDUSTRIAL COMMISSION AND
GENERAL PROVISIONS****ANTIDISCRIMINATION IN EMPLOYMENT — DIVISION OF EMPLOYMENT**

(Senate Bill No. 334. By Senators Kemp, Armstrong, and Jackson; also Representatives Byerly, Hinman, Sack, Schafer, Showalter, and Younglund.)

A N A C T

AMENDING 80-21-6, 82-3-7 (1), 82-3-10 (2), 82-4-2 (2), 82-4-8 (4) AND (7) (a), 82-4-10 (4), 82-5-2 (1), 82-6-3, 82-6-4 (1) (a), AND 82-11-1 (4) (a), COLORADO REVISED STATUTES 1963, AS AMENDED, CONCERNING EMPLOYMENT.

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

Section 1. 80-21-6, Colorado Revised Statutes 1963, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

80-21-6. Discriminatory and unfair employment practices.—(8) Notwithstanding any provisions of this section to the contrary, it shall not be an unlawful discriminatory practice for the division of employment of the department of labor and employment to ascertain and record the age, sex, race, creed, color, or national origin of any individual for the purpose of making such reports as may be required by law to agencies of the federal or state government only. Said records may be made and kept in the manner required by the federal or state law, but no such information shall be divulged by said division or department to prospective employers as a basis for employment, except as provided in this subsection.

Section 2. 82-3-7 (1), Colorado Revised Statutes 1963, is amended to read:

82-3-7. Records and reports.—(1) Each employing unit shall keep true and accurate work records, containing such information as the department DIVISION OF EMPLOYMENT may prescribe. Such records shall be retained for a period of not less than five years and shall be open to inspection and be subject to being copied by the department DIVISION or its authorized representatives at any reasonable time and as often as may be necessary. The department DIVISION or any referee may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which he or it deems necessary, for the effective administration of this chapter. Information thus obtained, or obtained from any individual pursuant to the administration of this chapter, shall, except to the extent necessary for the proper presentation of a claim, be held confidential and shall not be published or be open to public inspection,

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

other than to public employees in the performance of their public duties OR TO AN AGENT OF THE DIVISION, DESIGNATED AS SUCH IN WRITING FOR THE PURPOSE OF ACCOMPLISHING CERTAIN OF THE DIVISION'S FUNCTIONS, in any manner revealing the individual's or employing unit's identity, but any claimant, or his legal representative, at a hearing before a referee or the commission shall be supplied with information from such records to the extent necessary for the proper presentation of a claim. Any employee or member of the ~~department~~ DIVISION or any referee who violates any provision of sections 82-3-1 to 82-3-10, AS AMENDED, shall be fined not less than twenty dollars nor more than two hundred dollars, or imprisoned for not longer than ninety days or both.

Section 3. 82-3-10 (2), Colorado Revised Statutes 1963, is amended to read:

82-3-10. Reciprocal interstate agreements.—(2) The ~~department~~ DIVISION OF EMPLOYMENT is hereby authorized to enter into reciprocal arrangements with appropriate and duly authorized agencies of other states or of the federal government, or both, whereby wages ~~upon the basis of which an individual may become entitled to benefits under an employment security law of another state or of the federal government, shall be deemed to be wages for insured work for the purpose of determining his benefits under this chapter, and wages for insured work, on the basis of which an individual may become entitled to benefits under this chapter,~~ FOR INSURED WORK PAID IN ANOTHER STATE OR OF THE FEDERAL GOVERNMENT SHALL BE DEEMED TO BE WAGES FOR INSURED WORK UNDER THIS CHAPTER; AND WAGES FOR INSURED WORK PAID UNDER THE PROVISIONS OF THIS CHAPTER shall be deemed to be wages on the basis of which unemployment insurance is payable under such law of another state or of the federal government. No such arrangement shall involve the ~~provision of section 82-4-7, and~~ No such arrangement shall be entered into unless it contains provision for reimbursement to the fund for such of the benefits paid under this chapter on the basis of such wages, and provision for reimbursement from the fund for such benefits paid under such other law on the basis of wages for insured work, as the ~~department~~ DIVISION finds will be fair and reasonable to all affected interests. Reimbursements paid from the fund pursuant to this section shall be deemed to be benefits for the purposes of this chapter, except that no charge shall be made to an employer's account under sections 82-6-1 to 82-6-4, AS AMENDED.

Section 4. 82-4-2 (2), Colorado Revised Statutes 1963, is amended to read:

82-4-2. Weekly benefit amount for total unemployment.—(2) There shall be deducted from the weekly benefit amount that part of wages payable to such individual with respect to such week which is in excess of ~~three~~ NINE dollars, and the weekly benefit amount resulting shall be computed to the next higher multiple of ~~fifty cents~~ ONE DOLLAR.

Section 5. 82-4-8 (4) (g) and (7) (a), Colorado Revised Statutes 1963 (1965 Supp.), are amended, and said 82-4-8 (4), Colorado Revised Statutes 1963 (1965 Supp.), is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

82-4-8. Benefit awards.—(4) (g) (i) Accepting a better job. In determining whether or not the job accepted is a better job, the ~~department~~ DIVISION OF EMPLOYMENT shall consider, but shall not be limited to a consideration of, the rate of pay, the hours of work, and the probable

permanency of the job quit as compared to the job accepted, the cost to the worker in getting to the job quit and to the job accepted, the distance from the worker's place of residence to the job accepted in comparison to the distance from the worker's residence to the job quit, and whether or not such worker acted as a reasonably prudent individual would have acted under the same or similar conditions. ~~provided, that~~ In addition to the above stated conditions, no job shall be considered better unless it meets all of the following conditions: IS OFFERED TO AND ACCEPTED BY THE WORKER PRIOR TO THE DATE OF HIS QUITTING AND MEETS THE FOLLOWING CONDITIONS SET FORTH IN SUBPARAGRAPHS (ii) AND (iii) OF THIS PARAGRAPH:

(ii) That it is offered to and accepted by the worker prior to the date of his quitting;

(iii) (ii) That IT DOES NOT HAVE A DEFINITE TERMINATION DATE OF LESS THAN ONE YEAR AND it lasts at least ninety calendar days from the first date of employment on the job accepted unless sooner terminated under conditions of which, in the judgment of the department DIVISION, the worker had no knowledge at the time he accepted the job and over which he had no control, BUT A JOB SHALL NOT BE CONSIDERED BETTER IF IT LASTS LESS THAN NINETY DAYS DUE TO A LACK OF WORK, THE ABSENCE OF SAID KNOWLEDGE AND CONTROL NOTWITHSTANDING;

(iv) That it does not have a definite termination date of less than one year from the first date of employment on the job accepted;

(v) (iii) Provided further, that The ninety-day and one-year provisions set forth above shall not apply to a construction worker who quits A CONSTRUCTION JOB within thirty days immediately preceding the termination date of the job quit and who at the time of his quitting has been offered and has accepted another CONSTRUCTION job prior to the date of quitting, which other job offers employment for a longer period of time than remained available on the job quit unless the job accepted was terminated by a contract cancellation.

(iv) For the purpose of this paragraph (g) the job accepted shall be considered to exist only for so long as the worker is actually in employment.

(o) Quitting employment under conditions which would not have resulted in a denial of benefits under the provisions of subsection (6) (c) of this section.

(7) (a) Optional award.—If in the administration of this chapter the department DIVISION OF EMPLOYMENT determines that a claim for benefits is not specifically covered under other provisions of this section, the department DIVISION shall grant a full award, fifty per cent of full award, or special award, or make a determination of no award. A complete list of any determinations so made shall be maintained by the department and shall be transmitted to the governor, the speaker of the house of representatives, and the president of the senate at the beginning of each ensuing session of the general assembly, together with the disposition made in each such case. The department shall maintain a cumulative record, which shall not disclose the names or in any other manner identify the interested parties, which shall be open to the inspection of the public during normal working hours of the department. Said records shall state the issue involved, the pertinent facts, and the award made, if any. The general assembly hereby determines that by reason of the wide variance of facts and the conditions surrounding the causes of separation from work, the department DIVISION shall include the following causes

for separation from work under optional award: Tardiness, absenteeism, garnishment, constructive criticism, abuse of coffee break privileges, overstaying of lunch periods, sleeping on the job, and loafing on the job.

Section 6. 82-4-10 (4), Colorado Revised Statutes 1963 (1965 Supp.), is amended to read:

82-4-10. Other remuneration.—(4) Individuals who have attained age ~~sixty-two~~ and are less than sixty-five years of age and who receive retirement payments in the form of a primary insurance benefit under title II of the social security act, as amended, shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration, and any such amounts which have been deducted from the benefit payment by reason of the provisions of this subsection shall not be available for future benefits. If an unemployment compensation claimant has applied for the payments indicated in this paragraph, the department DIVISION OF EMPLOYMENT is authorized to make a determination of the amount of such entitlement and such determination shall be final and binding upon the claimant and not subject to review or adjustment until such time as the claimant presents to the department DIVISION a valid determination of such remuneration.

Section 7. 82-5-2 (1), Colorado Revised Statutes 1963, is amended to read:

82-5-2. Initial determination.—(1) An individual designated by the department DIVISION OF EMPLOYMENT, and hereinafter referred to as the deputy, shall promptly examine the claim and, on the basis of the facts found by him, shall either determine whether or not such claim is valid, and if valid, the earliest week with respect to which benefits may commence, IF DETERMINABLE, the weekly benefit amount payable, and the maximum duration thereof.

Section 8. 82-6-3, Colorado Revised Statutes 1963, as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

82-6-3. Future rates based on benefit experience.—(6) Whenever there has been a period of five consecutive calendar years during which there were no wages paid for services considered employment under the provisions of this chapter, any balance shown in the employer's account will not be transferred nor be used for contribution rating purposes in the event such employer again becomes liable under this chapter.

Section 9. 82-6-4 (1) (a), Colorado Revised Statutes 1963, is amended to read:

82-6-4. Successor employer.—(1) (a) Whenever an employer transfers DIRECTLY TO A SUCCESSOR WHO WILL CONTINUE THE BUSINESS by way of sale, lease, gift, exchange, or any other manner:

Section 10. 82-11-1 (4) (a), Colorado Revised Statutes 1963 (1967 Supp.), is amended to read:

82-11-1. Penalties.—(4) (a) Any person who has received any sum as benefits under this chapter to which he was not entitled BY REASON OF HIS FALSE REPRESENTATION OR WILLFUL FAILURE TO DISCLOSE A MATERIAL FACT, IF SO FOUND BY THE DIVISION OF EMPLOYMENT, shall be liable to repay such sum to the department DIVISION for the fund; such sum shall be collectible in the manner provided in sections 82-9-2 to 82-9-8, AS AMENDED, for the collection of past due contributions, or, if collection efforts fail, such sum shall be deducted from

any future benefits payable to such person under this chapter. ANY PERSON WHO HAS RECEIVED ANY SUM AS BENEFITS UNDER THIS CHAPTER TO WHICH HE WAS NOT ENTITLED OTHER THAN BY REASON OF HIS FALSE REPRESENTATION OR WILLFUL FAILURE TO DISCLOSE A MATERIAL FACT, IF SO FOUND BY THE DIVISION, SHALL BE LIABLE TO REPAY SUCH AMOUNT TO THE DIVISION FOR THE FUND OR TO HAVE FUTURE BENEFITS TO WHICH HE MAY BECOME ENTITLED CANCELLED TO OFFSET SUCH OVERPAYMENT IF SUCH RECOVERY WOULD NOT, IN THE OPINION OF THE DIVISION, BE AGAINST EQUITY AND GOOD CONSCIENCE. The department DIVISION may waive the recovery or adjustment of all or part of the amount of any such overpayment which it finds to be noncollectible, or the recovery or adjustment of which it finds to be administratively impracticable. The department shall include with each payment of such benefits, a printed notice containing the provisions of this subsection (4):

Section 11. Effective date.—This act shall take effect July 1, 1969.

Section 12. Safety clause.—The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 7, 1969