Preface

This Supplement covers legal developments up through June 2025. Some of the major developments are summarized below.

Colorado Statutes

Wage Claim Act

H.B. 25-1001 made the following important amendments to the Wage Claim Act:

- Expands definition of "Employer" to include persons with at least 25% ownership interest in an employer unless they are a minority owner who can demonstrate that they have fully delegated control of day-to-day operations to another.[1] *See* §§ 4:14, 4:19.
- Replaces reference to minimum wage established under Fair Labor Standards Act with "the applicable minimum wage."[2]
- Authorizes the Director to waive civil penalties for claims of unpaid wages not paid within 14 days of written demand, if the employer pays the wages within 14 days of being served with an administrative claim, unless the employer was previously subject to a claim of refusal to pay in the past five years.[3] *See* § 4:25.
- Changes the basis for awarding fees and costs to an employer from instances where employees fail to recover a sum greater than the amount the employer tendered, to instances where the court finds that employees pursued an action lacking substantial justification.[4] *See* § 4:25.
- Clarifies that employees may file civil suit in addition to seeking any other relief available under the Act.[5] *See* § 4:27.
- Provides for a progressive increase in the amount of unpaid wages or compensation that can be pursued through administrative procedures.[6] *See* § 4:27.
- Mandates the publication of findings against employers and referral to other government bodies for violation of wage

---

[1] § 8-4-101(6), C.R.S.

[2] § 8-4-105(2), C.R.S.

[3] § 8-4-109(3.5), C.R.S.

[4] § 8-4-110(1)(a)(II), C.R.S.

[5] § 8-4-110(2), C.R.S.

[6] § 8-4-111(1)(a)(II), C.R.S.

and hour laws and failure to remediate a willful violation.[7] *See* § 4:25.

- Authorizes city or county prosecutors to prosecute wage and hour violations that come their attention.[8] *See* § 4:25.
- Authorizes local jurisdictions to enact laws related to payment of wages provided such laws do not diminish the protections of employees outlined in the Wage Claim Act.[9]
- Authorizes fines (which may be subsequently increased based on consumer price index) for employers found to have misclassified an employee as a nonemployee in a manner that affected wages or reporting obligations.[10] *See* § 2:7, 4:27.
- Expands discrimination and retaliation protections to cover workers as well as employees. Prohibits discrimination or retaliation by any person who is contracted with an employer or who contracts directly with a worker. Expands damages for discriminatory or retaliatory action to include compensatory damages. Stipulates that a period of 90 days between the exercise of protected activity and adverse action may show retaliatory intent, but that retaliatory intent may still be found if the period is more than 90 days. Prohibits use of a person's immigration status to discriminate or retaliate against them for exercising wage and hour rights.[11] *See* § 4:25, 4:27, 11:8.
- Obligates the Division to report to the Joint Budget Committee regarding implementation of HB 25-1001 including the level of staffing and resources required and the number of complaints and investigations performed.[12]

Access to the Department of Labor and Employment's Vocational Rehabilitation Services

H.B. 25-1018 amends section 8-84-106, C.R.S. to only require an applicant or eligible person to have a disability and eliminate additional requirements for eligibility to receive vocational rehabilitation services. It authorizes the department to provide goods and services to individuals with disabilities without consideration of financial need, except during a period of cost containment due to insufficient financial resources. The requirement that a person with a disability or their financially responsible relative contribute towards their vocational rehabilitation services was eliminated.

---

[7] § 8-4-111(1)(a.5), C.R.S.

[8] § 8-4-111(8), C.R.S.

[9] § 8-4-111(9), C.R.S.

[10] § 8-4-113(1)(a)(I.5), C.R.S.

[11] § 8-4-120, C.R.S.

[12] § 8-4-120.5, C.R.S.

Local Governments Tip Offsets for Tipped Employees

H.B. 25-1208 establishes that until January 1, 2026 a local minimum wage different from the state minimum wage must include a tip offset of $3.02. After January 1, 2026, local governments may increase the amount of tip offset associated with a local minimum wage but may not impose a tip offset that would allow tipped employees to earn less than the state minimum wage minus $3.02.[13] *See* § 4:13.

Modification of Remedy Provisions in the Colorado Anti-Discrimination Act

H.B. 25-1239 makes the following substantive changes to CADA:

- Clarifies that it is unlawful to discriminate against any person or group because they have requested reasonable accommodations on the basis of disability.[14]
- Increases the statutory fine for violation of CADA from $3,500 to $5,000 per violation, payable to the plaintiff. Alternatively, actual damages may be awarded, including for noneconomic losses, but noneconomic loss damages are capped at $50,000. The cap on noneconomic loss damages may be reduced to $25,000 if the defendant corrects the violation within 30 days of the complaint being filed or shows good faith effort to correct the violation within 30 days and corrects the violation within 120 days provided the employer did not knowingly, intentionally, or recklessly cause the violation.[15]
- Provides that in suits for disability discrimination, Americans with Disabilities Act standards apply.[16]
- Authorizes aggrieved parties to file a claim in a court of competent jurisdiction and authorizes such courts to assess damages as outlined above, except that the reduced cap on noneconomic loss damages is limited to small businesses only (defined as an employer with 25 for fewer employees and generating no more than $3.5 million in gross annual income). Provides that a person seeking redress through the courts may not also seek relief through the commission.[17]

---

[13] § 8-6-101(3.5), C.R.S.

[14] § 24-34-601(2.5), C.R.S.

[15] § 24-34-602(1), C.R.S.

[16] § 24-34-602(4), C.R.S.

[17] § 24-34-707, C.R.S.

- Authorizes the use of penalties for violations of a disabled individual's right to use a service animal.[18]
- Mandates that a testing agency grant testing accommodations if a person either shows proof of having a prior accommodation on similar tests or a recommendation letter from a medical professional recommending the accommodation; the testing agency cannot require both.[19]

Limitations on Restrictive Employment Agreements

SB 25-083 implements the following changes to the noncompetition statute:

- Exempts doctors, advanced practice registered nurses, and dentists, from the general exemption of highly compensated workers from the bar on covenants not to compete and covenants not to solicit customers.[20]
- Defines "health-care provider," "practice as a certified midwife," "practice of advanced practice registered nurses," "practice of dentistry," and "practice of medicine."[21]
- Clarifies that trade secret protections are not prohibited.[22]
- Clarifies that "a covenant for the purchase and sale of a business or the assets of a business" refers to a covenant not to compete related to such sale. Provides how to calculate when such a covenant for a minority owner who received compensation in the sale is allowable.[23]
- Replaces language regarding covenants not to compete as applied to the practice of medicine with a general statement that agreements that do not include an unlawful restrictive covenant are enforceable.[24]
- Defines a covenant that restricts the practice of medicine, the practice of advanced registered nursing, or the practice of dentistry.[25]

See §§ 7:2, 7:3, 7:6.

Repealing of Provisions Prohibiting an Employer from Interfering with Agricultural Employee's Access to Service Providers

SB 25-128 eliminates provisions in the Colorado law that were similar to a California law struck down by the U.S. Supreme

---

[18] § 24-34-804(3)(a)(I), C.R.S.

[19] § 24-34-806(3)(a), C.R.S.

[20] § 8-2-113(2)(b), (2)(d), C.R.S.

[21] § 8-2-113(2)(c), C.R.S.

[22] § 8-2-113(3)(b), C.R.S.

[23] § 8-2-113(3)(c), C.R.S.

[24] § 8-2-113(5), C.R.S.

[25] § 8-2-113(5.5), C.R.S.

Court in *Cedar Point Nursery v. Hassid*.[26] The law eliminates the mandate for employers allow agricultural workers reasonable access to healthcare while working.[27] The law now forbids interfering with the agricultural worker's rights to access service providers off the employer's property or to access service providers through remote channels such as telehealth while on the employer's property. "Employer's Property" is any property "which the employer holds ownership or possessory interest or a right to exclude." The Director is authorized to adopt rules regarding additional times where an employer may not interfere with an agricultural worker's right to access service providers off the employer's property and prohibits any rule that would infringe upon an employer's property rights or conflict with the common law rights of individuals to access private property in a time of emergency.[28] *See* § 4:35.

Changes to the Paid Family Medical Leave Insurance Act

Beginning January 1, 2026, SB 25-144 requires an additional twelve weeks of paid family and medical leave for covered individuals whose child is a patient in a neonatal intensive care unit for the duration of the care.[29] The law also addresses how premium rates will be established going forward.[30] *See* § 5:39.

Protections for Delivery Network Company Drivers Act

H.B. 24-1129[31] improves wage and task transparency by requiring specific information to be disclosed to gig workers of delivery network companies (DNCs) in order to provide workers information necessary to make good decisions about which tasks to accept. It also requires a DNC to develop and maintain an account deactivation policy that: 1) clearly establishes procedures for deactivating a driver from the platform, 2) allows a driver to request a reconsideration of the deactivation, and 3) ensures a driver is not penalized for failing to respond to a delivery task offer. *See* § 4:43.

Transportation Network Company Transparency Act

---

[26] 594 U.S. 139 (2021).

[27] § 8-13.5-202(1)(b), C.R.S.

[28] § 8-13.5-202(1)(c), C.R.S.

[29] § 8-13.3-505(1), C.R.S.

[30] § 8-13.3-507(3), C.R.S.

[31] § 8-4-126, C.R.S.

S.B. 24-075[32] requires a transportation network companies (TNCs) to provide various disclosures to drivers regarding what portion of the payments that a consumer makes is paid to the driver. A TNC must develop a driver deactivation and suspension policy describing the TNC's procedures for deactivating or suspending a driver from the TNC's digital platform and describing procedures for reconsideration of a TNC's decision to deactivate a driver. The TNC is required to disclose the policy and comply with it. The TNC cannot require a dispute related to deactivation to be adjudicated out of state or require the driver to pay the TNC's costs or attorney fees related to the dispute. The act also requires a TNC to disclose to its drivers and to consumers what portion of the consumer's payment is paid to the driver. *See* § 4:44.

Colorado Department of Labor and Employment, Division of Labor Standards and Statistics (DLSS)

Rulemaking

The Department of Labor and Employment, Division of Labor Standards and Statistics (DLSS) updated many of its rules and promulgated new rules.

Besides the usual annual updates to the minimum wage and exemption amounts, the **Colorado Overtime and Minimum Pay Standards Order #39** (7 CCR 1103-1) updates the Rule 1.2 (E) exemption salary based on inflation due to expiration of phased-in exemption rates (Rule 1.2 (E), (G)).

There are new **Delivery Network Company (DNC) and Transportation Network Company (TNC) Acts (DATA) Labor Rules** (7 CCR 1103-19).

Wage Protection Rules (7 CCR 1103-7) were amended to include a definition of "written demand" updated to reflect that a person must send a written demand at the time when wages are owed and past due to be valid (Rule 2.16). Language regarding CDLE enforcement authority was updated to ensure consistency with the Amendments to the Colorado Youth Employment Opportunity Act (Rule 9). *See* § 4:25.

The **Protection for Public Workers Act (PROPWA) Rules** (7 CCR 1103-17) had extensive changes, as follows:

- Recognizes a party's right to operate through authorized representatives. Rule 2.1.
- Clarifies "Director" to include the Director or a designee. Rule 2.2.

[32] § 8-4-127, C.R.S.

- Clarifies that workplace committees or advisory councils created by the employer are not "Employee organizations." Rule 2.4.
- Grants the CDLE Director jurisdiction over all employment in the state, including public employment. Rule 2.5.
- Clarifies definition of "Confidential Employee" to (1) include employees who engage in confidential strategizing or planning even when the data or documents created are non-confidential public records, and (2) clarify that any employee may lose PROPWA protection if they fail to maintain confidentiality required by Rules 4.2.1(A) and 4.3.2(A). Rule 2.7.1.
- Defines "Policy-level Employee" (which replaces "executive employee" and "managerial employee") to include employees whose higher-level duties imply limits on expressive or concerted activity contrary to those duties but to exclude supervisory employees who lack significant input into employer policies. Rule 2.7.2.
- Clarifies that presumptively protected speech or concerted activity that is overly disruptive for a reason other than disagreement with the content or viewpoint of the speech or activity may lose its protection. Rule 4.2.1; Rule 4.3.2(A).
- Expands limitation of expressive activity that is contrary to certain official duties or that violates reasonable time, place, and manner restrictions. Rule 4.2.2, 4.2.3.
- Clarifies that limitation of expressive activity of a political nature contrary to the duties of an employee only applies to "Policy-level Employees." Rule 4.2.4.
- Defines "Concerted Activity" to match the National Labor Relations Act definition. Rule 4.3.1.
- Allows an employer to put reasonable, non-discriminatory restrictions on non-work-related solicitation or distribution of materials. Rule 4.3.2(C).
- Affirms public employers' right to take adverse action against an employee engaged in protected activity for a legitimate reason, provided such action is not imposed in whole or in part to discriminate against, interfere with, or otherwise deter protected activity. Rule 4.4.1.
- Clarifies limitations on overly broad or discriminatorily applied employer policies. The standard is whether an employer's interpretation of a restrictive policy is unreasonable or strained "in light of factors such as past practice, the context of the workplace, and the field of work." Rule 4.4.2.
- Adopts the standard established in NLRB v. Gissell Packing Co. 395 U.S. 575 (1969) on an employer's right to express views concerning unionization. Allows statements predicting the effects of unionization based on objective facts beyond the employer's control but bars statements

implying possible actions of the employer based solely on its own initiative. Rule 4.4.3.

- Allows CDLE to initiate a complaint or investigation of unfair labor practices based on tips or other leads. Rule 5.1.1(F).
- Clarifies that the CDLE may consider whether there is a collective bargaining agreement which provides for arbitration of disputes of the kind at issue in its decision of whether to investigate a claim. Rule 5.1.2.
- Provides that a charging party may withdraw an unfair labor practice complaint prior to the CDLE's issuance of determination by following the procedures outlined in the LPIR Rules. Rule 5.1.4.

Formal Opinions

The Colorado Department of Labor and Employment, Division of Labor Standards and Statistics (DLSS) has continued to revise many of its Interpretive Notice, Formal Opinions and Guidance documents ("INFOs") and issued four new ones: INFO #9D, #9E, #23A, and #23B. Many INFOs have been re-titled. Section VII of the Handbook contains all up-to-date versions of those publications as of June 2025. New or revised INFOs in Section VII are:

- #1: COMPS Order 39 (2025)
- #8: Equal Pay by Sex: The Colorado Equal Pay for Equal Work Act, Part 1
- #9D: Accessing Consumer Credit Information: The Colorado Employment Opportunity Act
- #9E: Access to Personal Social Media: Colorado Social Media and the Workplace Law
- #12: Summary: Agricultural Labor Rights & Responsibilities
- #12A: Overtime and Minimum Wage Obligations for Agricultural Employment
- #12D: Enforcement: Scope of Coverage; Notice of Rights; Protected Activity & Retaliation; Complaints & Remedies
- #15B: The Collective Bargaining by County Employees Act ("COBCA")
- #15C: Speech and Organizing Rights for Government Employees under the Protections for Public Workers Act ("PROPWA")
- #19: Local Minimum Wages
- #21: Reporting Required by Supplemental Healthcare Staffing Agencies
- #22: Employment of Minors in Colorado
- #23A: Delivery Network Companies (DNCs): Driver Rights and Labor Transparency
- #23B: Transportation Network Companies (TNCs): Driver Rights and Labor Transparency

Federal Legislation

Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act

It had been argued that mandatory employment arbitration was a barrier to getting justice for victims of sexual harassment in the workplace.[33] As a result, Congress passed the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act on March 3, 2022[34] to allow victims of sexual assault or sexual harassment in the workplace (or in other contexts covered by arbitration agreements) to choose how to pursue their claims. The Act invalidates pre-dispute mandatory arbitration clauses in employment contracts or agreements that apply to any claim under federal, tribal, or state law related to sexual assault or sexual harassment. Victims have the right to opt out of arbitration and bring their claims to court, where they can have a public trial. *See* §§ 3:17, 8:14.

Trump Executive Orders

For eighty years, beginning with Executive Order 8802 issued by President Roosevelt in 1941,[35] presidents of both parties have issued or affirmed executive orders prohibiting discrimination in employment by government contractors. In 1965, President Johnson issued Executive Order 11246,[36] which (as amended by Executive Order 11375 in 1967) prohibited discrimination by federal contractors based on race, color, national origin, religion, or sex. Executive Order 11246, as amended, is implemented by Revised Order No. 4[37] and enforced by the Office of Federal Contract Compliance Programs in the Department of Labor.

In 1969, President Nixon issued Executive Order 11478,[38] prohibiting discrimination in federal employment based on race, color, religion, sex, or national origin. In 1978, President Carter added disability and age to its categories of prohibited discrimination. Exec. Order No. 12106.[39] President Clinton added sexual orientation as a prohibited basis for discrimination in

---

[33] *See* Jean R. Sternlight, Mandatory Arbitration Stymies Progress Towards Justice in Employment Law: Where to, #MeToo?, 54 Harv. C.R.–C.R. L. Rev. 155 (2019); Kathleen McCullough, Note, Mandatory Arbitration and Sexual Harassment Claims: #MeToo-and Time's Up-Inspired Action Against the Federal Arbitration Act, 87 Fordham L. Rev. 2653 (2019).

[34] 9 U.S.C. §§ 401-402.

[35] 3 C.F.R. § 234 (1941).

[36] 3 C.F.R. § 339 (1965).

[37] 41 C.F.R. § 60 (1999).

[38] 34 Fed. Reg. 12985 (1969).

[39] 44 Fed. Reg. 1053 (1978).

federal employment. Exec. Order No. 13087.[40] President Obama added gender identity as a prohibited basis for discrimination. Exec. Order No. 13672.[41]

Trump rescinded executive orders prohibiting discrimination, including:

- Executive Order 14148,[42] rescinding Executive orders 14035 (diversity, equity, inclusion, and accessibility), 14069 (pay equity and transparency), and 13988 (sexual orientation and gender identity discrimination);
- Executive Order 14151,[43] ending all diversity, equity and inclusion programs;
- Executive Order 14168,[44] purporting to redefine "sex" and prohibit limits on gender identity discrimination; and
- Executive Order 14173,[45] rescinding Johnson's executive order 11246, and all executive orders amending it.

The Trump regime clearly views "diversity, equity, inclusion, and accessibility" efforts as illegal, inconsistent with caselaw. It is difficult to predict at this point how these orders might affect enforcement or development of antidiscrimination law. *See* §§ 3:3, 16:21, 17:76.

United States Supreme Court

E.M.D. Sales, Inc. v. Carrera[46] held that the employer has the burden of establishing by a preponderance of the evidence that an employee is exempt from the minimum-wage and overtime-pay provisions of the Fair Labor Standards Act. *See* § 4:8.

United States v. Skrmetti[47] limited *Bostock* solely to Title VII claims and upheld Tennessee's law banning gender-affirming medical care for minors, ruling 6–3 that the statute did not violate the Equal Protection Clause. The majority held that the law neither discriminates based on sex nor targets transgender individuals as a class. The Court emphasized that *Bostock* was limited to Title VII's text-based framework and did not apply to constitutional equal protection claims. *See* § 17:23.

---

[40] 3 C.F.R. 191 (1998), reprinted as amended in 42 U.S.C. § 2000e (2000).

[41] 3 C.F.R. 282 (2015).

[42] 90 Fed. Reg. 8237 (Jan. 20, 2025).

[43] 90 Fed. Reg. 8339 (Jan. 20, 2025).

[44] 90 Fed. Reg. 8615 (Jan. 20, 2025).

[45] 90 Fed. Reg. 8633 (Jan. 21, 2025).

[46] 604 U.S. 45, 54, 145 S. Ct. 34, 41, 220 L. Ed. 2d 309 (2025).

[47] 605 U.S. __ (June 18, 2025).

Ames v. Ohio Department of Youth Services[48] held that Title VII of the Civil Rights Act of 1964 does not permit courts to impose a heightened "background circumstances" requirement on majority group plaintiffs alleging workplace discrimination. The decision rejected a legal standard that had required majority group plaintiffs to plead additional evidence suggesting their employer was unusually biased against majority individuals. Instead, the Court reaffirmed that the standard prima facie burden under the McDonnell Douglas framework applies equally to all individuals, irrespective of group status. *See* § 17:23.

Colorado Courts

Hamilton v. Amazon.com Services LLC, 555 P.3d 620 (2024) held that Colorado includes holiday incentive pay in the calculation of the "regular rate of pay" to determine whether an employee is due overtime pay. Holiday incentive pay is a shift differential under Rules 1.8 and 1.8.1 of the COMPS Order. *See* § 4:6.

303 Beauty Bar LLC v. Division of Labor Standards and Statistics, 568 P.3d 43 upheld an award of wages and penalties to a cosmetologist for the salon owner's deductions for hair care products, holding that § 8-4-105(1)(b) of the Wage Act does not allow an employer to shift its own business expenses to employees. *See* § 4:23.

Franklin D. Azar & Assocs. P.C. v. Ngo, 2024 COA 99, ¶ 1, 560 P.3d 446, 449, cert. denied, No. 24SC647, 2025 WL 1531289 (Colo. May 27, 2025) upheld an employment agreement provision prohibiting an attorney from soliciting fellow employees to leave the law firm while she was still employed by the law firm, hold that such a provision was not prohibited by Colorado Rule of Professional Conduct 5.6(a), which prohibits agreements that restrict an attorney's practice of law after leaving employment. *See* § 7:7.

---

[48] 605 U.S. __ (June 5, 2025) (No. 231039).