

WHAT'S NEW IN THE 2025-2026 EDITION

Legislation

The Colorado Legislature enacted several new employment laws, which are reprinted in Section V.

Enforcement of Wage and Hour Laws (H.B. 25-1001) made the following important amendments to the Wage Claim Act:

- C.R.S. 8-4-101(6). 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.
- C.R.S. 8-4-105(2). Replaces reference to minimum wage established under Fair Labor Standards Act with “the applicable minimum wage.”
- C.R.S. 8-4-109(3.5). 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.
- C.R.S. 8-4-110(1)(a)(II). 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.
- C.R.S. 8-4-110(2). Clarifies that employees may file civil suit in addition to seeking any other relief available under the Act.
- C.R.S. 8-4-111(1)(a)(II). Provides for a progressive increase in the amount of unpaid wages or compensation that can be pursued through administrative procedures.
- C.R.S. 8-4-111(1)(a.5). Mandates the publication of findings against employers and referral to other government bodies for violation of wage and hour laws and failure to remediate a willful violation.
- C.R.S. 8-4-111(2)(a)(III). Repealed.
- C.R.S. 8-4-111(8). Persons authorized by the city or county to prosecute criminal offenses or enforce laws related to the payment of wages are authorized to prosecute violations of C.R.S. 8-4 that come their attention.

- C.R.S. 8-4-111(9). Authorizes local jurisdictions to enact laws related to payment of wages provided such laws do not diminish the protections of employees outlined in C.R.S. 8-4.
- C.R.S. 8-4-113(1)(a)(I.5). 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.
- C.R.S. 8-4-120. 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.
- C.R.S. 8-4-120.5. Obligates the Division to report to the Joint Budget Committee regarding implementation of HB 25-1001 including the level of staffing and resources required for implementation and the number of complaints and investigations performed pursuant to the enactment of HB 25-1001.

Access to the Department of Labor and Employment's Vocational Rehabilitation Services (H.B. 25-1018) amends C.R.S. 8-84-106 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, provided any financial needs testing implemented comply with federal law. The requirement that a person with a disability or their financially responsible relative contribute towards their vocational rehabilitation services was eliminated.

Local Governments Tip Offsets for Tipped Employees (H.B. 25-1208) adds C.R.S. 8-6-101(3.5) which 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.

Modification of Remedy Provisions in the Colorado Anti-Discrimination Act (H.B. 25-1239) makes the following substantive changes to CADA:

- Repeals C.R.S. 24-34-601(2)(b).
- C.R.S. 24-34-601(2.5). Clarifies that it is unlawful to discriminate against any person or group because they have requested reasonable accommodations on the basis of disability.
- C.R.S. 24-34-602(1). Increases the statutory fine for violation of CADA from \$3,500 to \$5,000 per violation and makes such fines payable to the plaintiff. Alternatively, actual monetary 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.
- C.R.S. 24-34-602(4). Provides that in suits for disability discrimination, Americans with Disabilities Act standards apply.
- C.R.S. 24-34-707. Authorizes parties aggrieved under C.R.S. 24-34-701 to file a claim in a court of competent jurisdiction and authorizes such courts to assess damages which mirror the amended language in C.R.S. 24-34-602(1) outlined above except that the reduced cap on noneconomic loss damages is limited to small businesses only. Defines small business as an employer with 25 or fewer employees and generating no more than three million five hundred dollars in gross annual income. Incorporates language which mirrors the added language from C.R.S. 24-34-602(4) above. Provides that the relief provided through the amended language is an alternative to the relief authorized by C.R. S. 24-34-306(9) and that a person seeking redress through the courts may not also seek relief through the commission.
- C.R.S. 24-34-802(2)(c), (2)(d), and (4) repealed.
- C.R.S. 24-34-804(3)(a)(I). Authorizes the use of penalties outlined in C.R.S. 24-34-602 as amended above to be issued for violations of a disabled individual's right to use a service animal.
- C.R.S. 24-34-806(3)(a). Mandates that a testing agency grant testing accommodations if a person either show proof of having a prior accommodation on similar tests or a recommendation letter from a medical professional recommending the accommodation rather than requiring proof

of both.

Limitations on Restrictive Employment Agreements (SB 25-083) implements the following changes to the noncompetition statute:

- C.R.S. 8-2-113(2)(b). Exempts doctors, advanced practice registered nurses, and dentists, from the general exemption of highly compensated workers from the bar on covenants not to compete.
- C.R.S. 8-2-113(2)(c). Adds definitions for “health-care provider,” “practice as a certified midwife,” “practice of advanced practice registered nurses,” “practice of dentistry,” and “practice of medicine.”
- C.R.S. 8-2-113(2)(d). Exempts doctors, advanced practice registered nurses, and dentists, from the general exemption of highly compensated workers from the bar on covenants not to solicit customers.
- C.R.S. 8-2-113(3)(b). Clarifies that in addition to reasonable confidentiality provisions, trade secret protections are also not prohibited.
- C.R.S. 8-2-113(3)(c). 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.
- C.R.S. 8-2-113(5). Eliminates specific language regarding covenants not to compete as applied to the practice of medicine and replaces it with a general statement that agreements that do not include an unlawful restrictive covenant are enforceable.
- C.R.S. 8-2-113(5.5). Defines a covenant that restricts the practice of medicine, the practice of advanced registered nursing, or the practice of dentistry.

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 Court in *Cedar Point Nursery v. Hassid*, 594, U.S. 139 (2021). C.R.S. 8-13.5-202(1)(b) is amended to eliminate the mandate for employers allow agricultural workers reasonable access to healthcare while working. In its place is a prohibition on 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.” C.R.S. 8-13.5-202(1)(c) authorizes the director 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.

Changes to the Paid Family Medical Leave Insurance Act(SB 25-144) amends C.R.S. 8-13.3-505(1) to require 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 beginning January 1, 2026. C.R.S. 8-13.3-507(3) extends the existing premium rate of 9/10ths of one percent of wages per employee through 2025 and sets the premium for 2026 at 88/100ths of one percent of wages per employee. The director must establish premium rates for 2027 and thereafter by September 1 of the preceding year. Establishes that all future premium rates are set at a rate such that the fund covers at least 6 months of projected expenditures, volatility of the rate is minimized. Limits are set on the rate.

Protections for Delivery Network Company Drivers Act (H.B. 24-1129), C.R.S. § 8-4-126, improves wage and task transparency by requiring specific information to be shared with gig workers of delivery network companies (DNCs), providing workers with the ability to make more informed decisions about which tasks to accept. It also requires a DNC to develop and maintain an account deactivation policy that clearly establishes procedures for deactivating a driver from the platform, allows a driver to request a reconsideration, and ensures a driver is not penalized for failing to respond to a delivery task offer.

Transportation Network Company Transparency Act (S.B. 24-075), C.R.S. § 8-4-127. The act requires a transportation network company (TNC) operating in the state to provide various disclosures to the TNC's drivers regarding payments that a consumer makes to the TNC and the amount that the TNC then pays to a 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, on and after June 1, 2025, the TNC is required to comply its policy. The TNC is prohibited from including specified requirements in a contract between the TNC and a driver, including that a dispute related to deactivation reconsideration be adjudicated out of state or that the driver pay the TNC's costs or attorney fees related to the dispute. The act also requires a TNC to provide

specified disclosures to its drivers and to consumers regarding payments that the consumer makes to the DNC and the amount that the DNC then pays to the driver.

Rulemaking

The Department of Labor and Employment, Division of Labor Standards and Statistics (DLSS) also 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).

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

- Definition of “Authorized representative” updated to recognize any party’s right to operate through authorized representatives. (Rule 2.1).
- Definition of “Director” clarified as either the CDLE Director or a designee assigned to perform a function that the Director delegated. (Rule 2.2).
- Definition of “Employee organization” clarified to exclude entities such as workplace committees or advisory councils created by the employer. (Rule 2.4).
- Definition of “Order” adopted from the Industrial Relations Act , granting the CDLE Director jurisdiction over all employment in the state, including public employment. (Rule 2.5).
- Definition of “Confidential Employee” clarified to reflect (1) inclusion of employees who engage in confidential strategizing or planning even when the data or documents created are non-confidential public records, and (2) whether or not an employee qualifies as confidential 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).
- Definition of “Policy-level Employee” replaces the definitions for both “executive employee” and “managerial em-

ployee” and includes all employees whose higher-level duties imply limits on expressive or concerted activity contrary to those duties but excludes supervisory employees who lack significant input into employer policies. (Rule 2.7.2).

- Scope and limitation of expressive activity that is overly disruptive clarified to reflect that presumptively protected speech which is overly disruptive for a reason other than disagreement with the content or viewpoint of the speech may lose its protection. (Rule 4.2.1).

- Scope and Limitation of expressive activity expanded to include activity that is contrary to certain official duties. (Rule 4.2.2).

- Scope and Limitation of expressive activity expanded to include activity that violates reasonable time, place, and manner restrictions. (Rule 4.2.3).

- Scope and Limitation of expressive activity of a political nature contrary to the duties of an employee clarified to only apply to “Policy-level Employees” as defined in Rule 2.7.2. (Rule 4.2.4).

- Definition, scope and limitation of the term “Concerted Activity” updated to match the definition under the NLRA. (Rule 4.3.1).

- Scope and Limitation of concerted activity that is overly disruptive clarified to reflect that presumptively protected activity which is overly disruptive for a reason other than disagreement with the content of the activity or the viewpoint of the employee may lose its protection. (Rule 4.3.2(A)).

- Proposed Rule 4.3.3 modified and adopted at 4.3.2(C) to reflect that an employer can put reasonable, non-discriminatory restrictions on non-work-related solicitation or distribution of materials. (Rule 4.3.2(C)).

- Managerial rights clarified to protect public employers’ rights to utilize all powers, duties, and rights to take employer 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).

- Limitations on overly broad or discriminatorily applied employer policies clarified such that the applicable 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).

- Limitations on an employer’s right to express views concerning unionization adopts the standard established in *NLRB v. Gissell Packing Co.* 395 U.S. 575 (1969) which authorizes statements predicting the effects that the employer believes will follow from 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).

- Rule 5.1.1(F) added to clarify that the CDLE may initiate a complaint and conduct investigations of unfair labor practices based on tips or other leads.
- The basis for how the CDLE will evaluate whether to investigate a claim clarified to include whether there is a collective bargaining agreement while provides for arbitration of disputes of the kind at issue. (Rule 5.1.2).
- Rule 5.1.4 added to clarify that a charging party may withdraw an unfair labor practice complaint prior to CDLE issuance of determination following the procedures outlined in the LPIR Rules.

Forms and Posters

The Colorado Department of Labor and Employment has revised several forms and posters and published several new ones. The new and revised forms and posters are reprinted in Section II, including:

- § 6:46 Colorado Overtime and Minimum Pay Standards (“COMPS”) Order
- § 6:47 Unequal Pay Complaint Under Colorado’s Equal Pay for Equal Work Act, Part 1
- § 6:48 Transparency Complaint Under Colorado’s Equal Pay for Equal Work Act, Part 2 Complaint Form
- § 6:52 Employment Discrimination Poster
- § 6:55 Labor Standards Complaint Form
- § 6:56 Notice of Complaint Employer Response Form
- § 6:61. Employment Opportunity Act Complaint Form
- § 6:62. Social Media Complaint Form
- § 6:64 Youth Law Complaint Form
- § 6:65 Colorado Chance to Compete Act Complaint Form
- § 6:70 Job Application Fairness Act Complaint Form
- § 6:71 Delivery Network Company Complaint Form
- § 6:72 Transportation Network Company Complaint Form
- § 6:73 The Colorado Partnership for Quality Jobs and Services Act Unfair Labor Practice Complaint Form
- § 6:74 Collective Bargaining by County Employees Act Unfair Labor Practice Complaint Form
- § 6:75 Protections for Public Workers Act Unfair Labor Practice Complaint Form
- § 6:76 Labor Peace Act Unfair Labor Practice Complaint Form
- § 6:77 Labor Peace Act Petition for Election Form

On the federal level, Form I-9 and instructions in §§ 6:33-6:34 have been updated.

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 two new ones: INFO #9D, #9E, #23A, and #23B. Many INFOs have been re-titled. Section VII 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

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