

**Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 26-0800.01 Renee Leone x2695

SENATE BILL 26-121

SENATE SPONSORSHIP

Rodriguez and Simpson, Pelton B.

HOUSE SPONSORSHIP

Martinez and Winter T.,

Senate Committees

Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE ESTABLISHMENT OF A THRESHOLD FOR WHEN AN**
102 **AGRICULTURAL EMPLOYER IS REQUIRED TO PAY OVERTIME TO**
103 **AN AGRICULTURAL EMPLOYEE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires an agricultural employer to pay an agricultural employee overtime pay for time worked in excess of 60 hours in a workweek.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 8-6-120 as
3 follows:

4 **8-6-120. Overtime wages for agricultural employees -**
5 **definitions - rules.**

6 The director shall promulgate rules providing meaningful overtime
7 and maximum hours protections to agricultural employees to be proposed
8 no later than October 31, 2021, and adopted no later than January 31,
9 2022. In promulgating such rules, the director shall consider the inequity
10 and racist origins of the exclusion of agricultural employees from
11 overtime and maximum hours protections available to other employees,
12 the fundamental right of all employees to overtime and maximum hours
13 standards that protect the health and welfare of employees, and the unique
14 difficulties agricultural employees have obtaining workplace conditions
15 equal to those provided to other employees.

16 (1) AS USED IN THIS SECTION:

17 (a) "AGRICULTURAL EMPLOYEE" HAS THE MEANING SET FORTH IN
18 SECTION 8-2-206 (1)(b).

19 (b) "AGRICULTURAL EMPLOYER" HAS THE MEANING SET FORTH IN
20 SECTION 8-3-104 (1).

21 (c) "DECISION-MAKING MANAGER" MEANS AN INDIVIDUAL
22 PRIMARYLY ENGAGED IN AGRICULTURAL WORK WHO:

23 (I) IS PAID AT LEAST THE MINIMUM SALARY THRESHOLD FOR
24 CERTAIN EXEMPTIONS CONTAINED IN THE PROVISIONS CONCERNING
25 AGRICULTURAL WORKERS IN THE DIRECTOR'S RULES RELATED TO
26 COLORADO OVERTIME AND MINIMUM PAY STANDARDS;

27 (II) IS NOT EMPLOYED ON A SEASONAL OR TEMPORARY BASIS; AND

1 (III) HAS PRIMARY DUTIES THAT REQUIRE THE ROUTINE EXERCISE
2 OF INDEPENDENT JUDGMENT AND DISCRETION IN MATTERS OF
3 SIGNIFICANCE AND WHO EITHER:

4 (A) SUPERVISES TWO OR MORE FULL-TIME EMPLOYEES, OR

5 (B) REPORTS DIRECTLY TO AN OWNER OR TO AN EXECUTIVE-LEVEL
6 EMPLOYEE WHO REPORTS DIRECTLY TO AN OWNER WHO ROUTINELY
7 EXERCISES INDEPENDENT JUDGMENT AND DISCRETION IN MATTERS OF
8 SIGNIFICANCE IN MANUAL OR IN NONMANUAL LABOR.

9 (d) "FAMILY MEMBER" MEANS A CHILD, SIBLING, SPOUSE, PARENT,
10 AUNT, UNCLE, NEPHEW, NIECE, FIRST COUSIN, GRANDCHILD, OR
11 GRANDPARENT BY BLOOD, ADOPTION, OR MARRIAGE.

12 (2) BEGINNING JANUARY 1, 2027, AN AGRICULTURAL EMPLOYER
13 SHALL PAY AN AGRICULTURAL EMPLOYEE AT AN OVERTIME RATE FOR ANY
14 TIME WORKED IN EXCESS OF SIXTY HOURS IN A WORKWEEK, EXCEPT FOR
15 AN AGRICULTURAL EMPLOYEE WHO IS:

16 (a) PRINCIPALLY ENGAGED IN THE RANGE PRODUCTION OF
17 LIVESTOCK ON THE OPEN RANGE, AS DESCRIBED IN 29 CFR 780.323 TO
18 780.329;

19 (b) A DECISION-MAKING MANAGER WHO IS EMPLOYED BY AN
20 AGRICULTURAL EMPLOYER; OR

21 (c) A FAMILY MEMBER OF A FAMILY OWNER OF AN AGRICULTURAL
22 EMPLOYER.

23 == ==

24 **SECTION 2. Applicability.** This act applies to time worked and
25 contracts entered into or renewed on or after the effective date of this act.

26 **SECTION 3. Safety clause.** The general assembly finds,
27 determines, and declares that this act is necessary for the immediate

- 1 preservation of the public peace, health, or safety or for appropriations for
- 2 the support and maintenance of the departments of the state and state
- 3 institutions.