

Be it Enacted by the People of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** 8-13.7-101 as follows:

8-13.7-101. Just cause for employee discharge or suspension – definitions. (1) AN EMPLOYEE MAY BE DISCHARGED OR SUSPENDED ONLY IF THEIR EMPLOYER HAS FIRST ESTABLISHED JUST CAUSE FOR THE DISCHARGE OR SUSPENSION.

(2) AS USED IN THIS SECTION, UNLESS CONTEXT OTHERWISE REQUIRES:

(a) “JUST CAUSE” MEANS:

(I) SUBSTANDARD PERFORMANCE OF ASSIGNED JOB DUTIES FOLLOWING NOTICE AND AN OPPORTUNITY TO CURE;

(II) MATERIAL NEGLIGENCE OF ASSIGNED JOB DUTIES;

(III) REPEATED VIOLATIONS OF THE EMPLOYER’S WRITTEN POLICIES AND PROCEDURES RELATING TO JOB PERFORMANCE;

(IV) GROSS INSUBORDINATION THAT AFFECTS JOB PERFORMANCE;

(V) WILLFUL MISCONDUCT THAT AFFECTS JOB PERFORMANCE;

(VI) CONVICTION OF A CRIME OF MORAL TURPITUDE; OR

(VII) DISCHARGE OR SUSPENSION DUE TO SPECIFIC ECONOMIC CIRCUMSTANCES THAT DIRECTLY AND ADVERSELY AFFECT THE EMPLOYER AND ARE DOCUMENTED BY THE EMPLOYER PURSUANT TO SUBSECTION (3) OF THE SECTION.

(b) “DISCHARGE” MEANS AN INVOLUNTARY SEPARATION FROM EMPLOYMENT.

(c) “SUSPENSION” MEANS AN INVOLUNTARY, UNPAID PERIOD OF EMPLOYMENT EXCEEDING ONE DAY. A SUSPENSION DOES NOT INCLUDE REGULARLY SCHEDULED DAYS OFF DURING A WORKWEEK OR A VOLUNTARY LEAVE OF ABSENCE.

(d) “EMPLOYEE” MEANS ANY NATURAL PERSON WHO HAS WORKED FOR AT LEAST SIX CONSECUTIVE MONTHS FOR A PRIVATE SECTOR EMPLOYER. EMPLOYEE DOES NOT INCLUDE A WORKER WHO IS:

(I) FREE FROM THE CONTROL AND DIRECTION OF THE EMPLOYER, PERFORMS WORK OUTSIDE THE USUAL COURSE OF THE EMPLOYER’S BUSINESS, AND IS CUSTOMARILY ENGAGED IN AN INDEPENDENTLY ESTABLISHED TRADE, BUSINESS, OR OCCUPATION OF THE SAME NATURE AS THE WORK PERFORMED; OR

(II) ANY INDIVIDUAL COVERED BY ANY AGREEMENT, INCLUDING A BONA FIDE COLLECTIVE BARGAINING AGREEMENT, WHICH CONTAINS A JUST CAUSE PROVISION THAT PROVIDES SUBSTANTIALLY EQUAL OR GREATER PROTECTION THAN THAT PROVIDED IN THIS SECTION.

(e) “EMPLOYER” MEANS ANY BUSINESS ENTITY THAT EMPLOYS AT LEAST EIGHT EMPLOYEES IN COLORADO, INCLUDING THE UNIVERSITY OF COLORADO HOSPITAL AUTHORITY CREATED BY SECTION 23-21-503, AND THE DENVER HEALTH AND HOSPITAL AUTHORITY CREATED BY SECTION 25-29-103. “EMPLOYER” DOES NOT INCLUDE A GOVERNMENTAL ENTITY

(f) "GOVERNMENTAL ENTITY" MEANS ANY AGENCY OR DEPARTMENT OF FEDERAL, STATE, OR LOCAL GOVERNMENT, INCLUDING ANY BOARD, COMMISSION, SUBDIVISION, OR OTHER UNIT OF EXECUTIVE, LEGISLATIVE, OR JUDICIAL BRANCHES OF THE STATE; ANY CITY, COUNTY, CITY AND COUNTY, TOWN, OR OTHER UNIT OF THE EXECUTIVE, LEGISLATIVE, OR JUDICIAL BRANCHES THEREOF; ANY SPECIAL DISTRICT, SCHOOL DISTRICT, LOCAL IMPROVEMENT DISTRICT, OR SPECIAL TAXING DISTRICT AT THE STATE OR LOCAL LEVELS OF GOVERNMENT; ANY "ENTERPRISE" AS DEFINED IN SECTION 20 OF ARTICLE X OF THE COLORADO CONSTITUTION; OR ANY OTHER KIND OF MUNICIPAL, PUBLIC, OR QUASI-PUBLIC CORPORATION. GOVERNMENT ENTITY DOES NOT INCLUDE THE UNIVERSITY OF COLORADO HOSPITAL AUTHORITY, AND DENVER HEALTH AND HOSPITAL AUTHORITY.

(3) AN EMPLOYER SHALL PROVIDE AN EMPLOYEE WHO HAS BEEN DISCHARGED OR SUSPENDED WITH WRITTEN NOTIFICATION OF THE DISCHARGE OR SUSPENSION THAT INCLUDES EVERY REASON THE EMPLOYER BELIEVES THERE IS JUST CAUSE FOR DISCHARGE OR SUSPENSION. THE EMPLOYER SHALL PROVIDE THE WRITTEN NOTIFICATION TO THE EMPLOYEE WITHIN SEVEN DAYS OF THE EMPLOYEE'S DISCHARGE OR SUSPENSION.

(4) ANY EMPLOYEE WHO BELIEVES THEY WERE DISCHARGED OR SUSPENDED WITHOUT JUST CAUSE MAY, WITHIN ONE HUNDRED EIGHTY DAYS AFTER RECEIPT OF WRITTEN NOTIFICATION OF THE DISCHARGE OR SUSPENSION, FILE A CIVIL ACTION IN STATE DISTRICT COURT. IF THE DISCHARGE OR SUSPENSION IS HELD TO HAVE BEEN WRONGFUL UNDER THE PROVISIONS OF THIS SECTION, THE FOLLOWING SHALL APPLY:

(a) THE COURT MAY ORDER AFFIRMATIVE RELIEF THAT THE COURT DETERMINES TO BE APPROPRIATE, INCLUDING:

(I) REINSTATEMENT OR HIRING OF EMPLOYEES, WITH OR WITHOUT BACK PAY. IF THE COURT ORDERS BACK PAY, THE EMPLOYER SHALL PAY THE BACK PAY TO THE EMPLOYEE.

(II) FRONT PAY; OR

(III) ANY OTHER EQUITABLE RELIEF THE COURT DEEMS APPROPRIATE.

(b) THE COURT SHALL REDUCE AN AWARD OF BACK PAY BY ANY AMOUNT OF ACTUAL EARNINGS OF, OR AMOUNTS THAT COULD HAVE BEEN EARNED WITH REASONABLE DILIGENCE BY, THE ADVERSELY AFFECTED EMPLOYEE.

(c) THE COURT MAY AWARD REASONABLE ATTORNEY FEES AND COSTS TO THE PREVAILING PLAINTIFF. IF THE COURT FINDS THAT AN ACTION OR DEFENSE BROUGHT PURSUANT TO THIS SUBSECTION 4 WAS FRIVOLOUS, GROUNDLESS, OR VEXATIOUS AS PROVIDED IN ARTICLE 17 OF TITLE 13, C.R.S., THE COURT MAY AWARD COSTS AND ATTORNEY FEES TO THE DEFENDANT IN THE ACTION. AN AWARD OF ATTORNEYS FEES AND COSTS PURSUANT TO THIS SECTION SHALL BE CONSIDERED BY THE COURT IN THE SAME MANNER AS RELIEF IS AUTHORIZED PURSUANT TO SECTION 405 OF ARTICLE 34 OF TITLE 24, C.R.S.

(d) THE DECISION OF THE DISTRICT COURT MAY BE APPEALED TO THE COLORADO COURT OF APPEALS AND THE COLORADO SUPREME COURT AS PERMITTED UNDER THE COLORADO RULES OF CIVIL PROCEDURE.

SECTION 2. Effective date. The article takes effect upon official declaration of the governor and is self-executing.