

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0950.01 Yelana Love x2295

HOUSE BILL 24-1324

HOUSE SPONSORSHIP

Clifford,

SENATE SPONSORSHIP

Liston,

House Committees
Business Affairs & Labor

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE ATTORNEY GENERAL'S OVERSIGHT OF RESTRICTIVE
102 EMPLOYMENT AGREEMENTS.

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 grants the attorney general rule-making authority over restrictive employment agreements.

Current law allows an employer to recover the expense of educating and training a worker where the training is distinct from normal, on-the-job training. The bill regulates the recoverable expense as other consumer debt and student debt.

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.

The bill also adds the requirement that, for an employer to recover the expense, the training must comply with rules promulgated by the attorney general regarding the transferability of the training or credentialing that is available to the employee as a result of the training.

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

2 **SECTION 1.** In Colorado Revised Statutes, 5-1-301, **add**
3 (11)(a.5) and (15)(a.5) as follows:

4 **5-1-301. General definitions.** In addition to definitions appearing
5 in subsequent articles, as used in this code, unless the context otherwise
6 requires:

7 (11)(a.5) "CONSUMER CREDIT SALE" INCLUDES THE RECOVERABLE
8 EXPENSE OF EDUCATING AND TRAINING A WORKER PURSUANT TO SECTION
9 8-2-113 (3)(a).

10 (15) (a.5) "CONSUMER LOAN" INCLUDES THE RECOVERABLE
11 EXPENSE OF EDUCATING AND TRAINING A WORKER PURSUANT TO SECTION
12 8-2-113 (3)(a).

13 **SECTION 2.** In Colorado Revised Statutes, 5-16-103, **add**
14 (8)(a.5) as follows:

15 **5-16-103. Definitions.** As used in this article 16, unless the
16 context otherwise requires:

17 (8) (a.5) "DEBT" INCLUDES THE RECOVERABLE EXPENSE OF
18 EDUCATING AND TRAINING A WORKER PURSUANT TO SECTION 8-2-113
19 (3)(a).

20 **SECTION 3.** In Colorado Revised Statutes, 5-20-202, **amend** (4)
21 and (5) as follows:

22 **5-20-202. Definitions.** As used in this part 2, unless the context
23 otherwise requires:

1 (4) "Postsecondary educational institution" means an institution
2 that provides postsecondary instruction, as defined in section 23-60-103
3 (3), INCLUDING AN EMPLOYER THAT PROVIDES EDUCATION AND TRAINING
4 TO A WORKER WHERE THE EXPENSE OF THE EDUCATION AND TRAINING IS
5 RECOVERABLE PURSUANT TO SECTION 8-2-113 (3)(a).

6 (5) "Postsecondary education expense" means any expense
7 associated with a student's enrollment in, or attendance at, a
8 postsecondary educational institution, INCLUDING AN EMPLOYER'S
9 RECOVERABLE EXPENSE OF EDUCATING AND TRAINING A WORKER
10 PURSUANT TO SECTION 8-2-113 (3)(a).

11 **SECTION 4.** In Colorado Revised Statutes, 8-2-113, **amend**
12 (3)(a), (8)(a), and (8)(b); and **add** (9) and (10) as follows:

13 **8-2-113. Unlawful to intimidate worker - agreement not to**
14 **compete - prohibition - exceptions - notice - rules - definitions.**

15 (3) The following covenants are not prohibited by subsection (2) of this
16 section:

17 (a) A provision providing for an employer's recovery of the
18 expense of educating and training a worker where the training is distinct
19 from normal, on-the-job training AND SATISFIES ANY OTHER
20 REQUIREMENTS ESTABLISHED BY THE ATTORNEY GENERAL, BY RULE,
21 REGARDING THE TRANSFERABILITY OF THE TRAINING OR CREDENTIALING
22 THAT IS AVAILABLE TO THE EMPLOYEE AS A RESULT OF THE TRAINING. The
23 employer's recovery is limited to the reasonable costs of the training and
24 decreases over the course of the two years subsequent to the training
25 proportionately based on the number of months that have passed since the
26 completion of the training, and the employer recovering for the costs of
27 the training would not violate the FEDERAL "Fair Labor Standards Act of

1 1938", 29 U.S.C. sec. 201 et seq., or article 4 of this title 8.

2 (8) (a) An employer shall not enter into, present to a worker or
3 prospective worker as a term of employment, or attempt to enforce any
4 covenant ~~not to compete~~ that is void under this section.

5 (b) An employer that violates subsection (8)(a) of this section is
6 liable for actual damages and a penalty of five thousand dollars per
7 worker or prospective worker harmed by the conduct. The attorney
8 general and any worker or prospective worker harmed by an employer's
9 conduct may bring an action for injunctive relief and to recover penalties.

10 THE ATTORNEY GENERAL MAY RECOVER FIVE TIMES THE AMOUNT OF ANY
11 RECOVERY OR ATTEMPTED RECOVERY BY AN EMPLOYER IN VIOLATION OF
12 SUBSECTION (3)(a) OF THIS SECTION. In addition to injunctive relief and
13 the penalty allowed in this subsection (8)(b), a worker or prospective
14 worker may recover actual damages, reasonable costs, and attorney fees
15 in any private action brought under this section.

16 (9) IN ADDITION TO THE PENALTIES AVAILABLE PURSUANT TO
17 SUBSECTION (8)(b) OF THIS SECTION, A VIOLATION OF SUBSECTION (2) OR
18 (8)(a) OF THIS SECTION IS A DECEPTIVE TRADE PRACTICE AS SPECIFIED IN
19 SECTION 6-1-105 (1)(eeee).

20 (10) (a) THE ATTORNEY GENERAL MAY ENFORCE SUBSECTIONS (2),
21 (3), (4), (6), AND (8)(a) OF THIS SECTION.

22 (b) THE ATTORNEY GENERAL MAY PROMULGATE RULES
23 NECESSARY TO IMPLEMENT AND ENFORCE SUBSECTIONS (2), (3), (4), (6),
24 AND (8)(a) OF THIS SECTION, INCLUDING THE RULE-MAKING SPECIFIED IN
25 SUBSECTION (3)(a) OF THIS SECTION.

26 **SECTION 5.** In Colorado Revised Statutes, 6-1-105, **amend**
27 (1)(cccc) and (1)(dddd); and **add** (1)(eeee) as follows:

1 **6-1-105. Unfair or deceptive trade practices.** (1) A person
2 engages in a deceptive trade practice when, in the course of the person's
3 business, vocation, or occupation, the person:

4 (cccc) Sells or offers for sale a product that is age-restricted to a
5 person who does not meet the age restriction; ~~or~~

6 (dddd) Fails to register a mobile home park in violation of section
7 38-12-1106; OR

8 (eeee) VIOLATES SECTION 8-2-113 (2) OR (8)(a).

9 **SECTION 6. Act subject to petition - effective date.** This act
10 takes effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly; except
12 that, if a referendum petition is filed pursuant to section 1 (3) of article V
13 of the state constitution against this act or an item, section, or part of this
14 act within such period, then the act, item, section, or part will not take
15 effect unless approved by the people at the general election to be held in
16 November 2024 and, in such case, will take effect on the date of the
17 official declaration of the vote thereon by the governor.