



**COLORADO**  
Department of  
Labor and Employment

# Update: DLSS Legislative Implementation

Legislative Fact Sheet  
August 12, 2022

## Senate Bill 22-161, Wage Theft Employee Misclassification

**Summary:** Several changes to wage law: (1) lets wage claimants recover higher penalties and (for larger claims) attorney fees; (2) lets wage complaints be filed for groups, if workers are similarly situated; (3) requires employers to give employees notice if they deduct from pay for not returning property, and pay back the sum if the property is then returned; (4) replaces criminal penalties with civil fines for not complying with investigative requests; (5) tasking DLSS with sending its orders to courts for docketing (currently, workers must do it themselves, and often don't know how, or do it wrong); (6) giving DLSS authority to issue notices of liens against, and requirements to pay, assets of employers who don't pay when they're found liable for wage violations; (7) lets workers file lawsuits for retaliation for exercising wage rights; (8) lets the Attorney General enforce DLSS orders if DLSS requests, or DLSS ceases enforcing, in a case.

**Implementation:** Almost all of 22-161 takes effect 1/1/23. DLSS has varied implementation tasks, but few if any policy decisions to make: unlike other laws that delegate policymaking to DLSS, 22-161 is very detailed on matters like the amounts of the new penalties, when they apply, when attorney fees can be requested, the specific steps to enforce orders to pay, etc. Accordingly, DLSS is (a) adjusting its forms, templates, and published guidance on our processes to match what the law changes (how penalties are calculated, forms to request or oppose attorney fees, etc.), (b) preparing to begin rulemaking that will be all or almost all procedural matters, starting with a pre-rulemaking stakeholder meeting by early September.

## Senate Bill 22-097, Whistleblower Protection Health and Safety

**Summary:** Colorado law used to ban retaliation against only whistleblowing related to a public health emergency; 22-097 expands protection to whistleblowing on any health or safety hazards (toxic dumping, unsanitary food practices, reckless driving, etc.)

**Implementation:** DLSS (a) already updated its published guidance, poster, and complaint forms; and (b) in fall will propose amendments to its retaliation/whistleblower complaint and investigation rules to conform to the new law, and to conform.

## Senate Bill 22-230, Collective Bargaining for Counties

**Summary:** Under 22-230, county government employees can petition to form a union, triggering union elections administered by DLSS; and county employers and employees can file unfair labor practice charges as to such union-related activities, which DLSS investigates and rules on.

**Implementation:** 22-230 takes effect 7/1/23, except it tasks DLSS with advance implementation work in FY22-23: (a) we've done outreach to Colorado's county employers, to explain the law and gather input; (b) rulemaking will start in early 2023, on procedures for union elections and unfair labor practice charges; and (c) we'll release forms and resources after rulemaking.

### **Senate Bill 22-210, License Healthcare Staffing Agencies**

**Summary:** 22-210 charges DLSS with collecting detailed reports from all healthcare staffing agencies on their labor costs and revenues, and with having a tech contractor build a data collection system for the staffing agencies to submit their reports and receive DLSS notices.

**Implementation:** DLSS (a) is working with CDPHE and HCPF to compile the needed list of staffing agencies, (b) is working with OIT for our existing tech contactor to create the data collection system, and (c) in 2023 will go live with our new online portal for the staffing agencies.

### **House Bill 22-1308, Agriculture Workforce Services Program**

**Summary:** HB22-1308 charges the Department of Agriculture (CDA) with creating an online resource portal for agricultural employers. DLSS has a modest support role: creating resources on the new agricultural labor law (SB 21-087) for CDA to include in their portal.

**Implementation:** DLSS has written key ag labor rights and responsibilities resources, and is in consistent contact with CDA, awaiting their start of this project to see what is needed, and when.

### **House Bill 22-1313, Agriculture Housing Public Health COVID-19 Emergency**

**Summary:** 22-1313 allows CDPHE to declare more flexible alternative ways for farm laborer housing to comply with public health emergency (“PHE”) requirements (space, ventilation, etc.)

**Implementation:** DLSS has no authority, implementation role, or funding. DLSS’s sole role is that it already was tasked with investigating and ruling on complaints of any farm labor housing violating PHE requirements. DLSS has never received any such complaints. If CDPHE changes farm housing PHE requirements, DLSS would apply those updated orders.

### **House Bill 22-1317, Restrictive Employment Agreements**

**Summary:** 22-1317 bans most “restrictive employment agreements” that prevent employees from working for competitors after leaving a job.

**Implementation:** DLSS has no authority, implementation role, or funding. 22-1317 references one salary figure that DLSS rules already adjust annually, but doesn’t charge DLSS with any action.

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## **Contact Information**

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