COLORADO
Department of
Labor and Employment

Labor Standards and Statistics
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Colorado Wage Act
§ 8-4-101, et seq., C.R.S.

8-4-101. Definitions.

As used in this article, unless the context otherwise requires:

(1) “Citation” means a written determination by the division that a wage payment requirement has been violated.

(2) “Credit” means an arrangement or understanding with the bank or other drawee for the payment of an order, check, draft, note, memorandum, or other acknowledgment of indebtedness.

(3) “Director” means the director of the division of labor standards and statistics or his or her designee.

(4) “Division” means the division of labor standards and statistics in the department of labor and employment.

(5) “Employee” means any person, including a migratory laborer, performing labor or services for the benefit of an employer. For the purpose of this article 4, relevant factors in determining whether a person is an employee include the degree of control the employer may or does exercise over the person and the degree to which the person performs work that is the primary work of the employer; except that an individual primarily free from control and direction in the performance of the service, both under his or her contract for the performance of service and in fact, and who is customarily engaged in an independent trade, occupation, profession, or business related to the service performed is not an “employee”.

(6) “Employer” has the same meaning as set forth in the federal “Fair Labor Standards Act”, 29 U.S.C. sec. 203 (d), and includes a foreign labor contractor and a migratory field labor contractor or crew leader; except that the provisions of this article 4 do not apply to the state or its agencies or entities, counties, cities and counties, municipal corporations, quasi-municipal corporations, school districts, and irrigation, reservoir, or drainage conservation companies or districts organized and existing under the laws of Colorado.

(7) “Field labor contractor” means anyone who contracts with an employer to recruit, solicit, hire, or furnish migratory labor for agricultural purposes to do any one or more of the following activities in this state: Hoeing, thinning, topping, sacking, hauling, harvesting, cleaning, cutting, sorting, and other direct manual labor affecting beets, onions, lettuce, potatoes, tomatoes, and other products, fruits, or crops in which labor is seasonal in this state. Such term shall not include a farmer or grower, packinghouse operator, ginner, or warehouseman or any full-time regular and year-round employee of the farmer or grower, packinghouse operator, ginner, or warehouseman who engages in such activities, nor shall it include any migratory laborer who engages in such activities with regard to such migratory laborer’s own children, spouse, parents, siblings, or grandparents.

(8) “Fine” means any monetary amount assessed against an employer and payable to the division.

(8.5) “Foreign labor contractor” means any person who recruits or solicits for compensation a foreign worker who resides outside of the United States in furtherance of that worker’s employment in Colorado; except that “foreign labor contractor” does not include any entity of the federal, state, or local government.

(9) “Migratory laborer” means any person from within or without the limits of the state of Colorado who offers his or her services to a field labor contractor, whether from within or from without the limits of the state of Colorado, so that said field labor contractor may enter into a contract with any employer to furnish the services of said migratory laborers in seasonal employment.

(10) “Notice of assessment” means a written notice by the division, based on a citation, that the employer must pay the amount of wages, penalties, or fines assessed.

(11) “Notice of complaint” means the letter sent by the division as described in section 8-4-111 (2) (a).

(12) “Penalty” means any monetary amount assessed against an employer and payable to an employee.

(13) “Wage complaint” means a complaint filed with the division from an employee for unpaid wages alleging that an employer has violated section 15 of article XVIII of the Colorado constitution, this article, article 6 of this title, or any rule adopted by the director pursuant to this article or article 6 of this title.

(14)

(a) “Wages” or “compensation” means:

(I) All amounts for labor or service performed by employees, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculating the same or whether the labor or service is performed under contract, subcontract, partnership, subpartnership, station plan, or other agreement for the performance of labor or service if the labor or service to be paid for is performed personally by the person demanding payment. No amount is considered to be wages or compensation until such amount is earned, vested, and determinable, at which time such amount shall be payable to the employee pursuant to this article.

(II) Bonuses or commissions earned for labor or services performed in accordance with the terms of any agreement between an employer and employee;

(III) Vacation pay earned in accordance with the terms of any agreement. If an employer provides paid vacation for an employee, the employer shall pay upon separation from employment all vacation pay earned and determinable in accordance with the terms of any agreement between the employer and the employee.

(IV) “Paid sick leave” as provided in part 4 of article 13.3 of this title 8.

(b) “Wages” or “compensation” does not include severance pay.

(15) “Written demand” means any written demand for wages or compensation from or on behalf of an employee, including a notice of complaint, mailed or delivered to the employer’s correct address.

8-4-102. Proper payment — record of wages.

(1) Negotiable instrument required. No employer or agent or officer thereof shall issue, in payment of or as an evidence of indebtedness for wages due an employee, any order, check, draft, note, memorandum, or other acknowledgment of indebtedness unless the same is negotiable and payable upon demand without discount in cash at a bank organized and existing under the general banking laws of the state of Colorado or the United States or at some established place of business in the state. The name and address of the drawee shall appear upon the face of the order, check, draft, note, memorandum, or other acknowledgment of indebtedness; except that such provisions shall not apply to a public utility engaged in interstate commerce and otherwise subject to the power of the public utilities commission. At the time of the issuance of same, the maker or drawer shall have sufficient funds in or credit with the bank or other drawee for the payment of same. Where such order, check, draft, note, memorandum, or other acknowledgment of indebtedness is protested or dishonored on the ground of insufficiency of funds or credit, the notice of memorandum of protest or dishonor thereof shall be admissible as proof of presentation, nonpayment, and protest.

(2) Direct deposit. Nothing in this article shall prohibit an employer from depositing wages due or to become due or an advance on wages to be earned in an account in any bank, savings and loan association, credit union, or other financial institution authorized by the United States or one of the several states to receive deposits in the United States if the employee has voluntarily authorized such deposit in the financial institution of the employee’s choice.

(2.5) Paycard.

(a) Nothing in this article shall prohibit an employer from depositing an employee’s wages on a paycard, so long as the employee:

(I) Is provided free means of access to the entire amount of net pay at least once per pay period; or

(II) May choose to use other means for payment of wages as authorized in subsections (1) and (2) of this section.

(b) As used in this section, “paycard” means an access device that an employee uses to receive his or her payroll funds from his or her employer.

(3) Scrip prohibited. No employer or agent or officer thereof shall issue in payment of wages due, or wages to become due an employee, or as an advance on wages to be earned by an employee any scrip, coupons, cards, or other things redeemable in merchandise unless such scrip, coupons, cards, or other things may be redeemed in cash when due, but nothing contained in this section shall be construed to prohibit an employer from guaranteeing the payment of bills incurred by an employee for the necessities of life or for the tools and implements used by such employee in the performance of his or her duties.

8-4-103. Payment of wages — insufficient funds — pay statement — record retention — gratuity notification — penalties.

(1)

(a) All wages or compensation, other than those mentioned in section 8-4-109, earned by any employee in any employment, other than those specified in subsection (3) of this section, shall be due and payable for regular pay periods of no greater duration than one calendar month or thirty days, whichever is longer, and on regular paydays no later than ten days following the close of each pay period unless the employer and the employee shall mutually agree on any other alternative period of wage or salary payments.

(b) An employer is subject to the penalties specified in section 8-4-113 (1) if, two or more times within any twenty-four-month period, the employer causes an employee’s check, draft, or order to not be paid because the employer’s bank does not honor an employee’s paycheck upon presentment. The director may investigate complaints regarding alleged violations of this paragraph (b).

(2)

(a) In agricultural, horticultural, and floricultural pursuits and in stock or poultry raising, when the employee in such employments is boarded and lodged by the employer, all wages or compensation earned by any employee in such employment shall be due and payable for regular periods of no greater duration than one month and on paydays no later than ten days following the close of each pay period.

(b) Nothing in paragraph (a) of this subsection (2), as amended by House Bill 05-1180, as enacted at the first regular session of the sixty-fifth general assembly, shall be construed as changing the property tax classification of property owned by a floricultural operation.

(3) Nothing in this article shall apply to compensation payments due an employee under a profit-sharing plan, a pension plan, or other similar deferred compensation programs.

(4) Every employer shall at least monthly, or at the time of each payment of wages or compensation, furnish to each employee an itemized pay statement in writing showing the following:

(a) Gross wages earned;

(b) All withholdings and deductions;

(c) Net wages earned;

(d) The inclusive dates of the pay period;

(e) The name of the employee or the employee’s social security number; and

(f) The name and address of the employer.

(4.5) An employer shall retain records reflecting the information contained in an employee's itemized pay statement as described in subsection (4) of this section for a period of at least three years after the wages or compensation were due. The records shall be available for inspection by the division, and the employer shall provide copies of the records upon request by the division or the employee. The director may impose a fine of up to two hundred fifty dollars per employee per month on an employer who violates this subsection (4.5) up to a maximum fine of seven thousand five hundred dollars.

(5) Each field labor contractor shall keep, for a period of three years on each migratory laborer, records of wage rates offered, wages earned, number of hours worked, or, in the case of contractual or piecework where a field labor contractor pays the employee, the aggregate amount earned and all withholdings from wages on a form furnished by and in the manner prescribed by the division. In addition, in each pay period, each field labor contractor shall provide to each migratory laborer engaged in agricultural employment a statement of the gross earnings of the laborer for the period and all deductions and withholdings therefrom. The director may prescribe appropriate forms for use pursuant to this subsection (5). All such payroll records shall be filed with the division quarterly or at any time said labor contractor leaves this state or terminates his or her contract. The director is charged with the responsibility of making periodic reports to the governor's committee on migrant labor.

(6) It is unlawful for an employer engaged in a business where the custom prevails of the giving of gratuities by patrons to an employee of the business to assert a claim to, or right of ownership in, or control over gratuities. These gratuities are the sole property of the employee unless the employer notifies each patron in writing, including by a notice on a menu, table tent, or receipt, that gratuities are shared by employees. Nothing in this section prevents an employer from requiring employees to share or allocate gratuities on a preestablished basis among the employees of the business.

8-4-104. Funds available to pay wages — mining industry.

Every person, firm, association, corporation, or agent, manager, superintendent, or officer thereof engaged in the business of extracting or of extracting and refining or reducing metals or minerals other than petroleum, or other than parties having a free unencumbered title to the fee simple of the property being worked, and also other than mining partnerships in respect to the members of the partnerships, shall, before commencing work in any period for which a single payment of wages is to be made, have on hand, either physically or by deposit with a bank or trust company in the county where such property is located or, if there is no bank or trust company in the county, in the bank or trust company nearest the property, cash or readily salable securities of a market value equivalent to such cash, or accounts receivable payable in the normal course of business prior to the next payday, in a sufficient amount to make the payment of wages without discount or loss to any person employed on the mining property for such period.

8-4-105. Payroll deductions permitted — notice required.

(1) An employer shall not make a deduction from the wages or compensation of an employee except as follows:

(a) Deductions mandated by or in accordance with local, state, or federal law including, but not limited to, deductions for taxes, "Federal Insurance Contributions Act" ("FICA") requirements, garnishments, or any other court-ordered deduction;

(a.5) Deductions for contributions attributable to automatic enrollment in an employee retirement plan, as defined in section 8-4-105.5, regardless of whether the plan is subject to the federal "Employee Retirement Income Security Act of 1974", as amended;

(b) Deductions for loans, advances, goods or services, and equipment or property provided by an employer to an employee pursuant to a written agreement between such employer and employee, so long as it is enforceable and not in violation of law;

(c) Any deduction necessary to cover the replacement cost of a shortage due to theft by an employee if a report has been filed with the proper law enforcement agency in connection with such theft pending a final adjudication by a court of competent jurisdiction; except that, if the accused employee is found not guilty in a court action or if criminal charges related to such theft are not filed against the accused employee within ninety days after the filing of the report with the proper law enforcement agency, or such charges

are dismissed, the accused employee shall be entitled to recover any amount wrongfully withheld plus interest. In the event an employer acts without good faith, in addition to the amount wrongfully withheld and legally proven to be due, the accused employee may be awarded an amount not to exceed treble the amount wrongfully withheld. In any such action the prevailing party shall be entitled to reasonable costs related to the recovery of such amount including attorney fees and court costs.

(d) Any deduction, not listed in paragraph (a), (a.5), (b), or (c) of this subsection (1), that is authorized by an employee if the authorization is revocable, including deductions for hospitalization and medical insurance, other insurance, savings plans, stock purchases, supplemental retirement plans, charities, and deposits to financial institutions;

(e)

(I) A deduction for the amount of money or the value of property that the employee failed to properly pay or return to the employer in the case where a terminated employee was entrusted during the employee's employment with the collection, disbursement, or handling of such money or property, but only after providing notice of the deduction as specified in subsection (1)(e)(II) of this section.

(II) The employer has ten calendar days after the termination of employment to:

(A) Audit and adjust the accounts and property value of any items entrusted to the employee before the employee's wages or compensation shall be paid as provided in section 8-4-109. This is an exception to the pay requirements in section 8-4-109. The penalty provided in section 8-4-109 shall apply only from the date of demand made after the expiration of the ten-day period allowed for payment of the employee's wages or compensation.

(B) Provide notice to the employee that the employer is deducting from the employee's wages or compensation the amount of money or the value of property that the employee failed to properly pay or return to the employer, which notice must include a written accounting specifying the amount of money or the specific property that the employee failed to pay or return, the replacement value of the property, and, to the extent known, when the money or property was provided to the employee and when the employer believes the employee should have paid the money or returned the property to the employer.

(III) After an employer provides the notice required by subsection (1)(e)(II)(B) of this section and makes a deduction from the wages or compensation of an employee, if the employee, within fourteen days after the employer provides the notice, pays the money or returns the property that was the basis for the deduction, the employer shall pay the employee the amount of the deduction within fourteen days after the employee pays the money or returns the property to the employer.

(IV) If, after auditing and adjusting the accounts and property value of any items entrusted to the employee pursuant to subsection (1)(e)(II)(A) of this section and providing notice pursuant to subsection (1)(e)(II)(B) of this section, it is found that any money or property entrusted to the employee by the employer has not been properly paid or returned to the employer as provided by the terms of any agreement between the employer and the employee, the employee is not entitled to the benefit of payment pursuant to section 8-4-109, but the employee's claim for unpaid wages or compensation shall be disposed of as provided for by this article 4.

(2) Nothing in this section authorizes a deduction below the minimum wage applicable under the "Fair Labor Standards Act of 1938", 29 U.S.C. sec. 201 et seq.

8-4-105.5. Automatic enrollment in retirement plans — relief from liability — conditions — definitions.

(1)

(a)

(I) An employer that provides automatic enrollment in an employee retirement plan is not liable for the investment decisions made by the employer on behalf of any participating employee with respect to the default investment of contributions made for that employee to the plan if:

(A) The plan provides the participating employee at least quarterly opportunities to select investments for the employee's contributions among investment alternatives available under the plan;

(B) The participating employee is given notice of the investment decisions that will be made in the absence of direction from the employee, a description of all the investment alternatives available for employee investment direction under the plan, and a brief description of procedures available for the employee to change investments; and

(C) The employee is given at least annual notice of the actual default investments made of contributions attributable to the employee.

(II) The relief from liability of the employer under this subsection (1) extends to any employee retirement plan official who makes the actual default investment decisions on behalf of participating employees.

(b) Nothing in this subsection (1) modifies any existing responsibility of employers or other plan officials for the selection of investment funds for participating employees.

(2) As used in this section:

(a) "Automatic enrollment" means an employee retirement plan provision under which an employee will have a specified contribution made to the plan, equal to a compensation reduction, that will be made for the employee unless the employee affirmatively elects, in accordance with the federal "Pension Protection Act of 2006", Pub.L. 109-280, either not to have any compensation reduction contributions or a compensation reduction contribution in an alternative amount.

(b) "Employee retirement plan" means a plan described in sections 401(k) or 403(b) of the federal "Internal Revenue Code of 1986", as amended; a governmental deferred compensation plan described in section 457 of the federal "Internal Revenue Code of 1986", as amended; or a payroll deduction individual retirement account plan described in sections 408 or 408A of the federal "Internal Revenue Code of 1986", as amended.

8-4-106. Early payment of wages permitted.

Nothing contained in this article shall in any way limit or prohibit the payment of wages or compensation at earlier dates, or at more frequent intervals, or in greater amounts, or in full when or before due.

8-4-107. Post notice of paydays.

Every employer shall post and keep posted conspicuously at the place of work if practicable, or otherwise where it can be seen as employees come or go to their places of work, or at the office or nearest agency for payment kept by the employer a notice specifying the regular paydays and the time and place of payment, in accordance with the provisions of section 8-4-103, and also any changes concerning them that may occur from time to time.

8-4-108. Payment in the event of strike.

(1) In the event of a strike, every employee who is discharged shall be paid at the place of discharge, and every

employee who quits or resigns shall be paid at the office or agency of the employer in the county or city and county where such employee has been performing the labor or service for the employer. All payments of money or compensation shall be made in the manner provided by law.

(2) In the event of any strike, the unpaid wages or compensation earned by such striking employee shall become due and payable on the employer's next regular payday, and the payment or settlement shall include all amounts due such striking employee without abatement or reduction. The employer shall return to each striking employee, upon request, any deposit or money or other guaranty required by the employer from the employee for the faithful performance of the duties of his or her employment.

8-4-109. Termination of employment — payments required — civil penalties — payments to surviving spouse or heir.

(1)

(a) When an interruption in the employer-employee relationship by volition of the employer occurs, the wages or compensation for labor or service earned, vested, determinable, and unpaid at the time of such discharge is due and payable immediately. If at such time the employer's accounting unit, responsible for the drawing of payroll checks, is not regularly scheduled to be operational, then the wages due the separated employee shall be made available to the employee no later than six hours after the start of such employer's accounting unit's next regular workday; except that, if the accounting unit is located off the work site, the employer shall deliver the check for wages due the separated employee no later than twenty-four hours after the start of such employer's accounting unit's next regular workday to one of the following locations selected by the employer:

(I) The work site;

(II) The employer's local office; or

(III) The employee's last-known mailing address.

(b) When an employee quits or resigns such employee's employment, the wages or compensation shall become due and payable upon the next regular payday. When a separation of employment occurs, the employer shall make the separated employee's check for wages due available at one of the following locations selected by the employer:

(I) The work site;

(II) The employer's local office; or

(III) The employee's last-known mailing address.

(c) If an employer has made the employee's wages or compensation available at the work site or at the employer's local office under paragraph (a) or (b) of this subsection (1), and the employee has not received the wages or compensation within sixty days after the wages or compensation were due, the employer shall mail the employee's check for wages or compensation due to the employee's last-known mailing address.

(2) Nothing in subsection (1) of this section shall limit the right of an employer to set off any deductions pursuant to section 8-4-105 owing by the employee to the employer or require the payment at the time employment is severed of compensation not yet fully earned under the compensation agreement between the employee and employer, whether written or oral.

(3)

(a) If an employer refuses to pay wages or compensation in accordance with subsection (1) of this section or section 8-4-103 (1)(a), the employee, the employee's designated agent, or the division may send a written demand for the payment on behalf of the employee or a group of similarly situated employees or may file an administrative claim or civil action for the payment.

(a.5) If the employer disputes the amount of wages or compensation claimed by an employee under this

article 4 and if, within fourteen days after the written demand is sent or the administrative claim or civil action is sent to or served on the employer, the employer makes a legal tender of the full amount of all wages that the employee, the employee's designated agent, or the division in good faith demands are owed for any violation of this article 4, the employer shall not be liable for any penalty unless, in a legal proceeding, including a civil action or an administrative procedure under sections 8-4-111 and 8-4-111.5, the employee recovers a greater sum than the amount the employer tendered.

(b) On or after January 1, 2023, if an employer fails or refuses to pay, in the manner specified in subsection (3)(d) of this section, all earned, vested, and determinable wages or compensation within fourteen days after the written demand is sent or within fourteen days after a civil action or administrative claim for the wages or compensation is sent to or served on the employer, the employer is liable to the employee or group of similarly situated employees for the amount of the earned, vested, determinable, and unpaid wages or compensation plus an automatic penalty of:

(I) The greater of two times the amount of the unpaid wages or compensation or one thousand dollars; or

(II) If the employee can show that the employer's failure or refusal to pay wages or compensation was willful, the greater of three times the amount of the unpaid wages or compensation or three thousand dollars.

(c) Evidence that a judgment or wage determination of the division has, within the previous five years, been entered against the employer for failure to pay wages or compensation is admissible as evidence of willful conduct. An employer's failure or refusal to pay wages or compensation is per se willful if the employee can show that the claim for which a penalty under subsection (3)(b) of this section is assessed is the employer's second or subsequent failure or refusal to pay to employees wages or compensation of the same or similar type within the five years immediately preceding the claim.

(d)

(I) The employer shall send or deliver payment, by check, draft, or voucher in the employee's name, to the employee at the address contained in the written demand or administrative claim or civil action; or make the payment by direct deposit authorized under section 8-4-102 (2) if the employee has not revoked the authorization. The employer may, but is not required to, make the payment by direct deposit to an account specified by the employee in the demand, administrative claim, or court action, even if the employee has not previously authorized direct deposit of the employee's compensation, or make the payment by another method requested by the employee in the demand, administrative claim, or court action, if applicable. If the employee has not previously authorized direct deposit of compensation and the demand, administrative claim, or court action does not state an address to which the payment should be mailed, the employer shall make the payment as follows:

(A) To the employee's last-known address according to the records of the employer; or

(B) If applicable and if the employer so elects, as otherwise requested by the employee in the demand, administrative claim, or court action.

(II) The employee or the employee's designated agent may commence a civil action to recover the penalty set forth in this subsection (3). If, within fourteen days after a written demand is sent to or an administrative claim or a civil action is sent to or served on the employer, the employer makes a full legal tender of all amounts demanded in good faith for all employees, the employee shall dismiss the action.

(4) If, at the time of the death of any employee, an employer is indebted to the employee for wages or compensation, and no personal representative of the employee's estate has been appointed, such employer shall pay the amount earned, vested, and determinable to the deceased employee's surviving spouse. If there is no surviving spouse, the employer shall pay the amount due to the deceased employee's next legal heir upon the request of such heir. If a personal representative for the employee has been appointed and is known to the employer prior to payment of the amount due to the spouse or other legal heir, the employer shall pay the amount due to such personal representative upon the request of such representative. The employer shall require proof of a claimant's relationship to the deceased employee by affidavit and require such claimant to acknowledge the receipt of any payment in writing. Any payments made by the employer pursuant to the provisions of this section

shall operate as a full and complete discharge of the employer's indebtedness to the extent of the payment, and no employer shall thereafter be liable to the deceased employee's estate or to the deceased employee's personal representative. Any amounts received by a surviving spouse or legal heir shall be considered in diminution of the allowance to the spouse or legal heir pursuant to the "Colorado Probate Code", articles 10 to 17 of title 15, C.R.S. Nothing in this section shall create a substantive right that does not exist in any agreement between the employer and the employee.

8-4-110. Disputes — fees.

(1)

(a) The court may award the employer reasonable costs and attorney fees incurred in a civil action if, within fourteen days after a written demand letter is sent to or a civil action is served on the employer for unpaid wages or compensation:

(I) The employer makes full legal tender of all amounts demanded in good faith for all employees; and

(II) The employees receiving such tender ultimately fail to recover a total sum that is greater than the amount the employer tendered.

(b) If, in an administrative claim or civil action in which the employee seeks to recover any amount of wages or compensation, the employee recovers a sum greater than the amount tendered by the employer:

(I) The court, in a civil action, may award the employee reasonable costs and attorney fees incurred in the civil action; and

(II) The division, in an administrative claim, may award the employee reasonable costs incurred in the administrative claim and may also award attorney fees to an employee who recovers more than five thousand dollars in unpaid wages in the administrative claim.

(c) If an employer fails or refuses to make a tender within fourteen days after the demand or administrative claim or civil action, then such failure or refusal must be treated as a tender of no money for any purpose under this article 4.

(1.5) This section shall not apply to a claimant who is found to be an independent contractor and not an employee.

(2) Any person claiming to be aggrieved by violation of any provisions of this article or regulations prescribed pursuant to this article may file suit in any court having jurisdiction over the parties without regard to exhaustion of any administrative remedies.

8-4-111. Enforcement — duty of director — duties of district or city attorneys — rules.

(1)

(a)

(I) It is the duty of the director to:

(A) Inquire diligently for any violation of this article 4;

(B) Institute the actions for penalties or fines provided for in this article 4 in such cases as the director deems proper; and

(C) Enforce generally the provisions of this article 4.

(II) The director may establish an administrative procedure to receive complaints and adjudicate claims for nonpayment of wages or compensation of seven thousand five hundred dollars or less.

(III) The procedures established pursuant to subsection (1)(a)(II) of this section may include claims of employees where no interruption of the employer-employee relationship has occurred.

(IV) The penalties and fines established by section 8-4-109 (3) apply to actions instituted by the director or adjudicated after a complaint was received under this article 4 when no interruption of the employer-employee relationship has occurred.

(b) The director shall promulgate rules providing for notice to employees of an employee's rights under this section and section 8-4-111.5, of the limitations on the amount of wages, compensation, and penalties available under the administrative remedy, and of the employee's option to bring a claim for wages and compensation in court without pursuing the administrative remedy unless the employee has accepted payment pursuant to subsection (2)(e) of this section.

(c) For purposes of investigating wage complaints and facilitating the collection of unpaid wages before or after a determination pursuant to this section, the division may apply the information-gathering provisions of article 1 of this title 8 to any employer, employee, or other person or entity.

(2)

(a)

(I) If one or more employees files a wage complaint with the division claiming unpaid wages or compensation of seven thousand five hundred dollars or less per employee, exclusive of penalties and fines, the division shall investigate the wage complaint. The division may investigate any wage complaint made on behalf of a group of similarly situated employees. If the division declines to investigate a group complaint, similarly situated employees may consent in writing to participate as parties to that complaint, and the division may pursue a direct investigation informed by and concurrent with that complaint. The division shall initiate the administrative procedure by sending a notice of complaint to the employer by mail or electronic means in accordance with rules as the director may promulgate when the complaint states a claim for relief. The notice of the complaint must include:

(A) The name of the complainant;

(B) The nature of the complaint; and

(C) The amount for which the employer may be liable, including any potential fines or penalties.

(II) An employer must respond within fourteen days after the complaint is sent.

(III) The division shall issue a determination within ninety days after the notice of complaint is sent unless the division extends the time period by providing advance written notice to the employee and employer stating good cause for the extension of time.

(b) If the division does not find a violation based on the wage complaint and any response, including the failure by the employee to pursue the wage complaint, the division shall issue a notice of the dismissal of the complaint and send the notice to all interested parties. The notice must set forth the employee's right to any other relief available under this section or section 8-4-111.5.

(c)

(I) If the division determines that an employer has violated this article 4 for nonpayment of wages or compensation, the division shall issue a citation and notice of assessment for the amount determined that is owed, which amount must include all wages and compensation owed, penalties pursuant to section 8-4-109, and any fines pursuant to section 8-4-113.

(II) The division shall notify the worker and employee protection unit in the department of law created in section 24-31-1302, at least once every six months, of any determinations pursuant to this subsection (2)(c) that were based, in whole or in part, on a finding that the employer misclassified one or more employees as independent contractors.

(d) To encourage compliance by the employer, if the employer pays the employee all wages and compensation owed within fourteen days after the citation and notice of assessment is sent to the employer, the division may waive or reduce any fines imposed pursuant to section 8-4-113 (1) and reduce by up to fifty percent penalties imposed pursuant to section 8-4-109.

(e) Upon payment by an employer, and acceptance by an employee, of all wages, compensation, and penalties assessed by the division in a citation and notice of assessment issued to the employer, the payment shall constitute a full and complete satisfaction by the employer and bar the employee from initiating or pursuing any civil action or other administrative proceeding based on the wage complaint addressed by the citation and notice of assessment.

(f) If an employer fails to pay an employee the amount the division determines, pursuant to subsection (2)(c) of this section, or a hearing officer determines, pursuant to section 8-4-111.5, to be owed within sixty days after the division's determination or the hearing officer's decision, whichever is applicable, the following may be recovered from the employer:

(I) Attorney fees incurred in pursuing a civil action to enforce the division's determination or the hearing officer's decision;

(II) An additional fine equal to fifty percent of the amount determined pursuant to subsection (2)(c) of this section; and

(III) A penalty equal to the greater of fifty percent of the amount determined pursuant to subsection (2)(c) of this section or three thousand dollars.

(3) An employee who has filed a wage complaint with the division pursuant to subsection (2) of this section may elect to terminate the division's administrative procedure within thirty-five days after the issuance of the determination of compliance or citation and notice of assessment by providing a notice to the division. An employee who terminates the division's administrative procedure preserves any private right of action the employee may have. Upon receipt of the notice, the division shall immediately discontinue its action against the employer and revoke any citation and notice of assessment sent.

(4) Except for an appeal pursuant to section 8-4-111.5 (5) or as stated in a citation, notice of assessment, or order filed with the court pursuant to section 8-4-113 (2), any determination made by the division pursuant to this article, or any offer of payment by the employer of the wages made during or in conjunction with a proceeding of the division, is not admissible in any court action.

(5) The division's notice to the employer of a complaint filed pursuant to subsection (2) of this section satisfies the requirement of a written demand as described in section 8-4-109 (3)(a).

(6) Nothing in this section shall be construed to limit the right of the division to pursue any action available with respect to an employee that is identified as a result of a wage complaint or with respect to an employer in the absence of a wage complaint.

(7) Nothing in this section shall be construed to limit the right of the employee to pursue any civil action or administrative proceeding for any claims other than those considered by the division in the employee's wage complaint. The claims considered by the division in the employee's wage complaint are subject to the limitations set forth in paragraph (e) of subsection (2) of this section and subsection (3) of this section.

(8) Nothing in this article shall be construed to limit the authority of the district attorney of any county or city and county or the city attorney of any city to prosecute actions for such violations of this article as may come to his or her knowledge, or to enforce the provisions of this article independently and without specific direction of the director, or to limit the right of any wage claimant to sue directly or through an assignee for any wages or penalty due him or her under the provisions of this article.

8-4-111.5. Hearing officer review and appeals of administrative actions.

(1) Pursuant to policies established by the director by rule, any interested party who is dissatisfied with the division's decision on a wage complaint filed pursuant to section 8-4-111 (2) may file a request for a hearing within thirty-five days after the division's decision is sent. If no request is filed within the thirty-five-day period, the division's decision is final.

(2)

(a) If a request is filed pursuant to subsection (1) of this section, the director shall designate a hearing officer. The hearing officer shall have the power and authority to call, preside at, and conduct hearings. In the discharge of the duties imposed by this article, the hearing officer has the power to administer oaths and affirmations, take depositions, certify to official acts, permit parties to participate by telephone, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with a disputed claim pursuant to this article.

(b)

(I) In case of a failure to obey a subpoena issued to any person by the hearing officer, upon application by the division or its duly authorized representative, any court of this state has jurisdiction to issue to the person an order requiring him or her to appear before the hearing officer to produce evidence or give testimony touching the matter under investigation or in question. The court may issue an order of contempt to a person who fails to obey the order.

(II) It is a petty offense for a person who, without just cause, fails or refuses to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records in obedience to a subpoena of the hearing officer. Each day the failure or refusal continues is a separate offense.

(c) A person may not be excused from attending and testifying or from producing books, papers, correspondence, memoranda, and other records before a hearing officer or in obedience to the subpoena of the hearing officer on the ground that the testimony or evidence, documentary or otherwise, required of him or her may tend to incriminate the person or subject the person to a penalty or forfeiture. But a person shall not be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he or she is compelled, after having claimed his or her privilege against self-incrimination, to testify or produce evidence, documentary or otherwise; except that the individual testifying is not exempt from prosecution and punishment for perjury in the first degree committed in so testifying.

(3)

(a) The hearing officer, after affording all interested parties a reasonable opportunity for a fair hearing pursuant to the provisions of this article and the administrative procedures of the division, shall make a decision on each relevant issue raised, including findings of fact, conclusions of law, and an order.

(b) Evidence and requirements of proof in a hearing conducted pursuant to this section must conform, to the extent practicable, with those in civil nonjury cases in the district courts of this state. However, when necessary to do so in order to ascertain facts affecting the substantial rights of the parties to the proceeding, the person conducting the hearing may receive and consider evidence not admissible under such rules if the evidence possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs. Objections to evidentiary offers may be made and must be noted in the record. The hearing officer shall give effect to the rules of privilege recognized by law. He or she shall exclude incompetent and unduly repetitious evidence. The hearing officer may accept documentary evidence in the form of a copy or excerpt if the original is not readily available; except that, upon request, the party shall be given an opportunity to compare the copy with the original. The division may utilize its experience, technical competence, and specialized knowledge in the evaluation of the evidence presented. The provisions of the “State Administrative Procedure Act”, article 4 of title 24, C.R.S., and particularly section 24-4-105, C.R.S., do not apply to hearings under this article. However, the rule-making provisions of section 24-4-103, C.R.S., shall apply to this article.

(c) When the same or substantially similar evidence is relevant and material to the matters at issue in claims by more than one individual or in claims by a single individual with respect to two or more claimed violations, if, in the judgment of the hearing officer, consolidation of one or more proceedings would not prejudice any interested party, the hearing officer may:

(I) Conduct hearings at the same time and place;

(II) Conduct joint hearings;

(III) Make a single record of the proceedings; and

(IV) Consider evidence introduced with respect to one proceeding as if introduced in the others.

(d) The division shall keep a full and complete record of all proceedings in connection with the wage complaint. All testimony at any hearing upon a wage complaint must be recorded but need not be transcribed unless the wage complaint is presented for further review. The division shall promptly provide all interested parties with copies of the hearing officer’s decision.

(4) For the convenience or necessity of the employee or the employer, the division shall permit parties to participate in hearings by telephone, including in situations in which the parties would otherwise be required to travel to locations of the division from outside the general vicinity of such locations.

(5) Any party to the administrative proceeding may appeal the hearing officer’s decision only by commencing an action for judicial review in the district court of competent jurisdiction within thirty-five days after the date of mailing of the decision by the division. The hearing officer’s decision constitutes a final agency action pursuant to section 24-4-106, C.R.S. Judicial review is limited to appeal briefs and the record designated on appeal.

8-4-112. Enforcement of director subpoenas.

All courts shall take judicial notice of the seal of the director. Obedience to subpoenas issued by the director or his or her duly authorized representative shall be enforced by the courts in any county or city and county, as provided in section 24-4-105 (5), C.R.S., if said subpoenas do not call for any appearance at a distance greater than one hundred miles.

8-4-113. Fines pursuant to enforcement — wage theft enforcement fund — created — administrative lien and levy of employer assets — wage claim payments from the fund — definition — rules.

(1)

(a)

(I) If a case against an employer is enforced pursuant to section 8-4-111, any employer who without good faith legal justification fails to pay the wages of each of the employer's employees shall forfeit to the people of the state of Colorado a fine in an amount determined by the director or hearing officer but no more than the sum of fifty dollars per day for each such failure to pay each employee, commencing from the date that such wages first became due and payable.

(II) The division may collect the fine imposed pursuant to this subsection (1)(a) through its citation and notice of assessment issued pursuant to section 8-4-111 (2) or after a hearing conducted pursuant to section 8-4-111.5.

(b) The director or hearing officer shall impose a fine of two hundred fifty dollars on an employer who fails to respond to a notice of complaint or to any other notice from the division to which a response is required. The director or hearing officer may waive or reduce the fine only if the director or hearing officer finds good cause for an extension of the time for the employer to file the response.

(2)

(a) The division may, and, on or after January 1, 2023, at the request of a worker shall, file a certified copy of any citation, notice of assessment, or order imposing wages due, fines, penalties, or other relief pursuant to this article 4 with the clerk of any court having jurisdiction over the parties at any time after the entry of the citation, notice, or order. The division may file one certified copy of the citation, notice, or order for all amounts owed to, or for other relief for, all employees.

(b) The clerk of the court shall record the citation, notice, or order in the judgment book of the court and make an entry in the judgment docket. Upon recording, the citation, notice of assessment, or order has the effect of and may be executed as a judgment of the court.

(c)

(I) Upon recording pursuant to subsection (2)(b) of this section, the judgment is sufficient to support the issuance of writs of garnishment in the manner provided by law in the case of a judgment that is wholly or partially unsatisfied.

(II) The court shall mail a copy of the judgment to the employer within three days after the division has filed the citation, notice, or order with the clerk of the court.

(3)

(a) The division shall transmit all fines collected for the state pursuant to this section or section 8-1-114 (2), 8-1-116 (2), 8-1-117 (2), 8-1-140 (2), 8-12-115 (4)(c), or 8-12-116 (2) or (4) to the state treasurer, who shall credit the money to the wage theft enforcement fund, which fund is created and referred to in this section as the "fund". The money in the fund may be used by the division to make payments to employees for unpaid liabilities for wage law violations pursuant to subsection (5) of this section and for the division's direct and indirect costs associated with implementing this article 4..

(b) The state treasurer may invest any money in the fund not expended for the purpose of this article as provided by law. The state treasurer shall credit all interest and income derived from the investment and deposit of money in the fund to the fund. Any unexpended and unencumbered money remaining in the fund at the end of a fiscal year remains in the fund and must not be credited or transferred to the general fund or another fund.

(c) The money in the fund is:

(I) Subject to annual appropriation by the general assembly to the division for the direct and indirect costs associated with implementing this article 4; and

(II) Continuously appropriated to the division for the purpose of making payments to employees for unpaid liabilities for wage law violations pursuant to subsection (5) of this section.

(d) The limitations specified in section 24-75-402 do not apply to the fund.

(4)

(a) On or after January 1, 2023, if an employer fails to pay wages determined to be due to the employer's employees or fines or penalties determined to be due pursuant to this article 4 or article 6 or 12 of this title 8 or other articles authorizing investigation of alleged violations of employee protections, within sixty days after receiving a written employee request or upon its own initiative, the division may issue a notice of administrative lien and levy to the employer or any other person that has possession, custody, or control of the employer's assets. The division may issue the notice of administrative lien and levy when an employer is past due on paying wages determined to be due to its employees and any fines or penalties determined to be due pursuant to this article 4 or article 6 or 12 of this title 8 without an order staying or reversing the applicable deadline for payment. The notice must include the following statements and information:

(I) The name and address of the person that has possession, custody, or control of the employer's assets;

(II) The employer's name, last-known address, and taxpayer identification number, if known;

(III) The total amount owed for past-due wages, fines, and penalties, as identified by the division as provided in this article 4;

(IV) The names of all employees determined to be owed wages or penalties and the amounts due to each named employee;

(V) A statement that:

(A) The notice of administrative lien and levy takes effect, and is superior to any other lien on the same assets that is filed later in time;

(B) Unless the division consents to an earlier disposition, the person may not transfer or dispose of the assets in the possession, custody, or control of the person from the date the person received the notice until further order; and

(C) A person that receives notice pursuant to this subsection (4) and that transfers or disposes of the assets after receipt of the notice is liable for the amount of the past-due wages, fines, and penalties owed by the employer, to the extent of the value of the transferred or disposed of assets;

(VI) Instructions on the remittance, transmission, or transfer of the withheld or surrendered amounts or other assets, including the requirement that each check, remittance, transmission, or transfer:

(A) For past-due wages and penalties, be payable to, transmitted to, or transferred to the employee, employees, payee, or transferee designated by the division in the notice and sent to the address indicated in the notice or otherwise transmitted or transferred as specified in the notice;

(B) For fines, be payable to, transmitted to, or transferred to the division or other payee or transferee designated by the division in the notice and sent to the address indicated in the notice or otherwise transmitted or transferred as specified in the notice;

(C) Be surrendered within thirty days after the date of the notice of the lien and levy; and

(D) Include the division case number on the face of the check, remittance, transmission, or transfer;

(VII) A statement that, if insufficient assets are available to cover all amounts determined to be owed by the employer, the person must first pay wages and penalties determined to be due to the employee or employees and thereafter pay fines determined to be owed to the state;

(VIII) A statement that, if no assets are available for surrender, the person must return the remittance notice within thirty days after the date of the notice of the lien and levy; and

(IX) A statement that the administrative lien and levy is automatically inactivated once the person returns the remittance notice or surrenders the assets held by the person.

(b)

(I) In order to attach and collect an employer's assets that are in the possession, custody, or control of another person for purposes of collecting past-due wages, fines, and penalties, the division is authorized to serve, by first-class or overnight mail, by personal delivery, or, if mutually agreed upon, through electronic means published by the person, a notice of administrative lien and levy on any person that has possession, custody, or control of the employer's assets. A notice of administrative lien and levy is effective if it is delivered or mailed to the principal office or any branch office of the person that has possession, custody, or control of the employer's assets.

(II) The administrative lien and levy applies against all assets of the employer that are in the possession, custody, or control of the person served with the notice at the time of, and within sixty days after, receipt of the notice.

(III) The division shall provide a copy of the administrative lien and levy to the employer and shall include information on the employer's right to file an applicable exception, exemption, or appeal, as specified by the director by rule, including an exception, exemption, or appeal for custodial accounts pursuant to section 11-50-110, the earnings limitations set forth in section 13-54-104 (3), or the appeal policy for jointly owned or shared accounts.

(IV) Upon satisfaction of the past-due wage, fine, or penalty obligations giving rise to the administrative lien and levy, the employer may request and be provided confirmation that the lien is extinguished.

(c) This subsection (4) applies to all past-due wage, fine, and penalty obligations ordered as part of any proceeding, regardless of when the order was entered, and all employers that owe wages, fines, or penalties are subject to notice of administrative lien and levy as described in this subsection (4).

(d) The director may adopt rules as necessary to implement this subsection (4).

(e) As used in this subsection (4), "Asset" means any:

(I) Real, intangible, or personal property of an employer;

(II) An employer's right to real, intangible, or personal property;

(III) Payments due to and accounts receivable of an employer; and

(IV) Credits or debts involving the employer.

(5)

(a) On and after April 1, 2024, if an employer fails to pay an employee an amount of wages, compensation, or other monetary relief owed the employee, as determined by the division pursuant to this article 4 or article 6 or 12 of this title 8 or as decided by a hearing officer pursuant to section 8-4-111.5, within six months after the division's determination, the hearing officer's decision, or the expiration of any order from the division, the hearing officer, or a court staying or postponing the employer's payment obligation, whichever is later, the division may disburse the amount of wages, compensation, or other

monetary relief determined to be owed the employee, subject to available resources in the fund and the division's prioritization, from the fund to the employee..

(b) If the division disburses payment to an employee from the fund pursuant to this subsection (5):

(I) The employee may not recover that payment amount from the employer;

(II) The division replaces the employee as the creditor of the employer for the amount of the payment, the division may continue to pursue payment from the employer pursuant to section 8-4-111 and this section, and any money recovered from the employer toward the amount disbursed to the employee must be credited to the fund; and

(III) The division shall, to the extent necessary, supplement or amend any documents filed pursuant to an administrative claim or court action regarding the employer's debt to reflect any change in the amount and the creditor of the debt resulting from payment pursuant to this subsection (5).

(c) On or before December 29, 2023, the division shall promulgate rules specifying the procedures and criteria for employees to submit information and request payment pursuant to this subsection (5), specifying the procedures and criteria for the division to review, evaluate, and resolve employee payment requests, and as necessary to implement this subsection (5).

8-4-114. Criminal penalties.

(1) Any employer who violates the provisions of section 8-4-103 (6) commits:

(a) A petty offense if the amount is less than three hundred dollars;

(b) A class 2 misdemeanor if the amount is three hundred dollars or more but less than one thousand dollars;

(c) A class 1 misdemeanor if the amount is one thousand dollars or more but less than two thousand dollars;

(d) A class 6 felony if the amount is two thousand dollars or more but less than five thousand dollars;

(e) A class 5 felony if the amount is five thousand dollars or more but less than twenty thousand dollars;

(f) A class 4 felony if the amount is twenty thousand dollars or more but less than one hundred thousand dollars;

(g) A class 3 felony if the amount is one hundred thousand dollars or more but less than one million dollars; and

(h) A class 2 felony if the amount is one million dollars or more.

(2) In addition to any other penalty imposed by this article 4, any employer or agent of an employer who willfully refuses to pay wages or compensation as provided in this article 4, or falsely denies the amount of a wage claim, or the validity thereof, or that the same is due, with intent to secure for himself, herself, or another person any discount upon such indebtedness or any underpayment of such indebtedness or with intent to annoy, harass, oppress, hinder, coerce, delay, or defraud the person to whom such indebtedness is due, commits theft as defined in section 18-4-401.

8-4-115. Certificate of registration required.

No person shall engage in activities as a field labor contractor unless the person first obtains a certificate of

registration from the division and unless such certificate is in full force and effect and in such person's immediate possession.

8-4-116. Issuance of certificate of registration.

(1) The director, after appropriate investigation, shall issue a certificate of registration to any person who:

(a) Has executed and filed with the director a written application subscribed and sworn to by the applicant containing such information concerning his or her conduct and method of operation as a field labor contractor as the director may require in order to effectively carry out the provisions of this article;

(b) Has consented to designation of the director as the agent available to accept service of process for any action against such field labor contractor at any and all times when such field labor contractor has departed from the jurisdiction of this state or has become unavailable to accept service;

(c) Has demonstrated evidence to the director that he or she has satisfied the insurance requirements of articles 40 to 47 of this title.

(2) Upon notice and hearing in accordance with rules prescribed by the director, the director may refuse to issue and may suspend, revoke, or refuse to renew a certificate of registration of any field labor contractor if the director finds that such field labor contractor:

(a) Knowingly has made any misrepresentation or false statement in his or her application for a certificate of registration or any renewal thereof;

(b) Knowingly has given false or misleading information to any migratory laborer concerning the terms, conditions, or existence of agricultural employment;

(c) Has failed, without justification, to perform agreements entered into or to comply with arrangements made with farm operators;

(d) Has failed, without justification, to comply with the terms of any working arrangements he or she has made with migratory laborers;

(e) Has permitted his or her insurance maintained pursuant to the requirements of paragraph (c) of subsection (1) of this section to terminate, lapse, or otherwise become inoperative;

(f) Is not in fact the real party in interest in any such application or certificate of registration and that the real party in interest is a person, firm, partnership, association, or corporation which previously has been denied a certificate of registration; has had a certificate of registration suspended or revoked; or which does not presently qualify for a certificate of registration.

8-4-117. Additional obligations.

(1) Every field labor contractor shall:

(a) Carry a certificate of registration at all times while engaging in activities as a field labor contractor and exhibit the same to all persons with whom he or she intends to deal in the capacity of a field labor contractor;

(b) Ascertain and disclose in writing to each migratory laborer, in a language in which the migratory laborer is fluent at the time the migratory laborer is recruited, the following information:

(I) The area of employment;

(II) The crops and operations on which the migratory laborer may be employed;

(III) Transportation, housing, and insurance to be provided to the migratory laborer;

(IV) The wage rate to be paid;

(V) The charges by the field labor contractor for his or her services; and

(VI) The existence of any strikes at the place of contracted employment;

(c) Promptly pay or deliver, when due to the migratory laborer entitled thereto, all moneys or other things of value entrusted to the field labor contractor by or on behalf of such migratory laborer.

8-4-118. Authority to obtain information.

The director or the director's designated representative may investigate and gather data pertinent to matters that may aid in carrying out the provisions of this article. In any case where a complaint has been filed with the director or the director's designated representative regarding a violation of this article, or where the director has reasonable grounds to believe that a field labor contractor has violated provisions of this article, the director or the director's designated representative may investigate and issue subpoenas as provided by section 8-4-112 requiring the attendance and testimony of any witness or the production of any evidence in connection with such investigation.

8-4-119. Penalty provisions.

(1) Any field labor contractor who commits a violation of any provision of this article or implementing regulation shall be subject to a civil penalty of not more than two hundred fifty dollars for each violation. The penalty shall be assessed by the director pursuant to a published schedule of penalties and after written notice and after an opportunity for hearing under procedures established by the director. This provision as to civil penalties shall not exclude the possibility of criminal penalties as set forth in this article.

(2) The director, in the director's discretion, may grant a reasonable period of time, but in no event longer than ten days after the day of notification, for correction of the violation. In the event the violation is corrected within that period, no penalty shall be imposed.

8-4-120. Discrimination and retaliation prohibited — employee protections — criminal penalties — civil remedies.

(1) An employer shall not intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate or retaliate against any employee who has:

(a) Filed any complaint or instituted or caused to be instituted any proceeding under this article 4 or any other law or rule related to wages, hours, or employment of minors; or

(b) Testified or provided other evidence, or may testify or provide other evidence, in any proceeding on behalf of the employee or another Person regarding afforded protections under this article 4 or under any other law or rule related to wages or hours.

(2) An employer who violates this section commits a class 2 misdemeanor.

(3)

(a) An employee who alleges a violation of subsection (1) of this section may file a civil action in a court of competent jurisdiction against the employer alleged to have violated this section to seek legal and equitable relief as appropriate to remedy the violation, including:

(I) Back pay;

(II) Reinstatement of employment or, if reinstatement is not feasible, front pay;

(III) The payment of wages unlawfully withheld;

(IV) Interest on unpaid wages at a rate of twelve percent per annum from the date the wages were first due;

(V) The payment of a penalty of fifty dollars per day for each employee whose rights under this section were violated and for each day that the violation occurred or continued;

(VI) Liquidated damages in an amount equal to the greater of two times the amount of the unpaid wages or two thousand dollars; and

(VII) Injunctive relief.

(b) If the employee prevails in a civil action brought pursuant to this subsection (3), the court shall award the employee reasonable attorney fees and costs.

(4) The division may investigate and enforce discrimination or retaliation prohibited by this article 4 or article 6 of this title 8 and, after investigation, may order the relief specified in subsection (3)(a) of this section.

8-4-121. Nonwaiver of employee rights.

Any agreement, written or oral, by any employee purporting to waive or to modify such employee's rights in violation of this article shall be void.

8-4-122. Limitation of actions.

All actions brought pursuant to this article shall be commenced within two years after the cause of action accrues and not after that time; except that all actions brought for a willful violation of this article shall be commenced within three years after the cause of action accrues and not after that time.

8-4-123. Termination of occupancy pursuant to contract of employment — legislative declaration.

(1) The general assembly hereby finds, determines, and declares that many businesses, such as nursing homes or building management companies, either desire or are required by law to have staff on premises at all times. As part of the compensation for such employees, many employers offer housing to employees. However, once that employment relationship ceases, it may become undesirable for such employees to occupy the premises for many reasons, including the safety of the employer's patients, clients, customers, or tenants. Under traditional landlord and tenant law, such employees may have established the technical or legal right to occupy the premises for a fixed term that continues far beyond the cessation of the employment relationship. However, in employment situations, such occupancy is not a tenancy, but a license to occupy the premises pursuant to an employment relationship. The occupancy of the premises by the employee is not entered into by the employer for the purpose of providing housing, but merely as a means to provide services to the employer's patients, clients, customers, or tenants. In certain cases, it may be necessary to curtail the occupancy of former employees in order to protect the rights or safety of an employer's tenants or patients.

(2)

(a) Pursuant to a written agreement meeting the requirements of paragraph (b) of this subsection (2), a license to occupy the premises entered into as part of an employee's compensation may be terminated at any time after the employment relationship ceases between an employer and employee. A termination of a license to occupy the premises shall be effective three days after the service of written notice of termination of a license to occupy the premises.

(b) An agreement made pursuant to this section shall be in writing and shall include the following:

(I) The names of the employer and employee;

(II) A statement that the license to occupy the premises is provided to the employee as part of the employee's compensation and is subject to termination at any time after the employment relationship ceases;

(III) The address of the premises; and

(IV) The signature of both the employer and the employee.

(c) The notice of termination of a license to occupy the premises shall describe the premises and shall set forth the time when the license to occupy the premises will terminate. The notice shall be signed by the employer or the employer's agent or attorney.

(3) If an employee fails to vacate the premises within three days after the receipt of the notice of termination of the license to occupy the premises, the employer may contact the county sheriff to have the employee removed from the premises. The county sheriff shall remove the employee and any personal property of the employee from the premises upon the showing to the county sheriff of the notice of termination of the license to occupy the premises and agreement pursuant to which the license to occupy the premises was granted.

8-4-124. Third-party food delivery services — prohibitions — penalties — definitions.

(1) As used in this section, unless the context otherwise requires:

(a) “Retail food establishment” means a retail food establishment, as defined in section 25-4-1602 (14), that pays an annual license fee as required by section 25-4-1607 (1)(a), (1.5)(a)(I), or (1.5)(b)(I). “Retail food establishment” does not include grocery stores or convenience stores.

(b) “Third-party delivery service platform” means a third-party food delivery service’s online or mobile platform on which a consumer can view and order available products.

(c) “Third-party food delivery service” means any company or website, mobile application, or other internet service that offers or arranges for the sale and same-day delivery or same-day pickup of prepared food or beverages from a retail food establishment.

(2) A third-party food delivery service shall not take and arrange for the delivery or pickup of an order from a retail food establishment without the retail food establishment’s consent.

(3) A retail food establishment included on a third-party delivery service platform in violation of subsection (2) of this section may bring an action in a court of competent jurisdiction for damages, a civil penalty not to exceed one thousand dollars per violation, and injunctive relief. The prevailing party in an action brought pursuant to this subsection (3) is entitled to reasonable attorney fees.

8-4-125. Supplemental health-care staffing agencies — annual certification — contract restrictions - penalty — civil action — reporting — definitions.

(1) As used in this section, unless the context otherwise requires:

(a) “Department” means the department of labor and employment.

(b) “Health-care facility” means a facility licensed by the department of public health and environment pursuant to section 25-1.5-103 (1)(a).

(c) “Health-care worker” means a person employed by a supplemental health-care staffing agency for temporary placement in a health-care facility.

(d) “Health-care worker platform” or “platform” means any person, firm, corporation, partnership, or association that maintains a system or technology that provides a media or internet platform for a health-care worker to be listed and identified as available for hire by health-care facilities seeking health-care workers. Under a platform, the health-care facility sets the hourly rates and other terms of hire and the health-care worker, as an independent contractor and not as an employee or agent of the entity that maintains the platform, decides whether to agree to the hourly rates and other terms of hire.

(e)

(I) “Supplemental health-care staffing agency” or “staffing agency” means an individual or type of organization, including any partnership, limited liability partnership, limited liability company, limited liability limited partnership, association, trust, joint stock company, insurance company, or corporation, whether domestic or foreign, engaged in the business of providing health-care workers who are employees of the staffing agency, and, for a fee, assigning them to temporary

placements in health-care facilities.

(II) “Supplemental health-care staffing agency” does not include:

(A) An individual acting as an independent contractor who is only engaged in providing the individual’s services on a temporary basis to health-care facilities; or

(B) A health-care worker platform.

(2)

(a) It is unlawful for any person to operate a supplemental health-care staffing agency in this state without completing the staffing agency’s initial certification and required annual certification with the department pursuant to section 8-70-114.

(b) Any person who violates this section commits a civil infraction and may be subject to fines determined by the department.

(c) On or before September 1, 2022, and September 1 each year thereafter, the department of public health and environment and the department of health care policy and financing shall provide the department with a list of all known names and contact information for supplemental health-care staffing agencies operating in the state.

(2.5)

(a) In any contract or agreement between a supplemental health-care staffing agency and a health-care worker or health-care facility concerning the placement of a health-care worker who is a nursing professional licensed or certified pursuant to article 255 of title 12, except for liquidated damages, employment fees, or other compensation attributable to and chargeable for a thirty-calendar-day period commencing when the health-care worker is first placed at a health-care facility, it is unlawful for the supplemental health-care staffing agency to require the payment of liquidated damages, employment fees, or other compensation to the supplemental health-care staffing agency if the health-care facility hires the health-care worker as a permanent employee either prior to or after the termination of the contract or agreement with the supplemental health-care staffing agency.

(b) If a supplemental health-care staffing agency collects or attempts to collect liquidated damages, employment fees, or other compensation from a health-care worker or health-care facility in violation of subsection (2.5)(a) of this section, the health-care worker or health-care facility may bring an action in a court of competent jurisdiction for damages, a civil penalty not to exceed five thousand dollars per violation, and injunctive relief. The prevailing party to an action brought pursuant to this subsection (2.5)(b) is entitled to reasonable attorney fees.

(3)

(a) No later than October 1, 2022, each supplemental health-care staffing agency shall maintain detailed data described in subsection (3)(b) of this section. By the deadlines established in this subsection (3)(a), each staffing agency shall provide reports to the department that contain the information and certifications set forth in subsection (3)(b) of this section. Beginning April 30, 2023, and continuing each April 30 thereafter, a staffing agency operating in the state shall provide a report covering the period between October 1 of the previous year and March 31 of the current year. For the reporting period between April 1 and September 30 of the current year, the staffing agency shall file a report annually, beginning October 31, 2023, and continuing each October 31 thereafter.

(b) At a minimum, a staffing agency’s biannual reports required pursuant to subsection (3)(a) of this section must include:

(I) The name of each direct and indirect owner of the staffing agency;

(II) If the staffing agency’s direct owner is a corporation, copies of the articles of incorporation and current bylaws;

(III) A detailed listing of the average amount charged during each quarter of the reporting period

to a health-care facility for each category of health-care worker providing services to the health-care facility;

(IV) A detailed listing of the average amount paid during each quarter of the reporting period to health-care workers for their services for each category of health-care worker providing services;

(V) The staffing agency's certification that each health-care worker contracted to a health-care facility during the reporting period had a current, unrestricted license or certification in good standing and met the training and continuing education standards for the position with the health-care facility throughout the entirety of the reporting period;

(VI) The staffing agency's certification that each health-care worker contracted to a health-care facility had successfully completed all background checks required by federal and state law, rule, and regulation relating to the health-care position and health-care facility in which the health-care worker was placed during the reporting period; and

(VII) The staffing agency's certification that the staffing agency maintained professional liability insurance throughout the entirety of the reporting period for each health-care worker contracted to a health-care facility during the reporting period.

(c) The department shall establish the manner and form of reporting pursuant to this subsection (3).

(4)

(a)

(I) The department shall impose a fine in the amount of five hundred dollars for a report required pursuant to subsection (3) of this section that:

(A) Is not submitted within thirty days after the reporting deadline; or

(B) The department deems noncompliant with the requirements of subsection (3) of this section.

(II) The department may waive the fine if the staffing agency is able to show good cause for the delay in submitting the report or for submitting a noncompliant report.

(b) The department shall send notice to each staffing agency that:

(I) Has not submitted the required biannual report on or before the deadline; or

(II) Has not submitted a compliant report.

(c) If the staffing agency does not submit a compliant report within thirty days after the date of the department's notice of noncompliance, the department shall impose a fine of ten thousand dollars, and for a failure in any subsequent reporting period to timely submit a compliant report within thirty days after the department's notice of noncompliance, a fine of twenty thousand dollars. The department may waive or reduce the staffing agency's fine if the staffing agency is able to show good cause for delaying the submission of the report.

(d) The department shall transmit any penalties imposed and collected pursuant to this subsection (4) to the state treasurer, who shall credit the money to the wage theft enforcement fund created in section 8-4-113 (3).

(5) The department shall provide copies of the biannual reports required pursuant to subsection (3) of this section to the department of public health and environment and to the department of health care policy and financing for purposes of analyzing the information provided by the supplemental health-care staffing agencies and determining the need for regulation of staffing agencies.

8-4-126. Cost and wage transparency from delivery network companies — notice requirements — deactivation requirements — enforcement — driver safety — task acceptance time — penalties — definitions — rules.

(1) Definitions. As used in this section, unless the context otherwise requires:

(a) “Consumer” means an individual who uses a digital platform to order delivery services from a delivery network company.

(b) “Deactivate” or “deactivation” means conduct that a delivery network company engages in to materially restrict a driver’s access to the digital platform for more than seventy-two hours, including blocking a driver’s access to the digital platform, suspending a driver, or changing a driver’s status from eligible to ineligible to provide delivery services through the delivery network company’s digital platform.

(c)

(I) “Delivery network company” or “DNC” means any person that sells the delivery of goods or services, including delivery provided as part of the sale of goods, in the state and that engages or dispatches delivery drivers through a digital platform.

(II) “Delivery network company” or “DNC” does not include a motor carrier of towed motor vehicles regulated by the public utilities commission pursuant to part 4 of article 10.1 of title 40 or a motor carrier of household goods regulated by the public utilities commission pursuant to part 5 of article 10.1 of title 40.

(d) “Delivery task” or “task” means the time spent, distance traveled, and route followed by a driver to provide delivery services to a consumer through a delivery network company, including traveling to a merchant’s business; picking up food, beverages, or other goods for delivery; and taking and depositing the delivery at a different location, as requested. A delivery task may encompass multiple transactions.

(e) “Digital platform” means an online application, internet site, or system that a delivery network company uses to facilitate, manage, or facilitate and manage delivery services.

(f) “Driver” means an individual providing delivery services through a delivery network company’s digital platform in a personal vehicle.

(g) “IRS mileage rate” means the federal internal revenue service’s standard mileage rate for business use.

(h) “Merchant” means a third party that sells goods or services to consumers through a delivery network company.

(i) “Tip” means a gratuity that a consumer:

(I) Indicates through a digital platform as intended for direct payment to the driver; or

(II) Would reasonably expect to be paid in full to the driver.

(j) “Transaction” means an order that a consumer makes using a delivery network company’s digital platform to request that a driver deliver food, beverages, or other goods from a merchant. A driver may pick up goods related to multiple transactions as part of a single delivery task.

(2) Consumer payments.

(a) On the same screen on which a DNC prompts a consumer to leave a tip for a driver, the DNC shall disclose in a manner prominently displayed on the screen the amount of money that the consumer paid or will pay for the transaction.

(b) A DNC shall not decrease the amount the DNC pays a driver for a delivery task based on the amount of a customer’s tip for that delivery task.

(c) A DNC shall pay a driver all tips paid by a consumer.

(d) The information disclosed to consumers pursuant to this subsection (2) must be:

(I) Prominently displayed on the screen;

(II) In a font that is at least one and one-half times larger than the font used to present any other information on the screen; and

(III) Presented using design techniques intended to draw the eye to the information.

(3) Wage transparency to driver.

(a) [Editor's note: Subsection (3) is effective January 1, 2025.] Each time a DNC offers a delivery task to a driver who is compensated on a per-delivery-task or a per-transaction basis, but not to a driver who is compensated for a block of time for multiple deliveries, before the driver accepts the task, the DNC shall disclose to the driver the following information on a smartphone or similar screen in a clearly legible format:

(I) The estimated or actual amount the driver will earn for the delivery task, disaggregated to show the full and accurate amount of any tip or reimbursement;

(II) The number of transactions involved in the delivery task;

(III) The address or addresses where the food, beverages, or other goods must be picked up;

(IV) The cardinal and intercardinal direction from where the driver is required to pick up the food, beverages, or other goods to the locations where the food, beverages, or other goods must be delivered;

(V) The estimated or actual time the driver will spend on the delivery task; and

(VI) The estimated or actual distance the driver will travel for the delivery task.

(b) Within twenty-four hours after a driver completes a delivery task for which the driver was paid on a per-delivery-task or a per-transaction basis, or after such a delivery task is cancelled, but not for a driver who is compensated for a block of time for multiple deliveries, a DNC must disclose to the driver by e-mail or other mechanism that remains available to the driver for at least one year in a clearly legible format:

(I) The actual amount the driver was paid for the delivery task, disaggregated to show the amount of any tip or reimbursement;

(II) The full and accurate amount of any tip paid by the consumer;

(III) The actual time the driver spent on the delivery task;

(IV) The actual distance the driver traveled for the delivery task; and

(V) If the delivery task or a transaction was cancelled, who initiated the cancellation.

(c) If a DNC compensates a driver for a block of time for multiple deliveries, the DNC shall prominently display on the screen, prior to the driver accepting the block of time, the minimum amount the DNC will pay the driver for completing deliveries during the specified block of time and the address where the food, beverages, or other goods must be picked up, and prominently display the following information on the screen when the block of time begins:

(I) The total number of deliveries to be completed during the specified block of time;

(II) A reasonable estimate of the engaged time required to complete all assigned deliveries;

(III) The range of time in which the deliveries can be completed;

(IV) A reasonable estimate of the number of miles required to complete all deliveries;

(V) The approximate pick-up and drop-off locations for all deliveries; and

(VI) Clear information on which deliveries need to be completed within specific time windows.

(d) Within twenty-four hours after a driver completes a delivery task for which the driver was compensated for a block of time, or after such a delivery task is canceled, a DNC shall make the following disclosures to the driver by e-mail or other mechanism that remains available to the driver for at least one year:

(I) The actual amount the driver was paid for the delivery task, disaggregated to show the amount of any tip or reimbursement;

(II) The full and accurate amount of any tip paid by the consumer;

(III) The actual time the driver spent on the delivery task;

(IV) The actual distance the driver traveled for the delivery task; and

(V) If the delivery task or a transaction was cancelled, who initiated the cancellation.

(e)

(I) A DNC shall:

(A) Within thirty days after the end of each calendar quarter, provide to each driver, by e-mail or through the digital platform, a disclosure identifying at least the total number of miles traveled to complete each delivery task through the DNC during the calendar quarter and the IRS mileage rate applicable for the calendar quarter; or

(B) Within thirty days after the end of each calendar month, provide to each driver, by e-mail or through the digital platform, a disclosure identifying at least the total number of miles traveled to complete each delivery task through the DNC during the calendar month and the IRS mileage rate applicable for the calendar month.

(II) For each delivery task for which the driver was paid on a per-delivery-task or a per-transaction basis, but not for a driver who is compensated for a block of time for multiple deliveries, the DNC shall calculate the miles traveled to complete a delivery task as all miles traveled from the location where the driver accepted a delivery task to the location where the driver dropped off the last item to be delivered as part of that delivery task.

(III)

(A) For each delivery task that is compensated in a block of time for multiple deliveries, the DNC shall calculate the miles traveled to complete a delivery task from the pick-up location where the driver was directed to begin the delivery task to the location where the driver dropped off the last item to be delivered as part of that delivery task.

(B) For each delivery task that is compensated in a block of time for multiple deliveries, the DNC shall notify the driver that any additional miles the driver incurred traveling to the pick-up location where the driver was directed to begin the delivery task and traveling from the location where the driver was directed to make the last delivery may be eligible for tax mileage deductions under state and federal law.

(C) As part of the disclosures made pursuant to subsection (3)(e)(I) of this section, the DNC shall disclose to the driver that for each delivery task that is compensated in a block of time for multiple deliveries, the mileage report only includes miles traveled from the location where the driver began the delivery task to the location where the driver dropped off the last item to be delivered as part of that delivery task.

(IV) As part of the disclosures made pursuant to subsection (3)(e)(I) of this section, the DNC may include a notice that this disclosure is not tax advice and that the driver should contact a tax professional.

(f) The information disclosed to a driver pursuant to this subsection (3) must be:

(I) Prominently displayed on the screen or in the e-mail;

(II) In a font that is at least one and one-half times larger than the font used to present any other information on the screen or in the e-mail; and

(III) Presented using design techniques intended to draw the eye to the information.

(4) Contract transparency.

(a) A DNC shall offer a driver a contract or changes to a contract on the digital platform and by e-mail.

(b) A DNC shall include in a contract a table of contents describing the terms or sections of the contract on the first page of the contract.

(c) All material terms of a contract the DNC offers to a driver must be disclosed in plain language.

(d) When providing a new driver with a contract, a DNC shall prominently display the contract on the screen and e-mail the contract at the time the driver applies to work for the DNC.

(e) When a DNC changes a contract or issues a new contract, the DNC shall:

(I) E-mail the contract to all drivers engaged on the digital platform at least fourteen days before the contract becomes enforceable; and

(II) Post the contract online, in the digital platform, or in another location that is available to the public on an ongoing basis for at least fourteen days before the contract becomes enforceable.

(f) A DNC shall provide drivers with contracts in English, Spanish, Arabic, and up to three additional languages commonly spoken by drivers in the state, as determined by the director.

(g) Once a driver agrees to a contract with the DNC, the DNC shall e-mail the contract to the driver and make the signed contract continuously available to the driver on the digital platform.

(5) Account deactivation transparency - deactivation challenge procedure.

(a) A DNC shall develop and maintain an account deactivation policy. The policy must:

(I) Be in writing, which may be in an electronic format;

(II) Define what constitutes a violation that may result in an account deactivation and be specific enough for a driver to reasonably understand what constitutes a violation;

(III) Be provided to the driver prior to the driver providing delivery services through the DNC's digital platform; and

(IV) Be available to the driver in English, Spanish, Arabic, and up to three additional languages commonly spoken by DNC drivers in the state, as determined by the director.

(b) A DNC shall provide the account deactivation policy to the division in English, Spanish, Arabic, and up to three additional languages commonly spoken by drivers in the state, as determined by the director. The division shall post the DNC's account deactivation policy and any revisions to the DNC's account deactivation policy publicly on the division's website for at least thirty days before the deactivation policy becomes enforceable.

(c) A DNC shall not deactivate a driver unless the deactivation is consistent with the DNC's deactivation policy adopted and distributed in accordance with this subsection (5).

(d) A DNC shall provide a driver with written notice of an account deactivation in an electronic format via e-mail, text message, or through the DNC's digital platform upon the effective date of the deactivation. A

notice required by this section must include the following information:

(I) Sufficient information for the driver to reasonably understand the reasons for the account deactivation, including the provision of the DNC's account deactivation policy that was violated;

(II) The effective date of the account deactivation;

(III) A description of the steps, if any, the driver can take to remedy the violation;

(IV) Notification of the driver's right to challenge the account deactivation pursuant to subsection (5)(e) of this section; and

(V) The DNC's process for challenging an account deactivation or a link to a description of that process.

(e)

(I) A driver has the right to challenge the driver's account deactivation through an internal account deactivation challenge procedure established by the DNC.

(II) A DNC shall create an internal account deactivation challenge procedure that must be made available to the driver immediately upon notice of the driver's account deactivation and for up to thirty days after the date of the deactivation notice.

(III) A DNC shall provide the DNC's internal account deactivation challenge procedure to the driver along with the deactivation notice provided pursuant to subsection (5)(d) of this section in a format that is readily accessible to the driver.

(IV) A DNC shall review and respond to a driver's challenge to an account deactivation within fourteen days after receiving the challenge. A DNC's response to a driver's challenge to an account deactivation must include a written statement, which may be in an electronic format, providing one of the following:

(A) A determination reaffirming the account deactivation, including a description of the steps, if any, the driver can take to remedy the violation, and a summary of the reasons that the account deactivation is reaffirmed;

(B) Any circumstances necessitating a delayed timeline for the DNC's response and an anticipated date for a response either reaffirming the account deactivation or reinstating the driver; or

(C) A determination that the driver did not violate the DNC's account deactivation policy and information regarding when the driver's access to the digital platform will be reinstated.

(V) Following the conclusion of the internal account deactivation challenge procedure, the DNC must reinstate the driver's access to the digital platform if the DNC determines that the driver did not violate the DNC's account deactivation policy or that the driver corrected any violation. The DNC must reinstate the driver's access as soon as possible and no later than seventy-two hours following the DNC providing the written statement pursuant to subsection (5)(e)(IV) of this section.

(f) This subsection (5) shall not be interpreted to require a DNC to provide a driver with any information that a DNC reasonably believes could compromise the safety or privacy of a consumer.

(6) Driver safety. Each time a DNC connects a consumer to a driver, the DNC shall prompt the consumer as a means to encourage the consumer to ensure driver safety upon arrival, including by ensuring a clear, well-lit, safe delivery path and ensuring all pets are properly secured.

(7) Task acceptance time.

(a) A DNC shall ensure all drivers have at least sixty seconds after a delivery task offer is displayed on the driver's smartphone or similar screen to decide whether or not to accept the offer.

(b) To ensure all drivers have the full amount of time to decide whether to accept a delivery task offer pursuant to subsection (8)(a) of this section, a DNC shall not penalize or retaliate against a driver for a failure to respond to a delivery task offer in a period of less than sixty seconds after displaying the offer on the driver's smartphone or similar screen, and a DNC shall not require or encourage the driver to respond to a delivery task offer in a period of less than sixty seconds after displaying the offer on the driver's smartphone or similar screen.

(8) Penalties, fines, and enforcement.

(a) If a DNC violates this section, the DNC may be subject to:

(I) Statutory damages in the amount of one thousand dollars, as determined by a court, in a civil action brought pursuant to subsection (8)(d) of this section on a per-consumer or a per-driver basis, which amount the DNC shall pay to the consumer or driver affected by the violation;

(II) A fine of one hundred dollars per violation, as determined by the director on a per-consumer or a per-driver basis, which amount the DNC shall pay to the division; and

(III) Injunctive relief pursuant to subsection (8)(d)(II) of this section.

(b) The division may investigate alleged violations in response to complaints filed or at the division's discretion.

(c) The director shall establish procedures for drivers and consumers to submit complaints to the division and for the division's investigations, hearings, and imposition of fines pursuant to this subsection (8).

(d)

(I) A person aggrieved by a DNC's violation of this section may file a civil action against the DNC in the district court where:

(A) The person resides;

(B) The violation occurred; or

(C) The DNC has a physical place of business in the state.

(II) The person filing the civil action may seek:

(A) Injunctive relief from the district court to compel a DNC to comply with this section;

(B) Statutory damages as specified in subsection (8)(a)(I) of this section; and

(C) Any actual damages sustained as a result of the violation.

(e) The director shall transfer the fines collected pursuant to subsection (8)(a)(II) of this section to the general fund.

(9) Exemption. A DNC need not comply with the provisions of this section with respect to drivers or delivery tasks performed by drivers who annually receive or will receive a federal form W-2 from the DNC reflecting all amounts earned by the driver while performing services dispatched or facilitated through the DNC's digital platform.

(10) Rules. The director shall adopt rules necessary to implement this section.

8-4-127. Transportation network companies — disclosures to drivers — deactivation and suspension policies — disclosures to division — definitions — enforcement — rules.

(1) Definitions. As used in this section, unless the context otherwise requires:

(a) “Available platform time” means the period when a driver is active on a transportation network company’s digital platform while awaiting a transportation services request to come through the digital platform.

(b) “Commission” means the public utilities commission created in section 40-2-101.

(c) “Consumer” means an individual who uses a digital platform to order transportation services from a TNC.

(d)

(I) “Consumer platform time” means the period of time when a driver is transporting one or more consumers or riders on a ride.

(II) “Consumer platform time”, for shared rides, means the period of time commencing when the first consumer or rider enters a driver’s vehicle and ending when the last consumer or rider exits the driver’s vehicle.

(e)

(I) “Deactivate” or “deactivation” means conduct that a TNC engages in to restrict a driver’s access to the TNC’s digital platform for seventy-two hours or more.

(II) “Deactivate” or “deactivation” includes blocking a driver’s access to a digital platform, suspending a driver, or changing a driver’s status from eligible to ineligible to provide transportation services for a TNC for seventy-two hours or more.

(f) “Digital platform” means an online application, an internet site, or a system, either of which a TNC uses to facilitate, manage, or facilitate and manage transportation services.

(g)

(I) “Dispatch platform time” means the period of time between a driver’s receipt of a request for a transportation task through the TNC’s digital platform and the time when either the driver picks up a consumer or rider or when a consumer or the driver cancels the ride.

(II) “Dispatch platform time”, for shared rides, means the period of time between a driver’s receipt of the first request for a transportation task and the first consumer or rider pickup.

(h) “Driver” means a transportation network company driver as defined in section 40-10.1-602 (4).

(i) “Driver pay before expenses” means the total monthly amount that a TNC remits to a driver, disaggregated to show:

(I) Pay for transportation tasks;

(II) Pass-throughs;

(III) Bonus or incentive pay; and

(IV) Tips.

(j)

(I) “Driver support organization” or “organization” means a membership-based and member-led nonprofit or labor organization:

(A) With a principal purpose to support drivers and that has consistently operated in Colorado for at least four years with that purpose;
(B) That is not funded, directly or indirectly, excessively influenced, or controlled by a TNC; and

(C) That is not affiliated with any other entity that is funded, directly or indirectly, excessively influenced, or controlled by a TNC.

(II) As used in this subsection (1)(j):

(A) “Excessive influence” includes receiving the identities or contact information of drivers from a TNC.

(B) “Funded, directly or indirectly” does not include receiving funds pursuant to subsection (6) of this section or a dues deduction as described in subsection (7) of this section.

(k) “Driver tips before expenses” means the total monthly amount of tips that consumers pay a TNC, that are intended as payment to the driver, and that the TNC remits to the driver.

(l) “IRS business mileage deduction rate” means the federal internal revenue service’s prevailing mileage cost-deduction rate for business use.

(m) “Pass-through” means a sum that a TNC pays a driver to cover costs, such as tolls, that the driver incurs while performing work through a TNC’s digital platform.

(n) “Rider” has the same meaning as ”transportation network company rider“ as defined in section 40-10.1-602 (5).

(o)

(I) “Suspend” or “suspension” means conduct that a TNC engages in to block or restrict a driver’s access to the digital platform for a period of less than seventy-two hours.

(II) “Suspend” or “suspension” includes:

(A) Blocking a driver’s access to the digital platform;

(B) Suspending a driver; or

(C) Changing a driver’s status from eligible to ineligible to provide transportation services for the TNC for less than seventy-two hours.

(p) “Tip” means a gratuity that a consumer:

(I) Indicates through a digital platform as intended for direct payment to a driver; or

(II) Would reasonably expect to be paid in full to a driver.

(q) “Transportation network company” or “TNC” has the meaning set forth in section 40-10.1-602 (3); except that the term does not include a TNC that:

(I) Either serves riders at least seventy-five percent of whom are under the age of eighteen or earns at least ninety percent of the TNC’s revenue from contracts with a public or private school, the federal government, the state, or an agency or a political subdivision of the federal government or of the state;

(II) Has at least ninety percent of the TNC’s drivers in compliance with the commission’s rules promulgated pursuant to section 40-10.1-608 (3)(a);

(III) Attests that the TNC meets the requirements set forth in subsections (1)(q)(I) and (1)(q)(II) of this section and submits an attestation to the commission on or before January 1, 2025, and

with each permit renewal application submitted to the commission pursuant to section 40-10.1-606; and

(IV) Discloses to a driver the destination and expected compensation for a ride before the driver accepts the ride for all transportation tasks provided through the TNC's digital platform.

(r) "Transportation services" has the same meaning as "transportation network company services" as defined in section 40-10.1-602 (6).

(s) "Transportation task" means a driver's provision of transportation services to a consumer or to one or more riders for whom a consumer orders transportation services through a TNC's digital platform.

(2) Effective date.

(a) On or before May 1, 2025, a transportation network company shall develop a deactivation and suspension policy in accordance with subsection (3) of this section.

(b) On and after June 1, 2025, a TNC:

(I) Shall comply with the deactivation and suspension requirements set forth in subsection (3) of this section; and

(II) Is subject to enforcement by the director pursuant to this article 4.

(3) Deactivation and suspension policy - disclosure - rules.

(a) On or before May 1, 2025, a transportation network company shall inform each driver of the TNC's deactivation and suspension policy and the types of violations that may warrant deactivation or suspension. The TNC's deactivation and suspension policy must:

(I) State that the deactivation and suspension policy is enforceable as a term of the TNC's contract with a driver;

(II) Clearly list the circumstances that constitute a violation that may warrant deactivation or suspension under the deactivation and suspension policy and indicate the specific consequences for each listed violation, including the consequences resulting in:

(A) Deactivation or suspension and the specific number of days or range of days for a deactivation or suspension; or

(B) Any other sanction;

(III) Describe fair, objective, and reasonable procedures for notifying a driver of a suspension or a deactivation and the reason for the suspension or deactivation. The procedures need not require that the TNC provide the driver with a reason for the suspension or deactivation if the suspension or deactivation is the result of an allegation of assault or other egregious misconduct, including an allegation of sexual misconduct.

(IV) Consistent with subsection (5) of this section, describe fair, objective, and reasonable procedures for the reconsideration of a deactivation decision consistent with the requirements of subsection (4) of this section and the process by which a driver may request a deactivation reconsideration with the TNC.

(b) In addition to the requirements set forth in subsection (3)(a) of this section, a TNC's deactivation and suspension policy must be:

(I) Specific enough for a driver to understand what constitutes a violation of the policy and how to avoid violating the policy;

(II) Made available to a driver in an electronic format that is readily accessible by:

(A) Prominently displaying the policy and e-mailing the policy to a new driver at the time that the driver applies to work as a driver for the TNC;

(B) E-mailing the policy to all drivers engaged on the digital platform at least fourteen days before the policy becomes enforceable; and

(C) Posting the policy online, in the digital platform, or in another location that is available to the public on an ongoing basis for at least fourteen days before the policy becomes enforceable;

(III) Made available in English, Spanish, Arabic, and up to three additional languages commonly spoken by TNC drivers in the state, as determined by the director by rule; and

(IV) Sent to the division in each required language and made publicly available on the internet for at least fourteen days before the policy becomes enforceable. For any amendments made to a TNC's deactivation and suspension policy, the TNC shall comply with the requirements of this subsection (3).

(c) A TNC shall not deactivate or suspend a driver unless the deactivation or suspension is consistent with the TNC's deactivation and suspension policy, or amended deactivation and suspension policy, as written and distributed in accordance with this subsection (3).

(4) Deactivation - notice.

(a) Within twenty-four hours after a TNC suspends a driver, the TNC shall provide a written disclosure to the driver in the default language that the driver has selected in the TNC's digital platform. The written disclosure must describe the basis for the suspension and provide:

(I) Sufficient information for the driver to reasonably understand the reasons for the suspension; and

(II) A description of the steps that the driver may take, if any, to remedy the alleged violation of the TNC's deactivation and suspension policy.

(b) Within twenty-four hours after a TNC deactivates a driver, the TNC shall provide a written disclosure to the driver in the default language that the driver has selected in the TNC's digital platform. The written disclosure must describe the basis for the deactivation and provide:

(I) Sufficient information for the driver to reasonably understand the reasons for the deactivation;

(II) A description of the steps that the driver may take, if any, to remedy the alleged violation of the TNC's deactivation and suspension policy;

(III) A statement of the driver's right to challenge the deactivation through the TNC's internal deactivation review process outlined in subsection (5)(a) of this section and a link to a description of that internal process; and

(IV) The availability of driver support services at the driver support organization certified pursuant to subsection (6)(a) of this section, a notice that the certified driver support organization is independent of any TNC, and contact information for the certified driver support organization.

(c) A TNC shall send the disclosures required in accordance with this subsection (4) to a driver through the TNC's digital platform and via e-mail or other mechanism that remains accessible to the driver for at least one year.

(5) Deactivation - internal process - reconsideration - investigations - reports.

(a) A driver who has been deactivated may, within thirty calendar days after receiving a written notice of deactivation pursuant to subsection (4)(b) of this section, challenge the deactivation with the TNC pursuant to the TNC's internal deactivation review process.

(b) A TNC shall conduct an internal deactivation reconsideration of a challenged deactivation within

fourteen calendar days after the driver makes the written request for deactivation reconsideration; except that the TNC may notify the driver in writing of a continuance of the deactivation reconsideration if the driver has not provided sufficient evidence or documentation for consideration by the TNC or if circumstances outside of the TNC's control require additional time to reconsider the challenged deactivation.

(c) A TNC's internal deactivation review must:

(I) Require consideration of all relevant, available information;

(II) Be conducted in good faith; and

(III) Apply evenhandedly the TNC's deactivation policy, consistent with the TNC's interest in safe and efficient operations.

(d) The TNC's resolution of a driver's challenge to a deactivation must include a written statement that the TNC sends the driver through the TNC's digital platform and via e-mail or other mechanism that the TNC reasonably expects will remain accessible to the driver for at least one year. The written statement must include:

(I) A determination affirming deactivation and including:

(A) A summary of the reasons for the deactivation;

(B) A description of the steps the driver may take, if any, to remedy the alleged violation; and

(C) Information about the driver's right to seek services from the driver support organization certified pursuant to subsection (6)(a) of this section and specific instructions on how to contact the certified driver support organization, including e-mail and telephone contact information; or

(II) A determination that the driver did not violate the TNC's deactivation and suspension policy or that the driver remedied any violation of the policy, which determination must be accompanied by reactivation of the driver's account within twenty-four hours after the determination is made.

(6) Driver support organization - application - certification - budget - TNC payments - division oversight - rules.

(a)

(I) Certification of driver support organizations and quarterly budgets. Beginning January 1, 2025, until March 31, 2025, the division shall accept applications for certification from eligible driver support organizations and shall certify a single driver support organization for the three-year period beginning October 1, 2025, through September 30, 2028. The division shall certify a single driver support organization for each subsequent three-year period and shall begin accepting applications for the second three-year period in January 2028.

(II)

(A) A driver support organization applying for certification from the division shall submit for review by the division a proposed annual budget. The driver support organization certified by the division shall also submit for review by the division a proposed annual budget for each year of the organization's three-year certification cycle.

(B) A driver support organization's proposed annual budget submitted pursuant to subsection (6)(a)(II)(A) of this section may be used only for educating TNC drivers and supporting drivers regarding deactivations in accordance with such organization's authority and responsibilities set forth in subsection (6)(b) of this section.

(C) A driver support organization's proposed total annual budget must not exceed seven cents per transportation task based on the previous year's total transportation tasks for all TNCs operating in the state, as adjusted for inflation by the director.

(III) In considering whether an organization is a driver support organization as defined in subsection (1)(j) of this section, whether the organization qualifies for certification, and whether to approve the organization's proposed annual budget, the division:

(A) Shall consider evidence submitted by the organization and any evidence submitted by the public, including any evidence submitted by other driver support organizations; and

(B) May request from the organization or from any TNC the number of drivers that the organization served in the state in the previous year and whether the driver support organization has, directly or indirectly, received support from a TNC.

(IV) The division may approve, reject, or require revision and resubmission of an application for certification or approval of a proposed annual budget.

(V) The division shall post each driver support organization's certification application and proposed annual budget on the division's website. The division shall not certify an organization or approve a proposed annual budget until at least thirty days after the division has posted the application or proposed budget.

(VI) In considering a driver support organization's proposed budget submitted pursuant to subsection (6)(a)(II)(A) of this section, the division shall consider the organization's record of serving deactivated drivers. Upon approving the certified driver support organization's proposed annual budget, the division shall direct each TNC to remit a quarterly share of the certified driver support organization's approved annual budget to the certified driver support organization within fifteen days after the end of each calendar quarter.

(VII) The certified driver support organization's annual budget may increase during the course of the organization's three-year certification period based on increases in transportation tasks and the extent of services that the driver support organization provided to drivers served by the driver support organization.

(VIII) Each TNC shall provide to the division the total number of annual transportation tasks beginning in the state in the preceding year within ninety days after August 7, 2024, and by January 15 in each following year.

(IX) Every six months during a driver support organization's certification period, the organization shall certify to the division that the organization continues to comply with the requirements of this section. To demonstrate its continued compliance, the organization shall submit to the division documentation and information regarding the number of drivers that the organization serves and the extent of its services. The organization shall not submit to the division a list of members or drivers served.

(X) The division may revoke a driver support organization's certification or alter or revoke the division's approval of the certified organization's budget at any time if clear and convincing evidence demonstrates that the organization:

(A) Is misallocating money it has received from a TNC pursuant to subsection (6)(a)(VI) of this section; or

(B) No longer qualifies as a driver support organization.

(XI) If a TNC elects to describe the per-trip amount allocated to the driver support organization annual budget on a consumer receipt, the TNC may only indicate that the deduction will be used in part to support the state's certified driver support organization.

(XII) Following the completion of each three-year certification period, the division may increase the per-trip amount that a TNC is required to pay pursuant to subsection (6)(a)(II)(C) of this section if the division determines that the increase is necessary to cover the certified driver support organization's costs and the increase does not exceed the rate of inflation during the

previous three-year certification period.

(b) Certified driver support organization - TNC notice to drivers - organization responsibilities.

(I) On or before October 30, 2025, each TNC shall provide notice to each driver in the state the name of the driver support organization certified pursuant to subsection (6)(a) of this section. As part of the notice, the TNC shall also inform drivers:

(A) That the organization has been certified as a driver support organization and has met certain criteria as approved by the division;

(B) That the organization is approved by the state to represent drivers in the deactivation process and educate drivers, but that a driver is not required to authorize the organization to represent the driver; and

(C) Of the organization's contact information, including phone number, e-mail address, web address, and physical address.

(II) On and after October 31, 2025, each TNC shall provide the notice described in subsection (6)(b)(I) of this section to:

(A) Each new driver before the driver engages in a transportation task for the TNC; and

(B) Any driver upon being suspended or deactivated.

(III) Pursuant to a written authorization from a driver who has been deactivated, the certified driver support organization may represent or support the driver through the procedures made available to the deactivated driver through the driver's contract with the TNC or otherwise made available under the law. An employee of the organization may provide such representation or support to a driver regardless of whether the employee is authorized to practice law in the state.

(IV)

(A) The certified driver support organization is required to provide reasonable and fair representation to drivers based on the organization's approved annual budget and its reasonable assessment of each driver's case.

(B) The organization shall not deny reasonable representation to any driver in any manner that is arbitrary, discriminatory, or in bad faith.

(C) The organization shall not advance filing fees to drivers in any dispute related to a deactivation reconsideration or an appeal or action arising from a deactivation.

(D) In disputes related to a deactivation reconsideration or an appeal or action arising from a deactivation, prevailing drivers are entitled to recover filing fees.

(c) Division rules. The division may adopt rules to interpret and implement this subsection (6) and to ensure TNCs' and driver support organizations' compliance with this subsection (6).

(7)

(a) Driver support organization - voluntary dues deduction. On or before September 1, 2025, a TNC shall provide a driver an opportunity to make a voluntary, per-trip deduction on the driver's earnings to contribute to the certified driver support organization in an amount between one and one-half percent or three percent per ride if:

(I) The organization is in good standing;

(II) One hundred or more drivers on a TNC's digital platform have authorized such deduction and contribution to a specific driver support organization; and

(III) The driver has expressly authorized the deduction in writing, which written authorization must include, at a minimum, sufficient information to identify the driver and the driver's desired

per-trip deduction percentage.

(b) The TNC may require a driver's written authorization provided pursuant to subsection (7)(a)(III) of this section to be submitted by the driver support organization in an electronic format.

(c) A TNC shall make the first authorized deductions from a driver's earnings within thirty days after receiving a driver's written authorization and shall remit the amounts deducted to the driver support organization on a monthly basis and no later than twenty-eight days after the end of the previous month.

(d) A driver's written authorization remains in effect until the driver provides an express revocation to the TNC.

(e) A TNC shall rely on information that the driver support organization provides the TNC regarding a driver's written authorization and express revocation.

(f) Upon request by a TNC, the driver support organization shall reimburse the TNC for the TNC's costs associated with administering the deductions and remittance to the driver support organization.

(g) A driver support organization shall not represent or imply that the earnings deductions authorized in this subsection (7) are mandatory or provide differing levels of support for any deactivation in accordance with subsection (6)(b) of this section based on whether a driver has opted into voluntary deductions pursuant to this subsection (7).

(8) Dispute resolution - rights. In addition to any other constraints imposed by law, a TNC shall not include in any contract with a driver in relation to any deactivation reconsideration or appeal or action arising from a deactivation:

(a) A requirement that disputes between the driver and the TNC be adjudicated out of state; except that the TNC may conduct its internal deactivation challenge process established pursuant to subsection (5)(a) of this section through correspondence with out-of-state TNC representatives so long as the driver is not required to travel to complete the process;

(b) A waiver of rights granted through federal, state, or local law, except with respect to a waiver of the right to a jury trial through an arbitration provision;

(c) A requirement that the driver pay any fee exceeding the amount that the driver would have had to pay if bringing the same action in federal district court in the state, including any fee reduction that the driver would have been eligible for in federal district court in the state based on a determination that the driver is indigent;

(d) A requirement that the driver pay the TNC's costs or attorney fees; or

(e) A requirement that the dispute be adjudicated, arbitrated, or resolved by any person or organization that is not a neutral third party.

(9) Semiannual disclosures to the division. On August 1, 2026, and on a semiannual basis thereafter, a transportation network company shall make the following disclosures to the division:

(a) The number of driver deactivations during the reporting period;

(b) The number of deactivation reconsiderations:

(I) Requested during the reporting period;

(II) That occurred during the reporting period;

(III) That resulted in driver reactivation; and

(IV) That resulted in confirmation of the deactivation;

(c) For each driver affected by a deactivation event listed in subsection (9)(a) or (9)(b) of this section, the driver's demographic information, when available, including gender and gender identity and the default

language the driver has selected in the TNC's digital platform;

(d)

(I) For a sample size of one thousandth of the transportation tasks for which a TNC dispatches a driver, or an amount less as authorized by the director by rule, and pursuant to a representative and reproducible sampling methodology determined and designed by the director and in consultation with the TNCs:

(A) The driver's license number or other unique numerical identifier associated with the driver;

(B) Whether the ride was canceled and, if so, by whom;

(C) The total mileage driven during dispatch platform time;

(D) The total mileage driven during consumer platform time;

(E) The starting and ending zip code for the transportation task;

(F) The total dispatch platform time;

(G) Whether the ride contributed to driver completion of a quest or incentive that led to bonus compensation not tied exclusively to the individual transportation task;

(H) The time of day or night that the transportation task began;

(I) The total consumer platform time;

(J) The total amount that the consumer paid for the transportation task, disaggregated to show the amount of any tip; and

(K) The total amount that the driver received for the transportation task, disaggregated to show the amount of the tip, if any, and the amount of any pass-throughs for tolls or other items specific to the transportation task.

(II) To ensure the reliability of a TNC's sampling process used pursuant to this subsection (9)(d) and the TNC's compliance with the sampling process, the director may audit the TNC's sampling process by requiring the TNC to provide the director the total number of dispatched transportation tasks made during the relevant semiannual period.

(e) For each driver who was activated or logged in to the TNC's digital platform during the reporting period:

(I) The driver's license number or other unique numerical identifier associated with the driver;

(II) The total time the driver spent during the reporting period on:

(A) Dispatch platform time; and

(B) Consumer platform time;

(III) The total miles driven during the reporting period while the driver was on:

(A) Available platform time;

(B) Dispatch platform time; and

(C) Consumer platform time; and

(IV) The total amount of money paid to the driver by the TNC during the reporting period, disaggregated to show:

(A) The amount of tips;
(B) The amount of pass-throughs;

(C) The amount of bonus or incentive compensation;

(D) The amount of compensation associated with individual transportation tasks, excluding amounts disclosed in subsections (9)(e)(IV)(A) to (9)(e)(IV)(C) of this section; and

(E) Any other amounts paid to the driver during the reporting period.

(10) Public availability of TNC semiannual disclosures. The information that a transportation network company provides through semiannual disclosures in accordance with subsection (9) of this section to the division is a public record, as defined in section 24-72-202 (6). Prior to any disclosure of the information pursuant to the "Colorado Open Records Act", part 2 of article 72 of title 24, the division shall:

(a) Give notice to the TNC that provided the disclosure and afford the TNC an opportunity to object to the disclosure; and

(b) Redact the information to protect drivers' identities and privacy.

(11) Transparency for drivers and consumers.

(a) On and after February 1, 2025, at the time of offering a transportation task to a driver for acceptance, a transportation network company shall electronically disclose to the driver:

(I) The distance and cardinal or intercardinal direction from the driver's location to the consumer's or rider's destination. For shared rides, the relevant destination is the destination of the last consumer or rider that the driver drops off, when available.

(II) Before any tip is added, the total amount of money that the TNC will pay the driver for the transportation task, excluding any pass-throughs;

(III) The aggregate estimated mileage that the driver will drive during dispatch platform time and consumer platform time for the transportation task;

(IV) The aggregate estimated time that the driver will spend during dispatch platform time and consumer platform time during the transportation task; and

(V) If the consumer has already indicated a tip amount, the amount of the tip.

(b) When a driver resumes available platform time after completing a transportation task, a TNC shall electronically disclose to the driver on a single screen on the digital platform:

(I) The total amount of money that the consumer paid for the transportation task before any tip was added;

(II) The total amount of money paid to the driver for the transportation task before any tip was added, excluding pass-throughs, if any; and

(III) The amount of the tip, if any.

(c) Within twenty-four hours after disclosing the information required to be disclosed in accordance with subsection (11)(b) of this section, the TNC shall provide a copy of the information to the driver by e-mail or other mechanism that remains accessible to the driver for at least one year.

(d) As soon as the information is available to a TNC, and before the TNC offers a consumer the option to tip the driver, the TNC shall electronically disclose to the consumer on a single screen on the digital platform:

(I) The total amount of money that the consumer paid or will pay for the transportation task,

excluding any tip; and

(II) The total amount of money that the driver received or will receive for the transportation task before any tip is added, excluding pass-throughs, if any.

(e) The information disclosed to drivers and consumers pursuant to subsections (11)(b) to (11)(d) of this section must be:

(I) Prominently displayed on the single screen on the digital platform or in the e-mail;

(II) In a font that is larger than the font used to present any other information on the screen or in the e-mail; and

(III) Presented using design techniques intended to draw the eye to the information.

(f) A TNC shall disclose to each driver who activated the TNC's digital platform during the previous month via e-mail or other mechanism that remains accessible to the driver for at least one year the following information regarding the driver for the previous month or previous reporting period if the TNC regularly provides the disclosures required under this subsection (11)(f) more frequently than monthly:

(I) Driver pay before expenses;

(II) Driver tips before expenses;

(III) The total time that the driver spent on:

(A) Available platform time;

(B) Dispatch platform time; and

(C) Consumer platform time;

(IV) The total miles that the driver drove during the driver's:

(A) Available platform time;

(B) Dispatch platform time; and

(C) Consumer platform time; and

(V) The total amount the driver may be entitled to deduct from income calculated using the IRS business mileage deduction rate for all miles known to the TNC to have been driven during the driver's:

(A) Available platform time;

(B) Dispatch platform time; and

(C) Consumer platform time.

(12) Driver acceptance or rejection of a transportation task. On and after February 1, 2025, a transportation network company shall not suspend, deactivate, or retaliate against a driver based on the driver's lawful acceptance or rejection of one or more transportation tasks by hampering driver access to:

(a) Driver support;

(b) Ride offers; or

(c) Destination or area preferences.

(13) Penalties, fines, and enforcement.

(a) If a transportation network company violates this section, the TNC may be subject to:

(I) Monetary damages in the amount of one thousand dollars, as determined by the director or by a court in a civil action brought pursuant to subsection (13)(d) of this section, on a per-consumer or per-driver basis, which amount the TNC shall pay to the consumer or driver affected by the violation;

(II) A fine of one hundred dollars per violation, as determined by the director on a per-consumer or per-driver basis, which amount the TNC shall pay to the division. The division shall transmit all civil fines collected pursuant to this subsection (13)(a)(II) to the state treasurer, who shall credit the money to the general fund.

(III) Injunctive relief pursuant to subsection (13)(d)(II) of this section.

(b) The division may investigate alleged violations in response to complaints filed or at the division's discretion.

(c) The director shall establish procedures for drivers and consumers to submit complaints to the division and for the division's investigations, hearings, and imposition of fines pursuant to this subsection (13).

(d)

(I) A person aggrieved by a TNC's violation of this section may file a civil action against the TNC in the district court where:

(A) The person resides;

(B) The violation occurred; or

(C) The TNC has a physical place of business in the state.

(II)

(A) The person filing the civil action may seek injunctive relief from the district court to compel the TNC to comply with this section or may seek monetary damages as specified in subsection (13)(a)(I) of this section and any actual damages sustained.

(B) If a person prevails on any claim raised in a civil action brought against a TNC under this subsection (13)(d), the person is entitled to recover costs and reasonable attorney fees.

(14) Rules. The director may adopt rules as necessary to implement this section.

(15) Public utilities commission's authority over TNCs. Nothing in this section negates, limits, alters, or displaces the commission's authority to regulate transportation network companies pursuant to part 6 of article 10.1 of title 40 or prevents a driver or consumer from seeking enforcement by the commission against an alleged violator or a remedy for a violation of part 6 of article 10.1 of title 40.