

**First Regular Session  
Seventieth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

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

LLS NO. 15-0797.02 Bart Miller x2173

**HOUSE BILL 15-1331**

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**A BILL FOR AN ACT**

101      **CONCERNING INCREASING THE MINIMUM SALARY RATE FOR**  
102           **EMPLOYEES EXEMPT FROM OVERTIME, AND, IN CONNECTION**  
103           **THEREWITH, LIMITING THE DISCRETION OF THE DIRECTOR OF**  
104           **THE DIVISION OF LABOR IN THE DEPARTMENT OF LABOR AND**  
105           **EMPLOYMENT IN CREATING AN EXEMPTION TO COLORADO'S**  
106           **REGULATORY OVERTIME REQUIREMENTS FOR EMPLOYEES THAT**  
107           **ARE ADMINISTRATIVE, EXECUTIVE, SUPERVISOR, OR**  
108           **PROFESSIONAL.**

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**Bill Summary**

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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

[http://www.leg.state.co.us/bills/summaries.](http://www.leg.state.co.us/bills/summaries/))

The bill limits the discretion of the director of the division of labor (director) in creating an exemption to Colorado's regulatory overtime requirements for employees that are administrative, executive, supervisor, or professional. The bill sets a minimum salary requirement for the director to apply the exemption equaling three times the Colorado minimum wage. For example, at the current minimum wage of \$8.23 per hour, an employee that is an administrative, executive, supervisor, or professional making less than a weekly salary of \$987.60 ( $\$8.23 \times 40 \text{ hours} \times 3 = \$987.60$ ) could not be exempted from overtime by the director's rules. Because the Colorado state minimum wage automatically adjusts for inflation under the Colorado constitution, by linking the minimum salary for the exemption to apply to minimum wage, that salary will also adjust with inflation.

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

2           **SECTION 1. Short title.** This act shall be known and may be  
3 cited as the "Colorado Overtime Fairness for Employees Act".

4           **SECTION 2.** In Colorado Revised Statutes, 8-6-103, **add** (2.5),  
5 (4.5), (4.7), (5.5), and (8) as follows:

6           **8-6-103. Definitions.** As used in this article, unless the context  
7 otherwise requires:

8           (2.5) "ADMINISTRATIVE EMPLOYEE" MEANS A SALARIED  
9 INDIVIDUAL THAT DIRECTLY SERVES THE EXECUTIVE AND REGULARLY  
10 PERFORMS DUTIES IMPORTANT TO THE DECISION-MAKING PROCESS OF THE  
11 EXECUTIVE. THE ADMINISTRATIVE EMPLOYEE REGULARLY EXERCISES  
12 INDEPENDENT JUDGMENT AND DISCRETION IN MATTERS OF SIGNIFICANCE  
13 AND HAS A PRIMARY DUTY THAT IS NONMANUAL IN NATURE AND DIRECTLY  
14 RELATED TO MANAGEMENT POLICIES OR GENERAL BUSINESS OPERATIONS.

15           (4.5) "EMPLOYEE" MEANS EVERY PERSON IN THE SERVICE OF AN  
16 EMPLOYER, UNDER ANY CONTRACT OF HIRE, EXPRESS OR IMPLIED, NOT  
17 INCLUDING AN ELECTIVE OFFICIAL OF THE STATE, OR OF ANY COUNTY,

1 CITY, TOWN, IRRIGATION, DRAINAGE, OR SCHOOL DISTRICT, AND NOT  
2 INCLUDING ANY OFFICERS OR ENLISTED PERSONNEL OF THE NATIONAL  
3 GUARD OF THE STATE OF COLORADO.

4 (4.7) (a) "EMPLOYER" MEANS:

5 (I) THE STATE, AND EACH COUNTY, CITY, TOWN, IRRIGATION, AND  
6 SCHOOL DISTRICT, AND ALL PUBLIC INSTITUTIONS HAVING FOUR OR MORE  
7 EMPLOYEES;

8 (II) EVERY PERSON, ASSOCIATION OF PERSONS, FIRM, AND PRIVATE  
9 CORPORATION, INCLUDING ANY PUBLIC SERVICE CORPORATION, MANAGER,  
10 PERSONAL REPRESENTATIVE, ASSIGNEE, TRUSTEE, AND RECEIVER, WHO  
11 HAS FOUR OR MORE PERSONS REGULARLY ENGAGED IN THE SAME BUSINESS  
12 OR EMPLOYMENT, IN SERVICE UNDER ANY CONTRACT OF HIRE, EXPRESSED  
13 OR IMPLIED.

14 (b) THIS ARTICLE IS NOT INTENDED TO APPLY TO EMPLOYERS THAT  
15 EMPLOY FEWER THAN FOUR EMPLOYEES REGULARLY IN THE SAME  
16 BUSINESS, OR IN OR ABOUT THE SAME PLACE OF EMPLOYMENT.

17 (5.5) "EXECUTIVE OR SUPERVISOR" MEANS A SALARIED EMPLOYEE  
18 EARNING IN EXCESS OF THE EQUIVALENT OF THE MINIMUM WAGE FOR ALL  
19 HOURS WORKED IN A WORKWEEK. THE EXECUTIVE OR SUPERVISOR MUST  
20 SUPERVISE THE WORK OF AT LEAST TWO FULL-TIME EMPLOYEES AND HAVE  
21 THE AUTHORITY TO HIRE AND FIRE, OR TO EFFECTIVELY RECOMMEND  
22 THOSE ACTIONS. THE EXECUTIVE OR SUPERVISOR MUST SPEND A MINIMUM  
23 OF FIFTY PERCENT OF THE WORKWEEK IN DUTIES DIRECTLY RELATED TO  
24 SUPERVISION.

25 (8) "PROFESSIONAL" MEANS A SALARIED INDIVIDUAL EMPLOYED IN  
26 A FIELD OF ENDEAVOR WHO HAS KNOWLEDGE OF AN ADVANCED TYPE IN  
27 A FIELD OF SCIENCE OR LEARNING CUSTOMARILY ACQUIRED BY A

1 PROLONGED COURSE OF SPECIALIZED INTELLECTUAL INSTRUCTION AND  
2 STUDY. THE PROFESSIONAL EMPLOYEE MUST BE EMPLOYED IN THE FIELD  
3 IN WHICH THE EMPLOYEE IS TRAINED TO BE CONSIDERED A PROFESSIONAL  
4 EMPLOYEE.

5 **SECTION 3.** In Colorado Revised Statutes, **amend** 8-6-106 as  
6 follows:

7 **8-6-106. Determination of minimum wage and conditions.** The  
8 director shall determine the minimum wages sufficient for living wages  
9 for persons of ordinary ability, including minimum wages sufficient for  
10 living wages, whether paid according to time rate or piece rate; the  
11 minimum wages sufficient for living wages for learners and apprentices;  
12 standards of conditions of labor and hours of employment not detrimental  
13 to health or morals for workers; and what are unreasonably long hours. In  
14 all such determinations, the director shall be bound by the provisions of  
15 this article and of section 15 of article XVIII of the state constitution;  
16 except that, if a higher minimum wage rate is established by applicable  
17 federal law or rules, the director shall be bound by such federal law or  
18 rules. THE DIRECTOR SHALL NOT EXEMPT ANY EMPLOYEE FROM ANY  
19 MINIMUM WAGE OR OVERTIME REQUIREMENTS BECAUSE THE EMPLOYEE IS  
20 AN ADMINISTRATIVE, EXECUTIVE, SUPERVISOR, OR PROFESSIONAL UNLESS  
21 THE EMPLOYEE IS PAID ON A WEEKLY SALARY BASIS AT LEAST ONE  
22 HUNDRED TWENTY TIMES THE STATE MINIMUM HOURLY WAGE RATE OR, AT  
23 THE DISCRETION OF THE DIRECTOR, A GREATER SALARY.

24 **SECTION 4. Act subject to petition - effective date -**  
25 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
26 the expiration of the ninety-day period after final adjournment of the  
27 general assembly (August 5, 2015, if adjournment sine die is on May 6,

1 2015); except that, if a referendum petition is filed pursuant to section 1  
2 (3) of article V of the state constitution against this act or an item, section,  
3 or part of this act within such period, then the act, item, section, or part  
4 will not take effect unless approved by the people at the general election  
5 to be held in November 2016 and, in such case, will take effect on the  
6 date of the official declaration of the vote thereon by the governor.

7 (2) This act applies to overtime wages paid to employees that are  
8 administrative, executive, supervisor, or professional on or after the  
9 applicable effective date of this act.