

New Law Opens Door For Public Disclosure Of Employer Wage Law Violations

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A new Colorado bill signed into law on April 13 and made effective immediately has opened the door for an employer's violations of wage laws to be subject to open records requests made to the Department of Labor and Employment, Division of Labor and Standards and Statistics. While the department historically has collected and had access to an employer's premises, books, records and payroll information, the division was unable to release the information if it might reveal a trade secret. The Wage Theft Transparency Act amends Colorado Revised Statutes 8-1-115, to provide, in relevant part: Notwithstanding subsection (1)(a) of this Section, the Division shall treat any notice of citation or notice of assessment issued to an employer for violation of a wage law, including a violation of Section 8-4-111(2)(c), after all remedies have been exhausted pursuant to Section 8-4-111.5, as a public record and shall release the information to the public upon request pursuant to the "Colorado Open Records Act," Part 2 of Article 72 of Title 24, unless the Director makes a determination that the information is a trade secret.

The law does provide for advance notice by the director to any employer prior to releasing such information, and a 20-day response period in which the employer may provide documentation to demonstrate that the information or particular matters included within that information constitute a "trade secret." If -- in the director's discretion upon reviewing the employer's submission -- the information is deemed a "trade secret," it will be considered confidential and withheld. Otherwise it will be made available to the public, which means that such information may fall in the hands of business competitors, potential job applicants and others.

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