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ELECTIONS / LICENSING
SECRETARY OF STATE

h/c
JUST CAUSE

Amended Text
2007-2008
#62

Be it enacted by the People of the State of Colorado:

SECTION 1. Article XVIII of the Colorado Constitution is amended BY THE ADDITION OF A NEW SECTION 13 to read:

SECTION 13. JUST CAUSE FOR EMPLOYEE DISCHARGE OR SUSPENSION.

- (1) NO EMPLOYEE MAY BE DISCHARGED OR SUSPENDED UNLESS THE EMPLOYER HAS FIRST ESTABLISHED JUST CAUSE FOR THE DISCHARGE OR SUSPENSION.
- (2) FOR PURPOSES OF THIS SECTION, "JUST CAUSE" MEANS:
- (A) INCOMPETENCE;
 - (B) SUBSTANDARD PERFORMANCE OF ASSIGNED JOB DUTIES;
 - (C) NEGLIGENCE OF ASSIGNED JOB DUTIES;
 - (D) REPEATED VIOLATIONS OF THE EMPLOYER'S WRITTEN POLICIES AND PROCEDURES RELATING TO JOB PERFORMANCE;
 - (E) GROSS INSUBORDINATION THAT AFFECTS JOB PERFORMANCE;
 - (F) WILLFUL MISCONDUCT THAT AFFECTS JOB PERFORMANCE; OR
 - (G) CONVICTION OF A CRIME INVOLVING MORAL TURPITUDE; OR
 - (H) FILING OF BANKRUPTCY BY THE EMPLOYER; OR
 - (I) SIMULTANEOUS DISCHARGE OR SUSPENSION OF TEN PERCENT OR MORE OF THE EMPLOYER'S WORKFORCE IN COLORADO.
- (3) AN EMPLOYER SHALL PROVIDE TO ANY ANY EMPLOYEE WHO IS NOTIFIED THAT HE WILL BE OR HAS BEEN DISCHARGED OR SUSPENDED SHALL, AT THAT TIME, RECEIVE THE EMPLOYER'S WRITTEN DOCUMENTATION OF THE JUST CAUSE USED TO JUSTIFY SUCH DISCHARGE OR SUSPENSION.
- (4) (A) ANY EMPLOYEE WHO BELIEVES HE WAS DISCHARGED OR SUSPENDED WITHOUT JUST CAUSE MAY, WITHIN THIRTY DAYS AFTER NOTIFICATION OF THE DISCHARGE OR SUSPENSION, APPLY FOR MEDIATION OF A CLAIM FOR WRONGFUL DISCHARGE OR SUSPENSION. WITHIN ONE HUNDRED TWENTY DAYS AFTER AN EMPLOYEE FILES FOR MEDIATION, A HEARING SHALL BE HELD BEFORE A PRIVATE MEDIATOR. AT HEARING, THE EMPLOYEE AND THE EMPLOYER SHALL BE PERMITTED TO PRESENT EVIDENCE AND MAKE LEGAL ARGUMENT.
- (B) A MEDIATOR WHO FINDS THAT AN EMPLOYEE WAS DISCHARGED OR SUSPENDED WITHOUT JUST CAUSE MAY AWARD THE EMPLOYEE ALL BACK WAGES OR REINSTATEMENT IN HIS FORMER JOB OR BOTH.
- (C) THE MEDIATOR SHALL ASSESS THE COSTS FOR HIS OR HER SERVICES TO THE LOSING PARTY.
- (D) THE MEDIATOR MAY AWARD ATTORNEYS FEES TO THE PREVAILING PARTY AS TO ANY CLAIM MADE BY THE EMPLOYEE.

(E) IN ALL MATTERS DECIDED PURSUANT TO THIS SECTION 13(4), THE DECISION OF THE MEDIATOR SHALL BE FINAL.

(5) THE GENERAL ASSEMBLY MAY ENACT LEGISLATION TO FACILITATE THE PURPOSES OF THIS SECTION, INCLUDING BUT NOT LIMITED TO LEGISLATION ADDRESSING APPLICATIONS FOR MEDIATION AND THE SELECTION OF MEDIATORS BY THE PARTIES.

(6) THIS SECTION SHALL BECOME EFFECTIVE UPON PROCLAMATION OF THE GOVERNOR REGARDING THE VOTES CAST ON THIS AMENDMENT.