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# C.R.S. 8-3-108

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Statutes current through Chapter 307 of the 2021 Regular Session and effective as of June 23, 2021. The inclusion of the 2021 legislation is not final. It will be final later in 2021 after reconciliation with the official statutes, produced by the Colorado Office of Legislative Legal Services.

Colorado Revised Statutes Annotated Title 8. Labor and Industry (§§ 8-1-101 — 8-86-106) LABOR I - Department of Labor and Employment (§§ 8-1-101 — 8-20.5-407) Labor Relations (Arts. 2 — 3.8) Article 3. Labor Peace Act (§§ 8-3-101 — 8-3-123)

## 8-3-108. What are unfair labor practices

**(1)** It is an unfair labor practice for an employer, individually or in concert with others, to:

**(a)** Interfere with, restrain, or coerce his employees in the exercise of the rights guaranteed in section 8-3-106;

**(b)** Initiate, create, dominate, or interfere with the formation or administration of any labor organization or contribute financial support to it; except that an employer shall not be prohibited from reimbursing employees at their prevailing wage rate for time spent conferring with him, nor from cooperating with representatives of at least a majority of his employees in a collective bargaining unit, at their request, by permitting employee organizational activities on employer premises or the use of employer facilities where such activities or use create no additional expense to the employer;

**(c)**

**(I)** Encourage or discourage membership in any labor organization, employee agency, committee, association, or representation plan by discrimination in regard to hiring, tenure, or other terms or conditions of employment; except that an employer shall not be prohibited from entering into an all-union agreement with the representatives of his employees in a collective bargaining unit if such all-union agreement is approved by the affirmative vote of at least a majority of all the employees eligible to vote or three-quarters or more of the employees who actually voted, whichever is greater, by secret ballot in favor of such all-union agreement in an election provided for in this paragraph (c) conducted under the supervision of the director. Where the collective bargaining unit involved is currently recognized under sections 8 or 9 of the "National Labor Relations Act", as amended, (49 Stat. 449; 61 Stat.

recognized at the time of an election provided for in this paragraph (c), there is and shall be deemed to have been no need for a certification election as a precedent to an election

provided for in this paragraph (c) in such collective bargaining unit on the issue of an all-union agreement. The employees in such a recognized or certified unit within this state shall be the only employees eligible to vote in an election provided for in this paragraph (c) held in such unit.

**(II)**

**(A)** Any agreement as defined in section 8-3-104 (1) (1.5) between an employer and a labor organization in existence on June 29, 1977, which has not been voted upon by the employees covered by it may, by written mutual agreement of such employer and labor organization, be ratified and upon such ratification shall be filed with the director. Any agreement as defined in section 8-3-104 (1.5) between an employer and a labor organization in existence on June 29, 1977, which has not been ratified and filed, as provided in this subsection (1)(c)(II), shall not be legal, valid, or enforceable during the remaining term of that labor contract unless and until either the employer, the labor organization, or at least twenty percent of the employees covered by such agreement file a petition upon forms provided by the division, demanding an election submitting the question of the all-union agreement to the employees covered by such agreement and said agreement is approved by the affirmative vote of at least a majority of all the employees eligible to vote or three-quarters or more of the employees who actually voted, whichever is greater, by secret ballot in favor of such all-union agreement in an election provided for in this subsection (1)(c) conducted under the supervision of the director.

**(B)** Upon filing of such instrument of ratification with the director, the director shall certify that such agreement complies with the provisions of section 8-3-104 (1.5) notwithstanding the absence of any other election requirements of this article 3, and by virtue of such ratification and certification, such agreement shall be deemed legal, valid, and enforceable to the extent permitted under the provisions of this article 3, subject to the provisions of subsection (1)(c)(II)(D) of this section.

**(C)** Within two weeks after the certification by the director provided for in sub-subparagraph (B) of this subparagraph (II), the employer which is a party to such agreement shall post or give written notice to all employees covered by such agreement on the date of ratification of the fact that the agreement has been ratified and certified pursuant to the provisions of this subparagraph (II) and of the right of such employees to file a petition demanding an election as provided in sub-subparagraph (D) of this subparagraph (II). Proof of giving of notice shall be filed with the director within twenty days after the certification by the director provided for in sub-subparagraph (B) of this subparagraph (II).

**(D)** Within forty-five days after the certification by the director provided for in sub-subparagraph (B) of this subparagraph (II) twenty percent of the employees covered by such agreement may file a petition, upon forms provided by the division, demanding an election submitting the question of ratification of such agreement to the employees covered by such agreement. If ratification of the agreement is approved by the affirmative vote of at least a majority of all the employees eligible to vote or three-quarters or more of the employees who actually voted, whichever is greater, in said election, the agreement shall be conclusively deemed ratified. Such election shall be held as promptly as possible following the filing of the petition. In the event that a certified contract expires or is terminated prior to the conducting of such an election, such certification shall be applicable to any subsequent agreement between the same parties until such election may be held.

member any employee of such employer, and any person interested may come before the director, as provided in section 8-3-110, and ask the performance of this duty; or

**(B)** The employer or twenty percent of the employees covered by such agreement file a petition with the director on forms provided by the division seeking to revoke such all-union agreement and, in an election conducted under the supervision of the director, there is not an affirmative vote of at least a majority of all the employees eligible to vote or three-quarters or more of the employees who actually voted, whichever is greater, in such election by secret ballot in favor of such all-union agreement. Such petition may only be filed within a time period between one hundred twenty and one hundred five days prior to the end of the collective bargaining agreement or prior to a triennial anniversary of the date of such agreement, and the division must complete said election within sixty days prior to the termination or triennial anniversary of said collective bargaining agreement. The director may conduct an election within a collective bargaining unit no more often than once during the term of any collective bargaining agreement or once every three years in the case of agreements for a period longer than three years.

**(IV)** The director shall provide a means by which employees may submit confidential petitions for an election under this paragraph (c), a means for verifying the employment, status, and eligibility of petitioners, and a means for determining the sufficiency of such petitions with respect to the twenty percent signature requirement, all of which shall be accomplished without disclosing the identification of such petitioners, except as allowed under subparagraph (V) of this paragraph (c). This duty shall apply to petitions filed pursuant to subparagraph (II)(A), (II)(D), or (III)(B) of this paragraph (c).

**(V)** No officer or employee of the division shall disclose the names of any signers to a petition or disclose how any person voted in an election to any person outside the division except pursuant to a court order or subpoena issued by a governmental authority or a court, and any such officer or employee who violates such nondisclosure provisions or who refuses to call an election pursuant to this paragraph (c) or prevents or conspires to prevent such call of an election commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.

**(d)** Refuse to bargain collectively with the representatives of his employees in any collective bargaining unit; except that where an employer with reasonable cause files with the division a petition requesting a determination as to bargaining unit representation, he shall not be deemed to have refused to bargain until an election has been held and the result thereof has been certified to him by the director;

**(e)** Enter into an all-union agreement except in the manner provided in paragraph (c) of this subsection (1);

**(f)** Violate the terms of a collective bargaining agreement, including an agreement to accept an arbitration award;

**(g)** Refuse or fail to recognize or accept as conclusive of any issue in any controversy as to employment relations the final determination, after appeal, if any, of any tribunal having competent jurisdiction of the same or whose jurisdiction the employer has accepted;

**(h)** Discharge or otherwise discriminate against an employee because he has filed charges or given information or testimony in good faith under the provisions of this article;

**(i)** Deduct labor organization dues or assessments from an employee’s earnings, unless the employer has been presented with an individual order therefor, signed by the employee personally and terminable at any time by the employee’s giving at least thirty days’ written

exercise of any right created or approved by this article;
**(k)** Make, circulate, or cause to be circulated a blacklist as described in section 8-2-110;

**(l)** Commit any crime or misdemeanor in connection with any controversy as to employment relations;
**(m)** Require a potential employee to furnish preemployment application information regarding said applicant's record of civil or military disobedience, unless any such matters resulted in a plea of guilty or a conviction by a court of competent jurisdiction.
**(2)** It is an unfair labor practice for an employee, individually or in concert with others, to:
**(a)** Coerce or intimidate an employee in the enjoyment of his legal rights, including those guaranteed in section 8-3-106, or to intimidate his family or any member thereof, picket his domicile, or injure the person or property of such employee or his family or of any member thereof;
**(b)** Coerce, intimidate, or induce any employer to interfere with any of his employees in the enjoyment of their legal rights, including those guaranteed in section 8-3-106, or to engage in any practice with regard to his employees which would constitute an unfair labor practice if undertaken by him on his own initiative;
**(c)** Violate the terms of a collective bargaining agreement, including an agreement to accept an arbitration award;
**(d)** Refuse or fail to recognize or accept as conclusive of any issue in any controversy as to employment relations the final determination, after appeal, if any, of any tribunal having competent jurisdiction of the same or whose jurisdiction the employees or their representatives accepted;
**(e)** Cooperate in engaging in, promoting, or inducing picketing, boycotting, or any other overt concomitant of a strike unless a majority in a collective bargaining unit of the employees of an employer against whom such acts are primarily directed have voted by secret ballot to call a strike;
**(f)** Hinder or prevent, by mass picketing, threats, intimidation, force, or coercion of any kind, the pursuit of any lawful work or employment; or to obstruct or interfere with entrance to or egress from any place of employment; or to obstruct or interfere with free and uninterrupted use of public roads, streets, highways, railways, airports, or other ways of travel or conveyance;
**(g)** Engage in a secondary boycott, or to hinder or prevent, by threats, intimidation, force, coercion, or sabotage, the obtaining, use, or disposition of materials, equipment, or services, or to combine or conspire to hinder or prevent, by any means whatsoever, the obtaining, use, or disposition of materials, equipment, or services;
**(h)** Take, retain, or remain in unauthorized possession of property or any part thereof of the employer, or to engage in any concerted effort to interfere with production, except by leaving the premises in an orderly manner for the purpose of going on strike;
**(i)** Engage in a sit-down strike on the premises or property of the employer;
**(j)** Fail to give the notice of intention to strike provided in section 8-3-113;
**(k)** Commit any crime or misdemeanor in connection with any controversy as to employment relations;
**(l)** Demand or require any stand-in employee to be hired or employed by an employer, or to demand or require that the employer employ or pay for an employee to stand by or stand in for work being done by other employees, or to require the employer to employ or pay for any employee not required by the employer or necessary for the work of the employer;

any act prohibited by subsections (1) and (2) of this section.

**(3)** It is an unfair labor practice for an employee, individually or in concert with others, or for a labor organization or any of its agents to:

**(a)** Induce or encourage the employees of an employer to engage in a strike or concerted refusal in the course of their employment, or by any means to force or require an employer or any one or more employees to refrain from or prevent the use of any material, device, tool, or equipment intended or calculated to reduce the cost of the work;

**(b)** Require or force an employer to use any materials or do any work or render any service in connection with any task, job, work, or service as a condition of using any labor-saving device, equipment, tool, or instrument in the performance of such task, job, work, or service;

**(c)** Impose on any employee any fine, penalty, or forfeiture because such employee has used, is using, or has attempted to use a labor-saving device;

**(d)**

**(I)** Engage in or induce or encourage employees of any employer to engage in a strike or concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on any goods, articles, materials, or commodities or to perform any service where an object thereof is forcing or requiring any employer to assign particular work to employees in a particular trade, craft, or class rather than to employees in another labor organization or in another trade, craft, or class unless such employer is failing to conform to an order of the director or certification determining the bargaining representative for employees performing such work; but nothing contained in this subsection (3) shall be construed to make unlawful a refusal by any person to enter upon the premises of any employer (other than his own employer). Whenever a complaint is filed charging that any person or labor organization is engaged in the unfair labor practice defined in this paragraph (d), the director shall hear and determine the dispute concerning the assignment of work out of which such complaint arises, unless within ten days the parties to the dispute provide evidence to the director that the dispute is properly adjusted, in which case the complaint shall be dismissed by the director.

**(II)** Upon the filing of a complaint under this paragraph (d), the director shall make a preliminary investigation, and, if he finds that there is reasonable cause that the complaint is true, he may issue an order directing that the employees or labor organization cease and desist from striking, picketing, or refusing to handle or work on goods pending a resolution by the director of the dispute out of which the complaint arises.

**(III)** Upon the failure or refusal of any person or labor organization against whom such order is issued to comply with this order or direction, the district court of the district wherein the strike, picketing, or refusal to handle or work on goods takes place may, upon application of the director, issue injunctive relief in the manner provided in the Colorado rules of civil procedure for courts of record in Colorado.

**(e)** With regard to the entirety of this subsection (3), the following shall apply: Such material, device, tool, or equipment is germane to the employees' craft and not injurious to the employees' health and safety or the public generally, and nothing in this subsection (3) shall negate the rights of an employer and a labor organization to bargain collectively pursuant to subsection (1)(d) of this section.

**(4)** It is an unfair labor practice to do or cause to be done, on behalf of or in the interest of employers or employees, or in connection with or to influence the outcome of any controversy as to employment relations, any act prohibited by subsections (1), (2), and (3) of this section.

## History

**SOURCE:**

**Source: L. 43:** P. 400, § 6. **CSA:** C. 97, § 94(6). **CRS 53:** § 80-5-6. **L. 63:** P. 619, § 1. **C.R.S. 1963:** § 80-4-6. **L. 69:** P. 596, § 75. **L. 71:** P. 887, § 1. **L. 77:** (1)(c) amended, p. 419, § 2, effective June 29. **L. 2002:** (1)(c)(V) amended, p. 1466, § 18, effective October 1.; **L. 2021:** (SB87), ch. 337, § 9, effective June 25, 2021.

## Annotations

## State Notes

## ANNOTATION



D. Hindering Place of Employment by Mass Picketing, etc.

### I. GENERAL CONSIDERATION.

**Law reviews.**

For article, "The Extent to Which Taft-Hartley Act Has Superseded State Labor Laws", see 28 Dicta 47 . For article, "The Regional Transportation District Strike and the Colorado Labor Peace Act: A Study in Public Sector Collective Bargaining", see 54 U. Colo. L. Rev. 203 (1983).

**This section lists a number of things denominated "unfair labor practices".**Pueblo Bldg. & Constr. Trades Council v. Harper Constr. Co., 134 Colo. 469, 307 P.2d 468 (1957).

**These may arise because of conduct on the part of**management as well as on the part of employees of a particular employer, or on the part of third parties. Pueblo Bldg. & Constr. Trades Council v. Harper Constr. Co., 134 Colo. 469, 307 P.2d 468 (1957);

**The labor management relations act (29 U.S.C. § 158) has as its facsimile parts of this section.**Bldg. Constr. Trades Council v. Am. Bldrs., Inc., 139 Colo. 236, 337 P.2d 953 (1959).

**Private right of action against criminal labor statute violator.**The general assembly's broad definition of unfair labor practices indicates an intent to create a private right of action to anyone who can prove by a preponderance of the evidence that a defendant has violated a criminal labor statute. Rawson v. Sears, Roebuck & Co., 530 F. Supp. 776 (D. Colo. 1982); Bennett v. Furr's Cafeterias, Inc., 549 F. Supp. 887 (D. Colo. 1982).

**Not exception to rule of employment at will.**Statutory pronouncement which makes it unlawful "to coerce or intimidate an employee in the enjoyment of his legal rights" is a broad, general statement of policy which is inadequate to justify adoption of an exception to the rule that an indefinite general hiring is terminable at will by either party to the employment. Corbin v. Sinclair Mktg., Inc., 684 P.2d 265 (Colo. App. 1984).

**II. UNFAIR LABOR PRACTICES FOR EMPLOYERS.**

**A. Interference with Right of Self-organization.**

**Law reviews.**

For comment on Bennett's Restaurant v. Indus. Comm'n appearing below, see 30 Dicta 307 (1953).

**Subsections (1)(a) and (1)(c) do not interfere with the normal exercise of the right of the employer to select its employees or to discharge them.**Bennett's Restaurant v. Indus. Comm'n, 127 Colo. 271, 256 P.2d 891 (1953).

**But an employer may not, under cover of this right, intimidate or coerce its employees**with respect to their self-organization and representation. Bennett's Restaurant v. Indus. Comm'n, 127 Colo. 271, 256 P.2d 891 (1953).

**And on the other hand, the labor board is not entitled to make its authority a pretext for interfering with the right of discharge**when that right is exercised for other reasons than such intimidation and coercion. Bennett's Restaurant v. Indus. Comm'n, 127 Colo. 271, 256 P.2d 891 (1953).

**Evidence held to show that employees were wrongfully discharged for organizational activities.**UMW v. Sunlight Coal Co., 129 Colo. 374, 270 P.2d 776 (1954).

**B. Contribute Financial Support.**

**An employer cannot be compelled to join a union if contributions in the form of dues and initiation fees are required,**since the financial support of unions consists chiefly, if not wholly, of the dues paid by its members, and if dues paid by members would constitute financial support for a union, there is no reason why dues paid by employers would not also constitute financial support of a union. Journeymen Barbers Local 205 v. Indus. Comm'n, 128 Colo. 121, 260 P.2d 941 (1953).

**However, the term "financial support" is much broader than the mere payment of dues**and covers and includes financial support of any kind, character, or description,

**C. All-union Agreements.**

**Colorado does not have a right-to-work law.**Bldg. Constr. Trades Council v. Am. Bldrs., Inc., 139 Colo. 236, 337 P.2d 953 (1959).

**So an agreement requiring membership in a labor organization as a condition of employment is**under certain circumstances permitted by this section. Bldg. Constr. Trades Council v. Am. Bldrs., Inc., 139 Colo. 236, 337 P.2d 953 (1959).

**The regulation of union security provisions is not a matter of exclusive federal concern,**but states are free to pursue their own more restrictive policies. Commc'ns Workers of Am. v. W. Elec. Co., 191 Colo. 128, 551 P.2d 1065 (1976), appeal dismissed, 429 U.S. 1067, 97 S. Ct. 799, 50 L. Ed. 2d 785, reh'g denied, 430 U.S. 923, 97 S. Ct. 1341, 51 L. Ed. 2d 602 (1977).

**The provisions of this section are an important incident of the state's power**to prohibit the application of certain union security provisions, which power has not been supplanted by federal law. Commc'ns Workers of Am. v. W. Elec. Co., 191 Colo. 128, 551 P.2d 1065 (1976), appeal dismissed, 429 U.S. 1067, 97 S. Ct. 799, 50 L. Ed. 2d 785, reh'g denied, 430 U.S. 923, 97 S. Ct. 1341, 51 L. Ed. 2d 602 (1977).

The procedures for establishing a collective bargaining unit under this article are merely an incident of the state's power to prohibit the application of union security agreements under the permissive grant of authority contained in section 14(b) of the federal Taft-Hartley act. Commc'ns Workers of Am. v. W. Elec. Co., 191 Colo. 128, 551 P.2d 1065 (1976), appeal dismissed, 429 U.S. 1067, 97 S. Ct. 799, 50 L. Ed. 2d 785, reh'g denied, 430 U.S. 923, 97 S. Ct. 1341, 51 L. Ed. 2d 602 (1977).

**Subsection (1)(c) is a manifestation of the legislative intent**to protect the working man's right to freely chart his own course with regard to labor organization activities in that it severely restricts the circumstances in which an employee may be subjected to "all-union agreements". Commc'ns Workers of Am. v. W. Elec. Co., 191 Colo. 128, 551 P.2d 1065 (1976), appeal dismissed, 429 U.S. 1067, 97 S. Ct. 799, 50 L. Ed. 2d 785, reh'g denied, 430 U.S. 923, 97 S. Ct. 1341, 51 L. Ed. 2d 602 (1977).

**Application of section.**This section applies to union security clauses in collective bargaining agreements negotiated and executed by multi-state employers engaged in interstate commerce and doing business in Colorado. Commc'ns Workers of Am. v. W. Elec. Co., 191 Colo. 128, 551 P.2d 1065 (1976), appeal dismissed, 429 U.S. 1067, 97 S. Ct. 799, 50 L. Ed. 2d 785, reh'g denied, 430 U.S. 923, 97 S. Ct. 1341, 51 L. Ed. 2d 602 (1977).

**Regulation of all-union agreements not limited to closed shop agreements.**In view of the emphatic language contained in the legislative declaration of rights of employees in § 8-3-106, regulation of "all-union agreements" is not limited to closed shop agreements. Commc'ns Workers of Am. v. W. Elec. Co., 191 Colo. 128, 551 P.2d 1065 (1976), appeal dismissed, 429 U.S. 1067, 97 S. Ct. 799, 50 L. Ed. 2d 785, reh'g denied, 430 U.S. 923, 97 S. Ct. 1341, 51 L. Ed. 2d 602 (1977).

**What is considered "all-union agreement".** Any financial obligation imposed upon

enforced in Colorado has features of compulsory unionism and as such is to be considered an "all-union agreement" under § 8-3-104 (1). Commc'ns Workers of Am. v. W. Elec. Co., 191 Colo. 128, 551 P.2d 1065 (1976), appeal dismissed, 429 U.S. 1067, 97 S. Ct. 799, 50 L. Ed. 2d 785, reh'g denied, 430 U.S. 923, 97 S. Ct. 1341, 51 L. Ed. 2d 602 (1977).

Compulsory monetary support of a union is the "practical equivalent" of compulsory membership. Commc'ns Workers of Am. v. W. Elec. Co., 191 Colo. 128, 551 P.2d 1065 (1976), appeal dismissed, 429 U.S. 1067, 97 S. Ct. 799, 50 L. Ed. 2d 785, reh'g denied, 430 U.S. 923, 97 S. Ct. 1341, 51 L. Ed. 2d 602 (1977).

**The application of § 8-3-104 (4) to the union security provisions of this article is severable**from its application in other contexts of the act. Commc'ns Workers of Am. v. W. Elec. Co., 191 Colo. 128, 551 P.2d 1065 (1976), appeal dismissed, 429 U.S. 1067, 97 S. Ct. 799, 50 L. Ed. 2d 785, reh'g denied, 430 U.S. 923, 97 S. Ct. 1341, 51 L. Ed. 2d 602 (1977).

**"Collective bargaining unit" for purposes of subsection (1)(c).**In Colorado a "collective bargaining unit", for purposes of the union security agreement provision of this article, may be something different than a collective bargaining unit for other purposes of labor-management relations. Commc'ns Workers of Am. v. W. Elec. Co., 191 Colo. 128, 551 P.2d 1065 (1976), appeal dismissed, 429 U.S. 1067, 97 S. Ct. 799, 50 L. Ed. 2d 785, reh'g denied, 430 U.S. 923, 97 S. Ct. 1341, 51 L. Ed. 2d 602 (1977).

**Such unit is condition precedent to right to enter into all-union agreement.**A collective bargaining unit, as defined by § 8-3-104 (4), is a condition precedent to any labor organization's right to enter into an all-union agreement with an employer under Colorado law. Commc'ns Workers of Am. v. W. Elec. Co., 191 Colo. 128, 551 P.2d 1065 (1976), appeal dismissed, 429 U.S. 1067, 97 S. Ct. 799, 50 L. Ed. 2d 785, reh'g denied, 430 U.S. 923, 97 S. Ct. 1341, 51 L. Ed. 2d 602 (1977).

**And must be established pursuant to § 8-3-104 (4).**In the context of subsection (1)(c), a collective bargaining unit is a unique entity which may only be established pursuant to the requirements of § 8-3-104 (4). Commc'ns Workers of Am. v. W. Elec. Co., 191 Colo. 128, 551 P.2d 1065 (1976), appeal dismissed, 429 U.S. 1067, 97 S. Ct. 799, 50 L. Ed. 2d 785, reh'g denied, 430 U.S. 923, 97 S. Ct. 1341, 51 L. Ed. 2d 602 (1977).

**Collective bargaining unit recognized only by secret ballot election.**A secret ballot election, as described by § 8-3-104 (4), is the exclusive method by which a collective bargaining unit subject to the "all-union" referendum [now election] provisions of subsection (1)(c) may be recognized. Commc'ns Workers of Am. v. W. Elec. Co., 191 Colo. 128, 551 P.2d 1065 (1976), appeal dismissed, 429 U.S. 1067, 97 S. Ct. 799, 50 L. Ed. 2d 785, reh'g denied, 430 U.S. 923, 97 S. Ct. 1341, 51 L. Ed. 2d 602 (1977).

**Where election to be conducted.**Subsection (1)(c) plainly directs that the referendum [now election] should be conducted among the employees of a collective bargaining unit. Commc'ns Workers of Am. v. W. Elec. Co., 191 Colo. 128, 551 P.2d 1065 (1976), appeal dismissed, 429 U.S. 1067, 97 S. Ct. 799, 50 L. Ed. 2d 785, reh'g denied, 430 U.S. 923, 97 S. Ct. 1341, 51 L. Ed. 2d 602 (1977).

the division of labor does not have the authority to adopt rules protecting employees' right to petition for a ratification election under subsection (1)(c)(II)(D); the authority to promulgate such regulations is with the industrial commission. Ruff v. Kezer, 199 Colo. 182, 606 P.2d 441 (1980).

**Required employer conduct in all-union agreement election.**While subsection (1)(c) specifies notice to the employees, a period of time for circulating petitions requiring an election, and the number of signatures which must be obtained before an election concerning ratification of an all-union agreement will be required, it does not require any course of action by the employer, let alone such specific conduct as the provision of bulletin board space or access to lists of employees. Ruff v. Kezer, 199 Colo. 182, 606 P.2d 441 (1980).

**Withholding of access to employee lists.**Where access to company bulletin boards is subject to federal determination because of a collective bargaining agreement and access to lists of employees is restricted by National Labor Relations Board procedures, an employer's withholding of such access from petitioners for a ratification election is not an unfair labor practice under this section. Ruff v. Kezer, 199 Colo. 182, 606 P.2d 441 (1980).

**Clauses of collective bargaining agreements were invalid**where they were not approved through an all-union referendum [now election] by an appropriately designated employee group. Commc'ns Workers of Am. v. W. Elec. Co., 191 Colo. 128, 551 P.2d 1065 (1976), appeal dismissed, 429 U.S. 1067, 97 S. Ct. 799, 50 L. Ed. 2d 785, reh'g denied, 430 U.S. 923, 97 S. Ct. 1341, 51 L. Ed. 2d 602 (1977).

**III. UNFAIR LABOR PRACTICES FOR EMPLOYEES.**

**A. In General.**

**Provisions restricting mass picketing are contained in subsection (2).**City of Golden v. Ford, 141 Colo. 472, 348 P.2d 951 (1960).

**B. Intimidation of Employees.**

**Harassment incidents insufficient basis to enjoin agreement.**Three relatively isolated incidents of harassment during the first 10 days of petitioning activity, none of which was shown to have had a widespread impact on the willingness of employees to sign the petitions, and none of which was physically violent, are not sufficient basis for enjoining operation of an all-union agreement after failure to obtain sufficient petition signatures for a separate ratification election. Ruff v. Kezer, 199 Colo. 182, 606 P.2d 441 (1980).

**Subsection (2)(a) of this section, when read together with §§ 8-3-118(1) and 8-3-110(1),**allows the trial court to enjoin the union and its members from engaging in an unfair labor practice. CF&I Steel, L.P. v. United Steel Workers of Am., 990 P.2d 1124 (Colo. App. 1999), aff'd, 23 P.3d 1197 (Colo. 2001).

**C. Picketing.**

**Law reviews.**

Administrative Law Decisions", see 37 Dicta 81 (1960).

**Picketing may be lawful or unlawful**depending upon the purpose of the picketing and the manner in which it is conducted. UMW v. Golden Cycle Corp., 134 Colo. 140, 300 P.2d 799 (1956).

**And subsection (2)(e) declaring that to cooperate in, engaging in, or inducing picketing is an unfair labor practice must be construed in harmony with §§ 8-3-103 and 8-3-109 (2) as to the right of free speech,**if possible; and so construed, the work "picketing" as employed in the labor peace act must be held as intended in its coercive and not in its persuasive, sense. Otherwise the limitation on picketing constitutes a limitation on the right to express views concerning labor relationships and invades the right to freedom of speech, contrary to the explicit provisions of these sections. Denver Milk Producers v. Int'l Bhd. of Teamsters, 116 Colo. 389, 183 P.2d 529 (1947).

**Hence, it is not an unfair labor practice for members of a labor union to peacefully picket an employer of nonunion labor**even though there is no immediate employer-employee dispute, inasmuch as § 8-3-109 (2) preserves the right of free speech concerning "any labor relationship" and one need not be in a "labor dispute" as defined by § 8-3-104 (13)(a) to have a right under the fourteenth amendment to express a grievance in a labor matter by publication unattended by violence, coercion, or conduct otherwise unlawful or oppressive. Pueblo Bldg. & Constr. Trades Council v. Harper Constr. Co., 134 Colo. 469, 307 P.2d 468 (1957).

**Injunction against peaceful residential picketing held unconstitutional**under federal first amendment and equal protection guarantees. CF&I Steel, L.P. v. United Steel Workers of Am., 990 P.2d 1124 (Colo. App. 1999), aff'd on other grounds, 23 P.3d 1197 (Colo. 2001).

**But picketing that is not peaceful may be enjoined**as a valid exercise of the state's police power. CF&I Steel, L.P. v. United Steel Workers of Am., 23 P.3d 1197 (Colo. 2001).

**Blanket prohibition against residential picketing in subsection (2)(a) is unconstitutional**under federal first amendment and equal protection guarantees. CF&I Steel, L.P. v. United Steel Workers of Am., 23 P.3d 1197 (Colo. 2001).

**"Peaceable picketing" means**simply, tranquil conduct, conduct devoid of noise or tumult, the absence of a quarrelsome demeanor, a course of conduct that does not violate or disturb the public peace. UMW v. Golden Cycle Corp., 134 Colo. 140, 300 P.2d 799 (1956).

**One cannot be convicted of violating a municipal ordinance regulating picketing,**inasmuch as the general assembly has enacted comprehensive legislation regulating picketing in situations where labor disputes are involved and this legislation completely covers the field. City of Golden v. Ford, 141 Colo. 472, 348 P.2d 951 (1960).

### D. Hindering Place of Employment by Mass Picketing, etc.

**Subsection (2)(f) makes an unfair labor practice of**mass picketing, threats,

(1957).

**"Illegal picketing" as by "mass picketing", defined.** Boisterous conduct, the use of vile language, bellicose demeanor, threats, violence, coercion, intimidation, shouting and interference with the use of premises or impeding a public highway, as by mass picketing, which is the use of a large number of pickets, is not peaceable picketing, but is illegal picketing. UMW v. Golden Cycle Corp., 134 Colo. 140, 300 P.2d 799 (1956).

## Research References & Practice Aids

**Cross references:**

For the legislative declaration contained in the 2002 act amending subsection (1)(c)(V), see section 1 of chapter 318, Session Laws of Colorado 2002.



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