

First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 25-0502.01 Megan McCall x4215

HOUSE BILL 25-1239

HOUSE SPONSORSHIP

Zokaie,

SENATE SPONSORSHIP

Daugherty and Weissman, Roberts

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING MODIFICATION OF REMEDY PROVISIONS IN THE
102 COLORADO ANTI-DISCRIMINATION ACT, AND, IN CONNECTION
103 THEREWITH, EXTENDING THE DEADLINE FOR FILING A CHARGE
104 FOR DISCRIMINATION IN PLACES OF PUBLIC ACCOMMODATION
105 OR DISCRIMINATORY ADVERTISING AND REORGANIZING AND
106 EXPANDING THE PROVISIONS FOR DAMAGES IN A CIVIL ACTION
107 FOR CERTAIN DISCRIMINATORY OR UNFAIR PRACTICES.

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 <http://leg.colorado.gov>.)

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

The bill consolidates damages provisions for individuals with disabilities who experience an unfair housing practice, discrimination in places of public accommodation, or a violation of their civil rights with the general protections under the Colorado anti-discrimination act (CADA) for all protected classes. With the consolidation of these provisions, the allowable remedies under CADA include a court order requiring compliance with the applicable section of CADA, actual monetary damages, attorney fees and costs, damages for noneconomic loss or injury, and a statutory fine of \$5,000 per aggrieved party and per violation. An award of damages for noneconomic loss or injury is capped at \$50,000, and if a defendant is a small business, it is entitled to a 50% reduction of a noneconomic loss or injury award if it corrects the violation within 30 days of the complaint being filed and did not knowingly or intentionally make or cause to be made the violation.

The bill also extends the deadline for filing a charge with the Colorado civil rights commission alleging discrimination in places of public accommodation or discriminatory advertising from 60 days to one year after the alleged discriminatory act occurred.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) Coloradans with disabilities continue to face discrimination in
5 places of public accommodation, including by publication of
6 discriminatory advertising related to those places;

7 (b) The current 60-day time limit to file an administrative
8 complaint for discrimination in a place of public accommodation, or
9 related discriminatory advertising, pushes individuals with disabilities to
10 file civil lawsuits instead of administrative complaints;

11 (c) To avoid this push toward litigation, and to ensure that both
12 options to remedy this ongoing discrimination are available to Coloradans
13 with disabilities, the time limit to file an administrative complaint for
14 discrimination in a place of public accommodation, or related

1 discriminatory advertising, should be extended to one year, matching the
2 time limit to file other actions for relief pursuant to the Colorado
3 anti-discrimination act;

4 (d) Additionally, the inability of individuals with disabilities to
5 recover compensatory damages in a civil action for certain discriminatory
6 and unfair practices diminishes the reality of the harm done by such
7 discriminatory acts and robs the individuals with disabilities of the
8 opportunity to be made truly whole;

9 (e) Particularly in light of a recent United States Supreme Court
10 decision concluding that emotional distress damages could not be implied
11 under the federal spending clause anti-discrimination statutes, it is
12 necessary to protect the rights of Coloradans with disabilities by expressly
13 and unambiguously making compensatory damages, including for
14 pecuniary and nonpecuniary losses, available as a remedy in a civil action
15 for certain discriminatory and unfair practices; and

16 (f) In an effort to protect all Coloradans from acts of
17 discrimination and ensure equal access to justice to those who are
18 discriminated against, the general assembly finds that it is necessary to
19 merge the remedy sections of the Colorado anti-discrimination act.

20 **SECTION 2.** In Colorado Revised Statutes, 24-34-508, **amend**
21 (2); and **add** (3) as follows:

22 **24-34-508. Relief authorized.** (2) In addition to the relief
23 authorized by the provisions of subsection (1) of this section, an
24 individual with a disability who has suffered an unfair housing practice
25 based on his or her disability is entitled to the relief set forth in ~~section~~
26 ~~24-34-802~~ SECTION 24-34-602.

27 (3) AN INDIVIDUAL WITH A DISABILITY WHO IS SUBJECT TO A

1 VIOLATION OF SECTION 24-34-502 OR 24-34-502.2 BASED ON THE
2 INDIVIDUAL'S DISABILITY IS ENTITLED TO THE RELIEF SET FORTH IN
3 SECTION 24-34-602.

4 **SECTION 3.** In Colorado Revised Statutes, 24-34-601, **amend**
5 (2.5); and **repeal** (2)(b) as follows:

6 **24-34-601. Discrimination in places of public accommodation**
7 **- definition.** (2) (b) ~~A claim brought pursuant to paragraph (a) of this~~
8 ~~subsection (2) that is based on disability is covered by the provisions of~~
9 ~~section 24-34-802.~~

10 (2.5) It is a discriminatory practice and unlawful for any person
11 to discriminate against any individual or group because such person or
12 group has opposed any practice made a discriminatory practice by this
13 part 6, BY PART 7 OF THIS ARTICLE 34, BECAUSE SUCH PERSON OR GROUP
14 HAS REQUESTED REASONABLE ACCOMMODATIONS ON THE BASIS OF A
15 PERSON'S DISABILITY, or because such person or group has made a charge,
16 testified, assisted, or participated in any manner in an investigation,
17 proceeding, or hearing conducted pursuant to this part 6 OR PART 7 OF
18 THIS ARTICLE 34.

19 **SECTION 4.** In Colorado Revised Statutes, 24-34-602, **amend**
20 (1); and **add** (4) as follows:

21 **24-34-602. Penalty and civil liability - definition.** (1) (a) ~~Any~~
22 ~~person who violates section 24-34-601 shall be fined three thousand five~~
23 ~~hundred dollars for each violation.~~ A person aggrieved by the violation
24 of section 24-34-601, ~~24-34-802 (1)(a), 24-34-802 (1)(b), OR 24-34-803~~
25 may bring an action in any court of competent jurisdiction. ~~in the county~~
26 ~~where the violation occurred.~~ Upon finding a violation ~~the court shall~~
27 ~~order the defendant to pay the fine to the aggrieved party and to comply~~

1 ~~with the provisions of section 24-34-601~~ OF SECTION 24-34-601,
2 24-34-802 (1)(a), 24-34-802 (1)(b), OR 24-34-803, THE AGGRIEVED PARTY
3 IS ENTITLED TO A COURT ORDER REQUIRING COMPLIANCE WITH THE
4 PROVISIONS OF THE APPLICABLE SECTION, ATTORNEY'S FEES AND COSTS,
5 AND EITHER:

6 (I) RECOVERY OF ACTUAL MONETARY DAMAGES AND, EXCEPT AS
7 OTHERWISE PROVIDED IN SUBSECTION (1)(c) OF THIS SECTION, DAMAGES
8 FOR NONECONOMIC LOSS OR INJURY, AS DEFINED IN SECTION 13-21-102.5
9 (2)(b); OR

10 (II) A STATUTORY FINE OF FIVE THOUSAND DOLLARS PER
11 VIOLATION PER AGGRIEVED PARTY.

12 (b) ~~Notwithstanding the provisions of paragraph (a) of this~~
13 ~~subsection (1), a person who violates the provisions of section 24-34-601~~
14 ~~based on a disability shall be subject to the provisions of section~~
15 ~~24-34-802.~~

16 (c) (I) RECOVERY OF DAMAGES FOR NONECONOMIC LOSS OR
17 INJURY IN ACCORDANCE WITH SUBSECTION (1)(a)(II) OF THIS SECTION IS
18 LIMITED TO AN AMOUNT NOT TO EXCEED FIFTY THOUSAND DOLLARS.

19 (II) (A) A DEFENDANT THAT IS A SMALL BUSINESS IS ENTITLED TO
20 A FIFTY PERCENT REDUCTION OF THE AMOUNT OF NONECONOMIC LOSS OR
21 INJURY DAMAGES AWARDED IN ACCORDANCE WITH SUBSECTION (1)(a)(II)
22 OF THIS SECTION IF THE DEFENDANT CORRECTS THE VIOLATION WITHIN
23 THIRTY DAYS AFTER THE COMPLAINT IS FILED; EXCEPT THAT A DEFENDANT
24 THAT IS A SMALL BUSINESS AND KNOWINGLY OR INTENTIONALLY MADE OR
25 CAUSED TO BE MADE THE VIOLATION IS NOT ENTITLED TO A REDUCTION
26 PURSUANT TO THIS SUBSECTION (1)(c)(II).

27 (B) AS USED IN THIS SUBSECTION (1)(c)(II), "SMALL BUSINESS"

1 MEANS AN EMPLOYER WITH TWENTY-FIVE OR FEWER EMPLOYEES THAT
2 GENERATES NO MORE THAN THREE MILLION FIVE HUNDRED THOUSAND
3 DOLLARS IN ANNUAL GROSS INCOME.

4 (III) NOTHING IN THIS SUBSECTION (1)(c) REDUCES ACTUAL
5 MONETARY DAMAGES AWARDED IN ACCORDANCE WITH SUBSECTION
6 (1)(a)(I) OF THIS SECTION.

7 (4) FOR ANY SUIT BROUGHT PURSUANT TO THIS SECTION THAT
8 RELATES TO DISCRIMINATION ON THE BASIS OF DISABILITY, THE COURT
9 SHALL APPLY THE SAME STANDARDS AND DEFENSES THAT ARE AVAILABLE
10 UNDER THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42
11 U.S.C. SEC. 12101 ET SEQ., AND ITS RELATED AMENDMENTS AND
12 IMPLEMENTING REGULATIONS.

13 **SECTION 5.** In Colorado Revised Statutes, **amend** 24-34-604 as
14 follows:

15 **24-34-604. Time limits on filing of charges.** Any charge filed
16 with the commission alleging a violation of this part 6 shall be filed
17 pursuant to section 24-34-306 within ~~sixty days~~ ONE YEAR after the
18 alleged discriminatory act occurred, and if not so filed, it shall be barred.

19 **SECTION 6.** In Colorado Revised Statutes, **amend** 24-34-706 as
20 follows:

21 **24-34-706. Time limits on filing of charges.** Any charge filed
22 with the commission alleging a violation of this part 7 shall be filed
23 pursuant to section 24-34-306 within ~~sixty days~~ ONE YEAR after the
24 alleged discriminatory act occurred, and, if not so filed, it shall be barred.

25 **SECTION 7.** In Colorado Revised Statutes, 24-34-802, **amend**
26 (2)(a) introductory portion; and **repeal** (2)(c), (2)(d), and (4) as follows:

27 **24-34-802. Violations - penalties - immunity - repeal.**

1 (2) (a) An individual with a disability, as defined in section 24-34-301,
2 who is subject to a violation of ~~subsection (1)~~ SUBSECTION (1)(c) of this
3 section ~~or of section 24-34-502, 24-34-502.2, 24-34-601, or 24-34-803~~
4 based on the individual's disability may bring a civil suit in a court of
5 competent jurisdiction and is entitled to a court order requiring
6 compliance with the provisions of the applicable section and ~~either of the~~
7 following remedies:

8 (c) ~~For a claim brought pursuant to subsection (2)(a) of this~~
9 ~~section for a construction-related accessibility violation, the violation~~
10 ~~must be considered a single incident and not as separate violations for~~
11 ~~each day the construction-related accessibility violation exists.~~

12 (d) ~~(I) A small business defendant is entitled to a fifty percent~~
13 ~~reduction in a statutory fine assessed pursuant to subsection (2)(a)(III) of~~
14 ~~this section if it corrects the accessibility violation within thirty days after~~
15 ~~the filing of the complaint. The fifty percent reduction in a statutory fine~~
16 ~~does not apply, however, if the defendant knowingly or intentionally~~
17 ~~made or caused to have made the access barrier that caused the~~
18 ~~accessibility violation.~~

19 ~~(II) For purposes of this subsection (2)(d), "small business" means~~
20 ~~an employer with twenty-five or fewer employees and no more than three~~
21 ~~million five hundred thousand dollars in annual gross income.~~

22 ~~(III) Nothing in this subsection (2)(d) may be interpreted to result~~
23 ~~in a reduction in actual monetary damages awarded pursuant to~~
24 ~~subsection (2)(a)(II) of this section.~~

25 (4) ~~A court that hears civil suits pursuant to this section shall~~
26 ~~apply the same standards and defenses that are available under the federal~~
27 ~~"Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq.,~~

1 ~~and its related amendments and implementing regulations.~~

2 **SECTION 8.** In Colorado Revised Statutes, 24-34-804, **amend**
3 (3)(a)(I) as follows:

4 **24-34-804. Service animals - violations - penalties.**
5 (3) (a) (I) Except as provided for in ~~subparagraphs (II) and (III) of this~~
6 ~~paragraph (a)~~, SUBSECTIONS (3)(a)(II) AND (3)(a)(III) OF THIS SECTION, a
7 person who violates any provision of subsection (1) of this section is
8 liable to the qualified individual with a disability who is accompanied by
9 a service animal or a trainer of a service animal whose rights were
10 affected for the penalties provided in ~~section 24-34-802~~ SECTION
11 24-34-602.

12 **SECTION 9.** In Colorado Revised Statutes, 24-34-806, **amend**
13 (4)(a) as follows:

14 **24-34-806. Testing accommodations for Coloradans with**
15 **disabilities - right of action - legislative declaration - definitions.**
16 (4) An individual adversely affected or aggrieved by a testing entity's
17 decision regarding the individual's request for a testing accommodation
18 pursuant to this section may bring a civil action against the testing entity
19 in a court of competent jurisdiction for a willful violation of this section
20 and is entitled to the following remedies:

21 (a) The relief set forth in ~~section 24-34-802 (2)~~ SECTION
22 24-34-602; and

23 **SECTION 10.** In Colorado Revised Statutes, 1-1-116, **amend** (3)
24 as follows:

25 **1-1-116. Access to precinct caucus - party assembly.** (3) The
26 failure of any political party to make a reasonable effort to comply with
27 the requirements of this section constitutes discrimination on the basis of

1 disability in violation of ~~section 24-34-802~~ SECTION 24-34-602. Any
2 person who is subjected to a violation of this section is entitled to seek all
3 relief provided in ~~section 24-34-802~~ SECTION 24-34-602.

4 **SECTION 11. Act subject to petition - effective date.** This act
5 takes effect at 12:01 a.m. on the day following the expiration of the
6 ninety-day period after final adjournment of the general assembly; except
7 that, if a referendum petition is filed pursuant to section 1 (3) of article V
8 of the state constitution against this act or an item, section, or part of this
9 act within such period, then the act, item, section, or part will not take
10 effect unless approved by the people at the general election to be held in
11 November 2026 and, in such case, will take effect on the date of the
12 official declaration of the vote thereon by the governor.