

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 17-1156.01 Debbie Haskins x2045

SENATE BILL 17-276

SENATE SPONSORSHIP

Neville T.,

HOUSE SPONSORSHIP

Neville P.,

Senate Committees

Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING METHODS TO ALLEVIATE THE FISCAL IMPACT OF STATE**
102 **REGULATIONS ON SMALL BUSINESSES, AND, IN CONNECTION**
103 **THEREWITH, ENACTING THE "REGULATORY RELIEF ACT OF**
104 **2017".**

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>.)

The bill enacts the "Regulatory Relief Act of 2017". The bill includes a legislative declaration about the importance of small businesses to the Colorado economy and acknowledges the difficulty

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.

SENATE
2nd Reading Unamended
April 19, 2017

these types of businesses have in complying with state rules that are not known or understood by these businesses.

The bill requires a state agency (agency) to give a small business a period of time to cure a first-time minor violation of a rule instead of enforcing the rule by imposing a fine. When an agency determines that a small business has committed a minor violation of a rule, instead of imposing a fine, the agency is required to notify the small business in writing of the violation, including the steps to cure the violation, and give the small business 30 business days to cure the violation. Upon a showing of good cause, the business owner may request additional time to cure the violation. If the small business owner fails to cure the minor violation within the stated time period, the agency may impose the fine on the small business. This cure provision does not apply in cases where an agency is required by statute to assess a fine for noncompliance.

For purposes of the cure provision, the bill defines "small business" as a business that employs 100 or fewer employees.

The bill defines "minor violation" as a violation that includes operational or administrative matters, such as record keeping, retention of data, or filing of reports, and that is enforced by a fine; except that "minor violation" does not include any matter that places the safety of the public, employees, or others at risk. The bill provides exceptions from the definition of "minor violation" for certain types of rules or violations.

Under current law, agencies are required to convene stakeholder groups to give input about proposed rules. The bill amends the stakeholder provision to direct agencies to make diligent attempts to notify and solicit input from representatives of small businesses (in this case small business is a business with fewer than 500 employees as defined under the "State Administrative Procedure Act") about proposed rule-making, if the agency's proposed rule-making has a potential negative impact on small businesses.

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

2 **SECTION 1. Short title.** The short title of this act is the
3 "Regulatory Relief Act of 2017".

4 **SECTION 2. Legislative declaration.** (1) The general assembly
5 finds and determines that:

6 (a) Colorado's business community consists overwhelmingly of
7 small businesses;

8 (b) These businesses make up the majority of the business activity

1 in Colorado and employ tens of thousands of Coloradans;

2 (c) There is a gap between the promulgation of rules, especially
3 new rules, by state agencies and the education and awareness of small
4 business owners about regulatory requirements. A small business owner
5 may not be aware of rules until a state agency audit determines that the
6 business has not complied with the agency's rules.

7 (d) Small businesses in Colorado would benefit from relief from
8 regulatory burdens.

9 (2) The general assembly declares that it would benefit small
10 businesses in this state if the enforcement activities of state agencies for
11 first-time minor violations of new rules were focused on educating and
12 training small businesses to comply with rules and giving them an
13 opportunity to cure the problems rather than on punishing first-time
14 violators for noncompliance.

15 (3) The general assembly also declares that it would benefit small
16 businesses in this state to have notice and an opportunity through the
17 stakeholder process to provide input to state agencies about proposed
18 rules that have the potential for a negative fiscal impact upon small
19 businesses. With that opportunity, small businesses would be able to
20 provide valuable input to state agencies on how those fiscal impacts
21 might be eliminated or alleviated.

22 **SECTION 3.** In Colorado Revised Statutes, **add** 24-4-104.6 as
23 follows:

24 **24-4-104.6. Impact on small businesses - opportunity to cure**
25 **a violation before imposition of a fine - definitions - exceptions.**

26 (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
27 REQUIRES:

1 (a) "MINOR VIOLATION" MEANS A VIOLATION THAT INCLUDES
2 OPERATIONAL OR ADMINISTRATIVE MATTERS, SUCH AS RECORD KEEPING,
3 RETENTION OF DATA, OR FILING OF REPORTS, AND THAT IS ENFORCED BY
4 A FINE; EXCEPT THAT "MINOR VIOLATION" DOES NOT INCLUDE ANY
5 MATTER THAT PLACES THE SAFETY OF THE PUBLIC, EMPLOYEES, OR OTHERS
6 AT RISK. "MINOR VIOLATION" DOES NOT INCLUDE VIOLATIONS RELATING
7 TO:

- 8 (I) STATE-ISSUED PERMITS, LICENSES, OR REGISTRATIONS;
- 9 (II) MATTERS RELATED TO BIDDING ON STATE CONTRACTS;
- 10 (III) ACTIVITIES REQUIRED BY FEDERAL LAW;
- 11 (IV) THE ENFORCEMENT ACTIVITIES OF THE ADMINISTRATOR OF
12 THE "UNIFORM CONSUMER CREDIT CODE", ARTICLES 1 TO 9 OF TITLE 5,
13 DESIGNATED BY THE ATTORNEY GENERAL UNDER SECTION 5-6-103;
- 14 (V) RULES ADOPTED BY THE SECRETARY OF STATE RELATING TO
15 THE REGULATION OF LOBBYISTS PURSUANT TO PART 3 OF ARTICLE 6 OF
16 THIS TITLE 24;
- 17 (VI) RULES ADOPTED BY THE COLORADO CIVIL RIGHTS DIVISION,
18 CREATED IN PART 3 OF ARTICLE 34 OF THIS TITLE 24; OR
- 19 (VII) RULES ADOPTED BY THE DEPARTMENT OF PUBLIC HEALTH
20 AND ENVIRONMENT, CREATED IN SECTION 25-1-102.

21 (b) "SMALL BUSINESS" MEANS A BUSINESS THAT EMPLOYS ONE
22 HUNDRED OR FEWER EMPLOYEES.

23 (2) WHEN AN AGENCY DETERMINES THAT A SMALL BUSINESS HAS
24 COMMITTED A FIRST-TIME MINOR VIOLATION OF A RULE, INSTEAD OF
25 ENFORCING THE RULE BY IMPOSING A FINE, THE AGENCY SHALL NOTIFY
26 THE SMALL BUSINESS IN WRITING OF THE VIOLATION, INCLUDING WHAT
27 STEPS THE SMALL BUSINESS NEEDS TO TAKE TO CORRECT THE VIOLATION,

1 AND GIVE THE SMALL BUSINESS THIRTY BUSINESS DAYS TO CURE THE
2 VIOLATION. UPON A SHOWING OF GOOD CAUSE, THE SMALL BUSINESS MAY
3 REQUEST ADDITIONAL TIME FROM THE AGENCY TO CURE THE VIOLATION.
4 IF THE SMALL BUSINESS FAILS TO CURE THE MINOR VIOLATION WITHIN THE
5 STATED TIME PERIOD, THE AGENCY MAY IMPOSE THE FINE ON THE SMALL
6 BUSINESS.

7 (3) THIS SECTION DOES NOT APPLY IN CASES WHERE AN AGENCY IS
8 REQUIRED BY STATUTE TO ASSESS A FINE FOR NONCOMPLIANCE WITH AN
9 AGENCY RULE OR STATUTE.

10 **SECTION 4.** In Colorado Revised Statutes, 24-4-103, **amend** (2)
11 as follows:

12 **24-4-103. Rule-making - procedure - definitions - repeal.**

13 (2) When rule-making is contemplated, public announcement thereof
14 may be made at such time and in such manner as the agency determines.
15 The agency shall establish a representative group of participants with an
16 interest in the subject of the rule-making to submit views or otherwise
17 participate informally in conferences on the proposals under consideration
18 or to participate in the public rule-making proceedings on the proposed
19 rules. In establishing the representative group, the agency shall make
20 diligent attempts to solicit input from representatives of each of the
21 various stakeholder interests that may be affected positively or negatively
22 by the proposed rules. IF THE AGENCY'S PROPOSED RULE-MAKING HAS A
23 POTENTIAL NEGATIVE IMPACT ON SMALL BUSINESSES, THE AGENCY MUST
24 MAKE DILIGENT ATTEMPTS TO NOTIFY AND SOLICIT INPUT FROM
25 REPRESENTATIVES OF SMALL BUSINESSES ABOUT THE PROPOSED
26 RULE-MAKING, INCLUDING SOLICITING INPUT ABOUT THE FISCAL IMPACT
27 OF THE PROPOSED RULES AND HOW THOSE FISCAL IMPACTS MIGHT BE

1 ELIMINATED OR ALLEVIATED. If the agency convenes a representative
2 group prior to issuing a notice of proposed rule-making as provided in
3 ~~paragraph (a) of subsection (3)~~ SUBSECTION (3)(a) of this section, the
4 agency shall add those persons who participated in the representative
5 group to the list of persons who receive notification of proposed
6 rule-making as provided in ~~paragraph (b) of subsection (3)~~ SUBSECTION
7 (3)(b) of this section.

8 **SECTION 5. Act subject to petition - effective date.** This act
9 takes effect at 12:01 a.m. on the day following the expiration of the
10 ninety-day period after final adjournment of the general assembly (August
11 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
12 referendum petition is filed pursuant to section 1 (3) of article V of the
13 state constitution against this act or an item, section, or part of this act
14 within such period, then the act, item, section, or part will not take effect
15 unless approved by the people at the general election to be held in
16 November 2018 and, in such case, will take effect on the date of the
17 official declaration of the vote thereon by the governor.