

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

REVISED

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

LLS NO. 11-0340.01 Debbie Haskins

HOUSE BILL 11-1144

HOUSE SPONSORSHIP

Solano, Casso, Duran, Kerr A., Todd

SENATE SPONSORSHIP

Tochtrop,

House Committees
Health and Environment

Senate Committees
Health and Human Services

A BILL FOR AN ACT

101 CONCERNING FETAL ALCOHOL SPECTRUM DISORDERS, AND, IN
102 CONNECTION THEREWITH, EXPANDING THE NUMBER OF
103 MEMBERS OF THE FETAL ALCOHOL SPECTRUM DISORDERS
104 COMMISSION AND ENCOURAGING EVALUATION AND EXPANDED
105 USE OF HEALTH WARNING INFORMATION.

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://www.leg.state.co.us/billsummaries>.)

The bill includes a legislative declaration of the general assembly's

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 Unam ended
March 14, 2011

HOUSE
3rd Reading Unam ended
February 23, 2011

HOUSE
Am ended 2nd Reading
February 22, 2011

findings regarding fetal alcohol spectrum disorders (FASD), the FASD commission (commission), and the purposes for the bill.

The number of members of the commission is increased by adding a representative of the department of education and a representative of a licensed beverage trade association in Colorado. The automatic repeal date for the commission is extended until June 30, 2015.

The commission is directed to evaluate the use of health warning information about the dangers of alcohol consumption during pregnancy. The commission is directed to report to the unit that administers alcohol and drug abuse programs in the department of human services and to the health and human services committees of the senate and the house of representatives, or any successor committees, about the responses from licensed beverage retailers and patrons to the warning signs and make recommendations on how and where to use the signs and other information in the future.

The bill requires individual and group insurance policies issued or renewed on or after January 1, 2012, by companies regulated by the state insurance commissioner to cover the cost of a multidisciplinary evaluation as requested by the primary health care provider of a child under the age of 18 who is suspected of having FASD. The bill directs that the written report of the evaluation shall be sent by the diagnostic team to the child's primary health care provider and to the parent, guardian, or primary caregiver of the child. The bill states that nothing in the mandated coverage provision shall be construed to affect any existing benefits or services provided to a policyholder or dependent child. The evaluation is subject to the same copayments applicable for other diagnostic and evaluation benefits covered within the policyholder's health benefit plan. The evaluation shall be exempt from a deductible or dollar limit provision under the policyholder's health benefit plan.

If the "essential benefits" provisions for insurance policies offered through the health exchange marketplaces in 2014 under the federal health care reform act do not include coverage for a multidisciplinary evaluation for diagnosing FASD, thereby triggering a potential cost to the state, the bill directs the Colorado interagency health reform implementing board in the governor's office to study the coverage of FASD and to advise and make recommendations to the general assembly about whether the state should cover the costs of a multidisciplinary evaluation or treatment or both of FASD for health care exchange enrollees.

The general assembly finds that the Colorado health care program for children with special health care needs housed in the prevention services division in the department of public health and environment is an effective method to provide information and support to local communities and families in need of diagnostic and evaluation services. The department of public health and environment is encouraged to

enhance the capacity of local communities to serve families of children who have or are suspected of having neurodevelopmental delays, including FASD, by supporting and promoting local multidisciplinary diagnostic and evaluation clinics.

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

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

4 (a) Alcohol use during pregnancy is the leading known cause of
5 preventable intellectual and developmental disabilities, growth
6 deficiencies, and brain damage in children;

7 (b) Fetal alcohol spectrum disorders (FASD) take an enormous
8 financial toll on affected families and society as a whole;

9 (c) Most importantly, while there is no cure for FASD, it is 100%
10 preventable if pregnant women know to abstain from alcohol; and

11 (d) One of the most effective means to prevent FASD and the
12 resulting consequences to society is through a vigorous public awareness
13 campaign that includes informational materials, public awareness
14 advertisements, and warning signs targeted toward pregnant women and
15 that involves input from licensed beverage retailers and other interested
16 parties.

17 (2) The general assembly further finds that:

18 (a) In 2009, legislation created the FASD commission to study the
19 issue of FASD, its impact on the state, and to recommend legislation to
20 the general assembly;

21 (b) The FASD commission has estimated based upon national data
22 that approximately 1 in 100 live births have a fetal alcohol spectrum
23 disorder. The estimated cost to society of raising a child with fetal

1 alcohol syndrome (FAS) averages \$2,000,000 across the child's lifetime;
2 and

3 (c) In order to address the problem of FAS and FASD and the
4 consequent costs to individuals and to the state, the FASD commission
5 has recommended that the general assembly:

6 (I) Add a representative from the Colorado department of
7 education to the FASD commission; and

8 (II) Require that the cost of a multidisciplinary evaluation of a
9 child with suspected FASD as requested by the child's primary health care
10 provider be covered by insurance policies.

11 (3) The general assembly further finds that, with respect to the
12 requirement that insurance companies cover the costs of multidisciplinary
13 evaluations for children suspected of having FASD:

14 (a) The landmark research in the field of FASD, the Streissguth
15 study, found that persons with fetal alcohol spectrum disorders suffer
16 substantially from secondary issues, all of which result in significant and
17 ongoing costs to society as a whole:

18 (I) Over 90% experienced mental health problems;

19 (II) About 60% had either been suspended or expelled from
20 school or had dropped out;

21 (III) Approximately 60% had been in trouble with law
22 enforcement authorities or had been charged with or convicted of a crime;

23 (IV) Almost 50% had been confined for inpatient treatment for
24 mental health or alcohol and drug problems or had been incarcerated for
25 a crime;

26 (V) About 50% engaged in inappropriate sexual behavior;

27 (VI) About 30% had alcohol and drug abuse problems; and

1 (VII) Approximately 80% of those twenty-one years of age and
2 older were unable to live independently or keep a job;

3 (b) Children who have access to an evaluation that finds FASD
4 before age 6 have, by far, the best chance of avoiding these secondary
5 issues;

6 (c) When a person is diagnosed with FASD at age 12 or older, the
7 likelihood that the person will require hospitalization for psychiatric
8 problems or alcohol and drug abuse increases two- to four-fold, and these
9 hospitalizations typically follow multiple emergency department visits by
10 these individuals due to their severely impaired problem-solving skills;

11 (d) The medicaid program and the children's basic health plan
12 currently provide and cover a multidisciplinary evaluation for children
13 suspected of having FASD; ■

14 (e) The diagnostic and evaluation clinics of the Colorado health
15 care program for children with special health care needs in the prevention
16 services division in the department of public health and environment are
17 effective methods for providing information and support to local
18 communities and families in need of diagnostic and evaluation services;
19 and

20 (f) Multidisciplinary diagnostic evaluations will result in:

21 (I) Better outcomes for the child involved, including a greater
22 chance at becoming a self-sufficient adult;

23 (II) Long-term savings due to the reduced likelihood of long-term
24 hospitalizations and emergency room visits for persons with FASD; and

25 (III) Fewer persons with FASD housed in costly mental health
26 facilities or incarcerated in prisons.

27 (4) The general assembly, therefore, declares that it is in the best

1 interests of citizens of Colorado:

2 (a) To implement the recommendations of the FASD commission
3 described in subsection (2) of this ~~section regarding representation on the~~
4 ~~FASD commission;~~

5 (b) To promote greater use and distribution of signs warning
6 against consuming alcohol while pregnant and other informational
7 materials about the dangers of drinking alcohol during pregnancy;

8 (c) To add a representative of the licensed beverage retailers to the
9 FASD commission to provide input on development and distribution of
10 informational materials that will increase awareness of the serious
11 consequences of drinking alcohol while pregnant; and

12 (d) To extend the duration of the FASD commission for 3 more
13 years to allow it to continue its work on FASD issues and prevention.

14 **SECTION 2.** 27-80-116, Colorado Revised Statutes, is amended
15 to read:

16 **27-80-116. Fetal alcohol spectrum disorders - legislative**
17 **declaration - health warning signs - commission - repeal.** (1) The
18 general assembly hereby finds and declares that:

19 (a) Fetal alcohol exposure is ~~among~~ the leading known ~~causes~~
20 CAUSE of ~~mental-retardation~~ PREVENTABLE INTELLECTUAL AND
21 DEVELOPMENTAL DISABILITIES and birth defects in the children of this
22 state;

23 (b) Individuals with undiagnosed fetal alcohol ~~exposure~~
24 SPECTRUM DISORDERS suffer substantially from secondary issues such as
25 child abuse and neglect, separation from families, multiple foster
26 placements, depression, aggression, school failure, juvenile detention, and
27 job instability;

1 (b.5) COMPARED TO INDIVIDUALS DIAGNOSED BEFORE AGE
2 TWELVE, INDIVIDUALS WITH UNDIAGNOSED FASD ARE TWO TO FOUR
3 TIMES MORE LIKELY TO SUFFER FROM INAPPROPRIATE SEXUAL BEHAVIOR,
4 DISRUPTED SCHOOL EXPERIENCES, TROUBLE WITH THE LAW, DRUG AND
5 ALCOHOL PROBLEMS, OR CONFINEMENT IN A JAIL, MENTAL HOSPITAL, OR
6 DRUG AND ALCOHOL TREATMENT FACILITY;

7 (c) These secondary disabilities come at a high cost to individuals,
8 their families, and society; and

9 (d) A survey performed in 2006 by the Colorado pregnancy risk
10 assessment system estimated that eleven and two-tenths percent of
11 women in Colorado said that they drank alcohol during the last three
12 months of their pregnancy; AND

13 (e) THE COMMISSION SHOULD EVALUATE THE CURRENT USE AND
14 DISTRIBUTION OF WRITTEN AND ELECTRONIC INFORMATIONAL MATERIALS
15 DESIGNED TO INCREASE AWARENESS OF THE CONSEQUENCES OF DRINKING
16 ALCOHOL WHILE PREGNANT AND SHOULD INVESTIGATE ADDITIONAL
17 MEANS BY WHICH SUCH WRITTEN AND ELECTRONIC MATERIALS MIGHT
18 BEST BE USED.

19 (2) The general assembly therefore declares that fetal alcohol
20 exposure and its related problems can be reduced substantially by a
21 greater awareness of the consequences of drinking alcohol while pregnant
22 and by early diagnosis and receipt of appropriate and effective
23 intervention.

24 (3) Each ~~vendor~~ PERSON licensed ~~in Colorado~~ PURSUANT TO
25 SECTION 12-47-401 (1) (h) TO (1) (t), C.R.S., to sell ~~alcoholic beverages~~
26 MALT, VINOUS, AND SPIRITUOUS LIQUORS OR LICENSED PURSUANT TO
27 SECTION 12-46-104 (1) (c), C.R.S., TO SELL FERMENTED MALT BEVERAGES

1 is hereby encouraged to post a health warning sign pursuant to paragraph
2 (c) of subsection (4) of this section, informing patrons that the
3 consumption of alcohol during pregnancy may cause birth defects,
4 including fetal alcohol ~~syndrome~~ SPECTRUM DISORDERS.

5 (4) (a) There is hereby created the fetal alcohol spectrum disorders
6 commission, referred to in this section as the "commission". The
7 commission is created as a temporary commission under section 22 of
8 article IV of the state constitution. The commission shall be composed
9 of no more than ~~ten~~ TWELVE members. On or before August 30, 2009, the
10 executive director, in consultation with a nonprofit organization that
11 works with FASD issues, shall appoint the commission members with the
12 goal of selecting a broad representation of individuals working in the field
13 of FASD. The commission shall include representation from the
14 following areas and groups in any combination the executive director
15 deems appropriate:

- 16 (I) Pediatrics;
- 17 (II) Family physicians;
- 18 (III) Child development programs that work with special needs
19 children;
- 20 (IV) The department of public health and environment;
- 21 (V) The juvenile justice system;
- 22 (VI) Preschool, elementary, secondary, and higher education;
- 23 (VII) Parents, foster parents, or legal guardians of children OR
24 ADULTS affected by FASD;
- 25 (VIII) The developmentally disabled community; ~~and~~
- 26 (IX) Speech, language, and occupational therapy;
- 27 (X) THE DEPARTMENT OF EDUCATION; AND

1 (XI) A REPRESENTATIVE OF A TRADE ASSOCIATION THAT
2 REPRESENTS LICENSED BEVERAGE RETAILERS IN COLORADO.

3 (b) The commission shall meet at least once on or before
4 September 30, 2009. At its first meeting, the commission shall elect by
5 a majority vote a chairperson from among the commission members who
6 shall act as the presiding officer of the commission, determine a meeting
7 schedule, and develop a list of priorities. Commission members shall
8 serve without compensation or reimbursement of expenses.

9 (c) ~~On or before October 30, 2009,~~ The commission shall develop
10 a health warning sign AND OTHER INFORMATIONAL MATERIALS for use by
11 ~~vendors~~ PERSONS LICENSED PURSUANT TO SECTION 12-47-401 (1) (h) TO
12 (1) (t), C.R.S., TO SELL MALT, VINOUS, AND SPIRITUOUS LIQUORS OR
13 LICENSED PURSUANT TO SECTION 12-46-104 (1) (c), C.R.S., TO SELL
14 FERMENTED MALT BEVERAGES and a plan for making the sign AND OTHER
15 INFORMATIONAL MATERIALS available on-line to ~~vendors~~ SUCH LICENSED
16 PERSONS AND OTHER INTERESTED PARTIES. At a minimum, the health
17 warning sign shall read as follows:

18 HEALTH WARNING
19 DRINKING ANY ALCOHOLIC BEVERAGE DURING
20 PREGNANCY MAY CAUSE BIRTH DEFECTS.

21 (d) On or before December 1, 2009, and as needed thereafter, the
22 commission shall make recommendations to the unit and to the health and
23 human services committees of the senate and the house of representatives,
24 or any successor committees. The commission's recommendations shall
25 address the prevention of and education about FASD and any other
26 FASD-related issues. THE COMMISSION SHALL EVALUATE THE USE OF THE
27 HEALTH WARNING SIGNS DEVELOPED PURSUANT TO PARAGRAPH (c) OF


1 THIS SUBSECTION (4), THE RESPONSE BY LICENSED PERSONS, AS DESCRIBED
2 IN PARAGRAPH (c) OF THIS SUBSECTION (4), TO THE SIGNS, AND THE
3 RESPONSE BY WOMEN AND PATRONS TO THE SIGNS. THE COMMISSION
4 SHALL MAKE RECOMMENDATIONS TO THE UNIT AND TO THE HEALTH AND
5 HUMAN SERVICES COMMITTEES OF THE SENATE AND THE HOUSE OF
6 REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, ON THE MOST
7 EFFECTIVE USE OF THE WARNING SIGNS AND SHALL ALSO RECOMMEND THE
8 MOST EFFECTIVE USE OF OTHER WRITTEN AND ELECTRONIC
9 INFORMATIONAL MATERIALS IN THE FUTURE.

10 (e) This subsection (4) is repealed, effective June 30, 2012 2015.

11 **SECTION 3. Repeal.** 27-80-101 (7), Colorado Revised Statutes,
12 is repealed as follows:

13 **27-80-101. Definitions.** As used in this article, unless the context
14 otherwise requires:

15 (7) ~~"Vendor" means any bar, tavern, restaurant, or retail~~
16 ~~establishment licensed in the state of Colorado under articles 46 and 47~~
17 ~~of title 12, C.R.S., to sell alcoholic beverages for consumption on or off~~
18 ~~the vendor's premises.~~

19 

20 **SECTION 4. Act subject to petition - effective date.** This act
21 shall take effect at 12:01 a.m. on the day following the expiration of the
22 ninety-day period after final adjournment of the general assembly (August
23 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a
24 referendum petition is filed pursuant to section 1 (3) of article V of the
25 state constitution against this act or an item, section, or part of this act
26 within such period, then the act, item, section, or part shall not take effect
27 unless approved by the people at the general election to be held in

1 November 2012 and shall take effect on the date of the official
2 declaration of the vote thereon by the governor.