

**First Regular Session
Seventieth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 15-0628.01 Esther van Mourik x4215

HOUSE BILL 15-1161

HOUSE SPONSORSHIP

Klingenschmitt, Neville P., Lundeen, Humphrey, Dore, Van Winkle, Landgraf, Buck, Everett, Rankin, Saine

SENATE SPONSORSHIP

(None), Crowder, Grantham

House Committees

State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE PROTECTION OF A PERSON'S FIRST AMENDMENT**
102 **RIGHTS IN THE ENFORCEMENT OF PUBLIC ACCOMMODATIONS**
103 **LAWS, AND, IN CONNECTION THEREWITH, PROTECTING A**
104 **PERSON'S RIGHT TO NOT BE INVOLUNTARILY COMPELLED IN**
105 **SPEECH, ACTS OF ARTISTIC EXPRESSION, OR ACTS OF RELIGIOUS**
106 **EXPRESSION.**

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/bills summaries>.)

The bill specifies that neither the civil rights division, the civil

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.

rights commission, nor a court with jurisdiction to hear civil actions brought under the public accommodations laws may compel involuntary speech or acts of involuntary artistic expression or involuntary religious expression by a person when such speech or acts of artistic or religious expression would lead to that person directly or indirectly participating in, directly or indirectly supporting, or endorsing or impliedly endorsing an ideology, ceremony, creed, behavior, or practice with which the person does not agree.

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 and declares that the United States supreme court has ruled
4 on multiple occasions that governments may not compel involuntary
5 speech:

6 (a) In 1940, the court announced its 8-1 opinion in *Minersville*
7 *School District v. Gobitis*, 310 U.S. 586 (1940), upholding a Pennsylvania
8 school district's decision to expel three Jehovah's Witnesses who refused
9 to salute the flag. The court's decision was criticized by Eleanor
10 Roosevelt and over one hundred seventy newspaper editorialists. Then,
11 just a few years later in *West Virginia v. Barnette*, 319 U.S. 624 (1943),
12 the court reversed itself and ruled 6-3 that West Virginia's decision to
13 expel students who refused to salute the flag violated the first
14 amendment. Justice Jackson's opinion for the Court saw inconsistency in
15 an interpretation of the first amendment that "guards the individual's right
16 to speak his own mind, but left it open to public authorities to compel him
17 to utter what is not on his mind."

18 (b) In 1976, the United States supreme court considered another
19 compelled speech claim in *Wooley, Chief of Police of Lebanon v.*
20 *Maynard*, 430 U.S. 705. This case was brought by a New Hampshire
21 couple who had three times been prosecuted for covering up the motto

1 "Live Free or Die" on their New Hampshire license plate. The Maynards
2 objected on religious grounds to the ideological message conveyed on the
3 state license plates. Writing for the court, Chief Justice Burger enjoined
4 enforcement against the Maynards of New Hampshire's law prohibiting
5 the obscuring or defacing of license plates because that invaded the
6 Maynards' first amendment rights.

7 (2) The general assembly further finds and declares that the
8 religious freedom section in the Colorado bill of rights, section 4 of
9 article II of the state constitution, specifies that "[n]o person shall be
10 required to attend or support any ministry or place of worship, religious
11 sect or denomination against his consent."

12 (3) Now, therefore, it is important that the state of Colorado
13 recognize and further implement the rights already granted to people of
14 diverse ideologies, to not be involuntarily compelled by the government
15 to speak or express art or religion against their consent.

16 **SECTION 2.** In Colorado Revised Statutes, 24-34-302, **add** (3)
17 as follows:

18 **24-34-302. Civil rights division - director - powers and duties.**

19 (3) NOTWITHSTANDING THE DIVISION'S POWERS AND DUTIES WITH
20 RESPECT TO DISCRIMINATORY PRACTICES DESCRIBED IN PART 6 OF THIS
21 ARTICLE, THE DIVISION MAY NOT COMPEL INVOLUNTARY SPEECH,
22 INVOLUNTARY ACTS OF ARTISTIC EXPRESSION, OR INVOLUNTARY ACTS OF
23 RELIGIOUS EXPRESSION BY A PERSON WHEN SUCH SPEECH, ACTS OF
24 ARTISTIC EXPRESSION, OR ACTS OF RELIGIOUS EXPRESSION WOULD LEAD
25 TO THAT PERSON DIRECTLY OR INDIRECTLY PARTICIPATING IN, DIRECTLY
26 OR INDIRECTLY SUPPORTING, OR ENDORSING OR IMPLIEDLY ENDORSING AN
27 IDEOLOGY, CEREMONY, CREED, BEHAVIOR, OR PRACTICE WITH WHICH THE

1 PERSON DOES NOT AGREE.

2 **SECTION 3.** In Colorado Revised Statutes, 24-34-305, **add** (5)
3 as follows:

4 **24-34-305. Powers and duties of commission.**

5 (5) NOTWITHSTANDING THE COMMISSION'S POWERS AND DUTIES WITH
6 RESPECT TO DISCRIMINATORY PRACTICES DESCRIBED IN PART 6 OF THIS
7 ARTICLE, THE COMMISSION MAY NOT COMPEL INVOLUNTARY SPEECH,
8 INVOLUNTARY ACTS OF ARTISTIC EXPRESSION, OR INVOLUNTARY ACTS OF
9 RELIGIOUS EXPRESSION BY A PERSON WHEN SUCH SPEECH, ACTS OF
10 ARTISTIC EXPRESSION, OR ACTS OF RELIGIOUS EXPRESSION WOULD LEAD
11 TO THAT PERSON DIRECTLY OR INDIRECTLY PARTICIPATING IN, DIRECTLY
12 OR INDIRECTLY SUPPORTING, OR ENDORSING OR IMPLIEDLY ENDORSING AN
13 IDEOLOGY, CEREMONY, CREED, BEHAVIOR, OR PRACTICE WITH WHICH THE
14 PERSON DOES NOT AGREE.

15 **SECTION 4.** In Colorado Revised Statutes, 24-34-602, **add** (4)
16 as follows:

17 **24-34-602. Penalty and civil liability.** (4) NOTWITHSTANDING
18 THE COURT'S POWER TO FIND A VIOLATION AND ORDER A FINE PURSUANT
19 TO THIS PART 6, THE COURT MAY NOT COMPEL INVOLUNTARY SPEECH,
20 INVOLUNTARY ACTS OF ARTISTIC EXPRESSION, OR INVOLUNTARY ACTS OF
21 RELIGIOUS EXPRESSION BY A PERSON WHEN SUCH SPEECH, ACTS OF
22 ARTISTIC EXPRESSION, OR ACTS OF RELIGIOUS EXPRESSION WOULD LEAD
23 TO THAT PERSON DIRECTLY OR INDIRECTLY PARTICIPATING IN, DIRECTLY
24 OR INDIRECTLY SUPPORTING, OR ENDORSING OR IMPLIEDLY ENDORSING AN
25 IDEOLOGY, CEREMONY, CREED, BEHAVIOR, OR PRACTICE WITH WHICH THE
26 PERSON DOES NOT AGREE.

27 **SECTION 5. Act subject to petition - effective date -**

1 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
2 the expiration of the ninety-day period after final adjournment of the
3 general assembly (August 5, 2015, if adjournment sine die is on May 6,
4 2015); except that, if a referendum petition is filed pursuant to section 1
5 (3) of article V of the state constitution against this act or an item, section,
6 or part of this act within such period, then the act, item, section, or part
7 will not take effect unless approved by the people at the general election
8 to be held in November 2016 and, in such case, will take effect on the
9 date of the official declaration of the vote thereon by the governor.

10 (2) This act applies to actions filed on or after the applicable
11 effective date of this act.