

**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. 17-0174.01 Debbie Haskins x2045

SENATE BILL 17-001

SENATE SPONSORSHIP

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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
Amended 2nd Reading
January 30, 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 (which is defined in the "State Administrative Procedure Act" as a business with fewer than 500 employees) 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 does not apply in cases where an agency is required by statute to assess a fine for noncompliance.

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 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
9 in Colorado and employ tens of thousands of Coloradans;

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

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

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

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

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

23 **24-4-104.6. Impact on small businesses - opportunity to cure**
24 **a violation before imposition of a fine - definition - exceptions.** (1) AS
25 USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES,
26 "MINOR VIOLATION" MEANS A VIOLATION THAT INCLUDES OPERATIONAL
27 OR ADMINISTRATIVE MATTERS, SUCH AS RECORD KEEPING, RETENTION OF

1 DATA, OR FILING OF REPORTS, AND THAT IS ENFORCED BY A FINE; EXCEPT
2 THAT "MINOR VIOLATION" DOES NOT INCLUDE ANY MATTER THAT PLACES
3 THE SAFETY OF THE PUBLIC, EMPLOYEES, OR OTHERS AT RISK. "MINOR
4 VIOLATION" DOES NOT INCLUDE VIOLATIONS RELATING TO:

- 5 (a) STATE-ISSUED PERMITS, LICENSES, OR REGISTRATIONS;
- 6 (b) MATTERS RELATED TO BIDDING ON STATE CONTRACTS;
- 7 (c) ACTIVITIES REQUIRED BY FEDERAL LAW;
- 8 (d) THE ENFORCEMENT ACTIVITIES OF THE ADMINISTRATOR OF THE
9 "UNIFORM CONSUMER CREDIT CODE", ARTICLES 1 TO 9 OF TITLE 5,
10 DESIGNATED BY THE ATTORNEY GENERAL UNDER SECTION 5-6-103;

11 (e) RULES ADOPTED BY THE SECRETARY OF STATE RELATING TO
12 THE REGULATION OF LOBBYISTS PURSUANT TO PART 3 OF ARTICLE 6 OF
13 TITLE 24;

14 (f) RULES ADOPTED BY THE COLORADO CIVIL RIGHTS DIVISION,
15 CREATED IN PART 3 OF ARTICLE 34 OF THIS TITLE 24; OR

16 (g) RULES ADOPTED BY THE DEPARTMENT OF PUBLIC HEALTH AND
17 ENVIRONMENT, CREATED IN SECTION 25-1-102.

18 (2) WHEN AN AGENCY DETERMINES THAT A SMALL BUSINESS HAS
19 COMMITTED A FIRST-TIME MINOR VIOLATION OF A RULE, INSTEAD OF
20 ENFORCING THE RULE BY IMPOSING A FINE, THE AGENCY SHALL NOTIFY
21 THE SMALL BUSINESS IN WRITING OF THE VIOLATION, INCLUDING WHAT
22 STEPS THE SMALL BUSINESS NEEDS TO TAKE TO CORRECT THE VIOLATION,
23 AND GIVE THE SMALL BUSINESS THIRTY BUSINESS DAYS TO CURE THE
24 VIOLATION. UPON A SHOWING OF GOOD CAUSE, THE SMALL BUSINESS MAY
25 REQUEST ADDITIONAL TIME FROM THE AGENCY TO CURE THE VIOLATION.
26 IF THE SMALL BUSINESS FAILS TO CURE THE MINOR VIOLATION WITHIN THE
27 STATED TIME PERIOD, THE AGENCY MAY IMPOSE THE FINE ON THE SMALL

1 BUSINESS.

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

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

7 **24-4-103. Rule-making - procedure - definitions - repeal.**

8 (2) When rule-making is contemplated, public announcement thereof
9 may be made at such time and in such manner as the agency determines.
10 The agency shall establish a representative group of participants with an
11 interest in the subject of the rule-making to submit views or otherwise
12 participate informally in conferences on the proposals under consideration
13 or to participate in the public rule-making proceedings on the proposed
14 rules. In establishing the representative group, the agency shall make
15 diligent attempts to solicit input from representatives of each of the
16 various stakeholder interests that may be affected positively or negatively
17 by the proposed rules. IF THE AGENCY'S PROPOSED RULE-MAKING HAS A
18 POTENTIAL NEGATIVE IMPACT ON SMALL BUSINESSES, THE AGENCY MUST
19 MAKE DILIGENT ATTEMPTS TO NOTIFY AND SOLICIT INPUT FROM
20 REPRESENTATIVES OF SMALL BUSINESSES ABOUT THE PROPOSED
21 RULE-MAKING, INCLUDING SOLICITING INPUT ABOUT THE FISCAL IMPACT
22 OF THE PROPOSED RULES AND HOW THOSE FISCAL IMPACTS MIGHT BE
23 ELIMINATED OR ALLEVIATED. If the agency convenes a representative
24 group prior to issuing a notice of proposed rule-making as provided in
25 ~~paragraph (a) of subsection (3)~~ SUBSECTION (3)(a) of this section, the
26 agency shall add those persons who participated in the representative
27 group to the list of persons who receive notification of proposed

1 rule-making as provided in ~~paragraph (b) of subsection (3)~~ SUBSECTION
2 (3)(b) of this section.

3 **SECTION 5. Act subject to petition - effective date.** This act
4 takes effect at 12:01 a.m. on the day following the expiration of the
5 ninety-day period after final adjournment of the general assembly (August
6 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
7 referendum petition is filed pursuant to section 1 (3) of article V of the
8 state constitution against this act or an item, section, or part of this act
9 within such period, then the act, item, section, or part will not take effect
10 unless approved by the people at the general election to be held in
11 November 2018 and, in such case, will take effect on the date of the
12 official declaration of the vote thereon by the governor.