

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

REENGROSSED

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

LLS NO. 12-0579.01 Kate Meyer x4348

HOUSE BILL 12-1175

HOUSE SPONSORSHIP

Stephens,

SENATE SPONSORSHIP

Cadman,

House Committees
Economic and Business Development

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE ENCOURAGEMENT OF A STATE AGENCY TO PURSUE**
102 **COLORADO-SPECIFIC SOLUTIONS IN LIEU OF FEDERAL**
103 **REGULATION WHENEVER POSSIBLE, AND, IN CONNECTION**
104 **THEREWITH, REQUIRING A STATE AGENCY TO REPORT**
105 **ANNUALLY REGARDING OPPORTUNITIES FOR WAIVER FROM**
106 **NEWLY ADOPTED FEDERAL REGULATIONS.**

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>.)

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.

HOUSE
3rd Reading Unam ended
March 9, 2012

HOUSE
2nd Reading Unam ended
March 5, 2012

For newly adopted federal laws, rules, and regulations (regulations) that expressly or implicitly allow a state to opt out of the regulations, the bill encourages a Colorado state agency (agency) that is potentially impacted by, subject to, or charged with administering the rule to seek such waiver. An agency is required to report annually to the general assembly regarding the agency's opportunities for and attempts at obtaining such waivers.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 78.1 to
3 title 24 as follows:

4 **ARTICLE 78.1**

5 **Waiver from Federal Regulation**

6 **24-78.1-101. Legislative declaration.** (1) THE GENERAL
7 ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:

8 (a) COLORADO IS A UNIQUE STATE, CHARACTERIZED BY ITS PROUD
9 HISTORY, SPECTACULAR AND LUCRATIVE NATURAL RESOURCES, AND
10 STRONG PEOPLE;

11 (b) FEDERAL GOVERNMENTAL REGULATIONS NECESSARILY
12 EMPLOY A ONE-SIZE-FITS-ALL APPROACH THAT DO NOT, AND CANNOT,
13 ACCOUNT FOR ANY STATE'S IDIOSYNCRACIES;

14 (c) FEDERAL REGULATIONS OFTEN GIVE A STATE AN OPPORTUNITY
15 TO CRAFT ITS OWN REGULATIONS IN LIEU OF THOSE FEDERAL
16 REGULATIONS;

17 (d) RATHER THAN ENGAGE IN REFLEXIVE SUBMISSION TO FEDERAL
18 REGULATION, COLORADO STATE AGENCIES SHOULD STRIVE TO IMPLEMENT
19 COLORADO-SPECIFIC SOLUTIONS IN LIEU OF FEDERAL REGULATIONS
20 WHENEVER POSSIBLE; AND

21 (e) COLORADO-SPECIFIC SOLUTIONS IN LIEU OF FEDERAL
22 REGULATIONS WILL PRODUCE GREATER GOVERNMENTAL

1 ACCOUNTABILITY, RESPONSIVENESS, AND EFFICIENCY AND PROMOTE
2 THOUGHTFUL CONSIDERATION REGARDING THE MOST PRACTICAL,
3 EFFECTIVE, AND ECONOMICAL WAY TO PROVIDE FOR COLORADO AND ITS
4 CITIZENS.

5 **24-78.1-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
6 CONTEXT OTHERWISE REQUIRES:

7 (1) "AGENCY" HAS THE SAME MEANING AS SET FORTH IN SECTION
8 24-4-102 (3).

9 (2) "FEDERAL REGULATION" MEANS ANY FEDERAL LAW, RULE, OR
10 REGULATION.

11 (3) "WAIVER" MEANS EXPRESS AND IMPLIED WAIVER, INCLUDING
12 PROVISIONS THAT ALLOW A STATE TO IMPLEMENT REGULATIONS THAT ARE
13 AT LEAST AS PROTECTIVE OR STRINGENT AS THE PREDICATE FEDERAL
14 REGULATION.

15 **24-78.1-103. Waiver from federal regulations encouraged -**
16 **report.** (1) (a) AN AGENCY THAT IS ACTUALLY OR POTENTIALLY
17 AFFECTED BY, SUBJECT TO, OR CHARGED WITH IMPLEMENTING A FEDERAL
18 REGULATION IS ENCOURAGED TO SEEK WAIVER FROM THE FEDERAL
19 REGULATION AND INSTEAD PROMULGATE ITS OWN RULES WHENEVER:

20 (I) WAIVER IS PERMITTED UNDER FEDERAL LAW; AND

21 (II) IT WOULD NOT BE ADMINISTRATIVELY IMPRACTICAL OR
22 ECONOMICALLY UNSOUND TO SO WAIVE.

23 (b) NOTHING IN PARAGRAPH (a) OF THIS SUBSECTION (1) PERMITS
24 OR EMPOWERS AN AGENCY TO OPERATE OUTSIDE THE SCOPE OF ITS
25 AUTHORITY.

26 (2) (a) AN AGENCY SHALL ANNUALLY REPORT TO THE GENERAL
27 ASSEMBLY REGARDING:

1 (I) FEDERAL REGULATIONS DIRECTLY AFFECTING THE AGENCY
2 THAT WERE PROMULGATED IN THE PRIOR TWELVE MONTHS AND FROM
3 WHICH A STATE COULD WAIVE; AND

4 (II) WHETHER THE AGENCY APPLIED FOR OR OTHERWISE SOUGHT
5 WAIVER FROM THE REGULATIONS DESCRIBED UNDER SUBPARAGRAPH (I)
6 OF THIS PARAGRAPH (a), THE AGENCY'S REASONING FOR SEEKING WAIVER
7 OR NOT, AND THE RESULTS OF ANY EFFORTS TO OBTAIN WAIVER.

8 (b) NOTWITHSTANDING SECTION 24-1-136(11)(a)(I), THE REPORT
9 REQUIRED UNDER THIS SUBSECTION (2) SHALL BE SUBMITTED BY
10 DECEMBER 15, 2012, AND BY DECEMBER 15 OF EACH YEAR THEREAFTER,
11 TO THE STANDING COMMITTEES OF REFERENCE IN EACH HOUSE OF THE
12 GENERAL ASSEMBLY WITH OVERSIGHT RESPONSIBILITIES OVER THE
13 AGENCY'S AFFAIRS. THE REPORT MAY BE SUBMITTED ELECTRONICALLY.

14 **SECTION 2. Applicability.** The provisions of this act apply to
15 federal regulations promulgated on or after the applicable effective date
16 of this act.

17 **SECTION 3. Safety clause.** The general assembly hereby finds,
18 determines, and declares that this act is necessary for the immediate
19 preservation of the public peace, health, and safety.