

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

ENGROSSED

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

LLS NO. 11-1048.01 Jennifer Gilroy

SENATE BILL 11-261

SENATE SPONSORSHIP

Roberts, Brophy, Carroll, Morse, Schwartz

HOUSE SPONSORSHIP

Gardner B., Labuda, Levy, Murray, Waller

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE PUBLICATION OF THE COLORADO REVISED**
102 **STATUTES BY PERSONS OTHER THAN THE GENERAL ASSEMBLY.**

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>.)

Committee on Legal Services. The bill amends statutes addressing the publication of the Colorado Revised Statutes to more clearly and appropriately reflect federal copyright law. It repeals the requirement in current law that directs the committee on legal services (committee) to copyright the Colorado Revised Statutes, but permits the

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
May 5, 2011

committee, or its designee, to register a copyright for and in behalf of the state of Colorado in any and all original publications and editorial work that are *ancillary* to the Colorado Revised Statutes.

Under the bill, other publishers of the Colorado Revised Statutes who use the official text from the statutory database may state that their publications are officially sanctioned. The bill repeals the statutory penalties for the unauthorized publication of copyrighted materials, which provisions have not been employed or enforced in the past.

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

2 **SECTION 1.** 2-5-115, Colorado Revised Statutes, is amended to
3 read:

4 **2-5-115. Copyright by state.** Colorado Revised Statutes and
5 ancillary publications thereto, as published, shall be the sole property of
6 the state of Colorado as owner and publisher thereof. ~~and shall be~~
7 ~~copyrighted~~ THE COMMITTEE, OR ITS DESIGNEE, MAY REGISTER A
8 COPYRIGHT for and in behalf of the state of Colorado ~~by the secretary of~~
9 ~~state or the committee~~ IN ANY AND ALL ORIGINAL PUBLICATIONS AND
10 EDITORIAL WORK ANCILLARY TO THE COLORADO REVISED STATUTES THAT
11 ARE PREPARED BY THE GENERAL ASSEMBLY OR ITS STAFF. The committee
12 shall use its best efforts to ~~assure~~ ENSURE that ~~the appropriate~~ ANY federal
13 copyright REGISTERED PURSUANT TO THIS SECTION is APPROPRIATELY
14 maintained. Any prior actions of the committee and the revisor in
15 securing such federal copyright are hereby validated.

16 **SECTION 2.** 2-5-117 (3), Colorado Revised Statutes, is amended
17 to read:

18 **2-5-117. Softbound volumes - ancillary publications.** (3) Such
19 softbound volumes, when, in like manner as is provided for enactment of
20 Colorado Revised Statutes 1973, certified and reported to the general
21 assembly by the committee, approved and enacted by the general

1 assembly, published, ~~copyrighted~~, and deposited with the secretary of
2 state, shall be received, recognized, and referred to in like manner as
3 Colorado Revised Statutes. ~~Such~~ EACH YEAR'S SET OF softbound volumes
4 shall become effective on the date ~~when so deposited and certified to the~~
5 ~~secretary of state~~ SPECIFIED IN SECTION 2-5-126 (2).

6 **SECTION 3.** 2-5-118, Colorado Revised Statutes, is amended to
7 read:

8 **2-5-118. Official statutes - publications by other persons or**
9 **agencies.** (1) (a) The statutes prepared in accordance with sections
10 2-5-102 and 2-5-103 and printed and enacted as the law of the state in
11 accordance with sections 2-5-105, 2-5-113, ~~and~~ 2-5-117, AND 2-5-126
12 ~~and any reprintings thereof authorized in accordance with subparagraph~~
13 ~~(f) of paragraph (b) of this subsection (1)~~ shall be considered to be the
14 official statutes of the state of Colorado. Such official statutes shall be
15 the only publication of the statutes entitled to be considered as evidence
16 in Colorado courts in accordance with section 13-25-101, C.R.S., and
17 with applicable Colorado court rules. The courts of this state shall take
18 judicial notice of such official statutes.

19 (b) To ~~assure~~ ENSURE public access to the statutes, the committee:

20 (I) SHALL AUTHORIZE THE PRINTING OF THE OFFICIAL STATUTES IN
21 SOFTBOUND SETS IN ACCORDANCE WITH SECTION 2-5-105;

22 ~~(f)~~ (II) May authorize AND WORK COOPERATIVELY WITH the person
23 printing the official statutes in accordance with section 2-5-105 to reprint
24 and distribute the statutes in alternative printed and electronic formats,
25 including, but not limited to ~~softbound sets~~ THE FOLLOWING:

26 (A) COMPACT DISKS;

27 (B) ON-LINE PUBLIC ACCESS THROUGH THE WORLD WIDE WEB;

1 (C) ELECTRONIC APPLICATIONS FOR HANDHELD ELECTRONIC
2 DEVICES;

3 (D) ELECTRONIC BOOKS OR DIGITAL VERSIONS OF BOOKS
4 READABLE ON PERSONAL COMPUTERS, MOBILE HANDHELD ELECTRONIC
5 DEVICES, OR SPECIAL E-READER OR TABLET-STYLE DEVICES; AND

6 (E) OTHER ELECTRONIC PRODUCTS OR FORMATS;

7 ~~(H)~~ (III) May, ~~authorize~~ PURSUANT TO SUBSECTION (2) OF THIS
8 SECTION, PROVIDE THE STATUTORY DATABASE CONTAINING THE OFFICIAL
9 TEXT OF THE STATUTES, WITH OR WITHOUT ORIGINAL ANCILLARY
10 PUBLICATIONS PREPARED BY THE GENERAL ASSEMBLY OR ITS STAFF, FOR
11 THE additional publication, reprinting, and distribution ~~of all or a~~
12 ~~substantial part~~ of the statutes IN PRINT, ELECTRONIC, OR OTHER DIGITAL
13 FORMAT BY ANOTHER PERSON, AGENCY, OR POLITICAL SUBDIVISION, in
14 accordance with subsections (2) to (5) of this section; AND

15 (IV) RECOGNIZES THAT OTHER PERSONS, AGENCIES, OR POLITICAL
16 SUBDIVISIONS MAY, FROM TIME TO TIME, ALSO PUBLISH, REPRINT, OR
17 OTHERWISE DISTRIBUTE THE STATUTES IN PRINT, ELECTRONIC, OR OTHER
18 DIGITAL FORMAT WITHOUT THE USE OF THE STATUTORY DATABASE
19 CONTAINING THE OFFICIAL TEXT OF THE STATUTES AS PREPARED BY THE
20 GENERAL ASSEMBLY OR ITS STAFF.

21 (c) Publication, reprinting, or distribution of ~~all or a substantial~~
22 ~~part of~~ ANY OF THE PUBLICATIONS ANCILLARY TO the statutes of the state
23 of Colorado, ~~and annotations thereto~~, AS PREPARED BY THE GENERAL
24 ASSEMBLY OR ITS STAFF, other than pursuant to sections 2-5-101 to
25 2-5-116, may be made only as provided for in this section. ~~Any person,~~
26 ~~agency, or political subdivision who publishes, reprints, or distributes less~~
27 ~~than a substantial part of the statutes may do so without committee~~

1 ~~approval, and subsections (2) and (3) of this section shall not apply to~~
2 ~~such person, agency, or political subdivision.~~

3 (2) (a) Any person, agency, or political subdivision desiring to
4 publish, reprint, or distribute, whether by use of printed matter or by use
5 of computer or other electronic means, ~~all or a substantial part of the~~
6 ~~statutes of the state of Colorado with or without the annotations thereto,~~
7 ~~must make prior written application to the committee, in which the~~
8 ~~applicant~~ USING THE STATUTORY DATABASE PREPARED BY THE GENERAL
9 ASSEMBLY OR ITS STAFF CONTAINING THE OFFICIAL TEXT OF THE
10 STATUTES, SHALL SUBMIT TO THE COMMITTEE OR THE COMMITTEE'S
11 DESIGNEE:

12 (I) ~~Specifies the parts~~ A STATEMENT SPECIFYING THOSE PORTIONS
13 of the statutes ~~and annotations and the number of copies the applicant~~
14 ~~desires to publish, reprint, or distribute~~ THE PERSON, AGENCY, OR
15 POLITICAL SUBDIVISION SEEKS TO PUBLISH;

16 (II) ~~States generally the purpose for the publication, reprinting, or~~
17 ~~distribution and the persons or classes of persons to receive copies thereof~~
18 A STATEMENT SPECIFYING WHETHER THE PERSON, AGENCY, OR POLITICAL
19 SUBDIVISION IS SEEKING TO PUBLISH, REPRINT, OR DISTRIBUTE ANY OF THE
20 PUBLICATIONS ANCILLARY TO THE STATUTES AS PREPARED BY THE
21 GENERAL ASSEMBLY OR ITS STAFF PURSUANT TO SUBSECTION (2.5) OF THIS
22 SECTION;

23 (III) ~~Agrees to pay~~ The costs and fees required by the committee
24 AS SPECIFIED IN PARAGRAPH (c) OF THIS SUBSECTION (2); and

25 (IV) ~~Provides~~ Such other information as the committee reasonably
26 requires.

27 (b) Any person, agency, or political subdivision who wishes to

1 publish, reprint, or distribute ~~all or a substantial part of the statutes shall~~
2 ~~also demonstrate to the satisfaction of the committee that the statutes will~~
3 ~~be accurately reproduced~~ AN OFFICIALLY SANCTIONED VERSION OF THE
4 STATUTES PURSUANT TO THIS SUBSECTION (2) SHALL REPRODUCE THE
5 STATUTES AND ANCILLARY PUBLICATIONS, IF ANY, ACCURATELY.

6 (c) (I) In addition to any other requirement, the committee may
7 require that ~~an applicant who wishes~~ ANY PERSON, AGENCY, OR POLITICAL
8 SUBDIVISION SEEKING to publish, reprint, or distribute ~~all or a substantial~~
9 ~~part of the statutes~~ USING THE STATUTORY DATABASE PREPARED BY THE
10 GENERAL ASSEMBLY OR ITS STAFF CONTAINING THE OFFICIAL TEXT OF THE
11 STATUTES pay a fee to the state and any direct costs of preparation of any
12 material provided by the state. Such fee and costs shall be determined by
13 the committee, and any fee shall be in an amount that the committee
14 determines is necessary to pay for state property interests in the statutes,
15 to pay for the use of any material copyrighted by the state, and to pay for
16 expenses incurred by the committee to ~~assure~~ ENSURE the accuracy of the
17 statutes.

18 (II) (Deleted by amendment, L. 92, p. 959, § 1, effective April 29,
19 1992.)

20 (2.5) (a) ANY PERSON, AGENCY, OR POLITICAL SUBDIVISION
21 DESIRING TO PUBLISH, REPRINT, OR DISTRIBUTE, WHETHER BY USE OF
22 PRINTED MATTER OR BY USE OF COMPUTER OR OTHER ELECTRONIC MEANS,
23 ANY OF THE PUBLICATIONS ANCILLARY TO THE STATUTES OF THE STATE OF
24 COLORADO SHALL MAKE PRIOR WRITTEN APPLICATION TO THE
25 COMMITTEE, IN WHICH THE APPLICANT:

26 (I) SPECIFIES WHAT ANCILLARY PUBLICATIONS IT SEEKS TO
27 PUBLISH;

1 (II) STATES GENERALLY THE PURPOSE FOR THE PUBLICATION,
2 REPRINTING, OR DISTRIBUTION AND THE PERSONS OR CLASSES OF PERSONS
3 TO RECEIVE COPIES THEREOF;

4 (III) DEMONSTRATES TO THE SATISFACTION OF THE COMMITTEE
5 THAT SUCH ANCILLARY PUBLICATIONS WILL BE ACCURATELY
6 REPRODUCED; AND

7 (IV) AGREES TO PAY THE COSTS AND FEES REQUIRED BY THE
8 COMMITTEE.

9 (b) IF THE COMMITTEE FINDS FROM THE APPLICATION THAT SUCH
10 DISTRIBUTION MEETS THE REQUIREMENTS OF THIS SUBSECTION (2.5) AND
11 THAT IT WILL NOT BE DETRIMENTAL TO THE INTERESTS OF THE CITIZENS OF
12 THE STATE, IT MAY AUTHORIZE DISTRIBUTION OF SUCH ANCILLARY
13 PUBLICATIONS SPECIFIED IN THE APPLICATION. UPON SATISFACTORY
14 ARRANGEMENTS FOR THE PAYMENT BY SUCH PERSON, AGENCY, OR
15 POLITICAL SUBDIVISION OF ANY COSTS AND FEES, THE COMMITTEE MAY
16 PROVIDE COPIES OF SUCH ANCILLARY PUBLICATIONS IN PRINTED OR
17 ELECTRONIC FORMAT.

18 ~~(3) (a) If the committee finds from the application that such~~
19 ~~distribution meets the requirements of subsection (2) of this section and~~
20 ~~that it will not be detrimental to the interests of the citizens of the state,~~
21 ~~it may authorize distribution of all or a substantial part of the statutes and~~
22 ~~annotations specified in the application. Upon satisfactory arrangements~~
23 ~~for the payment by such person or agency of the costs and any fees, the~~
24 ~~committee may provide copies of such statutes in printed or electronic~~
25 ~~format.~~

26 (b) The committee may enter into such contracts as it deems
27 necessary to ~~grant such authorization and to otherwise~~ implement the

1 provisions of this section. Any contracts entered into prior to ~~March 20,~~
2 ~~1990,~~ THE EFFECTIVE DATE OF THIS PARAGRAPH (b), AS AMENDED, are
3 hereby validated.

4 (4) The general assembly hereby finds and declares that this
5 section and the other provisions of this article are enacted in furtherance
6 of the general assembly's legislative duty to provide for the publication of
7 the laws as required by section 8 of article XVIII of the state constitution
8 and that any acts of the committee or its staff in implementing these
9 provisions are legislative in character. The purpose of this section is to
10 ensure that the official statutes are made available to the courts, state and
11 local government agencies, and other users; that copies of ~~all or a~~
12 ~~substantial part of~~ THE Colorado Revised Statutes, when published,
13 reprinted, or distributed to interested citizens, accurately state the law in
14 effect when those copies are prepared; and that unofficial publications,
15 reprintings, or distributions of the statutes are not mistaken for the official
16 statutes produced and enacted in accordance with this article. ANY
17 PERSON, AGENCY, OR POLITICAL SUBDIVISION THAT PUBLISHES, REPRINTS,
18 OR OTHERWISE DISTRIBUTES THE STATUTES OF THE STATE OF COLORADO,
19 WITH OR WITHOUT ANY ANCILLARY PUBLICATIONS TO THE STATUTES,
20 SHALL REPRODUCE THEM ACCURATELY.

21 (5) (a) Any publication, reprinting, or distribution that is ~~approved~~
22 PUBLISHED in accordance with PARAGRAPH (a) OF SUBSECTION (2) OF this
23 section USING THE STATUTORY DATABASE CONTAINING THE OFFICIAL TEXT
24 OF THE STATUTES may contain a notice, approved by the committee, that
25 indicates that it is ~~a~~ AN OFFICIALLY SANCTIONED publication ~~for which the~~
26 ~~committee has given permission but~~ USING THE OFFICIAL TEXT OF THE
27 COLORADO REVISED STATUTES. ~~that it is an unofficial publication of the~~

1 ~~statutes.~~ Except for the official statutes provided for in subsection (1) of
2 this section, publications of the statutes shall not contain any notice or
3 other indication that they are official statutes of this state. ~~Except for the~~
4 ~~official statutes provided for in subsection (1) of this section, any person,~~
5 ~~agency, or political subdivision who publishes, reprints, or distributes all~~
6 ~~or any part of the statutes of this state and who includes a notice or other~~
7 ~~indication that such statutes are official publications shall forfeit to the~~
8 ~~state the sum of two hundred fifty dollars for each and every book,~~
9 ~~volume, computer representation, or pamphlet so published, printed, or~~
10 ~~distributed.~~

11 (b) ~~Any person, agency, or political subdivision who publishes,~~
12 ~~reprints, or distributes all or a substantial part of the statutes of this state~~
13 ~~without obtaining the permission of the committee as required by this~~
14 ~~section shall forfeit to the state the sum of five hundred dollars for each~~
15 ~~and every book, volume, computer representation, or pamphlet so~~
16 ~~published, printed, or distributed or the amount of any fee and costs~~
17 ~~imposed pursuant to paragraph (c) of subsection (2) of this section,~~
18 ~~whichever is greater.~~

19 (c) ~~Any such forfeitures shall be recovered by an action in the~~
20 ~~name of the state that may be authorized by the committee. An action to~~
21 ~~enforce the notice requirement set out in paragraph (d) of this subsection~~
22 ~~(5) may be joined with the appropriate forfeiture action or brought on its~~
23 ~~own merits.~~

24 (d) ~~If any person, agency, or political subdivision publishes,~~
25 ~~reprints, or distributes all or a substantial part of the statutes of this state~~
26 ~~without the permission of the committee, the committee may require such~~
27 ~~person, agency, or political subdivision to send a notice to all persons~~

1 who have previously received the unapproved publication, reprinting, or
2 distribution that indicates that such publication was an unapproved and
3 unofficial publication of the statutes.

4 (6) ~~As used in this section, "substantial part of the statutes" means~~
5 NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION TO THE
6 CONTRARY, A PERSON, AGENCY, OR POLITICAL SUBDIVISION MAY PUBLISH,
7 REPRINT, OR DISTRIBUTE two hundred or ~~more~~ FEWER sections of the
8 Colorado Revised Statutes, WITH OR WITHOUT THE ANCILLARY
9 PUBLICATIONS THERETO, FOR EDUCATIONAL PURPOSES.

10 **SECTION 4. Safety clause.** The general assembly hereby finds,
11 determines, and declares that this act is necessary for the immediate
12 preservation of the public peace, health, and safety.