

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

INTRODUCED

LLS NO. 11-0258.01 Christy Chase

HOUSE BILL 11-1044

HOUSE SPONSORSHIP

Holbert,

SENATE SPONSORSHIP

Renfroe,

House Committees
Economic and Business Development

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE PROCEDURE FOR THE REVIEW OF A PROPOSAL TO**
102 **REGULATE AN UNREGULATED PROFESSION OR OCCUPATION.**

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>.)

Under current law, persons proposing the regulation of a currently unregulated professional or occupational group must submit the proposal to the department of regulatory agencies (department), and the department normally must conduct a sunrise review and analysis of, and issue a sunrise report and recommendations on, the proposed regulation within

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.

120 days after the proposal was submitted. However, the department need not conduct a sunrise review of a proposal if the department finds that:

- ! The proposed regulatory scheme would regulate less than 250 people;
- ! The department previously reviewed the same professional or occupational group and determines it would not change its recommendations contained in the prior review;
- ! A majority of states regulate the same profession or occupation; or
- ! The unregulated profession or occupation poses an imminent threat to public health, safety, or welfare, in which case the department is to promptly notify the proponents and the general assembly and recommend regulation of the profession or occupation.

When the department declines to conduct a review, current law requires the department to notify the proponents and the general assembly of its decision, and the proponents may pursue legislation to regulate the profession or occupation during the next 2 regular legislative sessions of the general assembly or, if the notice is issued during a regular legislative session, legislation may be presented during that legislative session as well.

The bill modifies the sunrise review process for analyzing proposals to regulate an unregulated professional or occupational group submitted on or after January 1, 2011, as follows:

- ! Requires regulation proponents to submit a proposal by December 1 of any given year in order to obtain a review and report by October 15 of the following year;
- ! Requires the department to issue sunrise reports no later than October 15 on proposals submitted by December 1 of the prior year;
- ! Eliminates the ability of the department to decline to review a proposal in all cases except when the department has previously reviewed the same proposal, issued a report less than 26 months before the current proposal was submitted, and finds that its conclusions would be the same as in the initial report, in which case the department may reissue its original report by October 15 of the year following the year in which the proposal was submitted;
- ! Restricts the general assembly to consideration of not more than 5 measures to regulate a profession or occupation during any one legislative session; and
- ! If a report is issued or reissued during a legislative session, eliminates the ability of proponents to pursue legislation to regulate the profession or occupation during that same

legislative session.

The changes to the sunrise process do not affect proposals to regulate a profession or occupation that were submitted prior to January 1, 2011.

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

2 **SECTION 1.** 24-34-104.1 (2), (3), and (6), Colorado Revised
3 Statutes, are amended to read:

4 **24-34-104.1. General assembly sunrise review of new**
5 **regulation of occupations and professions.** (2) (a) FOR PROPOSALS
6 SUBMITTED ON OR AFTER JANUARY 1, 2011, any professional or
7 occupational group or organization, any individual, or any other interested
8 party that proposes the regulation of any unregulated professional or
9 occupational group shall submit the following information to the
10 department of regulatory agencies ~~A proposal to regulate a professional~~
11 ~~or occupational group shall be reviewed only when the party requesting~~
12 ~~such review files with the department a statement of support for the~~
13 ~~proposed regulation that has been signed by at least ten members of the~~
14 ~~professional or occupational group for which regulation is being sought~~
15 ~~or at least ten individuals who are not members of such professional or~~
16 ~~occupational group, along with the following information~~ NO LATER THAN
17 DECEMBER 1 OF ANY YEAR FOR ANALYSIS AND EVALUATION DURING THE
18 FOLLOWING YEAR:

19 (a) (I) A description of the group proposed for regulation,
20 including a list of associations, organizations, and other groups
21 representing the practitioners in this state, and an estimate of the number
22 of practitioners in each group;

23 (b) (II) A definition of the problem OR PROBLEMS TO BE SOLVED

1 BY REGULATION and the reasons why regulation is deemed necessary;

2 (III) A STATEMENT OF SUPPORT FOR THE PROPOSED REGULATION
3 AS DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (2);

4 ~~(c)~~ (IV) The reasons why certification, registration, licensure, or
5 other type of regulation is being proposed and why that regulatory
6 alternative was chosen;

7 ~~(d)~~ (V) The benefit to the public that would result from the
8 proposed regulation; and

9 ~~(e)~~ (VI) The cost of the proposed regulation.

10 (b) THE DEPARTMENT SHALL REVIEW A PROPOSAL TO REGULATE
11 A PROFESSIONAL OR OCCUPATIONAL GROUP ONLY WHEN THE PARTY
12 REQUESTING THE REVIEW FILES A STATEMENT OF SUPPORT FOR THE
13 PROPOSED REGULATION THAT HAS BEEN SIGNED BY AT LEAST TEN
14 MEMBERS OF THE PROFESSIONAL OR OCCUPATIONAL GROUP FOR WHICH
15 REGULATION IS BEING SOUGHT OR AT LEAST TEN INDIVIDUALS WHO ARE
16 NOT MEMBERS OF SUCH PROFESSIONAL OR OCCUPATIONAL GROUP.

17 (3) (a) Except as provided in paragraph (b) of this subsection (3),
18 the department of regulatory agencies shall conduct an analysis and
19 evaluation of ~~the~~ ANY proposed regulation SUBMITTED ON OR AFTER
20 JANUARY 1, 2011. The analysis and evaluation shall be based upon the
21 criteria listed in paragraph (b) of subsection (4) of this section. The
22 department of regulatory agencies shall submit a report to the proponents
23 of such regulation and to the general assembly no later than ~~one hundred~~
24 ~~twenty days after the date~~ OCTOBER 15 OF THE YEAR FOLLOWING THE
25 YEAR IN WHICH the proposed regulation was submitted.

26 (b) (I) After review of a proposal to regulate a professional or
27 occupational group THAT WAS SUBMITTED ON OR AFTER JANUARY 1, 2011,

1 the department of regulatory agencies may decline to conduct an analysis
2 and evaluation of the proposed regulation if ~~it finds that:~~

3 ~~(A) The proposed regulatory scheme appears to regulate fewer~~
4 ~~than two hundred fifty individuals;~~

5 ~~(B) the department previously conducted an analysis and~~
6 ~~evaluation of the proposed regulation of the same professional or~~
7 ~~occupational group, ISSUED A REPORT NOT MORE THAN TWENTY-SIX~~
8 ~~MONTHS PRIOR TO THE SUBMISSION OF THE CURRENT PROPOSAL TO~~
9 ~~REGULATE THE SAME PROFESSIONAL OR OCCUPATIONAL GROUP, and FINDS~~
10 ~~THAT no new information has been submitted that would cause the~~
11 ~~department to alter or modify the recommendations made in its earlier~~
12 ~~report on the proposed regulation of the professional or occupational~~
13 ~~group. or~~

14 ~~(C) A majority of states license, certify, or require registration of~~
15 ~~members of the same professional or occupational group.~~

16 (II) If the department of regulatory agencies declines to conduct
17 an analysis and evaluation pursuant to this paragraph (b), the department
18 shall ~~promptly notify~~ REISSUE ITS EARLIER REPORT ON THE PROPOSED
19 REGULATION TO the proponents of the regulation and the general assembly
20 ~~in writing of its decision, and the proponents shall be deemed to have~~
21 ~~complied with the requirements of this section~~ NO LATER THAN OCTOBER
22 15 OF THE YEAR FOLLOWING THE YEAR IN WHICH THE PROPOSED
23 REGULATION WAS SUBMITTED.

24 ~~(c) If the department receives a proposal to regulate a professional~~
25 ~~or occupational group indicating, based on documentation verified by the~~
26 ~~department, that the unregulated professional or occupational group poses~~
27 ~~an imminent threat to public health, safety, or welfare, the department~~

1 ~~shall promptly notify the proponents of the proposed regulation and the~~
2 ~~general assembly of the imminent threat and shall recommend that the~~
3 ~~professional or occupational group be regulated by the state.~~

4 (6) (a) Except as provided in paragraph (b) of this subsection (6),
5 the supporters of regulation of a professional or occupational group may
6 request members of the general assembly to present appropriate
7 legislation to the general assembly during each of the two regular sessions
8 that immediately succeed the date of the report required pursuant to
9 subsection (3) of this section without the supporters having to comply
10 again with ~~the provisions of~~ subsections (2), (3), and (4) of this section.
11 Bills introduced pursuant to this subsection (6) shall count against the
12 number of bills to which members of the general assembly are limited by
13 any joint rule of the senate and the house of representatives. THE
14 GENERAL ASSEMBLY SHALL NOT CONSIDER THE REGULATION OF MORE
15 THAN FIVE NEW PROFESSIONAL OR OCCUPATIONAL GROUPS DURING ANY
16 ONE SESSION OF THE GENERAL ASSEMBLY.

17 (b) If, pursuant to paragraph (b) ~~or (c)~~ of subsection (3) of this
18 section, the department of regulatory agencies declines to conduct an
19 analysis and evaluation of the proposed regulation of a professional or
20 occupational group ~~or finds that the unregulated professional or~~
21 ~~occupational group poses an imminent threat to public health, safety, or~~
22 ~~welfare~~ AND REISSUES A PRIOR REPORT ON THE PROPOSED REGULATION OF
23 THE SAME PROFESSIONAL OR OCCUPATIONAL GROUP, the supporters of the
24 regulation of the professional or occupational group may request that
25 members of the general assembly present appropriate legislation to the
26 general assembly during each of the two regular sessions immediately
27 following the date ~~of the notice issued by the department declining to~~

1 ~~review~~ REISSUES ITS ORIGINAL REPORT ON the proposed regulation. ~~In~~
2 ~~addition, if the notice is issued while the general assembly is convened in~~
3 ~~a regular session, the supporters of the regulation may request that~~
4 ~~members of the general assembly present appropriate legislation to the~~
5 ~~general assembly during that regular session.~~

6 **SECTION 2. Applicability.** This act shall apply to proposals to
7 regulate a professional or occupational group submitted to the department
8 of regulatory agencies on or after January 1, 2011.

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