

**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. 11-0258.01 Christy Chase

**HOUSE BILL 11-1044**

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**HOUSE SPONSORSHIP**

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**House Committees**  
Economic and Business Development

**Senate Committees**

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**A BILL FOR AN ACT**

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

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**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.*

HOUSE  
Amended 2nd Reading  
February 2, 2011

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.

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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 JULY 1, 2011, any professional or occupational  
7 group or organization, any individual, or any other interested party that  
8 proposes the regulation of any unregulated professional or occupational  
9 group shall submit the following information to the department of  
10 regulatory agencies ~~A proposal to regulate a professional or occupational~~  
11 ~~group shall be reviewed only when the party requesting such review files~~  
12 ~~with the department a statement of support for the proposed regulation~~  
13 ~~that has been signed by at least ten members of the professional or~~  
14 ~~occupational group for which regulation is being sought or at least ten~~  
15 ~~individuals who are not members of such professional or occupational~~  
16 ~~group, along with the following information~~ NO LATER THAN DECEMBER  
17 1 OF ANY YEAR FOR ANALYSIS AND EVALUATION DURING THE FOLLOWING  
18 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 (e) (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) OR (c) of this  
18 subsection (3), the department of regulatory agencies shall conduct an  
19 analysis and evaluation of ~~the~~ ANY proposed regulation SUBMITTED ON OR  
20 AFTER JULY 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 JULY 1, 2011, the

1 department of regulatory agencies may decline to conduct an analysis and  
2 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 THIRTY-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   
25 (c) If the department receives a proposal to regulate a professional  
26 or occupational group indicating, based on documentation verified by the  
27 department, that the unregulated professional or occupational group poses

1 an imminent threat to public health, safety, or welfare, the department  
2 shall promptly notify the proponents of the proposed regulation and the  
3 LEGISLATIVE COUNCIL OF THE general assembly of the imminent threat  
4 and shall recommend that the professional or occupational group be  
5 regulated by the state AND SHALL SUBMIT TO THE LEGISLATIVE COUNCIL  
6 THE DOCUMENTATION ON WHICH IT BASES ITS FINDING OF IMMINENT  
7 THREAT. WITHIN THIRTY DAYS AFTER RECEIPT OF THE NOTICE AND  
8 DOCUMENTATION FROM THE DEPARTMENT, THE LEGISLATIVE COUNCIL  
9 SHALL CONDUCT A HEARING TO EXAMINE THE DOCUMENTATION AND  
10 DETERMINE WHETHER IT CONCURS WITH THE DEPARTMENT'S FINDING THAT  
11 AN IMMINENT THREAT EXISTS. IN CONDUCTING ITS EXAMINATION, THE  
12 LEGISLATIVE COUNCIL SHALL CONSIDER WHETHER REGULATION OF THE  
13 PROFESSIONAL OR OCCUPATIONAL GROUP WITHOUT FIRST OBTAINING AN  
14 ANALYSIS AND EVALUATION PURSUANT TO PARAGRAPH (a) OF THIS  
15 SUBSECTION (3) WILL SUBSTANTIALLY ALTER THE IMPACT ON PUBLIC  
16 HEALTH, SAFETY, OR WELFARE. THE DEPARTMENT MAY FOREGO THE  
17 ANALYSIS AND EVALUATION ONLY IF THE LEGISLATIVE COUNCIL NOTIFIES  
18 THE DEPARTMENT THAT THE LEGISLATIVE COUNCIL CONCURS WITH THE  
19 DEPARTMENT'S FINDING OF IMMINENT THREAT TO PUBLIC HEALTH, SAFETY,  
20 OR WELFARE.

21 (6) (a) Except as provided in paragraph (b) of this subsection (6),  
22 the supporters of regulation of a professional or occupational group may  
23 request members of the general assembly to present appropriate  
24 legislation to the general assembly during each of the two regular sessions  
25 that immediately succeed the date of the report required pursuant to  
26 subsection (3) of this section without the supporters having to comply  
27 again with the provisions of subsections (2), (3), and (4) of this section.

1 Bills introduced pursuant to this subsection (6) shall count against the  
2 number of bills to which members of the general assembly are limited by  
3 any joint rule of the senate and the house of representatives. THE  
4 GENERAL ASSEMBLY SHALL NOT ENACT LEGISLATION PROPOSING TO  
5 REGULATE MORE THAN THREE PREVIOUSLY UNREGULATED PROFESSIONAL  
6 OR OCCUPATIONAL GROUPS DURING ANY ONE SESSION OF THE GENERAL  
7 ASSEMBLY.

8 (b) If, pursuant to paragraph (b) or (c) of subsection (3) of this  
9 section, the department of regulatory agencies declines to conduct an  
10 analysis and evaluation of the proposed regulation of a professional or  
11 occupational group AND REISSUES A PRIOR REPORT ON THE PROPOSED  
12 REGULATION OF THE SAME PROFESSIONAL OR OCCUPATIONAL GROUP, or  
13 finds that the unregulated professional or occupational group poses an  
14 imminent threat to public health, safety, or welfare, AS CONFIRMED BY  
15 THE LEGISLATIVE COUNCIL OF THE GENERAL ASSEMBLY, the supporters of  
16 the regulation of the professional or occupational group may request that  
17 members of the general assembly present appropriate legislation to the  
18 general assembly during each of the two regular sessions immediately  
19 following the date of the notice issued by the department declining to  
20 review REISSUES ITS ORIGINAL REPORT ON the proposed regulation In  
21 addition, if the notice is issued while the general assembly is convened in  
22 a regular session, the supporters of the regulation may request that  
23 members of the general assembly present appropriate legislation to the  
24 general assembly during that regular session OR THE DATE ON WHICH THE  
25 LEGISLATIVE COUNCIL NOTIFIES THE DEPARTMENT THAT IT CONCURS IN A  
26 FINDING OF IMMINENT THREAT PURSUANT TO PARAGRAPH (c) OF  
27 SUBSECTION (3) OF THIS SECTION.

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

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