

NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 11-1144

BY REPRESENTATIVE(S) Solano, Casso, Duran, Kerr A., Todd, Court, Fields, Fischer, Hullinghorst, Labuda, Pabon, Pace, Peniston, Riesberg, Schafer S., Vigil, Wilson;
also SENATOR(S) Tochtrop, Aguilar, Hudak, Schwartz.

CONCERNING FETAL ALCOHOL SPECTRUM DISORDERS, AND, IN CONNECTION THEREWITH, EXPANDING THE NUMBER OF MEMBERS OF THE FETAL ALCOHOL SPECTRUM DISORDERS COMMISSION AND ENCOURAGING EVALUATION AND EXPANDED USE OF HEALTH WARNING INFORMATION.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds that:

(a) Alcohol use during pregnancy is the leading known cause of preventable intellectual and developmental disabilities, growth deficiencies, and brain damage in children;

(b) Fetal alcohol spectrum disorders (FASD) take an enormous financial toll on affected families and society as a whole;

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(c) Most importantly, while there is no cure for FASD, it is 100% preventable if pregnant women know to abstain from alcohol; and

(d) One of the most effective means to prevent FASD and the resulting consequences to society is through a vigorous public awareness campaign that includes informational materials, public awareness advertisements, and warning signs targeted toward pregnant women and that involves input from licensed beverage retailers and other interested parties.

(2) The general assembly further finds that:

(a) In 2009, legislation created the FASD commission to study the issue of FASD, its impact on the state, and to recommend legislation to the general assembly;

(b) The FASD commission has estimated based upon national data that approximately 1 in 100 live births have a fetal alcohol spectrum disorder. The estimated cost to society of raising a child with fetal alcohol syndrome (FAS) averages \$2,000,000 across the child's lifetime; and

(c) In order to address the problem of FAS and FASD and the consequent costs to individuals and to the state, the FASD commission has recommended that the general assembly:

(I) Add a representative from the Colorado department of education to the FASD commission; and

(II) Require that the cost of a multidisciplinary evaluation of a child with suspected FASD as requested by the child's primary health care provider be covered by insurance policies.

(3) The general assembly further finds that, with respect to the requirement that insurance companies cover the costs of multidisciplinary evaluations for children suspected of having FASD:

(a) The landmark research in the field of FASD, the Streissguth study, found that persons with fetal alcohol spectrum disorders suffer substantially from secondary issues, all of which result in significant and ongoing costs to society as a whole:

- (I) Over 90% experienced mental health problems;
 - (II) About 60% had either been suspended or expelled from school or had dropped out;
 - (III) Approximately 60% had been in trouble with law enforcement authorities or had been charged with or convicted of a crime;
 - (IV) Almost 50% had been confined for inpatient treatment for mental health or alcohol and drug problems or had been incarcerated for a crime;
 - (V) About 50% engaged in inappropriate sexual behavior;
 - (VI) About 30% had alcohol and drug abuse problems; and
 - (VII) Approximately 80% of those twenty-one years of age and older were unable to live independently or keep a job;
- (b) Children who have access to an evaluation that finds FASD before age 6 have, by far, the best chance of avoiding these secondary issues;
 - (c) When a person is diagnosed with FASD at age 12 or older, the likelihood that the person will require hospitalization for psychiatric problems or alcohol and drug abuse increases two- to four-fold, and these hospitalizations typically follow multiple emergency department visits by these individuals due to their severely impaired problem-solving skills;
 - (d) The medicaid program and the children's basic health plan currently provide and cover a multidisciplinary evaluation for children suspected of having FASD;
 - (e) The diagnostic and evaluation clinics of the Colorado health care program for children with special health care needs in the prevention services division in the department of public health and environment are effective methods for providing information and support to local communities and families in need of diagnostic and evaluation services; and
 - (f) Multidisciplinary diagnostic evaluations will result in:

(I) Better outcomes for the child involved, including a greater chance at becoming a self-sufficient adult;

(II) Long-term savings due to the reduced likelihood of long-term hospitalizations and emergency room visits for persons with FASD; and

(III) Fewer persons with FASD housed in costly mental health facilities or incarcerated in prisons.

(4) The general assembly, therefore, declares that it is in the best interests of citizens of Colorado:

(a) To implement the recommendations of the FASD commission described in subsection (2) of this section regarding representation on the FASD commission;

(b) To promote greater use and distribution of signs warning against consuming alcohol while pregnant and other informational materials about the dangers of drinking alcohol during pregnancy;

(c) To add a representative of the licensed beverage retailers to the FASD commission to provide input on development and distribution of informational materials that will increase awareness of the serious consequences of drinking alcohol while pregnant; and

(d) To extend the duration of the FASD commission for 3 more years to allow it to continue its work on FASD issues and prevention.

SECTION 2. 27-80-116, Colorado Revised Statutes, is amended to read:

27-80-116. Fetal alcohol spectrum disorders - legislative declaration - health warning signs - commission - repeal. (1) The general assembly hereby finds and declares that:

(a) Fetal alcohol exposure is ~~among~~ the leading known ~~causes~~ CAUSE of ~~mental-retardation~~ PREVENTABLE INTELLECTUAL AND DEVELOPMENTAL DISABILITIES and birth defects in the children of this state;

(b) Individuals with undiagnosed fetal alcohol ~~exposure~~ SPECTRUM

DISORDERS suffer substantially from secondary issues such as child abuse and neglect, separation from families, multiple foster placements, depression, aggression, school failure, juvenile detention, and job instability;

(b.5) COMPARED TO INDIVIDUALS DIAGNOSED BEFORE AGE TWELVE, INDIVIDUALS WITH UNDIAGNOSED FASD ARE TWO TO FOUR TIMES MORE LIKELY TO SUFFER FROM INAPPROPRIATE SEXUAL BEHAVIOR, DISRUPTED SCHOOL EXPERIENCES, TROUBLE WITH THE LAW, DRUG AND ALCOHOL PROBLEMS, OR CONFINEMENT IN A JAIL, MENTAL HOSPITAL, OR DRUG AND ALCOHOL TREATMENT FACILITY;

(c) These secondary disabilities come at a high cost to individuals, their families, and society; ~~and~~

(d) A survey performed in 2006 by the Colorado pregnancy risk assessment system estimated that eleven and two-tenths percent of women in Colorado said that they drank alcohol during the last three months of their pregnancy; AND

(e) THE COMMISSION SHOULD EVALUATE THE CURRENT USE AND DISTRIBUTION OF WRITTEN AND ELECTRONIC INFORMATIONAL MATERIALS DESIGNED TO INCREASE AWARENESS OF THE CONSEQUENCES OF DRINKING ALCOHOL WHILE PREGNANT AND SHOULD INVESTIGATE ADDITIONAL MEANS BY WHICH SUCH WRITTEN AND ELECTRONIC MATERIALS MIGHT BEST BE USED.

(2) The general assembly therefore declares that fetal alcohol exposure and its related problems can be reduced substantially by a greater awareness of the consequences of drinking alcohol while pregnant and by early diagnosis and receipt of appropriate and effective intervention.

(3) Each ~~vendor~~ PERSON licensed in ~~Colorado~~ PURSUANT TO SECTION 12-47-401 (1) (h) TO (1) (t), C.R.S., to sell ~~alcoholic beverages~~ MALT, VINOUS, AND SPIRITUOUS LIQUORS OR LICENSED PURSUANT TO SECTION 12-46-104 (1) (c), C.R.S., TO SELL FERMENTED MALT BEVERAGES is hereby encouraged to post a health warning sign pursuant to paragraph (c) of subsection (4) of this section, informing patrons that the consumption of alcohol during pregnancy may cause birth defects, including fetal alcohol ~~syndrome~~ SPECTRUM DISORDERS.

(4) (a) There is hereby created the fetal alcohol spectrum disorders commission, referred to in this section as the "commission". The commission is created as a temporary commission under section 22 of article IV of the state constitution. The commission shall be composed of no more than ~~ten~~ TWELVE members. On or before August 30, 2009, the executive director, in consultation with a nonprofit organization that works with FASD issues, shall appoint the commission members with the goal of selecting a broad representation of individuals working in the field of FASD. The commission shall include representation from the following areas and groups in any combination the executive director deems appropriate:

- (I) Pediatrics;
- (II) Family physicians;
- (III) Child development programs that work with special needs children;
- (IV) The department of public health and environment;
- (V) The juvenile justice system;
- (VI) Preschool, elementary, secondary, and higher education;
- (VII) Parents, foster parents, or legal guardians of children OR ADULTS affected by FASD;
- (VIII) The developmentally disabled community; and
- (IX) Speech, language, and occupational therapy;
- (X) THE DEPARTMENT OF EDUCATION; AND
- (XI) A REPRESENTATIVE OF A TRADE ASSOCIATION THAT REPRESENTS LICENSED BEVERAGE RETAILERS IN COLORADO.

(b) The commission shall meet at least once on or before September 30, 2009. At its first meeting, the commission shall elect by a majority vote a chairperson from among the commission members who shall act as the

presiding officer of the commission, determine a meeting schedule, and develop a list of priorities. Commission members shall serve without compensation or reimbursement of expenses.

(c) ~~On or before October 30, 2009,~~ The commission shall develop a health warning sign AND OTHER INFORMATIONAL MATERIALS for use by ~~vendors~~ PERSONS LICENSED PURSUANT TO SECTION 12-47-401 (1) (h) TO (1) (t), C.R.S., TO SELL MALT, VINOUS, AND SPIRITUOUS LIQUORS OR LICENSED PURSUANT TO SECTION 12-46-104 (1) (c), C.R.S., TO SELL FERMENTED MALT BEVERAGES and a plan for making the sign AND OTHER INFORMATIONAL MATERIALS available on-line to ~~vendors~~ SUCH LICENSED PERSONS AND OTHER INTERESTED PARTIES. At a minimum, the health warning sign shall read as follows:

HEALTH WARNING
DRINKING ANY ALCOHOLIC BEVERAGE DURING
PREGNANCY MAY CAUSE BIRTH DEFECTS.

(d) On or before December 1, 2009, and as needed thereafter, the commission shall make recommendations to the unit and to the health and human services committees of the senate and the house of representatives, or any successor committees. The commission's recommendations shall address the prevention of and education about FASD and any other FASD-related issues. THE COMMISSION SHALL EVALUATE THE USE OF THE HEALTH WARNING SIGNS DEVELOPED PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (4), THE RESPONSE BY LICENSED PERSONS, AS DESCRIBED IN PARAGRAPH (c) OF THIS SUBSECTION (4), TO THE SIGNS, AND THE RESPONSE BY WOMEN AND PATRONS TO THE SIGNS. THE COMMISSION SHALL MAKE RECOMMENDATIONS TO THE UNIT AND TO THE HEALTH AND HUMAN SERVICES COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, ON THE MOST EFFECTIVE USE OF THE WARNING SIGNS AND SHALL ALSO RECOMMEND THE MOST EFFECTIVE USE OF OTHER WRITTEN AND ELECTRONIC INFORMATIONAL MATERIALS IN THE FUTURE.

(e) This subsection (4) is repealed, effective June 30, ~~2012~~ 2015.

SECTION 3. Repeal. 27-80-101 (7), Colorado Revised Statutes, is repealed as follows:

27-80-101. Definitions. As used in this article, unless the context otherwise requires:

(7) ~~"Vendor" means any bar, tavern, restaurant, or retail establishment licensed in the state of Colorado under articles 46 and 47 of title 12, C.R.S., to sell alcoholic beverages for consumption on or off the vendor's premises.~~

SECTION 4. Act subject to petition - effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless

approved by the people at the general election to be held in November 2012 and shall take effect on the date of the official declaration of the vote thereon by the governor.

Frank McNulty
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO