

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 12-0403.01 Christy Chase x2008

HOUSE BILL 12-1015

HOUSE SPONSORSHIP

Holbert,

SENATE SPONSORSHIP

Neville,

House Committees

Economic and Business Development

Senate Committees

Business, Labor and Technology

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.

SENATE
3rd Reading Unam ended
February 29, 2012

SENATE
2nd Reading Unam ended
February 28, 2012

HOUSE
3rd Reading Unam ended
January 25, 2012

HOUSE
2nd Reading Unam ended
January 24, 2012

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 July 1, 2012, 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 finds the profession or occupation poses an imminent threat, or has previously reviewed the same proposal, issued a report less than 36 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;
- ! When the department declines a sunrise review because it finds the profession or occupation poses an imminent threat, the department must notify the legislative council of the general assembly of its finding and the basis for its finding, and requires the legislative council to conduct a

hearing to examine the department's findings and determine whether it concurs; and

- ! If a report is issued or reissued or an imminent threat finding is made and concurred in by the legislative council 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 are submitted prior to July 1, 2012.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-34-104.1, **amend**
3 (2), (3), and (6) (b) as follows:

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, 2012, 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

1 representing the practitioners in this state, and an estimate of the number
2 of practitioners in each group;

3 ~~(b)~~ (II) A definition of the problem OR PROBLEMS TO BE SOLVED
4 BY REGULATION and the reasons why regulation is ~~deemed~~ necessary;

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

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

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

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

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

20 (3) (a) Except as provided in paragraph (b) OR (c) of this
21 subsection (3), the department of regulatory agencies shall conduct an
22 analysis and evaluation of ~~the~~ ANY proposed regulation SUBMITTED ON OR
23 AFTER JULY 1, 2012. The analysis and evaluation ~~shall~~ MUST be based
24 upon the criteria listed in paragraph (b) of subsection (4) of this section.
25 The department of regulatory agencies shall submit a report to the
26 proponents of ~~such~~ THE regulation and to the general assembly no later
27 than ~~one hundred twenty days after the date~~ OCTOBER 15 OF THE YEAR

1 FOLLOWING THE YEAR IN WHICH the proposed regulation was submitted.

2 (b) (I) After review of a proposal to regulate a professional or
3 occupational group THAT WAS SUBMITTED ON OR AFTER JULY 1, 2012, the
4 department of regulatory agencies may decline to conduct an analysis and
5 evaluation of the proposed regulation ONLY if it: ~~finds that:~~

6 (A) ~~The proposed regulatory scheme appears to regulate fewer~~
7 ~~than two hundred fifty individuals~~ PREVIOUSLY CONDUCTED AN ANALYSIS
8 AND EVALUATION OF THE PROPOSED REGULATION OF THE SAME
9 PROFESSIONAL OR OCCUPATIONAL GROUP;

10 (B) ~~The department previously conducted an analysis and~~
11 ~~evaluation of the proposed regulation of the same professional or~~
12 ~~occupational group~~ ISSUED A REPORT NOT MORE THAN THIRTY-SIX
13 MONTHS PRIOR TO THE SUBMISSION OF THE CURRENT PROPOSAL TO
14 REGULATE THE SAME PROFESSIONAL OR OCCUPATIONAL GROUP; and

15 (C) FINDS THAT no new information has been submitted that
16 would cause the department to alter or modify the recommendations made
17 in its earlier report on the proposed regulation of the professional or
18 occupational group. ~~or~~

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

21 (II) If the department of regulatory agencies declines to conduct
22 an analysis and evaluation pursuant to this paragraph (b), the department
23 shall ~~promptly notify~~ REISSUE ITS EARLIER REPORT ON THE PROPOSED
24 REGULATION TO the proponents of the regulation and the general assembly
25 ~~in writing of its decision, and the proponents shall be deemed to have~~
26 ~~complied with the requirements of this section~~ NO LATER THAN OCTOBER
27 15 OF THE YEAR FOLLOWING THE YEAR IN WHICH THE PROPOSED

1 REGULATION WAS SUBMITTED.

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

25 (6) (b) If, pursuant to paragraph (b) or (c) of subsection (3) of this
26 section, the department of regulatory agencies declines to conduct an
27 analysis and evaluation of the proposed regulation of a professional or

1 occupational group AND REISSUES A PRIOR REPORT ON THE PROPOSED
2 REGULATION OF THE SAME PROFESSIONAL OR OCCUPATIONAL GROUP or
3 finds that the unregulated professional or occupational group poses an
4 imminent threat to public health, safety, or welfare, AS CONFIRMED BY
5 THE LEGISLATIVE COUNCIL OF THE GENERAL ASSEMBLY, the supporters of
6 the regulation of the professional or occupational group may request that
7 members of the general assembly present appropriate legislation to the
8 general assembly during each of the NEXT two regular sessions
9 ~~immediately following~~ THAT BEGIN AFTER the date of the notice issued by
10 the department ~~declining to review~~ REISSUES ITS ORIGINAL REPORT ON the
11 proposed regulation ~~In addition, if the notice is issued while the general~~
12 ~~assembly is convened in a regular session, the supporters of the regulation~~
13 ~~may request that members of the general assembly present appropriate~~
14 ~~legislation to the general assembly during that regular session~~ OR THE
15 DATE ON WHICH THE LEGISLATIVE COUNCIL NOTIFIES THE DEPARTMENT
16 THAT IT CONCURS IN A FINDING OF IMMINENT THREAT PURSUANT TO
17 PARAGRAPH (c) OF SUBSECTION (3) OF THIS SECTION, WHICHEVER IS
18 APPLICABLE.

19 **SECTION 2. Applicability.** This act applies to proposals to
20 regulate a professional or occupational group submitted to the department
21 of regulatory agencies on or after July 1, 2012.

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