

NOTE: The governor signed this measure on 5/22/2014.

An Act

HOUSE BILL 14-1369

BY REPRESENTATIVE(S) Young, Pabon, Ginal, Hullinghorst, Kraft-Tharp, Labuda, Melton, Mitsch Bush, Rosenthal, Ryden, Schafer, Tyler, Vigil;
also SENATOR(S) Crowder and Jahn, Newell, Tochtrop.

CONCERNING REQUIRED LICENSURE FOR DURABLE MEDICAL EQUIPMENT SUPPLIERS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

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

(a) It is in the best interests of the residents of Colorado who are in need of durable medical equipment to have ample and uncomplicated access to equipment within a reasonable distance from their homes.

(b) Access to vital durable medical equipment is being jeopardized by suppliers outside the borders of Colorado that win contracts but do not have a physical location in Colorado, do not have inventory available, and do not have Colorado employees to run the businesses.

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

(2) Therefore, it is the intent of the general assembly to require licensure of durable medical equipment suppliers that participate in centers for medicare and medicaid service programs so that the residents of Colorado have access to the services and products they need. It is not the intent of the general assembly to set up a barrier to trade in the durable medical equipment industry by licensing these suppliers, but it is the intent to recognize that licensure is for the safety and welfare of a vulnerable population.

SECTION 2. In Colorado Revised Statutes, **add** 24-21-115 as follows:

24-21-115. Durable medical equipment supplier license - definition - rules. (1) AS USED IN THIS SECTION, "DURABLE MEDICAL EQUIPMENT SUPPLIER" MEANS A PERSON OR ENTITY THAT DELIVERS DISPOSABLE MEDICAL SUPPLIES OR DURABLE MEDICAL EQUIPMENT PRODUCTS DIRECTLY TO A RECIPIENT AND THAT CURRENTLY BILLS OR PLANS TO BILL THE MEDICARE PROGRAM FOR SERVICES OR PRODUCTS IN THE CURRENT CALENDAR YEAR. "DURABLE MEDICAL EQUIPMENT SUPPLIER" DOES NOT INCLUDE A SUPPLIER OF INSULIN INFUSION PUMPS AND RELATED SUPPLIES OR SERVICES.

(2) IN ORDER TO DO BUSINESS IN COLORADO, A DURABLE MEDICAL EQUIPMENT SUPPLIER MUST BE LICENSED BY THE SECRETARY OF STATE.

(3) AN APPLICANT FOR A DURABLE MEDICAL EQUIPMENT SUPPLIER LICENSE MUST:

(a) COMPLETE THE LICENSE APPLICATION AS DIRECTED BY THE SECRETARY OF STATE;

(b) SUBMIT TO THE SECRETARY OF STATE A NOTARIZED AFFIDAVIT ATTESTING THAT:

(I) THE APPLICANT HAS ONE OR MORE PHYSICAL LOCATIONS WITHIN THE STATE OR WITHIN FIFTY MILES OF THE BORDER OF THE STATE;

(II) THE APPLICANT HAS SUFFICIENT INVENTORY AND STAFF TO SERVICE OR REPAIR PRODUCTS; AND

(III) THE APPLICANT IS ACCREDITED BY AN ACCREDITING ORGANIZATION RECOGNIZED AND ACCEPTED BY THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES;

(c) PROVIDE TO THE SECRETARY OF STATE A STREET ADDRESS AND A LOCAL BUSINESS TELEPHONE NUMBER; AND

(d) PAY AN ANNUAL FEE ESTABLISHED BY THE SECRETARY OF STATE, NOT TO EXCEED FIVE HUNDRED DOLLARS.

(4) THE DURABLE MEDICAL EQUIPMENT SUPPLIER LICENSEE SHALL PROMINENTLY DISPLAY THE LICENSE AT EACH OF ITS PHYSICAL BUSINESS LOCATIONS. THE LICENSE MAY BE DUPLICATED FOR THIS PURPOSE.

(5) THE SECRETARY OF STATE SHALL REFER ALL COMPLAINTS CONCERNING DURABLE MEDICAL EQUIPMENT SUPPLIERS, DURABLE MEDICAL EQUIPMENT, OR SERVICES TO THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID.

(6) THE SECRETARY OF STATE SHALL IMPLEMENT THIS SECTION ON OR BEFORE DECEMBER 31, 2014. THE SECRETARY OF STATE MAY PROMULGATE RULES TO IMPLEMENT THIS SECTION.

SECTION 3. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the department of state cash fund created in section 24-21-104 (3) (b), Colorado Revised Statutes, not otherwise appropriated, to the department of state, for the fiscal year beginning July 1, 2014, the sum of \$95,775 and 0.1 FTE, or so much thereof as may be necessary, to be allocated for the implementation of this act as follows:

(a) \$5,135 and 0.1 FTE to the business and licensing division for personal services; and

(b) \$90,640 to information technology services for information technology costs.

SECTION 4. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Mark Ferrandino
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Morgan Carroll
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