A BILL FOR AN ACT

CONCERNING THE PROTECTION OF A PERSON'S FIRST AMENDMENT RIGHTS IN THE ENFORCEMENT OF PUBLIC ACCOMMODATIONS LAWS, AND, IN CONNECTION THEREWITH, PROTECTING A PERSON'S RIGHT TO NOT BE INVOLUNTARILY COMPELLED IN SPEECH, ACTS OF ARTISTIC EXPRESSION, OR ACTS OF RELIGIOUS EXPRESSION.

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.)

The bill specifies that neither the civil rights division, the civil
rights commission, nor a court with jurisdiction to hear civil actions brought under the public accommodations laws may compel involuntary speech or acts of involuntary artistic expression or involuntary religious expression by a person when such speech or acts of artistic or religious expression would lead to that person directly or indirectly participating in, directly or indirectly supporting, or endorsing or impliedly endorsing an ideology, ceremony, creed, behavior, or practice with which the person does not agree.

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 the United States supreme court has ruled on multiple occasions that governments may not compel involuntary speech:

(a) In 1940, the court announced its 8-1 opinion in Minersville School District v. Gobitis, 310 U.S. 586 (1940), upholding a Pennsylvania school district's decision to expel three Jehovah's Witnesses who refused to salute the flag. The court's decision was criticized by Eleanor Roosevelt and over one hundred seventy newspaper editorialists. Then, just a few years later in West Virginia v. Barnette, 319 U.S. 624 (1943), the court reversed itself and ruled 6-3 that West Virginia's decision to expel students who refused to salute the flag violated the first amendment. Justice Jackson's opinion for the Court saw inconsistency in an interpretation of the first amendment that "guards the individual's right to speak his own mind, but left it open to public authorities to compel him to utter what is not on his mind."

(b) In 1976, the United States supreme court considered another compelled speech claim in Wooley, Chief of Police of Lebanon v. Maynard, 430 U.S. 705. This case was brought by a New Hampshire couple who had three times been prosecuted for covering up the motto
"Live Free or Die" on their New Hampshire license plate. The Maynards objected on religious grounds to the ideological message conveyed on the state license plates. Writing for the court, Chief Justice Burger enjoined enforcement against the Maynards of New Hampshire's law prohibiting the obscuring or defacing of license plates because that invaded the Maynards' first amendment rights.

(2) The general assembly further finds and declares that the religious freedom section in the Colorado bill of rights, section 4 of article II of the state constitution, specifies that "[n]o person shall be required to attend or support any ministry or place of worship, religious sect or denomination against his consent."

(3) Now, therefore, it is important that the state of Colorado recognize and further implement the rights already granted to people of diverse ideologies, to not be involuntarily compelled by the government to speak or express art or religion against their consent.

SECTION 2. In Colorado Revised Statutes, 24-34-302, add (3) as follows:

24-34-302. Civil rights division - director - powers and duties.

(3) Notwithstanding the division's powers and duties with respect to discriminatory practices described in part 6 of this article, the division may not compel involuntary speech, involuntary acts of artistic expression, or involuntary acts of religious expression by a person when such speech, acts of artistic expression, or acts of religious expression would lead to that person directly or indirectly participating in, directly or indirectly supporting, or endorsing or impliedly endorsing an ideology, ceremony, creed, behavior, or practice with which the
SECTION 3. In Colorado Revised Statutes, 24-34-305, add (5) as follows:

24-34-305. Powers and duties of commission.

(5) NOTWITHSTANDING THE COMMISSION'S POWERS AND DUTIES WITH RESPECT TO DISCRIMINATORY PRACTICES DESCRIBED IN PART 6 OF THIS ARTICLE, THE COMMISSION MAY NOT COMPEL INVOLUNTARY SPEECH, INVOLUNTARY ACTS OF ARTISTIC EXPRESSION, OR INVOLUNTARY ACTS OF RELIGIOUS EXPRESSION BY A PERSON WHEN SUCH SPEECH, ACTS OF ARTISTIC EXPRESSION, OR ACTS OF RELIGIOUS EXPRESSION WOULD LEAD TO THAT PERSON DIRECTLY OR INDIRECTLY PARTICIPATING IN, DIRECTLY OR INDIRECTLY SUPPORTING, OR ENDORSING OR IMPLIEDLY ENDORSING AN IDEOLOGY, CEREMONY, CREED, BEHAVIOR, OR PRACTICE WITH WHICH THE PERSON DOES NOT AGREE.

SECTION 4. In Colorado Revised Statutes, 24-34-602, add (4) as follows:

24-34-602. Penalty and civil liability. (4) NOTWITHSTANDING THE COURT'S POWER TO FIND A VIOLATION AND ORDER A FINE PURSUANT TO THIS PART 6, THE COURT MAY NOT COMPEL INVOLUNTARY SPEECH, INVOLUNTARY ACTS OF ARTISTIC EXPRESSION, OR INVOLUNTARY ACTS OF RELIGIOUS EXPRESSION BY A PERSON WHEN SUCH SPEECH, ACTS OF ARTISTIC EXPRESSION, OR ACTS OF RELIGIOUS EXPRESSION WOULD LEAD TO THAT PERSON DIRECTLY OR INDIRECTLY PARTICIPATING IN, DIRECTLY OR INDIRECTLY SUPPORTING, OR ENDORSING OR IMPLIEDLY ENDORSING AN IDEOLOGY, CEREMONY, CREED, BEHAVIOR, OR PRACTICE WITH WHICH THE PERSON DOES NOT AGREE.

SECTION 5. Act subject to petition - effective date -
applicability. (1) This act takes 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 5, 2015, if adjournment sine die is on May 6,
2015); 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
will not take effect unless approved by the people at the general election
to be held in November 2016 and, in such case, will take effect on the
date of the official declaration of the vote thereon by the governor.

(2) This act applies to actions filed on or after the applicable
effective date of this act.