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PART 1

CONSUMER PROTECTION - GENERAL

Law reviews: For article, "The Showpiece Homes Decision: From Caveat Emptor to Insurer Beware?", see 31 Colo. Law. 73 (Apr. 2002).

6-1-101. Short title.

This article shall be known and may be cited as the "Colorado Consumer Protection Act".

Source: L. 69: p. 376, § 13. **C.R.S. 1963:** § 55-5-13.

ANNOTATION

Law reviews. For note, "Implied Warranties — Sales of Used Cars in Colorado", see 42 U. Colo. L. Rev. 473 (1971). For article, "Federal Practice and Procedure", see 57 Den. L.J. 263 (1980). For comment, "Antitrust Law in Colorado: Back on Track", see 60 Den. L.J. 645 (1983). For article, "Franchise Regulation", see 15 Colo. Law. 395 (1986). For article, "Antitrust Law", which discusses Tenth Circuit

decisions dealing with antitrust law, see 64 Den. U.L. Rev. 131 (1987).

The general assembly acted well within the police power of the state when it enacted the Colorado Consumer Protection Act. People ex rel. Dunbar v. Gym of Am., Inc., 177 Colo. 97, 493 P.2d 660 (1972).

It is in the public interest to invoke the state's police power to prevent the use of methods that have a tendency or capacity to attract customers through deceptive trade practices, and the Colorado Consumer Protection Act, an out-growth of this conclusion, as such cannot be overturned. People ex rel. Dunbar v. Gym of Am., Inc., 177 Colo. 97, 493 P.2d 660 (1972).

Hence, a challenging party has a heavy burden to overcome with respect to this act's alleged unconstitutionality, especially in light of its particular subject matter. People ex rel. Dunbar v. Gym of Am., Inc., 177 Colo. 97, 493 P.2d 660 (1972).

A court has an equally certain duty to construe the act in such a way that it is not void for vagueness whenever a reasonable and practical construction can be given to its language. People ex rel. Dunbar v. Gym of Am., Inc., 177 Colo. 97, 493 P.2d 660 (1972).

Broad legislative purpose of this act is to provide prompt, economical, and readily available remedies against consumer fraud. W. Food Plan, Inc. v. District Court, 198 Colo. 251, 598 P.2d 1038 (1979).

"Public impact" necessary to invoke protections of act. In a case involving life insurance, where challenged conduct of insurer was private in nature, policyholder was a sophisticated businessman with the aid of legal counsel, and there was insufficient evidence of impact on other policyholders, the treble damages provisions of the Colorado Consumer Protection Act were held not to apply. Coors v. Sec. Life of Denver Ins. Co., 112 P.3d 59 (Colo. 2005).

A private cause of action by an insured against an insurer under this act is not preempted by the Colorado unfair competition - deceptive practices act §§ 10-3-1101 to 10-3-1114. Showpiece Homes Corp. v. Assurance Co. of Am., 38 P.3d 47 (Colo. 2001).

This act is remedial legislation and amendment of remedies therein does not affect preexisting rights or obligations. Therefore, amended version of act containing enhanced civil enforcement provisions could be applied to conduct which occurred prior to amendments. Robinson v. Lynmar Racquet Club, Inc., 851 P.2d 274 (Colo. App. 1993).

6-1-102. Definitions.

As used in this article 1, unless the context otherwise requires:

(1) "Advertisement" means an attempt by publication, dissemination, solicitation, or circulation, whether visual, oral, or written, to induce directly or indirectly a person to enter into a transaction or acquire a title or an interest in property.

(2) (a) "Article" means a product.

(b) "Article" does not mean a trademark, label, or distinctive dress in packaging.

(3) "Business day" means any calendar day except Sunday, New Year's day, the third Monday in January observed as the birthday of Dr. Martin Luther King, Jr., Presidents' day, Memorial day, Juneteenth, Independence day, Labor day, Frances Xavier Cabrini day, Veterans' day, Thanksgiving, and Christmas.

(4) "Buyers' club" means a person engaged in advertising or selling memberships that provide an exclusive right to members to purchase goods, food, services, or property at purported discount prices.

(5) "Certification mark" means a mark that is used in connection with the goods or services of a person other than the certifier in order to indicate:

(a) Geographic origin, material, mode of manufacture, quality, accuracy, or other characteristics of the goods or services; or

(b) That the work or labor on the goods or services was performed by members of a union or other organization.

(6) "Collective mark" means a mark used by members of a cooperative, association, or other collective group or organization to identify goods or services and distinguish them from the goods or services of others or to indicate membership in the collective group or organization.

(7) "Dance studio" means a person engaged in the advertisement or sale of dance studio services.

(8) "Dance studio services" means instruction, training, or assistance in dancing; the use of dance studio facilities; membership in any group, club, or association formed by a dance studio; and participation in dance competitions, dance showcases, trips, tours, parties, and other organized events and related travel arrangements.

(9) (a) "Discount health plan" means a program evidenced by a membership agreement, contract, card, certificate, device, or mechanism, which program offers health-care services, as defined in section 10-16-102 (33), or related products, including prescription drugs and medical equipment, at purported discounted rates from health-care providers advertised as participating in the program.

(b) "Discount health plan" does not include a program in which:

(I) A participating provider has agreed, as a condition of the participating provider's participation in the program, to negotiate the prices to be charged for the participating provider's services directly with consumers in the program; and

(II) The participating provider is not required to offer discounted prices for the participating provider's services as part of the program.

(10) "Elderly person" means a person sixty years old or older.

(11) "Food" means any raw, cooked, or processed edible substance, beverage, or ingredient used or intended for use or for sale in whole or part for human consumption.

(12) (a) "Health club" means an establishment that provides health club services or health club facilities that purport to improve or maintain a user's physical condition or appearance through exercise.

(b) "Health club" includes a spa, an exercise club, an exercise gym, a health studio, and a playing court.

(c) "Health club" does not include:

(I) An establishment operated by a nonprofit organization or public or private school, college, or university;

(II) An establishment operated by the federal government, the state of Colorado, or any of the state's political subdivisions;

(III) An establishment that does not provide health club services or health club facilities as its primary purpose or business; or

(IV) A health-care facility licensed or certified by the department of public health and environment pursuant to its authority under section 25-1.5-103.

(13) "Health club facilities" means equipment, physical structures, and other tangible property used by a health club to conduct its business. "Health club facilities" includes saunas, whirlpool baths, gymnasiums, running tracks, playing courts, swimming pools, shower areas, and exercise equipment.

(14) "Health club services" means services, privileges, or rights offered for sale or provided by a health club.

(15) "Manufactured home" has the meaning set forth in section 42-1-102 (48.8).

(16) "Mark" means a word, name, symbol, device, or any combination thereof in any form or arrangement.

(17) "Motor vehicle" has the meaning set forth in section 44-20-102.

(18) "Person" means an individual, a corporation, a business trust, an estate, a trust, a partnership, an unincorporated association, or two or more thereof having a joint or common interest or any other legal or commercial entity.

(19) "Promoting a pyramid promotional scheme" means inducing or attempting to induce one or more persons to become participants in, or assisting another person to promote, a pyramid promotional scheme by means of references or otherwise.

(20) "Property" means:

(a) Real or personal property;

(b) Both real and personal property;

(c) Intangible property; and

(d) Services.

(21) (a) "Pyramid promotional scheme" means any program using a pyramid or chain process by which a participant in the program gives a valuable consideration in excess of fifty dollars for the opportunity or right to receive compensation or other things of value in return for inducing other persons to become participants for the purpose of gaining new participants in the program.

(b) "Pyramid promotional scheme" does not include ordinary sales of goods or services to persons that are not purchasing in order to participate in a scheme described in subsection (21)(a) of this section.

(22) "Resale time share" means a time share, including all or substantially all ownership, rights, or interests associated with the time share:

(a) That has been acquired previously for personal, family, or household use; and

(b) (I) That is owned by a Colorado resident; or

(II) The accommodations and other facilities of which are available for use through the time share and are primarily located in Colorado.

(23) "Sale" means a sale, an offer for sale, or an attempt to sell a product, good, or property for consideration.

(24) "Service mark" means a mark used by a person to identify services and distinguish them from the services of others.

(25) "Time share" means a time share estate, as defined in section 38-33-110 (5), a time share use, as defined in section 12-10-501 (4), or any campground or recreational membership that does not constitute the transfer of an interest in real property.

(26) (a) "Time share resale entity" means a person that, either directly or indirectly, engages in a time share resale service.

(b) "Time share resale entity" does not include:

(I) The developer, association of time share owners, or other person responsible for managing or operating the plan or arrangement by which the rights or interests associated with a resale time share are utilized, but only to the extent the resale time share is part of an existing plan or arrangement managed by that developer, association, or person;

(II) An attorney, a title agent, a title company, or an escrow company that provides closing, settlement, or other transaction services, so long as the services are provided in the normal course of business in supporting a conveyance of title or in issuing title insurance products in a time share resale transaction. To the extent the attorney, title agent, title company, or escrow company is engaged in providing services or products that are outside the normal course of business in supporting a conveyance of title or in issuing title insurance products or has an affiliated business arrangement with a party to a time share resale transaction, this exemption does not apply.

(III) A real estate broker operating within the scope of activities specified in section 12-10-201 (6) with respect to a time share resale transaction so long as the real estate broker does not collect a fee in advance. To the extent a real estate broker is engaged in activities outside the scope of activities specified in section 12-10-201 (6), collects an advance fee, or has an affiliated business arrangement with a party to a time share resale transaction, this exemption does not apply.

(27) "Time share resale service" means any of the following activities, engaged in directly or indirectly and for consideration, regardless of whether performed in person, by mail, by telephone, or by any other mode of internet or electronic communication, unless performed by a person that, pursuant to subsection (26)(b) of this section, is exempted:

(a) The sale, rental, listing, or advertising of, or an offer to sell, rent, list, or advertise, any resale time share;

(b) The purchase or offer to purchase any resale time share;

(c) The transfer or offer to assist in the transfer of any resale time share; or

(d) The invalidation of, or an offer to invalidate, the purchase or ownership of any resale time share or the purchase of any time share resale service.

(28) (a) "Time share resale transfer agreement" means a contract between a time share resale entity and the owner of a resale time share in which the time share resale entity agrees to transfer, or offers to assist in the transfer of, all or substantially all of the rights or interests in a resale time share on behalf of the owner of the resale time share.

(b) (I) "Time share resale transfer agreement" does not include a contract to sell, rent, list, advertise, purchase, or transfer a resale time share if the owner of the resale time share:

(A) Upon entering the contract, reasonably expects to receive consideration in exchange for the resale time share; and

(B) Upon the actual sale, rental, or transfer of the time share, receives consideration.

(II) For purposes of this subsection (28), a transfer of the resale time share does not, by itself, constitute consideration.

(29) "Trademark" means a mark used by a person to identify goods and distinguish them from the goods of others.

(30) "Trade name" means a word, name, symbol, or device, or any combination thereof, in any form or arrangement used by a person to identify the person's business, vocation, or occupation and distinguish it from the business, vocation, or occupation of others.

(31) "Used motor vehicle" has the meaning set forth in section 42-6-201 (8).

Source: L. 69: p. 371, § 1. **C.R.S. 1963:** § 55-5-1. **L. 73:** p. 619, § 1. **L. 84:** (4.5) and (11.5) added, pp. 289, 290, §§ 1, 1, effective July 1. **L. 85:** (4.6) to (4.8) added, p. 306, § 1, effective June 1. **L. 87:** (2.5) added and (9), (10), and (11.5) amended, p. 356, § 1, effective July 1. **L. 88:** (4.2) and (4.3) added, p. 341, § 1, effective July 1. **L. 90:** (2.7) and (11.2) added, p. 380, § 1, effective July 1. **L. 92:** (5.5) and (14) added, p. 1835, § 1, effective April 29. **L. 93:** (11.2) repealed, p. 943, § 1, effective July 1. **L. 94:** (4.6)(d) amended, p. 2721, § 310, effective July 1. **L. 98:** (4.9) and (13.5) added, p. 746, § 1, effective August 5. **L. 2000:** (2.7) amended, p. 244, § 1, effective March 30; (4.4) added, p. 1107, § 1, effective August 2. **L. 2003:** (4.6)(d) amended, p. 699, § 3, effective July 1. **L. 2004:** (4.1) added and (4.2) and (4.3) amended, p. 967, § 7, effective May 21. **L. 2013:** (4.3) amended (HB 13-1266), ch. 217, p. 984, § 37, effective May 13; (9.5), (11.7), (11.8), and (11.9) added, (SB 13-182), ch. 166, p. 539, § 1, effective August 7. **L. 2017:** IP and (5.5) amended, (SB 17-240), ch. 395, p. 2063, § 43, effective July 1. **L. 2018:** (5.5) amended, (SB 18-030), ch. 7, p. 138, § 5, effective October 1. **L. 2019:** (11.5) and (11.7)(b)(III) amended, (HB 19-1172), ch. 136, p. 1643, § 7, effective October 1. **L. 2020:** (2.5) amended, (HB 20-1031), ch. 43, p. 144, § 4, effective September 14. **L. 2022:** (2.5) amended, (SB 22-139), ch. 149, p. 958, § 3, effective May 2; (4.9) amended, (SB 22-212), ch. 421, p. 2965, § 12, effective August 10. **L. 2024:** (10) amended, (HB 24-1356), ch. 346, p. 2349, § 1, effective June 3. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 1983, § 7, effective August 12.

Cross references: For the legislative declaration in HB 20-1031, see section 1 of chapter 43, Session Laws of Colorado 2020. For the legislative declaration in SB 22-139, see section 1 of chapter 149, Session Laws of Colorado 2022.

ANNOTATION

Law reviews. For article, "Criminal Prosecutions under the Colorado Securities Act", see 47 U. Colo. L. Rev. 233 (1976). For article, "Legal Aspects of Health and Fitness Clubs: A Healthy and Dangerous Industry", see 15 Colo. Law. 1787 (1986).

The Colorado general assembly omitted the definition of "advertise", recognizing that definitions in statutes should be limited to the fewest number of words and phrases possible, and that there is no need for a redefinition of terms. People ex rel. Dunbar v. Gym of Am., Inc., 177 Colo. 97, 493 P.2d 660 (1972).

So meaning of "advertise" determined by reference to "advertisement". Statutes must be construed as a whole, and the several parts of a statute reflect light upon each other, so in this section the meaning of "advertise" can and must be determined by reference to the definition of "advertisement". People ex rel. Dunbar v. Gym of Am., Inc., 177 Colo. 97, 493 P.2d 660 (1972).

For the word "advertise" is but the verbal form of the noun "advertisement", so what the statutory definition of the noun encompasses must by common sense apply to the verbal form of the noun when used in the same statute. People ex rel. Dunbar v. Gym of Am., Inc., 177 Colo. 97, 493 P.2d 660 (1972).

Advertisement or sale of real property covered. Read together, the definitions in subsections (1), (8) and (10) indicate an intent by the general assembly to extend the coverage of the Consumer Protection Act to transactions involving the advertisement or sale of real property. People ex rel. MacFarlane v. Alpert Corp., 660 P.2d 1295 (Colo. App. 1982).

Similarly, although the Colorado Consumer Protection Act does not specifically define "disparagement" anywhere, the word has such a common meaning that to define it would be an exercise in redundancy, since legal literature contains many instances of the use of the word "disparagement" when dealing with forbidden trade practices. People ex rel. Dunbar v. Gym of Am., Inc., 177 Colo. 97, 493 P.2d 660 (1972).

If a claim by a corporation is within the zone of interests of the Colorado Consumer Protection Act, a corporation is a person entitled to bring a claim under the Act. Fiberglass Component Prod. v. Reichhold Chems., Inc., 983 F. Supp. 948 (D. Colo. 1997).

The definition of "person" is broad enough to encompass insurance companies. Thus, by its own terms, the Colorado Consumer Protection Act applies to the acts or practices of insurance

companies. Showpiece Homes Corp. v. Assurance Co. of Am., 38 P.3d 47 (Colo. 2001).

"Pyramid promotional scheme". A pyramid sales scheme is no less a security because of the sale of distributorships where what, in essence, was being offered was an opportunity to contribute money and to share in the profits of an enterprise managed and owned by Master Industries. Sauer v. Hays, 36 Colo. App. 190, 539 P.2d 1343 (1975).

Although pyramid promotional schemes as defined in subsection (9) are not specifically included within the securities act, that statutory prohibition is indicative of the attitude of the general assembly to schemes of that nature. Sauer v. Hays, 36 Colo. App. 190, 539 P.2d 1343 (1975).

Promoters of pyramid promotional plans must make full, complete, and fair disclosure, through the registration statement, of the perils involved before their prospects invest their money. Sauer v. Hays, 36 Colo. App. 190, 539 P.2d 1343 (1975).

A pyramid promotional scheme involved an "investment contract", a "common enterprise" whereby the "fortunes of the investors" were "inextricably tied" and dependent upon the efforts and success of the corporation in obtaining and recruiting new prospects for its seminars and in consummating sales, and constituted the sale of securities in violation of Colorado's securities act. Sauer v. Hays, 36 Colo. App. 190, 539 P.2d 1343 (1975).

6-1-103. Attorney general and district attorneys concurrently responsible for enforcement.

The attorney general and the district attorneys of the several judicial districts of this state are concurrently responsible for the enforcement of this article 1. Until the Colorado supreme court adopts a venue provision relating to this article 1, actions instituted pursuant to this article 1 may be brought in the county where an alleged deceptive trade practice occurred or where any portion of a transaction involving an alleged deceptive trade practice occurred, or in the county where the principal place of business of any defendant is located, or in the county in which any defendant resides. An action under this article 1 brought by the attorney general or a district attorney does not require proof that a deceptive trade practice has a significant public impact.

Source: L. 69: p. 376, § 11. **C.R.S. 1963:** § 55-5-11. **L. 73:** p. 620, § 4. **L. 77:** Entire section R&RE, p. 348, § 1, effective July 1. **L. 87:** Entire section amended, p. 357, § 2, effective July 1. **L. 2019:** Entire section amended, (HB 19-1289), ch. 268, p. 2515, § 1, effective May 23.

ANNOTATION

Amendment to this section not retroactive. The 2019 amendment to this section that specifies that an action brought under this article 1 by the attorney general or a district attorney does not require proof that a deceptive trade practice has a significant public impact does not apply retroactively. The required presumptions that the amendment was intended to change rather than merely clarify the intent of this section and that it was intended to be prospective could not be rebutted by the evidence. State v. Ctr. for Excel. in Higher Educ., 2021 COA 117, 499 P.3d 1081, aff'd in part, rev'd in part on other grounds, 2023 CO 23, 529 P.3d 599.

Applied in Barreras v. People, 636 P.2d 686 (Colo. 1981).

6-1-104. Cooperative reporting.

The district attorneys may cooperate in a statewide reporting system by receiving, on forms provided by the attorney general, complaints from persons concerning deceptive trade practices listed in this article 1 and transmitting the complaints to the attorney general.

Source: L. 69: p. 376, § 10. **C.R.S. 1963:** § 55-5-10. **L. 73:** p. 619, § 3. **L. 77:** Entire section R&RE, p. 348, § 2, effective July 1. **L. 86:** Entire section amended, p. 445, § 2, effective April 17. **L. 99:** Entire section amended, p. 652, § 4, effective May 18. **L. 2021:** Entire section amended, (SB 21-190), ch. 483, p. 3465, § 2, effective July 1, 2023. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 1988, § 8, effective August 12.

6-1-105. Unfair or deceptive trade practices - definitions.

(1) A person engages in an unfair or deceptive trade practice when, in the course of the person's business, vocation, or occupation, the person:

(a) Either knowingly or recklessly passes off goods, services, or property as those of another;

(b) Either knowingly or recklessly makes a false representation as to the source, sponsorship, approval, or certification of goods, services, or property;

(c) Either knowingly or recklessly makes a false representation as to affiliation, connection, or association with or certification by another;

(d) Uses deceptive representations or designations of geographic origin in connection with goods or services;

(e) Either knowingly or recklessly makes a false representation as to the characteristics, ingredients, uses, benefits, alterations, or quantities of goods, food, services, or property or a

false representation as to the sponsorship, approval, status, affiliation, or connection of a person therewith;

(f) Represents that goods are original or new if the person knows or should know that they are deteriorated, altered, reconditioned, reclaimed, used, or secondhand;

(g) Represents that:

(I) Goods, food, services, or property is of a particular standard, quality, or grade if the person knows or should know that they are of another standard, quality, or grade; or

(II) Goods are of a particular style or model if the person knows or should know that they are of another style or model;

(h) Disparages the goods, services, property, or business of another by false or misleading representation of fact;

(i) Advertises goods, services, or property with intent not to sell them as advertised;

(j) Advertises goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity;

(k) Advertises under the guise of obtaining sales personnel when in fact the purpose is to first sell a product or service to the sales personnel applicant;

(l) Makes false or misleading statements of fact concerning the price of goods, services, or property or the reasons for, existence of, or amounts of price reductions;

(m) Fails to deliver to a customer at the time of an installment sale of goods or services a written order, contract, or receipt setting forth the name and address of the seller, the name and address of the organization that the person represents, and all of the terms and conditions of the sale, including a description of the goods or services, stated in readable, clear, and unambiguous language;

(n) Employs "bait and switch" advertising, which is advertising accompanied by an effort to sell goods, services, or property other than those advertised or on terms other than those advertised and which is also accompanied by one or more of the following practices:

(I) Refusal to show the goods or property advertised or to offer the services advertised;

(II) Disparagement in any respect of the advertised goods, property, or services or the terms of sale;

(III) Requiring tie-in sales or other undisclosed conditions to be met prior to selling the advertised goods, property, or services;

(IV) Refusal to take orders for the goods, property, or services advertised for delivery within a reasonable time;

(V) Showing or demonstrating defective goods, property, or services which are unusable or impractical for the purposes set forth in the advertisement;

(VI) Accepting a deposit for the goods, property, or services and subsequently switching the purchase order to higher-priced goods, property, or services; or

(VII) Failure to make deliveries of the goods, property, or services within a reasonable time or to make a refund therefor;

(o) Either knowingly or recklessly fails to identify flood-damaged or water-damaged goods as to such damages;

(p) Solicits door-to-door as a seller, unless the seller, within thirty seconds after beginning the conversation, identifies themself, whom they represent, and the purpose of the visit;

(p.3) to (p.7) Repealed.

(q) Contrives, prepares, sets up, operates, publicizes by means of advertisements, or promotes any pyramid promotional scheme;

(r) Advertises or otherwise represents that goods or services are guaranteed without clearly and conspicuously disclosing the nature and extent of the guarantee, any material conditions or limitations in the guarantee which are imposed by the guarantor, the manner in which the guarantor will perform, and the identity of such guarantor. Any representation that goods or services are "guaranteed for life" or have a "lifetime guarantee" shall contain, in addition to the other requirements of this paragraph (r), a conspicuous disclosure of the meaning of "life" or "lifetime" as used in such representation (whether that of the purchaser, the goods or services, or otherwise). Guarantees shall not be used which under normal conditions could not be practically fulfilled or which are for such a period of time or are otherwise of such a nature as to have the capacity and tendency of misleading purchasers or prospective purchasers into believing that the goods or services so guaranteed have a greater degree of serviceability, durability, or performance capability in actual use than is true in fact. The provisions of this paragraph (r) apply not only to guarantees but also to warranties, to disclaimer of warranties, to purported guarantees and warranties, and to any promise or representation in the nature of a guarantee or warranty; however, such provisions do not apply to any reference to a guarantee in a slogan or advertisement so long as there is no guarantee or warranty of specific merchandise or other property.

(s) and (t) Repealed.

(u) Fails to disclose material information concerning goods, services, or property which information was known at the time of an advertisement or sale if such failure to disclose such information was intended to induce the consumer to enter into a transaction;

(v) Disburses funds in connection with a real estate transaction in violation of section 38-35-125 (2), C.R.S.;

(w) and (x) Repealed.

(y) Fails, in connection with any solicitation, oral or written, to clearly and prominently disclose immediately adjacent to or after the description of any item or prize to be received by any person the actual retail value of each item or prize to be awarded. For the purposes of this paragraph (y), the actual retail value is the price at which substantial sales of the item were made in the person's trade area or in the trade area in which the item or prize is to be received within the last ninety days or, if no substantial sales were made, the actual cost of the item or prize to the person on whose behalf any contest or promotion is conducted; except that, whenever the actual cost of the item to the provider is less than fifteen dollars per item, a disclosure that "actual cost to the provider is less than fifteen dollars" may be made in lieu of disclosure of actual cost. The provisions of this paragraph (y) shall not apply to a promotion which is soliciting the sale of a newspaper, magazine, or periodical of general circulation, or to a promotion soliciting the sale of books, records, audio tapes, compact discs, or videos when the promoter allows the purchaser to review the merchandise without obligation for at least seven days and provides a full refund within thirty days after the receipt of the returned merchandise or when a membership club operation is in conformity with rules and regulations of the federal trade commission contained in 16 CFR 425.

(z) (I) Refuses or fails to obtain all governmental licenses or permits required to perform the services or to sell the goods, food, services, or property as agreed to or contracted for with a consumer; or

(II) Engages in a commercial activity or practices a profession or occupation in the state despite failing to obtain the qualifications required by law or the Colorado constitution;

(aa) Fails, in connection with the issuing, making, providing, selling, or offering to sell of a motor vehicle service contract, to comply with the provisions of article 11 of title 42, C.R.S.;

(bb) to (dd) Repealed.

(ee) Intentionally violates any provision of article 10 of title 5, C.R.S.;

(ee.5) to (ff) Repealed.

(gg) Fails to disclose or misrepresents to another person, a secured creditor, or an assignee by whom such person is retained to repossess personal property whether such person is bonded in accordance with section 4-9-629, C.R.S., or fails to file such bond with the attorney general;

(hh) Violates any provision of article 16 of this title;

(ii) Repealed.

(jj) Represents to any person that such person has won or is eligible to win any award, prize, or thing of value as the result of a contest, promotion, sweepstakes, or drawing, or that such person will receive or is eligible to receive free goods, services, or property, unless, at the time of the representation, the person has the present ability to supply such award, prize, or thing of value;

(kk) Violates any provision of article 6 of this title;

(ll) to (oo) Repealed.

(pp) Violates article 9 of title 42, C.R.S.;

(qq) and (rr) Repealed.

(ss) Violates any provision of part 33 of article 32 of title 24 that applies to the installation of manufactured homes or tiny homes;

(tt) Repealed.

(uu) Violates section 38-40-105, C.R.S.;

(vv) Violates section 24-21-523 (1)(f) or (1)(i) or 24-21-525 (3), (4), or (5);

(ww) to (zz) Repealed.

(aaa) Violates any provision of section 12-10-710;

(bbb) Violates any provision of section 12-10-713;

(ccc) to (hhh) Repealed.

(iii) Either knowingly or recklessly enters into, or attempts to enforce, an agreement regarding the recovery of an overbid on foreclosed property if the agreement concerns the recovery of funds in the possession of:

(I) A public trustee prior to transfer of the funds to the state treasurer under section 38-38-111; or

(II) The state treasurer and does not meet the requirements for such an agreement as specified in section 38-13-1304;

(jjj) and (kkk) Repealed.

(lll) Violates article 20 of title 5;

(mmm) Repealed.

(nnn) Violates any provision of part 13 of this article 1 as specified in section 6-1-1311 (1)(c);

(ooo) Violates part 14 of this article 1;

(ppp) Violates section 7-90-314 (1);

(qqq) Violates part 15 of this article 1;

(rrr) Either knowingly or recklessly engages in any unfair, unconscionable, deceptive, deliberately misleading, false, or fraudulent act or practice;

(sss) Violates this section as it applies to hemp, industrial hemp, industrial hemp products, intoxicating hemp, adult use cannabis products, the plant cannabis sp., or anything derived from or produced from the plant cannabis sp.;

(ttt) Violates part 4 of article 10.1 of title 40;

(uuu) Repealed.

(vvv) Violates section 6-1-733;

(www) to (zzz) Repealed.

(aaaa) Charges, bills, or collects a facility fee or fails to comply with other provisions relating to facility fees in violation of section 6-20-102 (2) or (3);

(bbbb) Repealed.

(cccc) Sells or offers for sale a product that is age-restricted to a person who does not meet the age restriction;

(dddd) Repealed.

(eeee) Is a towing carrier and conducts a nonconsensual tow in violation of section 40-10.1-405;

(ffff) Fails to comply with the manufacturer requirements under the insulin affordability program pursuant to section 12-280-139 or the manufacturer requirements for the emergency supply of prescription insulin pursuant to section 12-280-140;

(gggg) Violates section 6-1-731.5;

(hhhh) Violates part 17 of this article 1;

(iiii) Violates a provision of section 6-1-739;

(jjjj) Violates section 6-1-738;

(kkkk) Violates section 25-5-1602;

(llll) Repealed.

(mmmm) Is a vehicle immobilization company and immobilizes a vehicle in violation of sections 40-10.1-802 to 40-10.1-812 or section 40-10.1-814;

(nnnn) Violated section 13-16-126;

(oooo) Violates article 29 of this title 6;

(pppp) Violates part 18 of this article 1;

(qqqq) Violates section 35-1-122;

(rrrr) Violates section 25-5-429;

(ssss) (Reserved)

(tttt) Violates section 6-1-741; or

(uuuu) **[*Editor's note: Subsection (1)(uuuu) is effective January 1, 2027.*]** Violates part 17 of this article 1.

(2) Evidence that a person has engaged in a deceptive trade practice shall be prima facie evidence of intent to injure competitors and to destroy or substantially lessen competition.

(3) The deceptive trade practices listed in this section are in addition to and do not limit the types of unfair trade practices actionable at common law or under other statutes of this state.

(4) As used in this section, unless the context otherwise requires:

(a) "Electronic smoking device" has the meaning set forth in section 25-14-203 (4.5).

(b) "Recklessly" means a reckless disregard for the truth or falsity of a statement or advertisement.

Source: L. 69: p. 372, § 2. **C.R.S. 1963:** § 55-5-2. **L. 71:** p. 580, § 1. **L. 73:** p. 619, § 2. **L. 75:** (1)(r) added, p. 259, § 1, effective July 1. **L. 84:** (1)(e) and (1)(g) amended and (1)(s) added, pp. 289, 290, §§ 2, 2, effective July 1. **L. 85:** (1)(t) added, p. 307, § 2, effective June 1. **L. 87:** (1)(a), (1)(b), (1)(e), (1)(g) to (1)(i), and (1)(l) amended and (1)(s)(V) and (1)(u) added, p. 357, §§ 3, 4, effective July 1. **L. 88:** (1)(n) amended and (1)(v) and (1)(w) added, pp. 341, 1260, §§ 2, 2, effective July 1. **L. 89:** (1)(s)(V) repealed and (1)(y), (1)(z), and (1)(aa) added, pp. 360, 357, §§ 4, 1, effective July 7; (1)(x) added, p. 363, § 2, effective January 1, 1990. **L. 90:** (1)(ee) added, p. 378, § 2, effective April 20; (1)(t)(VI) amended and (1)(bb) to (1)(dd) added, p. 380, § 2, effective July 1. **L. 91:** (1)(t)(VI) amended and (1)(t)(VII) added, p. 329, § 1, effective May 16; (1)(dd)(I) amended and (1)(dd)(I.5) added, p. 331, § 1, effective June 8. **L. 92:** IP(1) amended and (1)(ff) added, p. 1835, § 2, effective April 29; IP(1) amended and (1)(gg) added, p. 247, § 2, effective June 1. **L. 93:** (1)(t)(VI) and (1)(y) amended and (1)(hh) to (1)(ll) added, p. 1571, § 1, effective July 1; (1)(cc) amended, p. 943, § 2, effective July 1; (1)(mm) added, p. 1022, § 3,

effective July 1. **L. 94:** (1)(nn) added, p. 759, § 1, effective April 20; (1)(ee.5) added, p. 94, § 1, effective July 1; (1)(oo) added, p. 1311, § 10, effective July 1; (1)(aa) and (1)(ii) amended, p. 2544, § 14, effective January 1, 1995. **L. 96:** (1)(p) amended and (1)(p.3) and (1)(ee.7) added, pp. 787, 1787, §§ 1, 1, effective July 1. **L. 97:** (1)(pp) added, p. 865, § 13, effective May 21; (1)(p.5) and (1)(p.7) added, p. 500, § 1, effective July 1; (1)(ee.8) added, p. 406, § 1, July 1. **L. 98:** (1)(qq) added, p. 746, § 2, effective August 5. **L. 99:** (1)(p.3), (1)(p.5), (1)(p.7), (1)(s), (1)(t), (1)(w), (1)(bb), (1)(dd), (1)(ee.5), (1)(ee.7), (1)(ee.8), (1)(ff), (1)(ii), and (1)(qq) repealed and (1)(x) amended, pp. 655, 652, §§ 14, 3, effective May 18; (1)(qq) amended, p. 897, § 2, effective October 1. **L. 2000:** (1)(rr) added, p. 867, § 2, effective August 2; (1)(nn)(II) added by revision, pp. 2, 3, §§ 1, 6; (1)(ss) added, p. 1162, § 3, effective July 1, 2001. **L. 2001:** (1)(gg) amended, p. 1445, § 37, effective July 1; (1)(tt) added, p. 1461, § 2, effective August 8. **L. 2002:** (1)(uu) added, p. 1602, § 3, effective June 7. **L. 2003:** (1)(ss) amended, p. 550, § 3, effective March 5. **L. 2004:** (1)(vv) added, p. 181, § 2, effective July 1; (1)(ww) added, p. 407, § 2, effective August 4. **L. 2006:** (1)(xx) added, p. 1344, § 2, effective May 30. **L. 2007:** (1)(zz) added, p. 1728, § 5, effective June 1; (1)(aaa) and (1)(bbb) added, p. 1723, § 10, effective June 1; (1)(yy) added, p. 809, § 1, effective July 1. **L. 2010:** (1)(ccc) added, (SB 10-155), ch. 180, p. 648, § 2, effective August 11. **L. 2013:** (1)(eee) added, (SB 13-228), ch. 271, p. 1425, § 2, effective May 24; (IP)(1) amended and (1)(ddd) added, (SB 13-215), ch. 399, p. 2335, § 2, effective June 5. **L. 2014:** (1)(fff) and (1)(ggg) added, (HB 14-1037), ch. 358, p. 1681, § 2, effective August 6. **L. 2015:** (1)(hhh) added, (SB 15-014), ch. 199, p. 688, § 7, effective May 18; (1)(yy) repealed, (SB 15-264), ch. 259, p. 941, § 7, effective August 5. **L. 2016:** (1)(jjj) added, (HB 16-1335), ch. 246, p. 1015, § 2, effective July 1; (1)(bbb) amended, (HB 16-1306), ch. 117, p. 331, § 1, effective August 10; (1)(iii) added, (HB 16-1090), ch. 97, p. 276, § 2, effective August 10. **L. 2017:** (1)(vv) amended, (SB 17-132), ch. 207, p. 808, § 4, effective July 1, 2018. **L. 2018:** (1)(x) amended, (SB 18-100), ch. 36, p. 392, § 1, effective August 8; (1)(hhh) amended, (HB 18-1023), ch. 55, p. 584, § 4, effective October 1. **L. 2019:** (1)(a), (1)(b), (1)(c), (1)(e), (1)(o), (1)(ll), (1)(hhh), and (1)(iii) amended and (1)(kkk) and (4) added, (HB 19-1289), ch. 268, p. 2515, § 2, effective May 23; (1)(lll) added, (SB 19-002), ch. 157, p. 1872, § 3, effective August 2; (1)(aaa) and (1)(bbb) amended, (HB 19-1172), ch. 136, p. 1643, § 8, effective October 1; (1)(hhh) amended, (SB 19-224), ch. 315, p. 2935, § 8, effective January 1, 2020; (1)(mmm) added, (HB 19-1174), ch. 171, p. 1982, § 1, effective January 1, 2020; (1)(iii)(II) amended, (SB 19-088), ch. 110, p. 462, § 2, effective July 1, 2020. **L. 2021:** (1)(nnn) added, (SB 21-190), ch. 483, p. 3465, § 3, effective July 1, 2023. **L. 2022:** (1)(sss) added, (SB 22-205), ch. 278, p. 2002, § 3, effective May 31; (1)(ss) amended, (HB 22-1242), ch. 172, p. 1135, § 25, effective August 10; (1)(mmm) amended, (HB 22-1284), ch. 446, p. 3151, § 6, effective August 10; (1)(ttt) added, (HB 22-1314), ch. 416, p. 2948, § 12, effective August 10; (1)(kkk) repealed and (1)(rrr) added, (HB 22-1287), ch. 255, p. 1885, § 27, effective October 1; (1)(ooo) added, (HB 22-1099), ch. 21, p. 143, § 2, effective January 1, 2023; (1)(qqq) added, (HB 22-1031), ch. 327, p. 2307, § 1, effective January 1, 2023; (1)(ppp) added, (SB 22-034), ch. 326, p. 2306, § 2, effective February 1, 2023. **L. 2023:** (1)(xxx) and (1)(yyy) added, (SB 23-093), ch. 152, p. 646, § 6, effective May 4; (1)(aaaa) added,

(HB 23-1215), ch. 277, p. 1636, § 3, effective May 30; (1)(cccc) added, (SB 23-176), ch. 275, p. 1627, § 4, effective May 30; (1)(dddd) added, (HB 23-1257), ch. 376, p. 2256, § 2, effective June 5; (1)(uuu) added, (SB 23-077), ch. 50, p. 180, § 2, effective August 7; (1)(vvv) added, (SB 23-037), ch. 61, p. 218, § 1, effective August 7; (1)(www) added, (SB 23-150), ch. 63, p. 227, § 2, effective August 7; (1)(zzz) added, (HB 23-1002), ch.447, p. 2635, § 4, effective August 7; (1)(bbbb) added, (SB 23-252), ch. 305, p. 1864, § 1, effective August 7. **L. 2024:** (1)(hhhh) added, (SB 24-205), ch. 198, p. 1216, § 2, effective May 17; (1)(cccc) and (4) amended, (HB 24-1356), ch. 346, p. 2349, § 2, effective June 3; (1)(ffff) added, (HB 24-1438), ch. 351, p. 2394, § 1, effective June 3; (1)(cccc) amended and (1)(gggg) added, (SB 24-011), ch. 402, p. 2767, § 3, effective August 7; (1)(eeee) added, (HB 24-1051), ch. 292, p. 1990, § 7, effective August 7. **L. 2025:** (1)(mmmm) added, (HB 25-1117), ch. 391, p. 2211, § 4, effective June 3; (1)(iiii) added, (SB 25-282), ch. 412, p. 2346, § 3, effective August 6; (1)(jjjj) added, (HB 25-1217), ch. 92, p. 415, § 3, effective August 6; (1)(kkkk) added, (HB 25-1161), ch. 438, p. 2525, § 2, effective August 6; (1)(llll) added, (HB 25-1197), ch. 279, p. 1451, § 3, effective August 6; (1)(nnnn) added, (HB 25-1329), ch. 407, p. 2321, § 2, effective August 6; (1)(oooo) added, (SB 25-071), ch. 313, p. 1637, § 1, effective August 6; (1)(pppp) added, (SB 25-299), ch. 427, p. 2434, § 3, effective August 6. **L. 2026:** (1)(rrrr) added, (HB 26-1135), ch. 228, p. 1325, § 3, effective May 29; IP(1), (1)(f), (1)(g), (1)(m), (1)(p), (1)(z), and (1)(cccc) amended and (1)(x), (1)(cc), (1)(ll), (1)(mm), (1)(oo), (1)(rr), (1)(tt), (1)(ww), (1)(xx), (1)(zz), (1)(ccc), (1)(ddd), (1)(eee), (1)(fff), (1)(ggg), (1)(hhh), (1)(jjj), (1)(mmm), (1)(uuu), (1)(www), (1)(xxx), (1)(yyy), (1)(zzz), (1)(bbbb), (1)(dddd), and (1)(llll) repealed, (HB 26-1426), ch. 334, p. 1988, § 9, effective August 12; (1)(qqqq) added, (HB 26-1031), ch. 40, p. 189, § 3, effective August 12; (1)(tttt) added, (SB 26-174), ch. 345, p. 2099, § 1, effective August 12; (1)(uuuu) added, (SB 26-189), ch. 131, p. 584, § 2, effective January 1, 2027.

Editor's note: (1) Subsection (1)(dd)(I)(F) provided for the repeal of subsection (1)(dd)(I)(F), effective July 1, 1994. (See L. 91, p. 331.) Subsection (1)(nn)(II) provided for the repeal of subsection (1)(nn), effective July 1, 2001. (See L. 2000, pp. 2, 3.)

(2) (a) Subsections (1)(p.3), (1)(p.5), (1)(p.7), (1)(s), (1)(t), (1)(w), (1)(bb), (1)(dd), (1)(ee.5), (1)(ee.7), (1)(ee.8), (1)(ff), (1)(ii), and (1)(qq) were repealed and relocated in 1999 to part 7 of this article.

(b) Subsection (1)(qq) as amended by House Bill 99-1270 was harmonized with Senate Bill 99-143 and relocated to § 6-1-709, effective October 1, 1999.

(3) Subsection (1)(ww) was originally lettered as (1)(vv) in House Bill 04-1125, but has been relettered on revision for ease of location.

(4) Section 8(1) of Senate Bill 17-132 was amended by section 121 of Senate Bill 17-294 to change the effective date of Senate Bill 17-132 from August 9, 2017, to July 1, 2018.

(5) Amendments to subsection (1)(hhh) by HB 19-1289 and SB 19-224 were harmonized. Amendments to subsection (1)(iii)(II) by HB 19-1289 and SB 19-088 were harmonized.

(6) Subsection (1)(kkk) was lettered as subsection (1)(nnn) in HB 19-1289 but was relettered on revision for ease of location.

(7) Amendments to subsection (1)(cccc) by SB 24-011 and HB 24-1356 were harmonized.

(8) Section 5 of chapter 391 (HB 25-1117), Session Laws of Colorado 2025, provides that the act changing this section applies to violations committed on or after June 3, 2025.

(9) Section 3 of chapter 438 (HB 25-1161), Session Laws of Colorado 2025, provides that the act changing this section applies to conduct occurring on or after August 6, 2025.

(10) Section 4 of chapter 279 (HB 25-1197), Session Laws of Colorado 2025, provides that the act changing this section applies to conduct occurring on or after August 6, 2025.

(11) Section 6 of chapter 92 (HB 25-1217), Session Laws of Colorado 2025, provides that the act changing this section applies to offenses committed on or after August 6, 2025.

(12) Section 4 of chapter 228 (HB 26-1135), Session Laws of Colorado 2026, provides that the act changing this section applies to conduct occurring on or after May 29, 2026.

(13) Section 4(2) of chapter 40 (HB 26-1031), Session Laws of Colorado 2026, provides that the act changing this section applies to conduct occurring on or after August 12, 2026.

(14) Section 3(2) of chapter 345 (SB 26-174), Session Laws of Colorado 2026, provides that the act changing this section applies to conduct occurring on or after August 12, 2026.

(15) Section 5(3) of chapter 131 (SB 26-189), Session Laws of Colorado 2026, provides that the act changing this section applies to consequential decisions made on or after January 1, 2027.

Cross references: For the legislative declaration in HB 16-1090, see section 1 of chapter 97, Session Laws of Colorado 2016. For the legislative declaration in SB 19-002, see section 1 of chapter 157, Session Laws of Colorado 2019. For the legislative declaration in HB 23-1002, see section 1 of chapter 447, Session Laws of Colorado 2023. For the legislative declaration in SB 24-011, see section 1 of chapter 402, Session Laws of Colorado 2024. For the legislative declaration in SB 25-299, see section 1 of chapter 427, Session Laws of Colorado 2025. For the legislative declaration in HB 25-1117, see section 1 of chapter 391, Session Laws of Colorado 2025. For the legislative declaration in HB 26-1031, see section 1 of chapter 40, Session Laws of Colorado 2026. For the legislative declaration in HB 26-1135, see section 1 of chapter 228, Session Laws of Colorado 2026.

ANNOTATION

Law reviews. For article discussing remedies available for deceptive trade practices involving the misappropriation and use of a trade secret, see 48 U. Colo. L. Rev. 189 (1977). For article, "Franchise Regulation", see 15 Colo. Law. 395 (1986). For article, "Commercial Law", which discusses Tenth Circuit decisions dealing with questions of commercial law, see 63 Den. U.L. Rev. 225 (1986). For article, "Legal Aspects of Health and Fitness Clubs: A Healthy and Dangerous Industry", see 15 Colo. Law. 1787 (1986). For article, "Representing the Franchisee", see 18 Colo. Law. 2105 (1989). For article, "Default Judgments Against Consumers: Has the System Failed?", see 67 Den. U. L. Rev. 357 (1990). For article, "Regulating Faxing Activity Under State and Federal Law", see 34 Colo. Law. 63 (Dec. 2005). For article, "What's in the Package: Food, Beverage, and Dietary Supplement Law and Litigation Part II", see 43 Colo. Law. 71 (Aug. 2014). For article, "Overcoming the Public Impact Hurdle to CCPA Claims", see 43 Colo. Law. 67 (Oct. 2014). For article, "Making Up Your Own Rules for Resolving Residential Construction Defect Disputes", see 52 Colo. Law. 36 (May 2023). For article, "The Legality of Generative AI -- Part 2", see 52 Colo. Law. 30 (Sept. 2023). For article, "Disclosure of Adverse Material Facts and Latent Defects in Real Estate Transactions", see 53 Colo. Law. 40 (July-Aug. 2024).

To prove a private cause of action under the Colorado Consumer Protection Act (CCPA), a plaintiff must show that: (1) The defendant engaged in an unfair or deceptive trade practice; (2) the challenged practice occurred in the course of defendant's business, vocation, or occupation; (3) it significantly impacts the public as actual or potential consumers of the defendant's goods, services, or property; (4) the plaintiff suffered injury in fact to a legally protected interest; and (5) the challenged practice caused the plaintiff's injury. Rhino Linings USA, Inc. v. Rocky Mtn. Rhino Lining, Inc., 62 P.3d 142 (Colo. 2003); Nobody in Particular Presents, Inc. v. Clear Channel Commc'ns, Inc., 311 F. Supp. 2d (D. Colo. 2004); Van Rees v. Unleaded Software, Inc., 2013 COA 164, 383 P.3d 20, aff'd, 2016 CO 51, 373 P.3d 603.

Whether a private cause of action significantly impacts the public as actual or potential consumers of the defendant's goods, services, or property is a question of fact to be resolved by the trier of fact, and not an issue of law. One Creative Place, LLC v. Jet Ctr. Partners, LLC, 259 P.3d 1287 (Colo. App. 2011).

Whether conduct constitutes an unfair or deceptive trade practice is a question of law that is reviewed de novo. Shekarchian v. Maxx Auto Recovery, Inc., 2019 COA 60, 487 P.3d 1026.

A deceptive trade practice claim concerning a utility's alleged misrepresentations about the heating content of natural gas is within the public utilities commission's exclusive jurisdiction because the commission explicitly considers the heating content of natural gas when setting rates, and the

plaintiff's failure to exhaust its administrative remedies mandates dismissal of the claim. City of Aspen v. Kinder Morgan, Inc., 143 P.3d 1076 (Colo. App. 2006).

The list of deceptive trade practices in this section is not exhaustive and, because deceptive or unfair practices in the business of insurance could clearly injure the public, they are within the purview of the CCPA. Showpiece Homes Corp. v. Assurance Co. of Am., 38 P.3d 47 (Colo. 2001).

"Person", as used in this section, includes business corporations. Heller v. Lexton-Ancira Real Estate Fund, 809 P.2d 1016 (Colo. App. 1990).

The inclusion of the term "vocation" indicates that professionals may be held accountable under the CCPA. Crowe v. Tull, 126 P.3d 196 (Colo. 2006).

"Knowingly", as used in the CCPA, requires actual knowledge, not constructive knowledge. While some CCPA provisions enumerate violations where the person committing the deceptive trade practice "knows or should know" of the misrepresentation, other provisions require only that the person commits the trade practice "knowingly"; in the latter case, the legislature intended that actual knowledge is required to find a CCPA violation. People ex rel. Suthers v. Mandatory Poster, 260 P.3d 9 (Colo. App. 2009).

"Passing off", as used in this section, is sufficiently plain in its meaning and does not require a special jury instruction. Heller v. Lexton-Ancira Real Estate Fund, 809 P.2d 1016 (Colo. App. 1990).

For purposes of showing that a defendant knowingly makes a "false representation", the representation must either induce a party to act, refrain from acting, or have the capacity or tendency to attract customers. Rhino Linings USA, Inc. v. Rocky Mtn. Rhino Lining, Inc., 62 P.3d 142 (Colo. 2003).

CCPA claims in federal court "related to false representations" are subject to Fed. R. Civ. P. 9(b)'s heightened pleading requirements. Rule 9(b) requires a plaintiff to allege the time, place, and contents of the false representation, the identity of the party making the false statements, and the consequences thereof. Faulhaber v. Petzl Am., Inc., 656 F. Supp. 3d 1257 (D. Colo. 2023).

A plaintiff must establish not only that the defendant engaged in a deceptive trade practice but also that the defendant's challenged practice significantly impacts the public as actual or potential consumers of the defendant's goods, services, or property. To make this determination, relevant considerations include the number of consumers directly affected by the challenged practice, the relative sophistication and bargaining power of the consumers affected by the challenged practice, and evidence that the challenged practice has previously impacted other consumers or has the significant potential to do so in the future. Rhino Linings USA, Inc. v. Rocky Mtn. Rhino Lining, Inc., 62 P.3d 142 (Colo. 2003).

Test applied in Colo. Coffee Bean v. Peaberry Coffee, 251 P.3d 9 (Colo. App. 2010).

Whether a private cause of action significantly impacts the public as actual or potential consumers of the defendant's goods, services, or property is a question of fact to be resolved by the trier of fact, and not an issue of law. One Creative Place, LLC v. Jet Ctr. Partners, LLC, 259 P.3d 1287 (Colo. App. 2011).

Disclosure may eliminate an otherwise deceptive trade practice. Where a company that published posters with incorrect information about Colorado labor and employment laws included a disclosure that the documents were not generated by the government, the trial court did not err in finding that the posters, as a whole, were not deceptive. People ex rel. Suthers v. Mandatory Poster, 260 P.3d 9 (Colo. App. 2009).

A promise of territorial exclusivity in a dealership agreement did not constitute a false representation absent a finding of fact that the company did not intend to honor its promise at the time the contract was executed. Rhino Linings USA, Inc. v. Rocky Mtn. Rhino Lining, Inc., 62 P.3d 142 (Colo. 2003).

False representation as to the use or benefits of services, such as recommending an automotive fuel injector flush as a routine preventive maintenance service, violates this section. Jones v. Stevinson's Golden Ford, 36 P.3d 129 (Colo. App. 2001).

Where a business first advertises a product at a very attractive price in order to invite inquiry, then disparages or "knocks" the product when members of the public make inquiry, and finally offers another item for sale which is more expensive than the first but which seems like a "bargain" in comparison to the disparaged product that was originally advertised, such practice constitutes deceptive use of advertising as a lure to sell other nonadvertised products or services which is exactly the kind of trade practice which the CCPA prohibits. People ex rel. Dunbar v. Gym of Am., Inc., 177 Colo. 97, 493 P.2d 660 (1972).

Such "bait and switch" advertising and selling techniques have long been recognized in the legal literature and have long been subject to equitable sanctions. People ex rel. Dunbar v. Gym of Am., Inc., 177 Colo. 97, 493 P.2d 660 (1972).

Likewise, the concept of a "tie-in sale" is not new to the law, as its practice has long been prohibited by the anti-trust laws. People ex rel. Dunbar v. Gym of Am., Inc., 177 Colo. 97, 493 P.2d 660 (1972).

The fact that a "tie-in sale", like "disparagement", and "bait and switch" tactics is not a new or unfamiliar term to most business enterprises leads to the conclusion that its use in the CCPA does establish a standard against which one's business and trade activities can be tested, with a definite background of experience and precedent to illuminate the meaning of the words employed in the statute. People ex rel. Dunbar v. Gym of Am., Inc., 177 Colo. 97, 493 P.2d 660 (1972).

General assembly intended the deceptive trade practice of bait and switch advertising to include the element of intent to deceive. Gen. Steel Domestic Sales, LLC v. Hogan & Hartson, LLP, 230 P.3d 1275 (Colo. App. 2010).

Advertisement or sale of real property covered. The general assembly has included sales and advertisements respecting real property in its broad but undefined use of the term "services" in subsections (1)(e), (g), (i), and (l), which makes false or misleading statements in the advertisement or sale of real property subject to the provisions of the CCPA. People ex rel. MacFarlane v. Alpert Corp., 660 P.2d 1295 (Colo. App. 1982).

The CCPA does not, as a matter of law, make actionable a statement that would otherwise be mere puffery. Park Rise Homeowners Ass'n, Inc. v. Res. Const. Co., 155 P.3d 427 (Colo. App. 2006); Alpine Bank v. Hubbell, 555 F.3d 1097 (10th Cir. 2009); Renfro v. Champion Petfoods USA, Inc., 25 F.4th 1293 (10th Cir. 2022).

Making defamatory statements is not a deceptive trade practice. Electrology Lab., Inc. v. Kunze, 169 F. Supp. 3d 1119 (D. Colo. 2016).

The sale of insurance can be classified as a sale of goods, services, or property and is thus subject to the provisions of the CCPA. Showpiece Homes Corp. v. Assurance Co. of Am., 38 P.3d 47 (Colo. 2001).

The implantation of an embryo is not a sale of a good or product; rather it constitutes the provision of a medical service pursuant to § 13-22-104. Am. Econ. Ins. Co. v. Schoolcraft, 551 F. Supp. 2d 1235 (D. Colo. 2007).

A violation of § 10-3-1104 does not constitute a per se violation of this section. This section creates a private right of action whereas § 10-3-1104 does not. Coors v. Sec. Life of Denver Ins. Co., 91 P.3d 393 (Colo. App. 2003), aff'd by an equally divided court, 112 P.3d 59 (Colo. 2005).

The CCPA is applicable to an insurer's post-sale unfair or bad faith conduct. Showpiece Homes Corp. v. Assurance Co. of Am., 38 P.3d 47 (Colo. 2001).

Attorneys may be found liable for CCPA violations. The proper test for CCPA liability is whether or not an attorney's conduct constitutes a deceptive trade practice with the requisite intent and meets the elements of public impact and causation. The CCPA applies to protect the vulnerable consumer of legal services and the consumer public as a whole in the situation in which the purveyor of those services knowingly misrepresents the quality and likely benefit of those services. Crowe v. Tull, 126 P.3d 196 (Colo. 2006).

Setting the price of an item so high that the market analysis shows that very few items will be sold at that price, offering the item for sale at that price for a very short period of time, and showing the price as reduced and the item discounted in comparative price advertisements is a deceptive and misleading practice pursuant to the CCPA. State ex rel. Woodard v. May Dept. Stores Co., 849 P.2d 802 (Colo. App. 1992).

Rescission and refunds under subsection (1)(t)(I) and (1)(t)(IV) were not available where buyer had previously cancelled contract, since at that point there was no contract to rescind and, after two years' use of club's facilities and services by buyer, parties could not be restored to their precontract status. Robinson v. Lynmar Racquet Club, Inc., 851 P.2d 274 (Colo. App. 1993).

Right of action based on failure to give notice of right to rescind under subsection (1)(t)(II) did not accrue until buyer learned of right to rescind by other means. Therefore, applicable limitation period did not begin to run and action was not time-barred. Robinson v. Lynmar Racquet Club, Inc., 851 P.2d 274 (Colo. App. 1993).

A breach of contract claim, without additional conduct, cannot constitute an actionable claim under this article. Unlike a breach of contract claim, which arises when one contracting party breaks a promise, a claim under this article arises when a party knowingly makes a misrepresentation or makes a false representation that has the capacity to deceive. A promise cannot constitute a misrepresentation unless the promisor did not intend to honor it at the time it was made. Rhino Linings USA, Inc. v. Rocky Mtn. Rhino Lining, Inc., 62 P.3d 142 (Colo. 2003).

A forum selection clause is consistent with public policy under the Colorado Consumer Protection Act. Edge Telecom, Inc. v. Sterling Bank, 143 P.3d 1155 (Colo. App. 2006).

This article is inapplicable to excavating contracts. Herman v. Steamboat Springs Super 8 Motel, Inc., 634 P.2d 1005 (Colo. App. 1981).

Article inapplicable where the lease of a computer system was nothing other than a commercial transaction or where the alleged fraudulent misrepresentations had no effect on consumers generally. U.S. Welding, Inc. v. Burroughs Corp., 615 F. Supp. 554 (D. Colo. 1985).

Subsection (1)(z) does not provide notice of any requirement to obtain a license to sell collision damage waivers. Notice is only given that it is a violation of the act to fail to obtain "all governmental licenses or permits required". Consequently, because no statute or appellate decision has defined "insurance" to include collision damage waivers, and the Colorado supreme court has declared that the issue of whether a collision damage waiver is insurance has not been resolved, the trial court correctly held that plaintiff could not recover on his claim that defendants violated the licensing requirement. Mangone v. U-Haul Int'l, Inc., 7 P.3d 189 (Colo. App. 1999).

Although plaintiff cannot recover damages under his subsection (1)(z) claim, the trial court erred in excluding that portion of the purchase price relating to collision damage waivers from plaintiff's non-insurance claims pursuant to subsections (1)(e) and (1)(u). Mangone v. U-Haul Int'l, Inc., 7 P.3d 189 (Colo. App. 1999).

Subsection (1)(z) does not apply to real estate purchases. It applies to the performance of services and the sale of

property. Shotkoski v. Denver Inv. Grp. Inc., 134 P.3d 513 (Colo. App. 2006).

Allegation of claim under this section need not be specifically pleaded. Heller v. Lexton-Ancira Real Estate Fund, 809 P.2d 1016 (Colo. App. 1990).

Certificate of review required by § 13-20-602 is not a prerequisite to a lawsuit against licensed real estate brokers based on subsections (1)(e) and (1)(g) where plaintiffs who had purchased a home alleged that licensed real estate brokers failed to disclose hidden damage to the home's foundation walls of which they had actual knowledge. Expert testimony would not be necessary to prove plaintiffs' claims of actual knowledge of the damage. However, plaintiffs' claim that brokers should have known about damage required a certificate of review and was properly dismissed because expert testimony would be necessary to establish the proper standard of care. Baumgarten v. Coppage, 15 P.3d 304 (Colo. App. 2000).

Subsection (3) does not allow recovery on two separate theories based on the same facts. Lexton-Ancira Real Estate Fund v. Heller, 826 P.2d 819 (Colo. 1992); Crowe v. Tull, 126 P.3d 196 (Colo. 2006).

Trial court did not err in refusing to direct a verdict for defendants where evidence revealed that, by representing to their customers that an easement existed across plaintiffs' property, defendants caused damage to the road and caused two prospective pasture leases to be lost, and where it was undisputed that the actions and representations of defendants caused fences to be torn down, locks to be cut, and gates to be left open. Walter v. Hall, 940 P.2d 991 (Colo. App. 1996), aff'd, 969 P.2d 224 (Colo. 1998).

Colorado state courts have jurisdiction over private actions under the Telephone Consumer Protection Act (TCPA), 47 U.S.C. § 227, under the supremacy clause of the United States Constitution, and the TCPA does not limit this jurisdiction, even assuming congress could do so. When congress created a private right of action that could be prosecuted in state courts, it was acknowledging that the states could apply their own rules of procedure to such an action, but it did not intend to require that any state adopt a further law or rule of court to allow the prosecution of such actions in its courts. The supremacy clause requires the exercise of such jurisdiction as the state court possesses. Consumer Crusade, Inc. v. Affordable Health Care Solutions, Inc., 121 P.3d 350 (Colo. App. 2005).

"If otherwise permitted" phrase under TCPA provisions creating a private right of action is merely an acknowledgment by congress that states have the right to structure their own court systems and that state courts are not obligated to change their procedural rules to accommodate TCPA claims. Under this view, no state can refuse to entertain a private TCPA action, but a state is not compelled to adopt a special procedural rule for such actions. Consumer Crusade, Inc. v. Affordable Health Care Solutions, Inc., 121 P.3d 350 (Colo. App. 2005).

The CCPA is not preempted by the federal Real Estate Settlement Procedures

Act (RESPA) given the breadth of the CCPA and its regulation of far wider deceptive trade practices than those covered by RESPA. Perkins v. Johnson, 551 F. Supp. 2d 1246 (D. Colo. 2008).

Claim that bank failed to report mortgagee's debt to credit reporting agencies as disputed is preempted by the federal Fair Credit Reporting Act, 15 U.S.C. § 1681t(b)(a)(F). Collins v. BAC Home Loans Servicing LP, 912 F. Supp. 2d 997 (D. Colo. 2012).

Deceptive trade practice claims concerning the provisions of an apartment lease are subject to the lease's arbitration provision. Ingold v. AIMCO/Bluffs, L.L.C. Apartments, 159 P.3d 116 (Colo. 2007).

The public nature of the workers' compensation program is not sufficient to constitute per se public impact under the CCPA. Brodeur v. Am. Home Assurance Co., 169 P.3d 139 (Colo. 2007).

Company that made itself look better than it was by using language in its reports written and copyrighted by another company did not engage in a deceptive trade practice that significantly impacted the public. R.W. Beck, Inc. v. E3 Consulting, LLC, 577 F.3d 1133 (10th Cir. 2009).

Applied in Am. Television & Commc'ns Corp. v. Manning, 651 P.2d 440 (Colo. App. 1982); Nobody in Particular Presents, Inc. v. Clear Channel Commc'ns, Inc., 311 F. Supp. 2d (D. Colo. 2004); Campfield v. State Farm Mut. Auto. Ins. Co., 532 F.3d 1111 (10th Cir. 2008); HealthONE of Denver, Inc. v. UnitedHealth Group, Inc., 805 F. Supp. 2d 1115 (D. Colo. 2011); Peterson v. USAA Life Ins. Co., 353 F. Supp. 3d 1099 (D. Colo. 2018); Shekarchian v. Maxx Auto Recovery, Inc., 2019 COA 60, 487 P.3d 1026; Platt v. Winnebago Indus., 960 F.3d 1264 (10th Cir. 2020).

6-1-105.5. Hearing aid dealers - deceptive trade practices. (Repealed)

Source: L. 86: Entire section added, p. 443, § 1, effective April 17. **L. 87:** (2)(e)(III) amended, p. 358, § 5, effective July 1. **L. 88:** (2)(e)(II) amended, p. 343, § 3, effective July 1. **L. 92:** (1)(a), (1)(b), (2)(a), (2)(b), (2)(c), IP(2)(d), (2)(e), and (2)(f) amended and (1)(a.5), (1)(e), (2)(i), and (2)(j) added, pp. 228, 231, §§ 1, 2, effective July 1. **L. 93:** IP(2), (2)(e)(I), and (2)(i), amended, p. 1573, § 2, effective July 1. **L. 95.** IP(2) and (2)(e) amended and (3) added, p. 1331, § 2, effective July 1. **L. 99:** Entire section repealed, p. 655, § 14, effective May 18.

6-1-106. Exclusions.

(1) This article does not apply to:

(a) Conduct in compliance with the orders or rules of, or a statute administered by, a federal, state, or local governmental agency;

(b) Publishers, including outdoor advertising media, advertising agencies, broadcasters, or printers engaged in the dissemination of information or reproduction of printed or pictorial matter who publish, broadcast, or reproduce material without knowledge of its deceptive character; or

(c) Actions or appeals pending on or before July 1, 1969.

(2) This article shall not be interpreted to apply to the use by a person of any service mark, trademark, certification mark, collective mark, trade name, or other trade identification which was used and not abandoned prior to July 1, 1969, if the use was in good faith and is otherwise lawful except for the provisions of this article.

Source: L. 69: p. 373, § 3. **C.R.S. 1963:** § 55-5-3.

ANNOTATION

This section does not exempt the insurance industry from the provisions of the Colorado Consumer Protection Act (CCPA). Showpiece Homes Corp. v. Assurance Co. of Am., 38 P.3d 47 (Colo. 2001).

This section does not exempt attorney conduct that constitutes deceptive or unfair trade practices from the provisions of the CCPA. Crowe v. Tull, 126 P.3d 196 (Colo. 2006).

The CCPA is not preempted by the federal Real Estate Settlement Procedures Act (RESPA) given the breadth of the CCPA and its regulation of far wider deceptive trade practices than those covered by RESPA. Perkins v. Johnson, 551 F. Supp. 2d 1246 (D. Colo. 2008).

Applied in People ex rel. MacFarlane v. Alpert Corp., 660 P.2d 1295 (Colo. App. 1982); Suarez v. United Van Lines, Inc., 791 F. Supp. 815 (D. Colo. 1992); State v. Ctr. for Excel. in Higher Educ., 2021 COA 117, 499 P.3d 1081, aff'd in part, rev'd in part on other grounds, 2023 CO 23, 529 P.3d 599.

6-1-107. Powers of attorney general and district attorneys.

(1) When the attorney general or a district attorney has reasonable cause to believe that a person in this state or elsewhere has engaged in, is engaging in, or otherwise has information relevant to an unfair or deceptive trade practice described in this article 1, the attorney general or district attorney may:

(a) Request the person to file a statement or report in writing under oath or otherwise, on forms prescribed by the attorney general or district attorney, as to all facts and circumstances concerning the sale or advertisement of property by the person and any other data and information the attorney general or district attorney deems necessary;

(b) Examine under oath any person in connection with the sale or advertisement of any property;

(c) Examine any property or sample thereof, record, book, document, account, or paper the attorney general or district attorney deems necessary;

(d) Make true copies, at the expense of the attorney general or district attorney, of any record, book, document, account, or paper examined pursuant to paragraph (c) of this subsection (1), which copies may be offered into evidence in lieu of the originals thereof in actions brought pursuant to sections 6-1-109 and 6-1-110; and

(e) Pursuant to any order of any district court, impound any sample of property that is material to the unfair or deceptive trade practice and retain the same in the attorney general's or district attorney's possession until completion of all proceedings undertaken under this article 1. An order shall not be issued pursuant to this subsection (1)(e) without full opportunity given to the accused to be heard and unless the attorney general or district attorney has proven by clear and convincing evidence that the business activities of the person to whom an order is directed will not be impaired by the order.

(2) Nothing in subsection (1) of this section shall be construed to allow a district attorney to enforce this article 1 beyond the territorial limits of the district attorney's judicial district unless:

(a) The alleged unfair or deceptive trade practice or any portion of a transaction involving an alleged unfair or deceptive trade practice occurred in the district attorney's judicial district;

(b) The principal place of business of a defendant is located in the district attorney's district; or

(c) A defendant resides in the district attorney's judicial district.

Source: L. 69: p. 373, § 4. **C.R.S. 1963:** § 55-5-4. **L. 77:** IP(1), (1)(d), and (1)(e) amended and (2) added, p. 348, § 3, effective July 1. **L. 86:** IP(1) amended, p. 445, § 3, effective April 17. **L. 87:** (2) amended, p. 358, § 6, effective July 1. **L. 99:** IP(1) amended, p. 653, § 5, effective May 18. **L. 2013:** IP(1) amended, (SB 13-248), ch. 270, p. 1417, § 1, effective July 1. **L. 2017:** IP(1) amended, (HB 17-1023), ch. 64, p. 204, § 2, effective March 20. **L. 2021:** IP(1) amended, (SB 21-190), ch. 483, p. 3465, § 4, effective July 1, 2023. **L. 2026:** IP(1), (1)(a), (1)(c), (1)(e), and (2) amended, (HB 26-1426), ch. 334, p. 1990, § 10, effective August 12.

6-1-108. Subpoenas - hearings - rules.

(1) When the attorney general or a district attorney has reasonable cause to believe that a person, whether in this state or elsewhere, has engaged in or is engaging in a deceptive trade practice described in this article 1, the attorney general or a district attorney, in addition to other powers conferred upon the attorney general or a district attorney by this article 1, may issue subpoenas to require the attendance of witnesses or the production of documents, administer oaths, conduct hearings in aid of any investigation or inquiry, and prescribe such forms and adopt such rules as may be necessary to administer this article 1.

(2) Service of any notice or subpoena may be made in the manner prescribed by law or as provided in rule 4 of the Colorado rules of civil procedure.

(3) (a) If the records of a person that has been issued a subpoena are located outside this state, the person shall either:

(I) Make them available to the attorney general or district attorney at a convenient location within this state; or

(II) Pay the reasonable and necessary expenses for the attorney general or district attorney, or the attorney general's or district attorney's designee, to examine the records at the place where they are maintained.

(b) The attorney general or district attorney may designate representatives, including comparable officials of the state in which the records are located, to inspect the records on behalf of the attorney general or district attorney.

Source: L. 69: p. 374, § 5. **C.R.S. 1963:** § 55-5-5. **L. 77:** (1) amended, p. 349, § 4, effective July 1. **L. 2013:** (3) added, (SB 13-248), ch. 270, p. 1417, § 2, effective July 1. **L. 2016:** (1) amended, (HB 16-1094), ch. 94, p. 264, § 3, effective August 10. **L. 2017:** (1) and (2) amended, (HB 17-1023), ch. 64, p. 204, § 1, effective March 20. **L. 2021:** (1) amended, (SB 21-190), ch. 483, p. 3465, § 5, effective July 1, 2023. **L. 2026:** (1), IP(3)(a), and (3)(a)(II) amended, (HB 26-1426), ch. 334, p. 1991, § 11, effective August 12.

Cross references: For service of subpoena, see C.R.C.P. 45 (b).

ANNOTATION

This section is not unconstitutionally defective in authorizing the attorney general to issue a subpoena. People ex rel. MacFarlane v. Am. Banco Corp., 194 Colo. 32, 570 P.2d 825 (1977).

The purpose of this section empowering the attorney general to make investigations and issue subpoenas is to enable him to determine whether an action for injunctive relief should be brought. People ex rel. MacFarlane v. Am. Banco Corp., 194 Colo. 32, 570 P.2d 825 (1977).

Refusal to submit to unreasonable subpoena. The person from whom information is sought may refuse to submit to the demands of the subpoena if it is unreasonable. People ex rel. MacFarlane v. Am. Banco Corp., 194 Colo. 32, 570 P.2d 825 (1977).

Issuance of administrative subpoena under this section by district attorney for dominant purpose of gathering evidence for a pending criminal prosecution is an abuse of process and evidence so obtained should be suppressed from use in the pending criminal prosecution. People v. Fleming, 804 P.2d 231 (Colo. App. 1990).

Absent a waiver of immunity, an Indian tribe is immune from any action — criminal, civil, or injunctive — the attorney general may bring in a court to enforce the Colorado Consumer Protection Act. State ex rel. Suthers v. Cash Ad. & Pref., 205 P.3d 389 (Colo. App. 2008), aff'd on other grounds sub nom. Cash Advance & Pref. Cash Loans v. State, 242 P.3d 1099 (Colo. 2010).

Tribal sovereign immunity does not prevent the enforcement of the attorney general's subpoenas for information relevant to the determination by the trial court of whether sovereign immunity applies to a business affiliated with the tribe. State ex rel. Suthers v. Cash Ad. & Pref., 205 P.3d 389 (Colo. App. 2008), aff'd on other grounds sub nom. Cash Advance & Pref. Cash Loans v. State, 242 P.3d 1099 (Colo. 2010).

6-1-109. Remedies.

(1) If any person fails to cooperate with any investigation pursuant to section 6-1-107 or fails to obey any subpoena pursuant to section 6-1-108, the attorney general or a district attorney may apply to the appropriate district court for an appropriate order to effect the purposes of this article 1. The application shall state that there are reasonable grounds to believe that the order applied for is necessary to investigate a deceptive trade practice as defined in this article 1. If the court is satisfied that reasonable grounds exist, the court in its order may:

(a) Grant injunctive relief restraining the sale or advertisement of any property by such person;

(b) Require the attendance of or the production of documents by such person, or both;

(c) Grant such other or further relief as may be necessary to obtain compliance by such person.

Source: L. 69: p. 374, § 6. **C.R.S. 1963:** § 55-5-6. **L. 77:** IP(1) amended, p. 349, § 5, effective July 1. **L. 2018:** IP(1) amended, (HB 18-1028), ch. 42, p. 467, § 1, effective March 15.

ANNOTATION

Law reviews. For article, "Trade Secret Litigation: Injunctions and Other Equitable Remedies", see 48 U. Colo. L. Rev. 189 (1977).

What subsection (1)(c) authorizes. Subsection (1)(c) authorizes the issuance of any appropriate order under the circumstances as opposed to permitting only an order to comply with the original subpoena. People ex rel. MacFarlane v. Am. Banco Corp., 194 Colo. 32, 570 P.2d 825 (1977).

The burden of seeking court review under article 1 of title 6 and of satisfying the court that reasonable grounds exist to believe the subpoena is necessary to terminate or prevent a deceptive trade practice is upon the attorney general (now attorney general or district attorney). People ex rel. MacFarlane v. Am. Banco Corp., 194 Colo. 32, 570 P.2d 825 (1977).

Hearsay evidence is admissible in proceedings to enforce subpoenas. People ex rel. MacFarlane v. Am. Banco Corp., 194 Colo. 32, 570 P.2d 825 (1977).

An award of attorney fees and costs is required as dictated in § 6-1-113 in favor of the state when the state successfully enforces an investigative subpoena pursuant to this section. State ex rel. Coffman v. Vaden Law Firm LLC, 2015 COA 68, 411 P.3d 153.

6-1-110. Restraining orders - injunctions - assurances of discontinuance.

(1) Whenever the attorney general or a district attorney has cause to believe that a person has engaged in or is engaging in a deceptive trade practice described in this article 1, the attorney general or district attorney may apply for and obtain, in an action in the appropriate district court of this state, a temporary restraining order or injunction, or both, pursuant to the Colorado rules of civil procedure, prohibiting the person from continuing the practices, or engaging therein, or doing any act in furtherance thereof. The court may make such orders or judgments as may be necessary to prevent the use or employment by the person of any such deceptive trade practice or that may be necessary to completely compensate or restore to the original position of any person injured by means of any such practice or to prevent any unjust enrichment by any person through the use or employment of a deceptive trade practice.

(2) Where the attorney general or a district attorney has authority to institute a civil action or other proceeding pursuant to this article 1, the attorney general or district attorney may accept, in lieu thereof or as a part thereof, an assurance of discontinuance of a deceptive trade practice described in this article 1. The assurance may include a stipulation for the voluntary payment by

the alleged violator of the costs of investigation and any action or proceeding by the attorney general or a district attorney and any amount necessary to restore to any person any money or property that may have been acquired by the alleged violator by means of the deceptive trade practice. An assurance of discontinuance accepted by the attorney general or a district attorney and a stipulation filed with the court as a part of such an action or proceeding is a matter of public record unless the attorney general or the district attorney determines, at the discretion of the attorney general or district attorney, that it will be confidential to the parties to the action or proceeding and to the court and its employees. Upon the filing of a civil action by the attorney general or a district attorney alleging that a confidential assurance of discontinuance or stipulation accepted pursuant to this subsection (2) has been violated, the assurance of discontinuance or stipulation becomes a public record and open to inspection by any person. Proof by a preponderance of the evidence of a violation of an assurance or stipulation constitutes prima facie evidence of a deceptive trade practice for the purposes of any civil action or proceeding brought thereafter by the attorney general or a district attorney, whether a new action or a subsequent motion or petition in any pending action or proceeding.

(3) When the attorney general or a district attorney shows by a preponderance of evidence that a mortgage broker, mortgage originator, mortgage lender, mortgage loan applicant, real estate broker, real estate agent, real estate appraiser, or closing agent, other than a person who provides closing or settlement services subject to regulation by the division of insurance, has continued to participate in the origination of mortgage loans in violation of section 38-40-105, C.R.S., after having been previously enjoined from practices in violation of such section, the attorney general or district attorney may, in addition to any other remedies, apply for and obtain, in the court that has previously issued an injunction, a further injunction against continuing to participate in the business of originating mortgage loans for up to five years.

(4) In addition to any other remedy available under this section, when the attorney general or district attorney has cause to believe that a person has engaged in or is engaging in a deceptive trade practice described in section 6-1-720, the attorney general or district attorney may apply for and obtain, in an action in the appropriate district court of this state, an order forfeiting any tickets obtained, or the proceeds from the resale of any such tickets, in violation of section 6-1-720.

Source: L. 69: p. 374, § 7. **C.R.S. 1963:** § 55-5-7. **L. 77:** Entire section amended, p. 349, § 6, effective July 1. **L. 86:** Entire section amended, p. 446, § 4, effective April 17. **L. 87:** Entire section amended, p. 358, § 7, effective July 1. **L. 88:** (2) amended, p. 344, § 2, effective July 1. **L. 99:** Entire section amended, p. 653, § 6, effective May 18. **L. 2002:** (3) added, p. 1603, § 4, effective June 7. **L. 2007:** (3) amended, p. 1723, § 11, effective June 1. **L. 2008:** (4) added, p. 2230, § 2, effective July 1. **L. 2021:** (1) and (2) amended, (SB 21-190), ch. 483, p. 3466, § 6,

effective July 1, 2023. **L. 2026:** (1) and (2) amended, (HB 26-1426), ch. 334, p. 1992, § 12, effective August 12.

ANNOTATION

Law reviews. For article, "Trade Secret Litigation: Injunctions and Other Equitable Remedies", see 48 U. Colo. L. Rev. 189 (1977).

Defendant not entitled to a jury trial under the Colorado Consumer Protection Act (CCPA). The CCPA itself does not provide for jury trials, and, because the CCPA is equitable in nature, there is no right under the Colorado rules of civil procedure. People v. Shifrin, 2014 COA 14, 342 P.3d 506.

The authority of the attorney general to bring actions in the appropriate district court, granting the district court subject matter jurisdiction, is not affected if consumers in other states were harmed by the deceptive trade practice. People v. Wunder, 2016 COA 46, 371 P.3d 785.

Procedural due process protections require an evidentiary hearing before a court enters a significant money judgment for restitution under the CCPA. The CCPA authorizes a court to compensate or restore to the original position any person injured by a deceptive trade practice or to prevent any unjust enrichment of any person through the use of a deceptive trade practice, but due process requires advance notice and an opportunity to be heard prior to state action resulting in deprivation of a significant property interest. People v. Wunder, 2016 COA 46, 371 P.3d 785.

Defendant not entitled to setoff under § 13-50.5-105 for damages because the attorney general is not recovering tort damages under the CCPA. People v. Shifrin, 2014 COA 14, 342 P.3d 506.

Where a violation occurs, this section permits the attorney general to apply for either a temporary restraining order or injunction or to seek a voluntary "assurance of discontinuance" from a party alleged to have engaged in deceptive trade practices. People ex rel. Dunbar v. Gym of Am., Inc., 177 Colo. 97, 493 P.2d 660 (1972).

The attorney general should be granted the opportunity to choose, depending upon the circumstances of the case, between initiating an injunctive proceeding in court or accepting an assurance of discontinuance directly from the alleged violator. People ex rel. Dunbar v. Gym of Am., Inc., 177 Colo. 97, 493 P.2d 660 (1972).

Where the attorney general has authority to institute a civil action, he may accept an assurance of discontinuance of the deceptive trade practice in lieu thereof, giving him the option, whenever he has cause to believe that a person has engaged in a deceptive trade practice, of either filing an action in court against the alleged violator or accepting his assurance that he will discontinue the illegal practice. People ex

rel. Dunbar v. Gym of Am., Inc., 177 Colo. 97, 493 P.2d 660 (1972).

When the attorney general seeks an injunction he is not demanding that the defendant be punished with a penal sanction, but rather that the defendant be restrained from acting unlawfully in the future, so it is unnecessary that this section provide absolutely precise warning before its equitable sanctions are applied. People ex rel. Dunbar v. Gym of Am., Inc., 177 Colo. 97, 493 P.2d 660 (1972).

Moreover, the failure to set forth criteria to assist the attorney general in choosing between the two methods of enforcement set out in this section is not a denial of equal protection in violation of the Colorado Constitution, for, while a legislative body may not delegate the power to make or define a law, it may delegate the power, authority, and discretion as to the execution and enforcement of the law. People ex rel. Dunbar v. Gym of Am., Inc., 177 Colo. 97, 493 P.2d 660 (1972).

So long as the attorney general does not unreasonably abuse his discretion, his right to decide between accepting an assurance of discontinuance or initiating a court action will not be overturned on equal protection grounds. People ex rel. Dunbar v. Gym of Am., Inc., 177 Colo. 97, 493 P.2d 660 (1972).

Injunctive relief is unavailable in private actions under the CCPA. Allstate Ins. Co. v. Cruz, 733 F. Supp. 3d 1098 (D. Colo. 2024).

Remedies not limited. Subsection (1) does not restrict the attorney general's choice of remedies to an election between injunctive relief and the assurances of discontinuance provided for in subsection (2). W. Food Plan, Inc. v. District Court, 198 Colo. 213, 598 P.2d 1038 (1979).

Benefit of the bargain approach to restitution was a reasonable method for compensating injured consumers under this section. Under the plain language of this section, a court is not limited to the common law definition of restitution. People v. Shifrin, 2014 COA 14, 342 P.3d 506.

Attorney general may seek restitution separate from injunction for violations of this act. W. Food Plan, Inc. v. District Court, 198 Colo. 213, 598 P.2d 1038 (1979).

Section vests in trial court power to suppress proceedings brought under this act, and to keep the suppression in force until such time as the conditions set forth in the consent decree may be violated by the defendant. People ex rel. MacFarlane v. Delaware Corp., 626 P.2d 1144 (Colo. App. 1980).

Applied in People ex rel. MacFarlane v. Am. Banco Corp., 194 Colo. 32, 570 P.2d 825 (1977).

6-1-111. Information and evidence confidential and inadmissible - when.

(1) Any testimony obtained by the attorney general or a district attorney pursuant to compulsory process under this article or any information derived directly or indirectly from such testimony shall not be admissible in evidence in any criminal prosecution against the person so compelled to testify. The provisions of this subsection (1) shall not be construed to prevent any law enforcement officer from independently producing or obtaining the same or similar facts, information, or evidence for use in any criminal prosecution.

(2) Subject to the provisions of section 6-1-110 (2), the records of investigations or intelligence information of the attorney general or a district attorney obtained under this article may be deemed public records available for inspection by the general public at the discretion of the attorney general or the district attorney. This subsection (2) shall not be construed to prevent the attorney general or a district attorney from issuing public statements describing or warning of any course of conduct or any conspiracy which constitutes a deceptive trade practice, whether on a local, statewide, regional, or nationwide basis.

Source: L. 69: p. 375, § 8. **C.R.S. 1963:** § 55-5-8. **L. 77:** Entire section amended, p. 350, § 7, effective July 1. **L. 81:** (1) amended, p. 401, § 1, effective April 30. **L. 88:** (2) amended, p. 344, § 5, effective July 1.

ANNOTATION

Grant of immunity contained in subsection (1) cannot withstand constitutional scrutiny. People ex rel. MacFarlane v. Sari, 196 Colo. 235, 585 P.2d 591 (1978) (decided prior to 1981 amendment).

Immunity allows state to compel testimony. A grant of immunity as extensive as a witness's constitutional privilege against self-incrimination allows a state to compel testimony which might otherwise be unobtainable. People ex rel. Smith v. Jordan, 689 P.2d 1172 (Colo. App. 1984).

6-1-112. Civil penalties - definition.

(1) The attorney general or a district attorney may bring a civil action on behalf of the state to seek the imposition of civil penalties as follows:

(a) Except as provided in subsections (3) and (4) of this section, any person who violates or causes another to violate any provision of this article 1 shall forfeit and pay to the general fund of this state a civil penalty of not more than twenty thousand dollars for each violation. For

purposes of this subsection (1)(a), a violation of any provision constitutes a separate violation with respect to each consumer or transaction involved.

(b) Except as provided in subsections (3) and (4) of this section, any person who violates or causes another to violate any court order or injunction issued pursuant to this article 1 shall forfeit and pay to the general fund of this state a civil penalty of not more than ten thousand dollars for each violation. For the purposes of this section, the court issuing the order or injunction retains jurisdiction, and the cause is continued. Upon violation, the attorney general or a district attorney may petition the court for the recovery of the civil penalty. The civil penalty is in addition to any other penalty or remedy available for the enforcement of the provisions of this article 1 and any court order or injunction.

(c) Except as provided in subsections (3) and (4) of this section, any person who violates or causes another to violate any provision of this article 1, in which the violation was committed against an elderly person, shall forfeit and pay to the general fund of the state a civil penalty of not more than fifty thousand dollars for each violation. For purposes of this subsection (1)(c), a violation of any provision of this article 1 is a separate violation with respect to each elderly person involved.

(d) A person that violates or causes another to violate section 6-1-723 by distributing, dispensing, displaying for sale, offering for sale, attempting to sell, or selling a product that is labeled as a "bath salt" or any other trademark if the product contains any amount of any cathinones, as defined in section 18-18-102 (3.5), shall forfeit and pay to the general fund of the state a civil penalty of not less than ten thousand dollars and not more than five hundred thousand dollars for each such violation; except that the person shall forfeit and pay to the general fund of the state a civil penalty of not less than twenty-five thousand dollars and not more than five hundred thousand dollars for each such violation if the person distributes, dispenses, displays for sale, offers for sale, attempts to sell, or sells the product to a minor under eighteen years old and the person is at least eighteen years old and at least two years older than the minor.

(e) A person that violates or causes another to violate section 6-1-725 by distributing, dispensing, displaying for sale, offering for sale, attempting to sell, or selling a product that contains any amount of any synthetic cannabinoid, as defined in section 18-18-102 (34.5), shall forfeit and pay to the general fund of the state a civil penalty of not less than ten thousand dollars and not more than five hundred thousand dollars for each violation; except that the person shall forfeit and pay to the general fund of the state a civil penalty of not less than twenty-five thousand dollars and not more than five hundred thousand dollars for each violation if the person distributes, dispenses, displays for sale, offers for sale, attempts to sell, or sells the product to a minor under eighteen years old and the person is at least eighteen years old and at least two years older than the minor.

(f) (I) Any person who violates section 6-16-111 (1)(a) to (1)(g) shall forfeit and pay a civil penalty of up to ten thousand dollars for each violation, with a cap of three million dollars for a related series of violations. In determining a civil penalty under this subsection (1)(f), the court shall adjust the limitations cap for inflation based on the cumulative annual adjustment for inflation for each full year since August 10, 2016. The adjustments made under this subsection (1)(f)(I) are rounded upward or downward to the nearest ten-dollar increment. As used in this subsection (1)(f)(I), "inflation" means the annual percentage change in the United States department of labor's bureau of labor statistics consumer price index for Denver-Aurora-Lakewood for all items paid by all urban consumers, or its applicable predecessor or successor index.

(II) Any civil penalty recovered under this paragraph (f) is paid to the attorney general and held as custodial money. The attorney general shall petition the district court having jurisdiction over the underlying civil enforcement action for approval to grant the custodial money to a charity in accordance with the cy pres doctrine within two years after receipt by the attorney general.

(2) For accounting purposes, a fine or penalty received by the state under this article 1 is a damage award.

(3) The attorney general or district attorney shall transmit any civil penalty collected in accordance with this section for a violation described in section 38-12-1106 and enforced under section 6-1-105 (1)(z) to the state treasurer for deposit in the mobile home park water quality fund created in section 25-8-1006.

(4) The attorney general or district attorney shall transmit any civil penalty collected in accordance with this section for a violation described in section 6-1-105 (1)(iiii) to the state treasurer for deposit in the Colorado state veterans trust fund created in section 28-5-709.

Source: L. 69: p. 376, § 9. **C.R.S. 1963:** § 55-5-9. **L. 77:** Entire section amended, p. 351, § 8, effective July 1. **L. 87:** Entire section amended, p. 359, § 8, effective July 1. **L. 2000:** (3) added, p. 1107, § 2, effective August 2. **L. 2009:** Entire section amended, (SB 09-054), ch. 138, p. 596, § 1, effective August 5. **L. 2012:** (1)(d) added, (HB 12-1310), ch. 268, p. 1406, § 33, effective June 7. **L. 2014:** (1)(d) amended and (1)(e) added, (HB 14-1037), ch. 358, p. 1682, § 3, effective August 6. **L. 2016:** (1)(f) added, (HB 16-1129), ch. 262, p. 1075, § 1, effective August 10. **L. 2018:** (1)(f)(I) amended, (HB 18-1375), ch. 274, p. 1694, § 1, effective May 29. **L. 2019:** (1)(a) and (1)(c) amended and (2) added, (HB 19-1289), ch. 268, p. 2516, § 3, effective May 23. **L. 2023:** (1)(a), (1)(b), and (1)(c) amended and (3) added, (HB 23-1257), ch. 376, p. 2256, § 3, effective June 5. **L. 2025:** (1)(a), (1)(b), and (1)(c) amended and (4) added, (SB 25-282), ch. 412, p. 2342, § 1, effective August 6. **L. 2026:** (1)(d), (1)(e), and (3) amended, (HB 26-1426), ch. 334, p. 1993, § 13, effective August 12.

ANNOTATION

The general assembly expressly stated its intent that penalties imposed under subsection (1) are civil in nature. Moreover, the fact that the legislature provided that civil enforcement proceedings are to be governed by the Colorado rules of civil procedure reinforces the legislature's intent to create a civil penalty. Duncan v. Norton, 974 F. Supp. 1328 (D. Colo. 1997).

Subsection (1) aids the Colorado Consumer Protection Act's (CCPA's) overall remedial purpose of protecting the state's consumers against deceptive trade practices and is therefore properly characterized as serving primarily a remedial, and also a punitive, purpose. Duncan v. Norton, 974 F. Supp. 1328 (D. Colo. 1997).

Federal court declined to find that any amount of penalty imposed in the civil enforcement proceeding under subsection (1) would be so far criminal in nature as to preclude the attorney general from seeking penalties by use of plaintiff's prior compelled testimony. Duncan v. Norton, 974 F. Supp. 1328 (D. Colo. 1997).

Civil penalties based on the dissemination of misleading information rather than on the receipt of the information or on a consumer acting on the information effectuate the purpose of the statute. May Dept. Stores v. State, 863 P. 2d 967 (Colo. 1993).

Statute is intended to punish wrongdoer not compensate injured party. May Dept. Stores v. State, 863 P.2d 967 (Colo. 1993).

In a civil enforcement action, the state must prove the first three elements of a private right of action: (1) an unfair or deceptive practice; (2) in the course of defendant's business; (3) that significantly impacted the public as actual or potential consumers. State ex rel. Weiser v. Castle Law Group, 2019 COA 49, 457 P.3d 699.

The sole fact that a law firm's clients included quasi-public entities Fannie Mae and Freddie Mac did not establish a significant impact to the public. The deceptive practice was not directed to the market generally; the taxpayers did not hire the law firm to perform the services involved; the misrepresentation was made to the entities only in the context of a private agreement between the firm and the entities; and the entities are not the type of consumers the statute was intended to protect. State ex rel. Weiser v. Castle Law Group, 2019 COA 49, 457 P.3d 699.

"Each consumer or transaction" contemplates two separate violations, one involving a consumer and one involving a transaction. A consumer relying or acting upon an advertisement is a separate and distinct violation from the act of advertising. Consumer involvement almost necessarily involves injury while a transaction does not have to cause actual injury to the consumer to be a violation. May Dept. Stores v. State, 863 P.2d 967 (Colo. 1993).

The phrase "for accounting purposes" in subsection (2) must, at the very least, mean what it says: civil penalties are considered a damages award for accounting purposes only. State v. Ctr. for Excellence in Higher Educ., 2023 CO 23, 529 P.3d 599.

An enforcement action seeking civil penalties under this act is equitable in nature. Therefore, there is no right to a jury trial on civil penalty claims. State v. Ctr. for Excellence in Higher Educ., 2023 CO 23, 529 P.3d 599.

Borrower's affidavits were inadmissible hearsay and could not be used to determine the remedy under the CCPA. Witnesses' testimony supported finding of a violation of the CCPA, but court's reliance on the affidavits to determine awards was in error. Though defendant had an opportunity to depose the affiants, this fact alone does not make the affidavits admissible, and no hearsay exception existed. People v. Shifrin, 2014 COA 14, 342 P.3d 506.

This section does not require an actual injury or loss to a customer before a civil penalty may be awarded. State v. May Dept. Stores Co., 849 P.2d 802 (Colo. App. 1992).

In determining the amount of a civil penalty award, the court should apply the following concepts: (a) The good or bad faith of the defendant; (b) the injury to the public; (c) the defendant's ability to pay; and (d) the desire to eliminate the benefits derived by violations of the CCPA. State v. May Dept. Stores Co., 849 P.2d 802 (Colo. App. 1992).

Because the court should consider several factors in its determination of the amount of civil penalties under this section, an evidentiary hearing is required. People v. Wunder, 2016 COA 46, 371 P.3d 785.

Civil penalties awarded under subsection (1) are nondischargeable under 11 U.S.C. § 523(a)(7). The amounts awarded are penalties within the meaning of 11 U.S.C. § 523(a)(7). In re Jensen, 395 B.R. 472 (Bankr. D. Colo. 2008).

Three-year statute of limitations in § 6-1-115 applies to a claim under this section. The more specific statute controls over the more general provisions of § 13-80-103 (1)(d). State ex rel. Weiser v. Castle Law Group, 2019 COA 49, 457 P.3d 699.

6-1-113. Civil actions - damages - other relief - class actions.

(1) The provisions of this article shall be available in a civil action for any claim against any person who has engaged in or caused another to engage in any deceptive trade practice listed in this article. An action under this section shall be available to any person who:

(a) Is an actual or potential consumer of the defendant's goods, services, or property and is injured as a result of such deceptive trade practice, or is a residential subscriber, as defined in section 6-1-903 (9), who receives unlawful telephone solicitation, as defined in section 6-1-903 (10); or

(b) Is any successor in interest to an actual consumer who purchased the defendant's goods, services, or property; or

(c) In the course of the person's business or occupation, is injured as a result of such deceptive trade practice.

(2) Except in a class action or a case brought for a violation of section 6-1-709, and notwithstanding any other law, any person who, in a private civil action, is found to have engaged in or caused another to engage in any deceptive trade practice listed in this article 1 is liable in an amount equal to the sum of:

(a) The greater of:

(I) The amount of actual damages sustained, including prejudgment interest of either eight percent per year or at the rate provided in section 13-21-101, whichever is greater, from the date the claim under this article 1 accrued; or

(II) Five hundred dollars; or

(III) Three times the amount of actual damages sustained, if it is established by clear and convincing evidence that such person engaged in bad faith conduct; plus

(b) In the case of any successful action to enforce said liability, the costs of the action together with reasonable attorney fees as determined by the court.

(2.3) As used in subsection (2) of this section, "bad faith conduct" means fraudulent, willful, knowing, or intentional conduct that causes injury.

(2.5) Notwithstanding the provisions of subsection (2) of this section, in the case of any violation of section 6-1-709, in addition to interest, costs of the action, and reasonable attorney fees as determined by the court, the prevailing party shall be entitled only to damages in an amount sufficient to refund moneys actually paid for a manufactured home not delivered in accordance with the provisions of section 6-1-709.

(2.7) Notwithstanding the provisions of subsection (2) of this section, in the case of any violation of section 6-1-105 (1)(ss), the court may award reasonable costs of the action and attorney fees and interest, and in addition, the prevailing party shall be entitled only to damages in an amount sufficient to refund moneys actually paid for the installation of a manufactured home not installed in accordance with the provisions of part 33 of article 32 of title 24, C.R.S., that apply to the installation of manufactured homes.

(2.9) In a case certified as a class action, a successful plaintiff may recover actual damages, injunctive relief allowed by law, and reasonable attorney fees and costs.

(3) Any person who brings an action under this article 1 that is found by the court to be frivolous, groundless and in bad faith, or for the purpose of harassment shall be liable to the

defendant for the costs of the action together with reasonable attorney fees as determined by the court.

(4) Costs and attorney fees shall be awarded to the attorney general or a district attorney in all actions where the attorney general or the district attorney successfully enforces this article.

Source: L. 69: p. 376, § 12. **C.R.S. 1963:** § 55-5-12. **L. 86:** Entire section amended, p. 446, § 5, effective April 17. **L. 87:** Entire section amended, p. 360, § 9, effective July 1. **L. 98:** IP(2) amended and (2.5) added, p. 748, § 3, effective August 5. **L. 99:** Entire section amended, p. 636, § 1, effective May 18. **L. 2000:** (2.7) added, p. 1162, § 4, effective July 1, 2001. **L. 2001:** (1)(a) amended, p. 1461, § 3, effective August 8. **L. 2003:** (2.7) amended, p. 550, § 4, effective March 5. **L. 2019:** IP(2), (2)(a)(I), and (3) amended, (HB 19-1289), ch. 268, p. 2517, § 4, effective May 23. **L. 2022:** (2.9) added, (HB 22-1071), ch. 36, p. 190, § 1, effective August 10.

ANNOTATION

Law reviews. For article, "Recreational Waivers in Colorado: Playing at Your Own Risk", see 32 Colo. Law. 77 (Aug. 2003). For article, "The Past, Present, and Future of Residential Construction Defect Action Reform in Colorado", see 54 Colo. Law. 28 (Jan.-Feb. 2025).

The treble damages provision of this section does not violate the due process or equal protection guarantees of the state and federal constitutions. Vista Resorts, Inc. v. Goodyear Tire & Rubber Co., 117 P.3d 60 (Colo. App. 2004).

The general assembly did not clearly express its intent for subsection (2.9) to apply retroactively. Vandiver v. MG Billing Ltd., 653 F. Supp. 3d 884 (D. Colo. 2023).

However, subsection (2.9) is a remedial and procedural — not substantive — statutory provision. Subsection (2.9) simply allows for greater remedies and the mechanism for attaining them and does not alter the substantive rights this act provides. Vandiver v. MG Billing Ltd., 653 F. Supp. 3d 884 (D. Colo. 2023).

Therefore, subsection (2.9) applies retroactively to consumer's claim. Vandiver v. MG Billing Ltd., 653 F. Supp. 3d 884 (D. Colo. 2023).

Retroactive application of subsection (2.9) does not violate defendant's due process rights. Accordingly, consumer could pursue his claim on a class-wide basis. Vandiver v. MG Billing Ltd., 653 F. Supp. 3d 884 (D. Colo. 2023).

For purposes of a private right of action, "any person" means a person who establishes that: (1) The defendant engaged in an unfair or deceptive trade practice; (2) the challenged practice occurred in the course of the defendant's business, vocation, or occupation; (3) it significantly impacts the public as actual or potential customers of the defendant's goods, services, or property;

(4) the plaintiff suffered injury in fact to a legally protected interest; and (5) the challenged practice caused the plaintiff's injury. Hall v. Walter, 969 P.2d 224 (Colo. 1998); Loughridge v. Goodyear Tire & Rubber Co., 192 F. Supp. 2d 1175 (D. Colo. 2002); Anson v. Trujillo, 56 P.3d 114 (Colo. App. 2002).

Factors applied in Full Draw Prods. v. Easton Sports, Inc., 85 F. Supp. 2d 1001 (D. Colo. 2000).

The plain language of this section provides that any person may bring an action under the Colorado Consumer Protection Act (CCPA). Therefore, third-party non-consumers have standing to bring actions under the CCPA. Walter v. Hall, 940 P.2d 991 (Colo. App. 1996), aff'd, 969 P.2d 224 (Colo. 1998).

A claim under this act and a claim of implied warranty of fitness are not mutually exclusive. 1881 Extraction Co. LLC v. Kiinja Corp., 660 F. Supp. 3d 1059 (D. Colo. 2023).

Plaintiff is not authorized to bring an action under the CCPA because, under the plain language of subsection (1), plaintiff was not an assignee whose assignors were actual consumers who purchased defendant's goods, services, or property, nor was plaintiff an actual or potential consumer of defendant's goods, services, or property injured as a result of the facsimile transmissions. By specifying in subsection (1) the circumstances under which a successor in interest may bring a CCPA claim, the general assembly necessarily excluded successors in interest from bringing claims under other circumstances. U.S. Fax Law Ctr. v. Myron Corp., 159 P.3d 745 (Colo. App. 2006).

Injunctive relief is unavailable in private actions under this act. Allstate Ins. Co. v. Cruz, 733 F. Supp. 3d 1098 (D. Colo. 2024).

Individual liability of corporate officers and agents proper under this article. This section allows civil actions against "any person" who has engaged in a deceptive trade practice. Hoang v. Arbess, 80 P.3d 863 (Colo. App. 2003).

Vicarious liability claim against mortgage brokerage firm that employed licensed securities broker who violated the CCPA survives motion to dismiss. Dolin v. Contemporary Fin. Sols., Inc., 622 F. Supp. 2d 1077 (D. Colo. 2009).

Although the term "any person" is broad, the CCPA will not remedy private injuries. Loughridge v. Goodyear Tire & Rubber Co., 192 F. Supp. 2d 1175 (D. Colo. 2002).

The right to a civil action under the CCPA is waivable. Where a common interest community's declaration includes a mandatory arbitration provision, CCPA claims included in a construction defect case against the developer of the common interest community are arbitrable. Vallagio at Inverness v. Metro. Homes, 2015 COA 65, 412 P.3d 709, aff'd, 2017 CO 69, 395 P.3d 788.

Three factors must be considered in assessing the public impact of an allegedly deceptive trade practice: The number of

consumers directly affected by the challenged practice; the relative sophistication and bargaining power of the consumers affected by the challenged practice; and evidence that the challenged practice previously impacted other consumers or has significant potential to do so in the future. Loughridge v. Goodyear Tire & Rubber Co., 192 F. Supp. 2d 1175 (D. Colo. 2002); Dean Witter Reynolds, Inc. v. Variable Annuity Life Ins. Co., 373 F.3d 1100 (10th Cir. 2004).

The CCPA requires actual injury before an individual may maintain a private cause of action. Hall v. Walter, 969 P.2d 224 (Colo. 1998); Purple Onion Foods, Inc. v. Blue Moose of Boulder, Inc., 45 F. Supp. 2d 1255 (D. Colo. 1999).

A plaintiff does not have to incur out-of-pocket losses to have suffered an actual injury. Shekarchian v. Maxx Auto Recovery, Inc., 2019 COA 60, 487 P.3d 1026.

Under Colorado law, a claim for liquidated damages under the Telephone Consumer Protection Act, 47 U.S.C. § 227, is a claim for a penalty that cannot be assigned. Kruse v. McKenna, 178 P.3d 1198 (Colo. 2008).

If a claim by a corporation is within the zone of interests of the CCPA, a corporation is a person entitled to bring a claim under the act. Fiberglass Component Prod. v. Reichhold Chems., Inc., 983 F. Supp. 948 (D. Colo. 1997).

Business losses that result when deceptive trade practices dissuade potential attendees from attending a trade show constitute an injury to an interest protected by the CCPA. Full Draw Prods. v. Easton Sports, Inc., 85 F. Supp. 2d 1001 (D. Colo. 2000).

Challenged conduct must significantly impact the public as actual or potential consumers of the product. Martinez v. Lewis, 969 P.2d 213 (Colo. 1998); NetQuote, Inc. v. Byrd, 504 F. Supp. 2d 1126 (D. Colo. 2007); Shekarchian v. Maxx Auto Recovery, Inc., 2019 COA 60, 487 P.3d 1026.

Alleged misrepresentations concerning independent medical examiner's qualifications were made solely to sophisticated insurance company, not the public. Therefore, claim under CCPA brought by insured properly dismissed. Martinez v. Lewis, 969 P.2d 213 (Colo. 1998).

Allegations did not meet the public impact element required by this section because they did not plausibly suggest that defendant's conduct significantly impacted the public as actual or potential consumers. NetQuote, Inc. v. Byrd, 504 F. Supp. 2d 1126 (D. Colo. 2007).

The CCPA applies when the last event creating possible liability occurred in Colorado. Where allegedly disparaging statements were disseminated and individual allegedly suffered actual injury in Colorado, the CCPA applies. Purple Onion Foods, Inc. v. Blue Moose of Boulder, Inc., 45 F. Supp. 2d 1255 (D. Colo. 1999).

Claimant not within group of persons the statute was intended to protect because the physician's conduct in performing claimant's independent

medical examination occurred in the context of the contract between the physician and the insurer and not between the physician and the claimant. Claimant never asserted that the physician made false representations to her or that she relied on such misrepresentations. Martinez v. Lewis, 942 P.2d 1219 (Colo. App. 1996), aff'd, 969 P.2d 213 (Colo. 1998).

An individual who asserts a claim in which the individual proposes to represent a class can maintain an individual claim for such relief if the class is not certified. Such an individual claim remains viable notwithstanding the absence of class certification. Thomas v. Childhelp, Inc., 2024 COA 16, 548 P.3d 1152.

Award of attorney fees under this section appropriate inasmuch as defendant's fraudulent misrepresentation was a deceptive trade practice under § 6-1-103. Dodds v. Frontier Chevrolet Sales & Serv., Inc., 676 P.2d 1237 (Colo. App. 1983).

Attorney fees award not dischargeable under the federal bankruptcy code. The award is sufficiently penal to constitute a "fine, penalty, or forfeiture". State v. Robert J. Hopp & Assocs., 2018 COA 71, 422 P.3d 617.

Attorney fees recoverable in action under No-Call List Act. A successful claimant under § 6-1-904 is entitled to attorney fees in accordance with this section. Holcomb v. Steven D. Smith, Inc., 170 P.3d 815 (Colo. App. 2007).

Trial court's award of attorney fees to defendant appropriate. To prove a private cause of action for a deceptive trade practice under the CCPA, a plaintiff must show that: (1) The defendant engaged in an unfair or deceptive trade practice; (2) the challenged practice occurred in the course of defendant's business; (3) it significantly impacted the public as actual or potential consumers of the defendant's goods, services, or property; (4) the plaintiff suffered injury in fact to a legally protected interest; and (5) the challenged practice caused the plaintiff's injury. Plaintiff's deceptive trade practices claim, therefore, was frivolous and groundless under subsection (3) when plaintiff failed to allege that defendant's conduct significantly impacted the public as an actual or potential consumer or submit factual material that would support such a finding. Wheeler v. T.L. Roofing, Inc., 74 P.3d 499 (Colo. App. 2003).

This section unambiguously requires an award of attorney fees and costs in favor of the state when the state successfully enforces an investigative subpoena pursuant to the procedure dictated by § 6-1-109. State ex rel. Coffman v. Vaden Law Firm LLC, 2015 COA 68, 411 P.3d 153.

Award of attorney fees inappropriate under this section where plaintiff lacks standing to bring a cause of action pursuant to the CCPA. Anson v. Trujillo, 56 P.3d 114 (Colo. App. 2002).

Trial court's order awarding attorney fees to the plaintiff without setting the amount of the award was a final, appealable order. Because the statute shifts fees and costs to the violator, an award of fees under the statute is more akin to costs

than damages. Therefore, the order awarding fees was appealable even though the court had not determined the amount of the award. Martinez v. LHM Corp., TCD, 2020 COA 53M, 490 P.3d 708, aff'd on other grounds, 2021 CO 78, 499 P.3d 1050.

Offer of settlement as to "all claims" unambiguously includes attorney fees and costs if the only claim for attorney fees and costs appears in the complaint. The offer of settlement need not explicitly reference attorney fees and costs. Bumbal v. Smith, 165 P.3d 844 (Colo. App. 2007).

Treble damages available under this section are separate and distinct from punitive damages available under § 13-21-102. 1881 Extraction Co. LLC v. Kiinja Corp., 660 F. Supp. 3d 1059 (D. Colo. 2023).

Treble damages provided by this section and punitive damages awarded under § 13-21-102 serve the same purposes of punishment and deterrence. Lexton-Ancira Real Estate Fund v. Heller, 826 P.2d 819 (Colo. 1992).

Plaintiff was not entitled to recover both treble damages under this section and punitive damages under § 13-21-102, since damages under both sections serve same purposes. Lexton-Ancira Real Estate Fund v. Heller, 826 P.2d 819 (Colo. 1992).

If this section does not apply, punitive damages may still be available under other provisions of law. Section 13-21-102 allows for punitive damages, and even treble punitive damages, under some circumstances. Coors v. Sec. Life of Denver Ins. Co., 112 P.3d 59 (Colo. 2005).

Rule against double recovery does not preclude plaintiff from pursuing claims to recover both enhanced damages under this section and exemplary damages. Accordingly, plaintiffs' complaint should not have been dismissed on summary judgment. Although plaintiffs may not recover from defendant any actual damages for which they have already received payment and may not relitigate the amount of those damages, they must be permitted to attempt to establish their entitlement to treble damages under this section or exemplary damages under § 13-21-102. Quist v. Specialties Supply Co., Inc., 12 P.3d 863 (Colo. App. 2000).

Retroactive application of enhanced civil remedies in this section is permissible. Treble-damages provision of this section could be applied where health club had violated substantive provisions of act prior to amendment of this section, since amendment did not impose new duties on health clubs in relation to their customers. Robinson v. Lynmar Racquet Club, Inc., 851 P.2d 274 (Colo. App. 1993).

Attorney fees incurred in unsuccessful attempt to obtain class certification were properly disallowed, since subsection (2) clearly prohibits an award of attorney fees in a class action. Robinson v. Lynmar Racquet Club, Inc., 851 P.2d 274 (Colo. App. 1993).

Trial court may limit award of attorney fees to that which is "reasonable". Robinson v. Lynmar Racquet Club, Inc., 851 P.2d 274 (Colo. App. 1993).

In estimating reasonable attorney fees to be awarded, a court should first apply

the percentage reductions to the total hours billed to determine the reasonable number of hours expended and then multiply that number of hours by the trial court's determined reasonable hourly rates. Payan v. Nash Finch Co., 2012 COA 135M, 310 P.3d 212.

A trial court is not required to advise a jury that a finding of deceptive trade practices will result in an award of treble damages under this section. Heritage Vill. Owners Ass'n v. Golden Heritage Inv'rs, Ltd., 89 P.3d 513 (Colo. App. 2004).

This section not in conflict with § 13-17-201. This section allows attorney fees when claims are groundless and in bad faith or for the purpose of harassment, while § 13-17-201 applies to a motion pursuant to C.R.C.P. 12(b). The provisions can stand side by side because they mandate awards in different circumstances. US Fax Law Ctr., Inc. v. Henry Schein, Inc., 205 P.3d 512 (Colo. App. 2009).

6-1-114. Criminal penalties.

Any person who promotes a pyramid promotional scheme in this state commits a class 1 misdemeanor, as defined in section 18-1.3-501. Any person who violates article 230 of title 12 or section 6-1-701 or 6-1-717 commits a class 2 misdemeanor.

Source: L. 73: p. 620, § 5. **C.R.S. 1963:** § 55-5-14. **L. 89:** Entire section amended, p. 820, § 2, effective July 1. **L. 92:** Entire section amended, p. 231, § 3, effective July 1. **L. 99:** Entire section amended, p. 654, § 7, effective May 18. **L. 2002:** Entire section amended, p. 1465, § 11, effective October 1. **L. 2007:** Entire section amended, p. 1728, § 6, effective June 1; entire section amended, p. 809, § 2, effective July 1. **L. 2008:** Entire section amended, p. 1879, § 6, effective August 5. **L. 2013:** Entire section amended, (SB 13-228), ch. 271, p. 1425, § 3, effective May 24; entire section amended, (SB 13-238), ch. 401, p. 2349, § 2, effective July 1. **L. 2019:** Entire section amended, (HB 19-1172), ch. 136, p. 1644, § 9, effective October 1. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3134, § 56, effective March 1, 2022.

Editor's note: (1) Amendments to this section by Senate Bill 07-208 and Senate Bill 07-085 were harmonized.

(2) Amendments to this section by Senate Bill 13-228 and Senate Bill 13-238 were harmonized.

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 318, Session Laws of Colorado 2002.

ANNOTATION

Law reviews. For article, "Criminal Prosecutions under the Colorado Securities Act", see 47 U. Colo. L. Rev. 233 (1976).

6-1-115. Limitations.

All actions brought under this article must be commenced within three years after the date on which the false, misleading, or deceptive act or practice occurred or the date on which the last in a series of such acts or practices occurred or within three years after the consumer discovered or in the exercise of reasonable diligence should have discovered the occurrence of the false, misleading, or deceptive act or practice. The period of limitation provided in this section may be extended for a period of one year if the plaintiff proves that failure to timely commence the action was caused by the defendant engaging in conduct calculated to induce the plaintiff to refrain from or postpone the commencement of the action.

Source: L. 87: Entire section added, p. 360, § 10, effective July 1.

ANNOTATION

Law reviews. For article, "Construction Defect Statutes of Limitation and Repose Update, Part I", see 49 Colo. Law. 26 (Dec. 2020).

This section applies to an action on behalf of the state under § 6-1-112, not more general provisions of § 13-80-103 (1)(d). State ex rel. Weiser v. Castle Law Group, 2019 COA 49, 457 P.3d 699.

Applicable limitation statute is that in effect when claim accrues. Robinson v. Lynmar Racquet Club, Inc., 851 P.2d 274 (Colo. App. 1993).

Applied in Damian v. Mtn. Parks Elec., Inc., 2012 COA 217, 310 P.3d 242; Oaster v. Robertson, 173 F. Supp. 3d 1150 (D. Colo. 2016).

6-1-116. Investigation of unfair business practices by regulated persons - district attorney requests for records from licensing authorities - interagency agreements with attorney general - legislative declaration - definitions.

(1) The general assembly hereby finds, determines, and declares that:

(a) Federal and state consumer protection and unfair trade laws, such as those prohibiting unfair or deceptive trade practices, price fixing, and monopolization, exist to protect consumers against unfair business practices that undermine fair competition, a thriving small business sector, and consumers' rights to make informed economic decisions;

(b) District attorneys and the attorney general are tasked with, and have the expertise needed for, enforcing consumer protection laws in the state;

(c) A licensing authority might have information relevant to a complaint alleging that a person that the licensing authority regulates has committed unfair or deceptive trade practices; and

(d) Therefore, it best serves the consumer protection interests of the state to allow a licensing authority to share with a district attorney or the attorney general information regarding a regulated person, which information may be relevant to a consumer protection investigation of the regulated person.

(2) (a) Upon receiving a complaint alleging a violation of the consumer protection laws set forth in this article 1, a district attorney may request records from a licensing authority regarding a person that is the subject of the complaint if the complaint alleges that:

(I) The complainant suffered damages in an amount of at least twenty thousand dollars and the district attorney determines the amount of damages alleged appears to be a reasonable amount in relation to the alleged conduct forming the basis of the complaint; or

(II) Two or more persons regulated by the licensing authority jointly engaged in conduct that forms the basis of the complaint.

(b) Notwithstanding any other provision of law that may prohibit a licensing authority from complying with this subsection (2), to facilitate the district attorney's investigation into and enforcement of the complaint, a licensing authority shall provide the district attorney with copies of, or access to inspect, the records requested if the licensing authority has already determined it will not take action against the regulated person or persons.

(c) This subsection (2) does not apply to a person regulated by a board or commission.

(3) In addition to the costs and attorney fees that the regulated person or persons complained of are entitled to recover from the complainant pursuant to section 6-1-113 (3), if a court determines that the complaint is frivolous, groundless, and was filed in bad faith, or if the regulated person or persons prevail or substantially prevail in the matter, the court's order may also require the complainant to pay the regulated person's or persons' costs incurred, actual damages sustained, and reasonable attorney fees incurred in relation to:

(a) The district attorney's or attorney general's investigation of the matter; and

(b) The licensing authority's investigation of a complaint against the regulated person or persons if the court determines that the two complaints were filed by the same complainant and in regard to the same matter.

(4) Notwithstanding any law to the contrary, subject to approval by the head of an executive department, a state licensing authority within the department may enter into an interagency agreement with the attorney general or the attorney general's designee for the referral of any complaint that appears to allege a violation of this article 1 or article 2 or 4 of this title 6. The interagency agreement may provide for referrals of complaints, information sharing, confidentiality requirements, and other terms that facilitate the investigation and enforcement of complaints alleging violations of consumer protection or unfair trade laws.

(5) Any copies of records that a licensing authority sends to a district attorney, the attorney general, or the attorney general's designee pursuant to this section are records of the investigation of a prosecuting attorney pursuant to section 24-72-204 (2)(a)(I) and are not subject to the right of inspection under the "Colorado Open Records Act", part 2 of article 72 of title 24.

(6) As used in this section, unless the context otherwise requires:

(a) "District attorney" includes the district attorney and the chief deputy district attorneys, special deputy district attorneys, deputy district attorneys, and assistant district attorneys that the district attorney appoints pursuant to part 2 of article 1 of title 20.

(b) "Licensing authority" means a state licensing authority or a local licensing authority.

(c) "Local licensing authority" means the governing body of a statutory or home rule municipality, county, or city and county that is authorized to issue or approve a local license to a regulated person or for an activity.

(d) (I) "State licensing authority" means a department or division of the state that is authorized to issue to or approve a state license for a regulated person, which state license only authorizes the licensee to perform activities at specific premises.

(II) "State licensing authority" does not include any board or commission.

Source: L. 2022: Entire section added, (SB 22-157), ch. 154, p. 980, § 1, effective August 10. **L. 2026:** (4) amended, (HB 26-1426), ch. 334, p. 1993, § 14, effective August 12.

6-1-117. Colorado consumer protection act advisory council - created - membership - duties - subject to review - repeal.

(1) The Colorado consumer protection act advisory council, referred to in this section as the "advisory council", is created in the department of law. The advisory council consists of three members appointed by the attorney general as follows:

(a) One member representing the business community or an association representing business interests;

(b) One member representing a statewide consumer advocacy organization; and

(c) One member of the public.

(2) The members of the advisory council shall elect a chair and vice-chair from among the advisory council members appointed pursuant to subsection (1) of this section, which presiding officers shall serve terms of two years. Advisory council members may reelect a presiding officer.

(3) (a) Each member of the advisory council serves at the pleasure of the attorney general for a term of three years; except that:

(I) The initial member appointed pursuant to subsection (1)(a) of this section shall serve a term of one year; and

(II) The initial member appointed pursuant to subsection (1)(b) of this section shall serve a term of two years.

(b) The attorney general may reappoint a member to serve no more than three terms.

(c) Members of the advisory council may be reimbursed by the department of law for actual and necessary expenses incurred in the conduct of official business.

(4) The advisory council shall meet at least two times each year to discuss emerging issues in consumer protection and any other matters referred to the advisory council for discussion by the attorney general.

(5) This section is repealed, effective September 1, 2032. Before the repeal, the advisory council is scheduled for review in accordance with section 2-3-1203.

Source: L. 2026: Entire section added, (HB 26-1426), ch. 334, p. 1994, § 15, effective August 12.

PART 2

AUTO RENTAL CONTRACTS - COLLISION DAMAGE WAIVERS

6-1-201. Definitions.

As used in this part 2, unless the context otherwise requires:

(1) "Collision damage waiver" means any contract or contractual provision, whether separate from or a part of a motor vehicle rental agreement, whereby the lessor agrees, for a charge, to waive any and all claims against the lessee for any damages to the rental motor vehicle during the term of the rental agreement.

(2) "Lessee" means any person or organization obtaining the use of a rental motor vehicle from a lessor under the terms of a rental agreement.

(3) "Lessor" means any person or organization in the business of providing rental motor vehicles to the public.

(4) "Private passenger type automobile or vehicle" means a motor vehicle of the private passenger or station wagon type, including passenger vans and minivans that are primarily for the transport of persons.

(5) "Rental agreement" means a written agreement setting forth the terms and conditions governing the use of a rental motor vehicle by a lessee for a period of less than one hundred eighty days.

(6) "Rental motor vehicle" means a private passenger type automobile or vehicle which, upon execution of a rental agreement, is made available to a lessee for its use.

Source: L. 89: Entire part added, p. 361, § 1, effective January 1, 1990.

6-1-202. Prohibited act.

No lessor engaged in renting motor vehicles may sell to any lessee renting a motor vehicle in this state a collision damage waiver as part of the rental contract unless the lessor first gives the lessee written disclosure, as provided in section 6-1-203, of the terms and provisions of such waiver.

Source: L. 89: Entire part added, p. 361, § 1, effective January 1, 1990.

ANNOTATION

A plaintiff cannot merely rely on a per se violation of this section for causation; instead, he or she must show an actual injury. Section 6-1-113 states that a plaintiff must establish an "injur[y] as a result of [an alleged] deceptive practice". Friedman v. Dollar Thrifty Auto. Grp., Inc., 227 F. Supp. 3d 1192 (D. Colo. 2017).

6-1-203. Collision damage waiver form - requirements - failure to comply.

(1) Any collision damage waiver form shall conform to the following requirements:

(a) It shall be understandable and written in simple and readable plain language;

(b) The terms of such collision damage waiver, including, but not limited to, any conditions or exclusions applicable to the collision damage waiver, shall be prominently displayed;

(c) All restrictions, conditions, or provisions in, or endorsed on, the collision damage waiver shall be printed in type at least as large as brevier or ten-point type;

(d) The collision damage waiver shall include a statement of the total charge for the anticipated rental period or the anticipated total daily charge; and

(e) The agreement containing the collision damage waiver shall display the following notice on the face of the agreement, set apart and in bold-faced type, and in type at least as large as ten-point type:

NOTICE: THIS CONTRACT OFFERS, FOR AN ADDITIONAL CHARGE, A COLLISION DAMAGE WAIVER TO COVER YOUR RESPONSIBILITY FOR DAMAGE TO THE VEHICLE. YOU ARE ADVISED NOT TO SIGN THIS WAIVER IF YOU HAVE RENTAL VEHICLE COLLISION COVERAGE PROVIDED BY CERTAIN GOLD OR PLATINUM CREDIT CARDS OR COLLISION INSURANCE ON YOUR OWN VEHICLE. BEFORE DECIDING WHETHER TO PURCHASE THE COLLISION DAMAGE WAIVER, YOU MAY WISH TO DETERMINE WHETHER YOUR OWN VEHICLE INSURANCE AFFORDS YOU COVERAGE FOR DAMAGE TO THE RENTAL VEHICLE AND THE AMOUNT OF THE DEDUCTIBLE UNDER YOUR OWN INSURANCE COVERAGE. THE PURCHASE OF THIS COLLISION DAMAGE WAIVER IS NOT MANDATORY AND MAY BE WAIVED.

(2) The failure by a lessor to comply with any provision of this section is a deceptive trade practice under the provisions of this article.

Source: L. 89: Entire part added, p. 362, § 1, effective January 1, 1990.

6-1-204. Prohibited exclusion.

(1) No collision damage waiver subject to this part 2 shall contain an exclusion from the waiver for damages caused by the ordinary negligence of the lessee. Any such exclusion in violation of this section will be void and is a deceptive trade practice under this article. This section shall not be deemed to prohibit an exclusion from the waiver for damages caused by the lessee by:

(a) Willful and wanton conduct or misconduct;

(b) Intoxication by alcohol or use of controlled substances as defined in section 42-4-1301, C.R.S.;

(c) Participation in a speed contest;

(d) Carrying persons or property for hire, or pushing or towing anything;

(e) Use of the vehicle while committing a misdemeanor or felony or other criminal act;

(f) Use of the vehicle by an unauthorized driver, which includes any person not specifically authorized by the rental agreement;

(g) Supplying information which is false concerning the rental transaction with intent to defraud the lessor;

(h) Use of the vehicle outside the continental United States, unless specifically authorized by the rental agreement; and

(i) Any instance whereby, during the rental of such rental motor vehicle, the speedometer or odometer is tampered with or disconnected.

Source: L. 89: Entire part added, p. 362, § 1, effective January 1, 1990. **L. 94:** (1)(b) amended, p. 2544, § 15, effective January 1, 1995.

6-1-205. Information to be disclosed in advertisements for rental agreements for rental motor vehicles.

In any advertisement to the public for a rental agreement for a rental motor vehicle that includes a rental rate, the lessor shall prominently disclose on the face of the advertisement the daily charge of any collision damage waiver offered, a statement informing a prospective lessee that the prospective lessee should review the prospective lessee's own automobile insurance coverage to determine if the coverage applies to the use of a rental motor vehicle, and a statement that a prospective lessee may also wish to determine whether the prospective lessee's credit card or travel and entertainment card provides collision damage coverage for use of a rental motor vehicle or other privilege of membership.

Source: L. 89: Entire part added, p. 363, § 1, effective January 1, 1990. **L. 2006:** Entire section amended, p. 427, § 1, effective August 7. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 1995, § 16, effective August 12.

6-1-206. Additional mandatory charges - required disclosures - definitions.

(1) If a motor vehicle rental company imposes additional mandatory charges, the rental company shall:

(a) Provide a good-faith estimate of the total charges for the entire rental, including all additional mandatory charges, whenever a quote is provided to a potential customer. The good-faith estimate may exclude mileage charges and charges for optional items that cannot be determined prior to completing a rental reservation based on the information provided by the potential customer.

(b) Disclose in the rental contract provided to the renter the total charges for the entire rental, including all additional mandatory charges. Total charges for the entire rental do not include any charges that cannot be determined at the time the rental commences.

(2) As used in this section:

(a) "Additional mandatory charge" means any separately stated charges that a motor vehicle rental company requires a renter to pay that specifically relate to the operation of a rental vehicle. "Additional mandatory charge" includes, but is not limited to, a customer facility charge, airport concession recovery fee, road safety program fee, vehicle license recovery fee, or any government imposed taxes or fees.

(b) "Motor vehicle" has the meaning set forth in section 44-20-102.

(c) "Motor vehicle rental company" has the meaning set forth in section 10-1-102.

(d) "Quote" means an estimated cost of rental provided by a motor vehicle rental company to a potential customer based on information provided by the customer, including potential dates of rental, location, or class of vehicle.

(e) "Vehicle license recovery fee" means a charge to recover costs incurred by a motor vehicle rental company to license, title, register, plate, or inspect a rental vehicle.

Source: L. 2018: Entire section added, (SB 18-100), ch. 36, p. 392, § 2, effective August 8. **L. 2019:** (2)(b) amended, (SB 19-241), ch. 390, p. 3462, § 2, effective August 2.

6-1-207. Adaptive equipment in rental motor vehicles - requirements - failure to comply - legislative declaration - definitions.

(1) (a) The general assembly hereby finds and declares that:

(I) The federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12182 (a), states that "[n]o individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation";

(II) For the purposes of 42 U.S.C. sec. 12182 (a), discrimination includes "a failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities", unless the accommodation would work a fundamental alteration of those services and facilities;

(III) The United States department of justice has found at least one rental car agency to be a public accommodation under the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12182 (a);

(IV) Certain adaptive equipment can be necessary for persons with a disability to drive an automobile; and

(V) The provision of such adaptative equipment is reasonable and not a fundamental alteration of the services provided by a rental car agency.

(b) Therefore, it is the intent of the general assembly in enacting this section to prevent discrimination against persons with a disability by requiring that such persons have the ability to make online reservations for automobiles with adaptive equipment with rental car agencies that rent at least some motor vehicles with a gross weight of less than four thousand pounds.

(2) As used in this section, unless the context otherwise requires:

(a) "Adaptive equipment" means hand controls, left foot accelerators, spinner knobs, and pedal extenders.

(b) "Lessee" means any person or organization obtaining, or attempting to obtain, the use of a rental motor vehicle from a lessor under the terms of a rental agreement.

(c) "Lessor" means any person or organization in the business of providing rental motor vehicles of which some have a gross weight of less than four thousand pounds to the public, excluding a person or organization that is in the business of operating an online platform to connect third-party vehicle owners with third-party vehicle drivers to enable peer-to-peer car sharing, as defined in section 6-1-1202 (2), within Colorado.

(d) "Person with a disability" means a person who is considered to have a disability, as that term is defined in 42 U.S.C. sec. 12102.

(e) "Remote location" means a location of the lessor's business that is more than a two hour drive from the Denver International Airport.

(f) "Small business" means a lessor that owns no more than fifty motor vehicles.

(3) Lessors shall provide an option for lessees to request the installation of adaptive equipment while making rental motor vehicle reservations on the lessor's website and during in-person reservations.

(4) Lessors shall conspicuously incorporate into any reservation or reservation confirmation that includes a request for adaptive equipment:

(a) A list of the adaptive equipment requested by the lessee;

(b) Acknowledgment by the lessor that it will provide the adaptive equipment requested by the lessee; and

(c) The date and time that the lessor will provide the lessee with a rental motor vehicle with adaptive equipment installed and ready for use.

(5) (a) A lessor must fulfill a reservation made by a lessee for the provision of a motor vehicle with adaptive equipment within forty-eight hours of the lessor receiving the reservation, unless the lessee requests that the lessor provide the motor vehicle at the lessor's business location at the Denver International Airport or at a remote location of the lessor's business.

(b) A lessor must fulfill a reservation made by a lessee for the provision of a motor vehicle with adaptive equipment at the lessor's business location at the Denver International Airport within eight working hours after the lessor receives the reservation and an employee trained in the installation of adaptive equipment is on duty at the lessor's business location at the Denver International Airport.

(c) A lessor must fulfill a reservation by a lessee for the provision of a motor vehicle with adaptive equipment at a remote location of the lessor's business within seventy-two hours of the lessor receiving the reservation.

(d) The requirements of this subsection (5) do not apply in the case of an occurrence of an event beyond the lessor's reasonable control, including severe weather, acts of God, or acts of terrorism.

(6) A lessee who is subject to a violation of this section by a small business occurring on or afer July 1, 2026, or by a lessor that is not a small business occurring on or after July 1, 2025, may bring a civil suit in a court of competent jurisdiction and is entitled to any of the following remedies:

(a) A statutory fine of two thousand five hundred dollars, payable to each plaintiff for each violation;

(b) The recovery of actual monetary damages;

(c) An award of attorney fees and costs to a lessee who prevails under this subsection (6);

(d) A court order requiring compliance with the applicable provisions of this section; and

(e) Any other equitable relief deemed appropriate by a court of competent jurisdiction.

(7) Nothing in this section limits the rights of persons with a disability provided under state or federal law related to discrimination.

Source: L. 2022: Entire section added, (HB 22-1253), ch. 329, p. 2316, § 1, effective August 10.

6-1-208. Notification of chain laws.

During September 1 through May 31 of each year, a lessor shall notify, at the time of rental, a lessee of the requirements of, duties in, and the penalty for violating section 42-4-106 (5) and whether the rental motor vehicle complies with section 42-4-106 (5). The notification must be made in a clear and conspicuous manner orally, upon the lessor's electronic platform, or by a sign within the lessor's business.

Source: L. 2025: Entire section added, (SB 25-069), ch. 196, p. 872, § 3, effective August 6.

PART 3

PREVENTION OF TELEMARKETING FRAUD

6-1-301. Legislative declaration.

The general assembly hereby finds, determines, and declares that the use of telephones for commercial solicitation is rapidly increasing; that this form of communication offers unique benefits, but entails special risks and poses the potential for abuse; that the general assembly finds that the widespread practice of fraudulent and deceptive commercial telephone solicitation has caused substantial financial losses to thousands of consumers, and, particularly, elderly, homebound, and otherwise vulnerable consumers, and is a matter vitally affecting the public interest; and, therefore, that the general welfare of the public and the protection of the integrity of the telemarketing industry requires statutory regulation of the commercial use of telephones.

Source: L. 93: Entire part added, p. 944, § 3, effective July 1.

6-1-302. Definitions.

As used in this part 3, unless the context otherwise requires:

(1) "Commercial telephone seller" or "seller" means a person who, in the course of such person's business, vocation, or occupation, on the person's own behalf or on behalf of another person, causes or attempts to cause a commercial telephone solicitation to be made; except that "commercial telephone seller" or "seller" does not include the following:

(a) A person offering or selling a security as defined in section 11-51-201 (17), C.R.S., if:

(I) The security is either registered with the securities commissioner under section 11-51-303 or 11-51-304, C.R.S., exempt from registration under section 11-51-307, C.R.S., or the transaction in the security is exempt under section 11-51-308, C.R.S.; and

(II) The person is licensed by the securities commissioner as a broker-dealer as defined in section 11-51-201 (2), C.R.S., unless expressly excluded from such definition, or as a sales representative as defined in section 11-51-201 (14), C.R.S., unless expressly excluded from such definition, or such person is exempted from licensing under section 11-51-402, C.R.S.;

(b) (I) A person soliciting the sale of any newspaper, magazine, or other periodical of general circulation if such sales constitute a majority of such person's business and business revenues; or

(II) A person soliciting the sale of any book, record, audio tape, compact disc, or video if the person allows the purchaser to review the merchandise without obligation for at least seven days and provides a full refund for the return of undamaged merchandise within thirty days or if the

person solicits such sale on behalf of a membership club operating in conformity with 16 CFR 425;

(c) A person making telephone calls to a residential customer for the sole purpose of polling or soliciting the expression of ideas, opinions, or votes, or a person soliciting solely for a political or religious cause or purpose;

(d) A paid solicitor or charitable organization that is required to and has complied with the registration, notice, and filing requirements of sections 6-16-104.6 and 6-16-104, respectively, or a person who is excluded from such notice and reporting requirements by section 6-16-103 (7);

(e) A supervised financial organization, as defined in section 5-1-301 (45), C.R.S., and its employees, when acting within the scope of their employment;

(f) A supervised lender, as defined in section 5-1-301 (46), C.R.S., and its employees, when acting within the scope of their employment;

(g) A person selling insurance, as defined in section 10-1-102 (12), C.R.S., in compliance with the requirements of title 10, C.R.S.;

(h) A person soliciting without the intent to complete and who does not in fact complete the sales transaction during the telephone solicitation or another telephone solicitation and who only completes the sales transaction at a later face-to-face meeting between the solicitor and the prospective purchaser, excluding a face-to-face meeting, the sole purpose of which is to collect the payment or deliver any item purchased, or a person soliciting a purchaser with whom the person has had a previous face-to-face meeting in the course of such person's business;

(i) Any governmental entity or employee thereof, acting in the employee's official capacity;

(j) A person soliciting telephone service, or licensed or franchised cable television service, which is billed and paid on a daily, weekly, or monthly basis and which can be canceled at any time without further obligation to the purchaser;

(k) A person or an affiliate of a person whose business is regulated by the public utilities commission;

(l) A person or an affiliate of a person whose business is regulated by the real estate commission;

(m) A person whose conduct is within the exclusive jurisdiction of the federal commodity futures trading commission as granted under the federal "Commodity Exchange Act", as amended;

(n) A seller of food for immediate consumption when the sale to one purchaser does not exceed three hundred dollars;

(o) A person who initially contacts the purchaser with a retail sales catalog requesting a telephone call response, when the person allows the purchaser to review the merchandise without obligation for at least seven days and provides a full refund for the return of undamaged merchandise within thirty days after receipt of the returned merchandise;

(p) An issuer or a subsidiary of an issuer that has a class of securities which is subject to section 12 of the federal "Securities Exchange Act of 1934", 15 U.S.C. sec. 78l, and which is either registered or exempt from registration under paragraph (A), (B), (C), (E), (F), (G), or (H) of subsection (g)(2) of that section;

(q) A person who has been operating for at least three years a retail business establishment in Colorado under the same name as that used in connection with the solicitation of sales by telephone if, on a continuing basis, the majority of the seller's business involves the purchaser receiving the seller's goods and services at the seller's business location;

(r) A person who has conducted business for at least three years under the same name and in the same state and offers potential purchasers satisfaction guaranteed by the sending of the product or providing the service and the purchaser has an unqualified right to review and return or cancel for at least thirty days;

(s) Any telephone marketing service company which provides telemarketing sales services under written contract to sellers and has been operating continuously for at least five years under the same business name and seventy-five percent or more of its services are performed on behalf of sellers exempt from this section. Nothing in this paragraph (s) shall be construed to exempt any seller that contracts with a telephone marketing service company for telemarketing sales services from the requirements set forth in section 6-1-303 or from the prohibitions set forth in section 6-1-304.

(t) A person soliciting business solely from business purchasers who have previously purchased identical or similar goods or services from the business enterprise on whose behalf the person is calling.

(2) "Commercial telephone solicitation" means:

(a) Unsolicited telephone calls to a person initiated by a commercial telephone seller or salesperson, or an automated dialing machine with or without a recorded message device, for the purpose of inducing the person to purchase or invest in goods, services, or property or offering an extension of credit; or

(b) Any other communication by a commercial telephone seller in which:

(I) A gift, award, or prize is offered and a telephone call response from the intended purchaser is invited; or

(II) A loan, credit card, or other extension of credit is offered to a purchaser who has not previously purchased from the person initiating the communication, and a telephone call response from the intended purchaser is invited; or

(III) A sale is to be completed or an agreement to purchase is to be entered into during the course of the telephone call response; or

(c) Any other communication by a commercial telephone seller which includes representations about the price, quality, or availability of goods, services, or property and which invites a response by telephone, including pay-per-call service calls, or which is followed by a telephone call to the intended purchaser by a salesperson.

(3) "Pay-per-call" means the use of a telephone number with a 900 prefix or any other prefix under which liability for the service or product provided attaches to the telephone bill of the individual calling such number.

(4) "Principal" means an owner, an officer of a corporation, a general partner of a partnership, the sole proprietor of a sole proprietorship, a trustee of a trust, or any other individual with similar supervisory functions with respect to any person.

(5) "Purchaser" means a person who receives or responds to a commercial telephone solicitation.

(6) "Salesperson" means any person employed or authorized by a commercial telephone seller to cause or attempt to cause a commercial telephone solicitation to be made.

(7) "Telephone sales transaction" means any payment of money by a purchaser in exchange for the promise of goods, services, property, or an extension of credit by a commercial telephone seller and includes all communications which precede such payment of money.

Source: L. 93: Entire part added, p. 944, § 3, effective July 1; (1)(b)(I) amended, p. 1573, § 3, effective July 1. **L. 97:** (1)(s) amended, p. 966, § 1, effective May 21. **L. 2000:** (1)(e) and (1)(f) amended, p. 1871, § 103, effective August 2. **L. 2001:** (1)(d) amended, p. 1250, § 9, effective May 9, 2002. **L. 2003:** (1)(g) amended, p. 613, § 2, effective July 1.

Cross references: For the federal "Commodity Exchange Act", see Pub.L. 74-675, codified at 7 U.S.C. § 1 et seq.

6-1-303. Registration of commercial telephone sellers.

(1) No commercial telephone seller shall conduct business in this state without having registered with the attorney general at least ten days prior to the conduct of such business. Individual employees of the commercial telephone seller are not required to register. A commercial telephone seller conducts business in this state if the telephone solicitations of prospective purchasers are made from locations in this state or solicitation is made of prospective purchasers located in this state.

(2) A registration shall be effective for one year after the date of filing with the attorney general. Each application for registration or renewal thereof shall be accompanied by a filing fee, determined and collected by the attorney general, but such filing fee shall not exceed two hundred fifty dollars for an application for registration or one hundred dollars for an application for renewal.

(3) Whenever, prior to expiration of a commercial telephone seller's annual registration, there is a material change in the information required by subsection (5) of this section, the seller shall, within ten days, file an addendum updating the information with the attorney general.

(4) Each application for registration shall be in writing and shall contain such information regarding the conduct of the commercial telephone seller's business and the personnel conducting the business as is required by law. The application shall be submitted on a form provided by the attorney general and shall be verified by a declaration signed by each principal of the commercial telephone seller under penalty of perjury. The declaration shall specify the date and location of signing. The information submitted pursuant to this section shall be available for public inspection.

(5) Each application for registration or renewal pursuant to this section shall contain the following information:

(a) The name or names of the commercial telephone seller, including all names under which the commercial telephone seller is doing or intends to do business, if different from the name of the seller, and the name of any parent or affiliated organization;

(b) The seller's business form and the date and place of organization;

(c) The complete street addresses of all locations from which the commercial telephone seller is or will be conducting business, including a designation of the seller's principal business location;

(d) A listing of all telephone numbers, including pay-per-call numbers, to be used by the commercial telephone seller;

(e) The name, residential address, and position held by each principal of the commercial telephone seller and the names, residential addresses, and positions of those persons who have

management responsibilities in connection with the commercial telephone seller's business activities;

(f) A description of the goods, services, property, or extension of credit the commercial telephone seller is offering for sale and a copy of all sales scripts the commercial telephone seller requires salespersons to use when soliciting prospective purchasers, or, if no sales script is required to be used, a description of the sales presentation;

(g) All rules, regulations, terms, restrictions, and conditions to receiving any prize, bonus, award, gift, or premium, if applicable, including a description of each prize, bonus, award, gift, or premium, and the actual or approximate odds of a purchaser's receiving such prize, bonus, award, gift, or premium;

(h) A copy or representative sample of all written materials the seller sends to any purchaser;

(i) Such additional information regarding the conduct of the commercial telephone seller's business and the personnel conducting the business as may reasonably be required by the attorney general.

Source: L. 93: Entire part added, p. 947, § 3, effective July 1.

6-1-304. Unlawful telemarketing practices.

(1) A commercial telephone seller engages in an unlawful telemarketing practice when, in the course of any commercial telephone solicitation, the seller:

(a) Conducts business as a commercial telephone seller without having registered with the attorney general, as required by section 6-1-303;

(b) Fails to allow the purchaser in any telephone sales transaction to cancel any purchase or agreement to purchase goods, services, or property at any time before the expiration of three business days after the purchaser's receipt of such goods, services, or property by delivering or mailing to the commercial telephone seller written notice of cancellation. Notice of cancellation, if sent by mail, is deemed to be given as of the date the mailed notice was postmarked.

(c) Fails to refund all payments made by any purchaser in any telephone sales transaction within thirty days after the commercial telephone seller receives notice of cancellation from the purchaser; except that:

(I) If the purchaser has received goods or property from the commercial telephone seller, other than an item represented as free, the commercial telephone seller shall refund all payments made by the purchaser within thirty days after the commercial telephone seller's receipt of the returned goods or property;

(II) If the purchaser has received services, including those received during the course of a pay-per-call service call, which services cannot, by their nature, be returned, the commercial telephone seller is not required to refund payments to the purchaser;

(d) Fails to disclose to the purchaser during a telephone solicitation that the purchaser has the cancellation rights set forth in paragraph (b) of this subsection (1);

(e) Misrepresents to any person that the person has won a contest, sweepstakes, or drawing, or that the person will receive free goods, services, or property;

(f) Represents that the seller's goods, services, or property are "free" if the commercial telephone seller charges or collects a fee from the purchaser in exchange for providing or delivering such goods, services, or property;

(g) Makes any reference to the commercial telephone seller's compliance with this article to any purchaser without also disclosing that compliance with this article does not constitute approval by any governmental agency of the seller's marketing, advertisements, promotions, goods, or services;

(h) Engages in any deceptive trade practice defined in section 6-1-105 or part 7 of this article.

(2) Paragraphs (b) and (d) of subsection (1) of this section do not apply to a transaction in which the consumer obtains a full refund for the return of undamaged or unused goods or a cancellation of services by giving notice to the seller within seven days after receipt by the consumer and the seller processes the refund or cancellation within thirty days after receipt of the returned merchandise or the consumer's request for refund for services not performed or a pro rata refund for any services not yet performed for the consumer. The availability and terms of the return and refund privilege shall be disclosed to the consumer orally by telephone and in writing with any advertising or promotional material or with the delivery of the product or service. If a seller offers consumers an unconditional guarantee, a clear disclosure of such guarantee by using the words "satisfaction guaranteed", "free inspection", or "no-risk guarantee" satisfy the disclosure requirements of this subsection (2).

(3) The unlawful telemarketing practices listed in this section are in addition to and do not limit the types of unfair trade practices actionable at common law or under other civil and criminal statutes of this state.

(4) (a) On or after September 1, 2005, a person commits an unlawful telemarketing practice if the person knowingly:

(I) Lists a cellular telephone number in a directory for a commercial purpose unless the person whose number has been listed has given affirmative consent, through written, oral, or electronic means, to such listing; or

(II) Uses a scanning device or other electronic means to identify a cellular telephone number and to make a commercial telephone solicitation to a cellular telephone.

(b) This subsection (4) shall not apply to a commercial telephone solicitation that is in relation to a preexisting commercial relationship between the person and the person who owns the cellular telephone.

Source: L. 93: Entire part added, p. 949, § 3, effective July 1. **L. 99:** (1)(h) amended, p. 654, § 8, effective May 18. **L. 2000:** (1)(c)(II) amended, p. 244, § 2, effective March 30. **L. 2005:** (4) added, p. 630, § 1, effective August 8.

6-1-305. Penalties.

(1) In addition to the remedies available under sections 6-1-110, 6-1-112, and 6-1-113:

(a) Any person who, after receiving written notice of noncompliance from the attorney general or a district attorney, conducts business as a commercial telephone seller without having registered with the attorney general as required by section 6-1-303 commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.;

(b) Any commercial telephone seller who knowingly engages in any unlawful telemarketing practice as defined in section 6-1-304 (1)(b) to (1)(h) commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.;

(c) A person who engages in any unlawful telemarketing practice as defined in section 6-1-304 (4) shall be liable in a private civil action to the owner of the cellular telephone for consequential damages, court costs, attorney fees, and a penalty in the amount of at least three hundred dollars and not more than five hundred dollars for a first offense and at least five hundred dollars and not more than one thousand dollars for a second or subsequent offense.

Source: L. 93: Entire part added, p. 950, § 3, effective July 1. **L. 2002:** (1)(a) and (1)(b) amended, p. 1465, § 12, effective October 1. **L. 2005:** (1)(c) added, p. 630, § 2, effective August 8.

Cross references: For the legislative declaration contained in the 2002 act amending subsections (1)(a) and (1)(b), see section 1 of chapter 318, Session Laws of Colorado 2002.

6-1-306. Repeal. (Repealed)

Source: L. 93: Entire part added, p. 951, § 3, effective July 1. **L. 96:** Entire section repealed, p. 788, § 2, effective July 1.

PART 4

WARRANTIES FOR ASSISTIVE TECHNOLOGY ACT

6-1-401. Legislative intent.

(1) It is the intent of the general assembly to encourage and promote independent living and self-sufficiency for persons with disabilities and to reduce their need to rely on publicly funded supports. Of an estimated forty-nine million Americans with disabilities, approximately seventy percent of them are unemployed or underemployed. Having safe, reliable assistive technology represents a most essential need given the many barriers to independent living and self-sufficiency people with disabilities face.

(2) The goal of meeting this essential need can be furthered by assuring that assistive technology provided to persons with disabilities is of quality and is covered by adequate warranties to maintain their assistive technology in proper working condition, to assure availability of appropriate loaner replacement assistive technology while their own is being repaired, and to encourage manufacturers and dealers to cooperatively pool assistive technology resources for loaner purposes to assure availability without an undue burden.

(3) The general assembly finds and declares it is in the state's best interest to adopt this part 4.

Source: L. 97: Entire part added, p. 604, § 1, effective July 1.

6-1-402. Definitions.

As used in this part 4, unless the context otherwise requires:

(1) "Collateral costs" means expenses incurred by a consumer in connection with the repair of a nonconformity in a wheelchair, including the cost of an alternative wheelchair, if a loaner, as that term is defined in subsection (8) of this section, was not offered to the consumer, or other assistive device or service for mobility assistance. "Collateral costs" shall not include the cost of hiring a personal assistant.

(2) "Consumer" means:

(a) A purchaser of a wheelchair, if the wheelchair was purchased from a wheelchair dealer or manufacturer for purposes other than resale;

(b) A person to whom a wheelchair is transferred for purposes other than resale, if such transfer occurs before the expiration of the express warranty applicable to such wheelchair;

(c) A person who may enforce the express warranty applicable to a wheelchair; or

(d) A person who leases a wheelchair from a wheelchair lessor under a written lease.

(3) "Dealer" means a person or entity that is in the business of selling wheelchairs or any agents of that person or entity. "Dealer" includes an alternative warranty service provider.

(4) (a) "Early termination cost" means any expense or obligation that a wheelchair lessor incurs as a result of:

(I) Terminating a written lease before the termination date set forth in the lease; and

(II) Returning the wheelchair to the manufacturer.

(b) "Early termination cost" includes any prepayment penalty under a finance arrangement.

(5) "Early termination savings" means any expense or obligation that a wheelchair lessor avoids as a result of performing the acts described in paragraph (a) of subsection (4) of this section. "Early termination savings" includes any interest charge that the wheelchair lessor would have paid to finance the wheelchair or, if the wheelchair lessor did not finance the wheelchair, the difference between the total amount the lessee was obligated to pay over the period of the lease term remaining after the early termination date and the present value of that amount on the early termination date.

(6) "Express warranty" means an express warranty as set forth in sections 4-2-313 and 4-2.5-210, C.R.S. An express warranty shall cover every part of a new wheelchair except the tires and batteries.

(7) "Lessor" means a person or entity that leases a wheelchair to a consumer or that holds the lessor's rights under a written lease or any agents of that person or entity.

(8) "Loaner" means a wheelchair that is provided to the consumer for use free of charge that is not required to have the functional capabilities equal to or greater than those of the original wheelchair but that meets the following conditions:

(a) It is in good working order;

(b) It performs at a minimum the most essential functions of the original wheelchair in light of the disabilities of the user;

(c) It is usable by the consumer given the consumer's impairments; and

(d) Any difference between the loaner and the original wheelchair does not create a threat to safety.

(9) "Manufacturer" means a person or entity that manufactures or assembles wheelchairs and any agents of that person or entity, including an importer, a distributor, an authorized servicer, a factory branch, a distributor branch, and warrantors of the manufacturer's wheelchairs. "Manufacturer" does not include a dealer.

(10) "Modular assembly" means a device added to the wheelchair base to accommodate the special needs of the consumer, such as seating systems, tilt or recline systems, and specially adapted control modules.

(11) "Nonconformity" means a defect that substantially impairs the use, reliability, value, or safety of a wheelchair and that is covered by an express warranty applicable to such wheelchair or a component of such wheelchair. "Nonconformity" does not include a defect that is the result of abuse, neglect, or the unauthorized modification or alteration of a wheelchair by a consumer.

(12) "Reasonable attempt to repair" means that one of the following has occurred within the term of an express warranty applicable to a new wheelchair or within one year after first delivery of a wheelchair to a consumer, whichever occurs earlier:

(a) The same nonconformity is subject to repair at least three times by the manufacturer, lessor, or any of the manufacturer's authorized dealers; or

(b) Because of a nonconformity, the wheelchair cannot be used by the consumer for an aggregate of at least thirty days or ten consecutive business days.

(13) "Replacement wheelchair" means a wheelchair of comparable quality, size, and function.

(14) "Selling dealer" means the entity that originally sold the wheelchair to the consumer and was involved in the design, assembly, fitting, and education of the consumer on the use and maintenance of the wheelchair.

(15) "Specialty control module" means the technologically advanced electronic device of limited availability that contains the signal and output circuitry for a power wheelchair designed and assembled for use by a specific individual with severe limitations who is unable to use a standard control module.

(16) "Standard wheelchair" means a wheelchair that has seat width and depth dimensions of sixteen to eighteen inches.

(17) "Wheelchair" means any wheelchair, scooter, or modular assembly, including a demonstrator, that is motor driven or manually operated that a consumer purchases or accepts transfer of in this state for the purposes of mobility assistance.

Source: L. 97: Entire part added, p. 605, § 1, effective July 1.

6-1-403. Express warranty required - authorized servicers.

(1) (a) Except as provided in subsection (2) of this section, a consumer who purchases or leases a new wheelchair either directly or indirectly through a dealer or lessor shall receive an express warranty for such wheelchair. The manufacturer shall issue this express warranty that shall extend for not less than one year after first delivery to the consumer.

(b) Except as provided in subsection (2) of this section, a selling dealer shall provide an express warranty for any modifications made by the dealer that shall also extend for not less than six months after first delivery to the consumer.

(2) Notwithstanding the provisions of subsection (1) of this section, the warranty for the specialty control module shall be limited to the warranty provided by the manufacturer of such specialty control module or ninety days, whichever is longer.

(3) If a manufacturer or dealer fails to furnish the express warranty required by this section, the wheelchair shall be covered by a warranty the same as if an express warranty had been provided by the manufacturer or dealer pursuant to this section.

(4) Any entity that sells or leases wheelchairs in this state, including any entity that sells or leases through mail order or catalogue sales, shall designate an authorized servicer for such chairs that is located in this state in reasonable proximity to the consumer.

(5) (a) In the event that the selling dealer from whom the consumer purchased the wheelchair goes out of business or ceases to be an authorized dealer or service center for the manufacturer, or if the dealer or consumer moves or relocates to a location that makes it unreasonable for the consumer to seek warranty service from the selling dealer, or if the consumer is dissatisfied with the selling dealer, the consumer shall be responsible for contacting the manufacturer or another authorized dealer which will be responsible for facilitating the warranty service required with an authorized dealer, to be mutually agreed upon by the consumer and the manufacturer, which entity shall be referred to as the alternative warranty service provider.

(b) In the event that an alternative warranty service provider is designated pursuant to paragraph (a) of this subsection (5), the consumer may only seek warranty service from such alternative warranty service provider.

(c) To the extent reasonable and possible, the manufacturer shall take into account the independent mobility resources of the consumer when determining the alternative warranty service provider pursuant to the provisions of this subsection (5).

Source: L. 97: Entire part added, p. 607, § 1, effective July 1.

6-1-404. Remedies.

(1) If a new wheelchair does not conform to the applicable express warranty and the consumer reports the nonconformity to the manufacturer, the lessor, the selling dealer, or the alternative warranty service provider, and makes the wheelchair available for repair within the warranty period, the nonconformity shall be repaired at no charge to the consumer. Any repairs performed pursuant to the provisions of this section shall be warranted for a period not less than the original warranty period. When the wheelchair is not safely moveable and there is no reasonable way for the consumer to deliver the wheelchair to the manufacturer or dealer, the manufacturer or dealer shall be responsible for the return of the wheelchair, or the wheelchair may be repaired on site at the option of the dealer.

(2) If the manufacturer authorizes the dealer or lessor to make the repair, the dealer or lessor shall make the repair and then be reimbursed by the manufacturer for the dealer's or lessor's cost for parts, labor, and repair if the nonconformity is a manufacturer's defect. A manufacturer shall respond to the dealer's or lessor's request for authorization to make a repair by the end of the business day that immediately follows the day such a request is made.

(3) When a wheelchair covered by an express warranty is tendered by a consumer to the manufacturer, selling dealer, alternative warranty service provider, or lessor for the repair of a defect, malfunction, or nonconformity to which the warranty is applicable, the consumer shall receive a loaner if the out-of-service period exceeds one day and shall keep the loaner until the requirements of section 6-1-405 or 6-1-406 are fulfilled. If the required loaner is not a standard wheelchair, the manufacturer or dealer shall make a good faith effort to make available alternative equipment that is usable by the consumer. The cost of the loaner shall be borne by the entity responsible for the defect requiring the repair or replacement of the wheelchair as provided in this section. The consumer shall have the duty to care for the loaner properly and to protect against any damage to the chair.

(4) If a nonconformity is not repaired after a reasonable attempt to repair, the manufacturer or dealer who originally supplied or modified the wheelchair, as required by this section, shall:

(a) If the wheelchair was purchased, take the following action at the direction of the consumer:

(I) Accept a return of the wheelchair, provide a replacement wheelchair of equal or greater value, and refund any collateral costs to the consumer, a holder of a perfected security interest in the wheelchair, or a third-party purchaser; or

(II) Accept a return of the wheelchair and refund to the consumer, holder of a perfected security interest in the wheelchair, or third-party purchaser not more than the full purchase price plus any finance charge, sales tax, shipping costs, and collateral costs paid;

(b) If the wheelchair was leased, take all of the following actions at the direction of the consumer:

(I) Accept a return of the wheelchair;

(II) (A) Refund to the lessor and any holder of a perfected security interest in the wheelchair the current value of the written lease.

(B) For purposes of this subparagraph (II), "current value of the written lease" means the sum of the total amount for which the consumer is obligated during the term of the lease remaining after the early termination date, the dealer's early termination costs, and the value of the wheelchair on the lease expiration date, if the lease sets forth that value, less the lessor's early termination savings.

(III) Refund to the consumer or third-party purchaser the amount paid under the lease plus any collateral costs.

(5) (a) In the event that a dispute arises as to liability under this part 4 between or among a manufacturer, dealer, lessor, or consumer, and the consumer is covered by any third-party insurer, such third-party insurer shall not be relieved of any obligation to provide benefits covered under its plan or applicable law.

(b) In the event that a wheelchair is found to be defective, the third-party payor described in paragraph (a) of this subsection (5) shall have all rights of recovery, including the right to costs, that the consumer would have had under this part 4.

Source: L. 97: Entire part added, p. 608, § 1, effective July 1.

6-1-405. Remedies for consumers of purchased wheelchairs - conditions.

(1) To receive a refund or a replacement wheelchair, the consumer of a purchased wheelchair shall first offer to transfer the wheelchair with the nonconformity to the manufacturer, selling dealer, or alternative warranty service provider.

(2) Within thirty business days after receipt of the offer described in subsection (1) of this section, the manufacturer or dealer shall provide the consumer with a refund or a replacement wheelchair.

(3) When a manufacturer or dealer provides a consumer with a refund or a replacement wheelchair, such consumer shall return the wheelchair with the nonconformity, if such wheelchair is safely operable, to the manufacturer or dealer with any endorsements necessary to transfer possession to the manufacturer or dealer. When the wheelchair is not safely movable and there is no reasonable way for the consumer to deliver the wheelchair to the manufacturer or dealer, the manufacturer or dealer shall be responsible for the return of the wheelchair.

Source: L. 97: Entire part added, p. 610, § 1, effective July 1.

6-1-406. Remedies for consumers of leased wheelchairs - conditions.

(1) To receive a refund due on a leased wheelchair, a consumer shall first offer to return the wheelchair with the nonconformity to the lessor.

(2) Within thirty business days after receipt of the offer described in subsection (1) of this section, the lessor shall provide the consumer with a refund.

(3) When a lessor provides a consumer with a refund, such consumer shall return the wheelchair with the nonconformity to such lessor.

(4) A lessor shall offer to transfer to a manufacturer or dealer the possession of a wheelchair returned pursuant to subsection (3) of this section. Within thirty business days after receiving such offer, the manufacturer or dealer shall remit the refund amount to the lessor. When the manufacturer or dealer makes such refund, the lessor shall provide the manufacturer or dealer with the endorsements necessary to transfer possession to the manufacturer or dealer.

Source: L. 97: Entire part added, p. 610, § 1, effective July 1.

6-1-407. Resale of a returned wheelchair - disclosure required.

A wheelchair returned pursuant to this part 4 by a consumer in this state, or by a consumer in another state under a similar law of that state, shall not be sold or leased again in this state unless full disclosure is made to the prospective consumer of the reasons for the return.

Source: L. 97: Entire part added, p. 611, § 1, effective July 1.

6-1-408. Other remedies - waiver of rights void.

(1) This part 4 shall not limit the rights or remedies available to a consumer under any other law of this state.

(2) If a consumer waives the rights granted to consumers pursuant to this part 4, such waiver shall be void as against public policy.

(3) Notwithstanding the remedies that are available to a consumer pursuant to this part 4, a consumer may pursue any other remedy, including an action to recover for damages caused by a violation of this part 4. If a manufacturer or dealer is found to have violated this part 4, a consumer shall be awarded the amount of actual damages caused by the violation and reasonable attorney fees. The consumer may be awarded collateral costs and punitive damages.

Source: L. 97: Entire part added, p. 611, § 1, effective July 1.

6-1-409. Fraudulent acts.

Any manufacturer, dealer, or lessor that engages in conduct to delay making a final repair that is required as a consequence of the enforcement of warranties or duties under this part 4 with the intention of requiring payment of the cost of such repair to be made by a publicly funded program of public assistance, medical assistance, or rehabilitation assistance commits the crime of theft, which crime shall be classified in accordance with section 18-4-401 (2), C.R.S., and which crime shall be punished as provided in section 18-1.3-401, C.R.S., if the crime is classified as a felony, or section 18-1.3-501, C.R.S., if the crime is classified as a misdemeanor.

Source: L. 97: Entire part added, p. 611, § 1, effective July 1. **L. 2002:** Entire section amended, p. 1465, § 13, effective October 1.

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 318, Session Laws of Colorado 2002.

6-1-410. Arbitration.

Disputes among manufacturers, dealers, and lessors concerning the enforcement of rights or remedies of consumers under this part 4 shall be subject to arbitration pursuant to the Colorado rules of civil procedure. The award of the arbitration panel shall be binding upon the parties and shall only be subject to court review by trial de novo.

Source: L. 97: Entire part added, p. 611, § 1, effective July 1.

6-1-411. Defect notification.

(1) A manufacturer shall be responsible for providing written notification to an owner, user, purchaser, dealer, lessor, or consumer of any known or discovered inherent defect in a wheelchair that affects the safety, usability, or reliability of that wheelchair. The manufacturer shall send such notification by first-class mail to the last-known address of the owner, user, purchaser, dealer, lessor, or consumer within fourteen days after learning of such a defect.

(2) A manufacturer shall be responsible for the costs of providing the notification required in subsection (1) of this section and for all costs associated with correcting any defect described in subsection (1) of this section.

(3) The provisions of this section shall apply without time limitations.

Source: L. 97: Entire part added, p. 611, § 1, effective July 1.

6-1-412. Disclosures.

(1) Prior to the sale of any wheelchair, the seller shall disclose whether the wheelchair is new or used and whether any warranty applies to such wheelchair.

(2) Upon delivery of a new or used wheelchair, the seller shall advise the buyer of any warranty rights under this part 4 and the wheelchair's maintenance schedule and operating instructions and shall provide the buyer with a copy of the owner's manual.

(3) The disclosure required pursuant to subsection (1) of this section and the advisement required pursuant to subsection (2) of this section shall be in writing and shall, in the case of buyer who is a person adjudicated not mentally competent, be provided to the guardian, parent, legal custodian, or primary caregiver of such person.

Source: L. 97: Entire part added, p. 612, § 1, effective July 1.

PART 5

WARRANTIES FOR FACILITATIVE TECHNOLOGY ACT

6-1-501. Definitions.

As used in this part 5, unless the context otherwise requires:

(1) "Collateral costs" means expenses incurred by a consumer in connection with the repair of a nonconformity in a facilitative device, including the cost of an alternative facilitative device or other facilitative device or service.

(2) "Consumer" means:

(a) A purchaser of a facilitative device, if the facilitative device was purchased from a dealer or manufacturer for purposes other than resale;

(b) A person to whom a facilitative device is transferred for purposes other than resale, if such transfer occurs before the expiration of the express warranty applicable to such facilitative device;

(c) A person who may enforce the express warranty applicable to a facilitative device; or

(d) A person who leases a facilitative device from a lessor under a written lease.

(3) "Dealer" means a person or entity that is in the business of selling facilitative devices, or any agents of that person or entity. "Dealer" includes an alternative warranty service provider.

(4) (a) "Early termination cost" means any expense or obligation that a lessor of facilitative devices incurs as a result of:

(I) Terminating a written lease before the termination date set forth in the lease; and

(II) Returning the facilitative device to the manufacturer.

(b) "Early termination cost" includes any prepayment penalty under a finance arrangement.

(5) "Early termination savings" means any expense or obligation that a lessor of facilitative devices avoids as a result of performing the acts described in paragraph (a) of subsection (4) of this section. "Early termination savings" includes any interest charge that the lessor of facilitative devices would have paid to finance the facilitative device or, if the lessor did not finance the facilitative device, the difference between the total amount the lessee was obligated to pay over the period of the lease term remaining after the early termination date and the present value of that amount on the early termination date.

(6) "Express warranty" means an express warranty as set forth in sections 4-2-313 and 4-2.5-210, C.R.S. An express warranty shall cover every part of a new facilitative device.

(7) "Facilitative device" means a device that has a retail price equal to or greater than one hundred dollars and that is exclusively designed and manufactured to assist a person with a disability with such person's specific disability, through the use of facilitative technology, to be self-sufficient or to maintain or improve that person's quality of life. "Facilitative device" does not include wheelchairs as that term is defined in section 6-1-402 (17). "Facilitative device" does include:

(a) Telephone communication devices for the hearing impaired and other facilitative listening devices except for hearing aids, as defined in section 12-210-102 (2), and surgically implanted hearing devices, as defined in section 12-210-102 (4);

(b) Computer equipment and reading devices with voice input or output, optical scanners, talking software, braille printers, and other aids and devices that provide access to text by a person with a disability;

(c) Computer equipment with voice output, artificial larynges, voice amplification devices, and other alternative and augmentative communication devices;

(d) Voice recognition computer equipment, software and hardware accommodations, and other forms of alternative access to computers for persons with disabilities; and

(e) Any other device, other than a wheelchair, that enables a person with a disability to communicate, see, hear, or maneuver.

(8) "Facilitative technology" means technology used to develop technological devices to be used exclusively for the purpose of assisting a person with a disability with respect to such person's specific disability by facilitating or enhancing that person's ability to be self-sufficient.

(9) "Lessor" means a person or entity that leases a facilitative device to a consumer or that holds the lessor's rights under a written lease, or any agents of that person or entity.

(10) "Manufacturer" means a person or entity that manufactures or assembles facilitative devices and any agents of that person or entity, including an importer, a distributor, an authorized servicer, a factory branch, a distributor branch, and warrantors of the manufacturer's facilitative devices. "Manufacturer" does not include a dealer.

(11) "Nonconformity" means a defect that substantially impairs the use, reliability, value, or safety of a facilitative device and that is covered by an express warranty applicable to such facilitative device or a component of such facilitative device. "Nonconformity" does not include a defect that is the result of abuse, neglect, or the unauthorized modification or alteration of a facilitative device by a consumer.

(12) "Person with a disability" means a person who is considered to have a mental or physical disability, impairment, or handicap for purposes of any other law of this state or of the United States, including any rule or regulation.

(13) "Reasonable attempt to repair" means that one of the following has occurred within the term of an express warranty applicable to a new facilitative device or within one year after first delivery of a facilitative device to a consumer, whichever occurs earlier:

(a) The same nonconformity is subject to repair at least three times by the manufacturer, the lessor, or any of the manufacturer's authorized dealers; or

(b) Because of a nonconformity, the facilitative device cannot be used by the consumer for an aggregate of at least thirty days.

(14) "Replacement facilitative device" means a facilitative device of comparable quality, size, and function.

(15) "Selling dealer" means the entity that originally sold the facilitative device to the consumer and was involved in the design, assembly, fitting, and education of the consumer on the use and maintenance of the facilitative device.

Source: L. 98: Entire part added, p. 194, § 1, effective July 1. **L. 99:** (7)(a) amended, p. 654, § 9, effective May 18. **L. 2007:** (7)(a) amended, p. 809, § 3, effective July 1. **L. 2013:** IP(7) and (7)(a) amended, (SB 13-039), ch. 288, p. 1536, § 3, effective May 24. **L. 2019:** (7)(a) amended, (HB 19-1172), ch. 136, p. 1644, § 10, effective October 1.

6-1-502. Express warranty required - authorized servicers.

(1) A consumer who purchases or leases a new facilitative device either directly or indirectly through a dealer or lessor shall receive an express warranty for such facilitative device. The manufacturer shall issue this express warranty that shall extend for not less than one year after first delivery to the consumer.

(2) If a manufacturer or dealer fails to furnish the express warranty required by this section, the facilitative device shall be covered by a warranty the same as if an express warranty had been provided by the manufacturer or dealer pursuant to this section.

(3) Any entity that sells or leases facilitative devices in this state, including any entity that sells or leases through mail order or catalogue sales, shall designate an authorized servicer for such facilitative devices that is accessible to the consumer.

(4) (a) In the event that the selling dealer from whom the consumer purchased the facilitative device goes out of business or ceases to be an authorized dealer or service center for the

manufacturer, or if the dealer or consumer moves or relocates to a location that makes it unreasonable for the consumer to seek warranty service from the selling dealer, or if the consumer is dissatisfied with the selling dealer, the consumer shall be responsible for contacting the manufacturer or another authorized dealer which will be responsible for facilitating the warranty service required with an authorized dealer, to be mutually agreed upon by the consumer and the manufacturer, which entity shall be referred to as the "alternative warranty service provider".

(b) In the event that an alternative warranty service provider is designated pursuant to paragraph (a) of this subsection (4), the consumer may only seek warranty service from such alternative warranty service provider.

Source: L. 98: Entire part added, p. 197, § 1, effective July 1.

6-1-503. Remedies.

(1) If a new facilitative device does not conform to the applicable express warranty and the consumer reports the nonconformity to the manufacturer, the lessor, the selling dealer, or the alternative warranty service provider and makes the facilitative device available for repair within the warranty period, the nonconformity shall be repaired at no charge to the consumer. Any repairs performed pursuant to the provisions of this section shall be warranted for a period not less than the original warranty period.

(2) If the manufacturer authorizes the dealer or lessor to make the repair, the dealer or lessor shall make the repair and then be reimbursed by the manufacturer for the dealer's or lessor's cost for parts, labor, and repair if the nonconformity is a manufacturer's defect. A manufacturer shall respond to the dealer's or lessor's request for authorization to make a repair within three business days after such a request is made.

(3) If a nonconformity is not repaired after a reasonable attempt to repair, the manufacturer or dealer who originally supplied or modified the facilitative device, as required by this section, shall:

(a) If the facilitative device was purchased, take the following action at the direction of the consumer:

(I) Accept a return of the facilitative device, provide a replacement facilitative device of equal or greater value, and refund any collateral costs to the consumer, a holder of a perfected security interest in the facilitative device, or a third-party purchaser; or

(II) Accept a return of the facilitative device and refund to the consumer, holder of a perfected security interest in the facilitative device, or third-party purchaser not more than the full purchase price plus any finance charge, sales tax, shipping costs, and collateral costs paid;

(b) If the facilitative device was leased, take all of the following actions at the direction of the consumer:

(I) Accept a return of the facilitative device;

(II) (A) Refund to the lessor or any holder of a perfected security interest in the facilitative device the current value of the written lease.

(B) For purposes of this subparagraph (II), "current value of the written lease" means the sum of the total amount for which the consumer is obligated during the term of the lease remaining after the early termination date, the dealer's early termination costs, and the value of the facilitative device on the lease expiration date, if the lease sets forth that value, less the lessor's early termination savings.

(III) Refund to the consumer or third-party purchaser the amount paid under the lease plus any collateral costs.

(4) (a) In the event that a dispute arises as to liability under this part 5 between or among a manufacturer, dealer, lessor, or consumer and the consumer is covered by any third-party insurer, such third-party insurer shall not be relieved of any obligation to provide benefits covered under its plan or applicable law.

(b) In the event that a facilitative device is found to be defective, the third-party payor described in paragraph (a) of this subsection (4) shall have all rights of recovery, including the right to costs, that the consumer would have had under this part 5.

Source: L. 98: Entire part added, p. 198, § 1, effective July 1.

6-1-504. Remedies for consumers of purchased facilitative devices - conditions.

(1) To receive a refund or a replacement facilitative device, the consumer of a purchased facilitative device shall first offer to transfer the facilitative device with the nonconformity to the manufacturer, selling dealer, or alternative warranty service provider.

(2) Within thirty business days after receipt of the offer described in subsection (1) of this section, the manufacturer or dealer shall provide the consumer with a refund or a replacement facilitative device.

(3) When a manufacturer or dealer provides a consumer with a refund or a replacement facilitative device, such consumer shall return the facilitative device with the nonconformity to the manufacturer or dealer with any endorsements necessary to transfer possession to the manufacturer or dealer.

Source: L. 98: Entire part added, p. 199, § 1, effective July 1.

6-1-505. Remedies for consumers of leased facilitative devices - conditions.

(1) To receive a refund due on a leased facilitative device, a consumer shall first offer to return the facilitative device with the nonconformity to the lessor.

(2) Within thirty business days after receipt of the offer described in subsection (1) of this section, the lessor shall provide the consumer with a refund.

(3) When a lessor provides a consumer with a refund, such consumer shall return the facilitative device with the nonconformity to such lessor.

(4) A lessor shall offer to transfer to the manufacturer or dealer possession of the facilitative device returned pursuant to subsection (3) of this section. Within thirty business days after receiving such offer, the manufacturer or dealer shall remit the refund amount to the lessor. When the manufacturer or dealer makes such refund, the lessor shall provide the manufacturer or dealer with the endorsements necessary to transfer possession to the manufacturer or dealer.

Source: L. 98: Entire part added, p. 199, § 1, effective July 1.

6-1-506. Resale of a returned facilitative device - disclosure required.

A facilitative device returned pursuant to this part 5 by a consumer in this state, or by a consumer in another state under a similar law of that state, shall not be sold or leased again in this state unless full disclosure is made to the prospective consumer of the reasons for the return.

Source: L. 98: Entire part added, p. 200, § 1, effective July 1.

6-1-507. Other remedies - waiver of rights void - limitation of coverage.

(1) This part 5 shall not limit the rights or remedies available to a consumer under any other law of this state.

(2) This part 5 shall be in addition to and shall not limit the rights or remedies available to a consumer under any manufacturer's warranty with respect to a facilitative device or other technological device designed to be used by and assist a person with a disability, regardless of the retail price of the facilitative device or other technological device.

(3) If a consumer waives the rights granted to consumers pursuant to this part 5, such waiver shall be void as against public policy.

(4) Notwithstanding the remedies that are available to a consumer pursuant to this part 5, a consumer may pursue any other remedy, including an action to recover damages caused by a violation of this part 5. If a manufacturer or dealer is found to have violated this part 5, a consumer shall be awarded the amount of actual damages caused by the violation and reasonable attorney fees. The consumer may be awarded collateral costs and punitive damages.

(5) Nothing in this part 5 shall be deemed or construed to be a warranty to consumers of wheelchairs described in part 4 of this article.

Source: L. 98: Entire part added, p. 200, § 1, effective July 1.

6-1-508. Fraudulent acts.

Any manufacturer, dealer, or lessor that engages in conduct to delay making a final repair that is required as a consequence of the enforcement of warranties or duties under this part 5 with the intention of requiring payment of the cost of such repair to be made by a publicly funded program of public assistance, medical assistance, or rehabilitation assistance commits the crime of theft, which crime shall be classified in accordance with section 18-4-401 (2), C.R.S., and which crime shall be punished as provided in section 18-1.3-401, C.R.S., if the crime is classified as a felony, or section 18-1.3-501, C.R.S., if the crime is classified as a misdemeanor.

Source: L. 98: Entire part added, p. 200, § 1, effective July 1. **L. 2002:** Entire section amended, p. 1465, § 14, effective October 1.

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 318, Session Laws of Colorado 2002.

6-1-509. Arbitration.

Disputes among manufacturers, dealers, and lessors concerning the enforcement of rights or remedies of consumers under this part 5 shall be subject to arbitration pursuant to the Colorado rules of civil procedure. The award of the arbitration panel shall be binding upon the parties and shall only be subject to court review by trial de novo.

Source: L. 98: Entire part added, p. 200, § 1, effective July 1.

6-1-510. Defect notification.

(1) A manufacturer shall be responsible for providing written notification to an owner, user, purchaser, dealer, lessor, or consumer of any known or discovered inherent defect in a facilitative device that affects the safety, usability, or reliability of that facilitative device. The manufacturer shall send such notification by first-class mail to the last-known address of the owner, user, purchaser, dealer, lessor, or consumer within fourteen days after learning of such a defect.

(2) A manufacturer shall be responsible for the costs of providing the notification required in subsection (1) of this section and for all costs associated with correcting any defect described in subsection (1) of this section.

(3) The provisions of this section shall apply without time limitations.

Source: L. 98: Entire part added, p. 201, § 1, effective July 1.

6-1-511. Disclosures.

(1) Prior to the sale of any facilitative device, the seller shall disclose whether the facilitative device is new or used and whether any warranty applies to such facilitative device.

(2) Upon delivery of a new or used facilitative device, the seller shall advise the consumer of any warranty rights under this part 5 and the facilitative device's maintenance schedule and operating instructions and shall provide the consumer with a copy of the owner's manual.

(3) The disclosure required pursuant to subsection (1) of this section and the advisement required pursuant to subsection (2) of this section shall be in writing and shall, in the case of a consumer who is a person adjudicated not mentally competent, be provided to the guardian, parent, legal custodian, or primary caregiver of such person.

Source: L. 98: Entire part added, p. 201, § 1, effective July 1.

PART 6

SELLERS OF MANUFACTURED HOMES - REGISTRATION, ESCROW AND BONDING, AND CONTRACT REQUIREMENTS

6-1-601 to 6-1-606. (Repealed)

Source: L. 2003: Entire part repealed, p. 532, § 1, effective March 5.

Editor's note: This part 6 was added in 1999 and was not amended prior to its repeal in 2003. For the text of this part 6 prior to 2003, consult the 2002 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

PART 7

SPECIFIC PROVISIONS

Editor's note: This part 7 was added with relocations in 1999. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

6-1-701. Dispensing hearing aids - deceptive trade practices - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) "Dispense", with regard to a hearing aid, means to sell or transfer title, possession, or the right to use by lease, bailment, or any other method. The term does not apply to wholesale transactions with distributors or dealers.

(b) "Dispenser" means a person who dispenses hearing aids.

(c) (I) "Hearing aid" means any wearable instrument or device designed or offered to aid or compensate for impaired human hearing and includes:

(A) Any parts, attachments, or accessories to the instrument or device, as defined in rules adopted by the director of the division of professions and occupations in the department of regulatory agencies; and

(B) Ear molds, excluding batteries and cords.

(II) "Hearing aid" does not include a surgically implanted hearing device.

(d) "Practice of dispensing, fitting, or dealing in hearing aids" includes:

(I) Selecting and adapting hearing aids for sale;

(II) Testing human hearing for purposes of selecting and adapting hearing aids for sale; and

(III) Making impressions for ear molds and counseling and instructing prospective users for purposes of selecting, fitting, adapting, or selling hearing aids.

(e) "Surgically implanted hearing device" means a device that is designed to produce useful hearing sensations to a person with a hearing impairment and that has, as one or more components, a unit that is surgically implanted into the ear, skull, or other interior part of the body. The term includes any associated unit that may be worn on the body.

(2) In addition to any other deceptive trade practices under section 6-1-105, a dispenser engages in a deceptive trade practice when the dispenser:

(a) Fails to deliver to each person to whom the dispenser dispenses a hearing aid a receipt that:

(I) Bears the business address of the dispenser together with specifications as to the make and serial number of the hearing aid furnished and the full terms of the sale clearly stated. If the dispenser dispenses a hearing aid that is not new, the dispenser shall clearly mark on the hearing aid container and the receipt the term "used" or "reconditioned", whichever is applicable, within the terms of the guarantee, if any.

(II) Bears, in no smaller type than the largest used in the body of the receipt, in substance, a provision that the buyer has been advised at the outset of the buyer's relationship with the dispenser that any examination or representation made by a dispenser in connection with the practice of dispensing, fitting, or dealing in hearing aids is not an examination, diagnosis, or prescription by a person licensed to practice medicine in this state and, therefore, must not be regarded as medical opinion or advice;

(III) Bears, in no smaller type than the largest used in the body of the receipt, a provision indicating that dispensers who are licensed by the department of regulatory agencies are regulated by the division of professions and occupations in the department of regulatory agencies; and

(IV) Bears a provision labeled "warranty" in which the exact warranty terms and periods available from the manufacturer are documented, or includes an original or photocopy of the original manufacturer's warranty with the receipt;

(b) Dispenses a hearing aid to a child under eighteen years of age without receiving documentation that the child has been examined by a licensed physician and an audiologist within six months prior to the fitting;

(c) Dispenses, adjusts, provides training or teaching in regard to, or otherwise services surgically implanted hearing devices unless the dispenser is an audiologist or physician;

(d) Fails to recommend in writing, prior to fitting or dispensing a hearing aid, that the best interests of the prospective user would be served by consulting a licensed physician specializing in diseases of the ear, or any licensed physician, if any of the following conditions exist:

(I) Visible congenital or traumatic deformity of the ear;

(II) Active drainage of the ear, or a history of drainage of the ear within the previous ninety days;

(III) History of sudden or rapidly progressive hearing loss;

(IV) Acute or chronic dizziness;

(V) Unilateral hearing loss of sudden onset within the previous ninety days;

(VI) Audiometric air-bone gap equal to or greater than fifteen decibels at 500 hertz (Hz), 1,000 Hz, and 2,000 Hz;

(VII) Visible evidence of significant cerumen accumulation on, or a foreign body in, the ear canal;

(VIII) Pain or discomfort in the ear;

(e) Fails to provide a minimum thirty-day rescission period with the following terms:

(I) The buyer has the right to cancel the purchase for any reason before the expiration of the rescission period by giving or mailing written notice of cancellation to the dispenser and presenting the hearing aid to the dispenser, unless the hearing aid has been lost or significantly damaged beyond repair while in the buyer's possession and control. The rescission period is tolled for any period during which a dispenser takes possession or control of a hearing aid after its original delivery.

(II) The buyer, upon cancellation, is entitled to receive a full refund of any payment made for the hearing aid within thirty days after returning the hearing aid to the dispenser, unless the hearing aid was significantly damaged beyond repair while the hearing aid was in the buyer's possession and control;

(III) (A) The dispenser shall provide a written receipt or contract to the buyer that includes, in immediate proximity to the space reserved for the signature of the buyer, the following specific statement in all capital letters of no less than ten-point, bold-faced type:

THE BUYER HAS THE RIGHT TO CANCEL THIS PURCHASE FOR ANY REASON AT ANY TIME PRIOR TO 12 MIDNIGHT ON THE [insert applicable rescission period, which must be no shorter than thirty days after receipt of the hearing aid] **CALENDAR DAY AFTER RECEIPT OF THE HEARING AID BY GIVING OR MAILING THE DISPENSER WRITTEN NOTICE OF CANCELLATION AND BY RETURNING THE HEARING AID, UNLESS THE HEARING AID HAS BEEN SIGNIFICANTLY DAMAGED BEYOND REPAIR WHILE THE HEARING AID WAS IN THE BUYER'S CONTROL.**

(B) The written contract or receipt provided to the buyer must also contain a statement, in print size no smaller than ten-point type, that the sale is void and unenforceable if the hearing aid being purchased is not delivered to the consumer within thirty days after the date the written contract is signed or the receipt is issued, whichever occurs later. The written contract or receipt must also include the dispenser's license number, if the dispenser is required to be licensed by the state, and a statement that the dispenser will promptly refund all money paid for the purchase of a hearing aid if it is not delivered to the consumer within the thirty-day period. The buyer cannot waive this requirement, and any attempt to waive it is void.

(IV) A refund request form must be attached to each receipt and must contain the information in subparagraph (I) of paragraph (a) of this subsection (2) and the statement, in all capital letters of no less than ten-point, bold-faced type: "Refund request - this form must be postmarked by _____ (Date to be filled in). No refund will be given until the hearing aid or hearing aids are returned to the dispenser." A space for the buyer's address, telephone number, and signature must be provided. The buyer is required only to sign, list the buyer's current address and telephone number, and mail the refund request form to the dispenser. If the hearing aid is sold in the buyer's home, the buyer may require the dispenser to arrange the return of the hearing aid.

(f) Represents that the service or advice of a person licensed to practice medicine will be used or made available in the selection, fitting, adjustment, maintenance, or repair of hearing aids when that is not true or using the terms "doctor", "clinic", "state-licensed clinic", "state-registered", "state-certified", or "state-approved" or any other term, abbreviation, or symbol when it would:

(I) Falsely give the impression that service is being provided by persons trained in medicine or that the dispenser's service has been recommended by the state when that is not the case; or

(II) Be false or misleading;

(g) Directly or indirectly:

(I) Gives or offers to give, or permits or causes to be given, money or anything of value to any person who advises another in a professional capacity as an inducement to influence the person or have the person influence others to purchase or contract to purchase products sold or offered for sale by the dispenser; except that a dispenser does not violate this subparagraph (I) if the dispenser pays an independent advertising or marketing agent compensation for advertising or marketing services the agent rendered on the dispenser's behalf, including compensation that is paid for the results or performance of the services on a per-patient basis; or

(II) Influences or attempts to influence any person to refrain from dealing in the products of competitors;

(h) Dispenses a hearing aid to a person who has not been given tests utilizing appropriate established procedures and instrumentation in the fitting of hearing aids, except when selling a replacement hearing aid within one year after the date of the original purchase;

(i) Makes a false or misleading statement of fact concerning goods or services or the buyer's right to cancel with the intention or effect of deterring or preventing the buyer from exercising the buyer's right to cancel, or refuses to honor a buyer's request to cancel a contract for the purchase of a hearing aid, if the request was made during the rescission period set forth in paragraph (e) of this subsection (2);

(j) Employs a device, a scheme, or artifice with the intent to defraud a buyer of a hearing aid;

(k) Intentionally disposes of, conceals, diverts, converts, or otherwise fails to account for any funds or assets of a buyer of a hearing aid that is under the dispenser's control; or

(l) Charges, collects, or recovers any cost or fee for any good or service that has been represented by the dispenser as free.

(3) (a) This section applies to a dispenser who dispenses hearing aids in this state.

(b) This section does not apply to the dispensing of hearing aids outside of this state so long as the transaction either conforms to this section or to the applicable laws and rules of the jurisdiction in which the transaction takes place.

Source: L. 99: Entire part added with relocations, p. 637, § 2, effective May 18. **L. 2000:** (1)(d), (1)(f), IP(2), (2)(a)(I), (2)(a)(II), (2)(a)(III), (2)(c)(I), (2)(c)(II), (2)(e)(I), (2)(e)(II), (2)(e)(III), (2)(g), and (2)(j) amended and (1)(e.5) added, p. 1092, § 11, effective July 1; (1)(a)

amended, p. 1837, § 1, effective August 2. **L. 2007:** Entire section repealed, p. 810, § 4, effective July 1. **L. 2013:** Entire section RC&RE, (SB 13-228), ch. 271, p. 1420, § 1, effective May 24. **L. 2020:** (2)(a)(III) and (2)(e)(III)(B) amended and (2)(c)(I) repealed, (HB 20-1218), ch. 299, p. 1484, § 3, effective September 1; (2)(a)(III), (2)(c), and (2)(e)(III)(B) amended, (HB 20-1219), ch. 300, p. 1492, § 3, effective September 1.

Editor's note: (1) This section is similar to former § 6-1-105.5, as it existed prior to 1999.

(2) Amendments to subsections (2)(c) and (2)(c)(I) by HB 20-1218 and HB 20-1219 were harmonized.

6-1-702. Unsolicited facsimiles - deceptive trade practice - definitions.

(1) A person engages in a deceptive trade practice when, in the course of such person's business, vocation, or occupation, such person:

(a) Uses a telephone facsimile machine, computer, or other device to send an unsolicited advertisement to a telephone facsimile machine;

(b) Uses a computer or other electronic device to send any message via a telephone facsimile machine unless such person clearly marks, in a margin at the top or bottom of each transmitted page of the message or on the first page of the transmission:

(I) The date and time the facsimile is sent;

(II) An identification of the person sending the facsimile; and

(III) The telephone number of the sending machine of the person; or

(c) Violates 47 U.S.C. sec. 227 or any rule promulgated thereunder.

(2) For the purposes of this section, unless the context otherwise requires:

(a) "Telephone facsimile machine" means equipment that has the capacity to:

(I) Transcribe text or images from paper into an electronic signal and to transmit that signal over a regular telephone line; or

(II) Transcribe text or images from an electronic signal received over a regular telephone line onto paper.

(b) "Unsolicited advertisement" means material that advertises the commercial availability or quality of any property, good, or service and that is transmitted to a person without that person's prior express invitation or permission.

(3) (a) The provisions of this section shall not apply to:

(I) A person who has an existing business relationship with the person receiving a facsimile; or

(II) A nonprofit organization operating pursuant to 26 U.S.C. sec. 501 (c) of the federal "Internal Revenue Code of 1986", as amended, that sends a facsimile to a nonmember recipient, if the nonprofit organization has received, by facsimile or other means, such nonmember recipient's prior express written invitation or permission to deliver facsimiles that includes the recipient's signature and facsimile number.

(b) For the purposes of this subsection (3), "existing business relationship" means a relationship formed by a voluntary two-way communication between a person or entity and a residential or business subscriber, with or without an exchange of consideration on the basis of an inquiry, application, purchase, membership, or transaction by the residential or business subscriber regarding products or services offered by such person or entity.

Source: L. 99: Entire part added with relocations, p. 641, § 2, effective May 18. **L. 2004:** Entire section R&RE, p. 406, § 1, effective August 4. **L. 2005:** (3) added, p. 463, § 1, effective May 4.

Editor's note: This section is similar to former § 6-1-105 (1)(p.3), (1)(p.5), and (1)(p.7), as it existed prior to 1999.

ANNOTATION

Law reviews. For article, "Regulating Faxing Activity Under State and Federal Law", see 34 Colo. Law. 63 (Dec. 2005).

Colorado state courts have jurisdiction over private actions under the Telephone Consumer Protection Act (TCPA), 47 U.S.C. § 227, under the supremacy clause of the United States Constitution, and the TCPA does not limit this jurisdiction, even assuming congress could do so. When congress created a private right of action that could be prosecuted in state courts, it was acknowledging that the state could apply their own rules of procedure to such an action, but it did not intend to require that any state adopt a further law or rule of court to allow the prosecution of such actions in its courts. The supremacy clause requires the exercise of such jurisdiction as the state court possesses. Consumer Crusade, Inc. v. Affordable Health Care Solutions, Inc., 121 P.3d 350 (Colo. App. 2005).

"If otherwise permitted" phrase under TCPA provisions creating a private right of action is merely an acknowledgment by congress that states have the right to

structure their own court systems and that state courts are not obligated to change their procedural rules to accommodate TCPA claims. Under this view, no state can refuse to entertain a private TCPA action, but a state is not compelled to adopt a special procedural rule for such actions. Consumer Crusade, Inc. v. Affordable Health Care Solutions, Inc., 121 P.3d 350 (Colo. App. 2005).

Claims under the Colorado Consumer Protection Act (CCPA) are not assignable because the statute is penal in nature. U.S. Fax Law Ctr., Inc. v. iHire, Inc., 374 F. Supp. 2d 924 (D. Colo. 2005); U.S. Fax Law Ctr., Inc. v. T2 Techs., Inc., 183 P.3d 626 (Colo. App. 2007), aff'd, 476 F.3d 1112 (10th Cir. 2007).

A four-part test determines whether the CCPA is penal in nature and whether a CCPA claim is assignable. First, to be penal, a statute must create a new and distinct statutory cause of action. Second, the statute must require no proof of actual damages as a condition precedent to recovery. Third, the statute must impose a penalty in excess of actual damages. Finally, the statute must serve a public interest through a deterrent effect by the damages awarded. U.S. Fax Law Ctr., Inc. v. iHire, Inc., 374 F. Supp. 2d 924 (D. Colo. 2005); U.S. Fax Law Ctr., Inc. v. T2 Techs., Inc., 183 P.3d 626 (Colo. App. 2007), aff'd on other grounds, 476 F.3d 1112 (10th Cir. 2007).

The same test applies to a claim under the TCPA. Kruse v. McKenna, 178 P.3d 1198 (Colo. 2008).

Under Colorado law, a claim for liquidated damages under the TCPA is a claim for a penalty that cannot be assigned. Kruse v. McKenna, 178 P.3d 1198 (Colo. 2008).

An action based on receipt by individuals of unsolicited faxes in violation of the TCPA is not assignable because such an action is in the nature of a violation of the right to privacy. McKenna v. Oliver, 159 P.3d 697 (Colo. App. 2006).

Under the plain language of § 6-1-113 (1), the only assignees authorized to bring an action under the CCPA are those whose assignors were actual consumers who purchased defendant's goods, services, or property. U.S. Fax Law Ctr. v. Myron Corp., 159 P.3d 745 (Colo. App. 2006); U.S. Fax Law Ctr., Inc. v. T2 Techs., Inc., 183 P.3d 626 (Colo. App. 2007).

6-1-702.5. Commercial electronic mail messages - unfair or deceptive trade practice - remedies - definitions - short title - legislative declaration.

(1) This section shall be known and may be cited as the "Spam Reduction Act of 2008".

(2) A person engages in a deceptive trade practice when, in the course of such person's business, vocation, or occupation, such person:

(a) Violates any provision of the federal "Controlling the Assault of Non-Solicited Pornography and Marketing (‘CAN-SPAM’) Act of 2003", 15 U.S.C. secs. 7701 to 7713, or any rule promulgated under the federal act that can be enforced by states or providers of internet access service pursuant to 15 U.S.C. sec. 7706 (f) or (g);

(b) Knowingly fails to disclose the actual point-of-origin electronic mail address of a commercial electronic mail message in order to mislead or deceive the recipient as to the source or sender of the message;

(c) Knowingly falsifies electronic mail transmission information or other routing information for a commercial electronic mail message in order to mislead or deceive the recipient as to the source or sender of the message;

(d) Knowingly uses a third party's internet address or domain name without the third party's consent for the purposes of transmitting a commercial electronic mail message; or

(e) Knowingly sends a commercial electronic mail message to any person that has previously given the sender a do-not-email directive under 15 U.S.C. sec. 7704 (a)(3)(A) or provides the electronic mail address of any such person to a third party for the purpose of enabling the third party to send a commercial electronic mail message, other than pursuant to affirmative consent, to that electronic mail address.

(3) As used in this section:

(a) "Affirmative consent" has the same meaning as set forth in 15 U.S.C. sec. 7702.

(b) "Commercial electronic mail message" has the same meaning as set forth in 15 U.S.C. sec. 7702.

(c) "Provider of internet access service" means a provider of internet access service, as defined in 47 U.S.C. sec. 231.

(d) "Sender" has the same meaning as set forth in 15 U.S.C. sec. 7702.

(4) (a) In the case of a violation of this section, a provider of internet access service whose network or facilities were used in the transmission or attempted transmission of a commercial electronic mail message may file a civil action in a court of competent jurisdiction and may, upon proof of such violation, recover such sums as are allowed under this subsection (4).

(b) (I) In any such action, if the provider of internet access service prevails, the provider is entitled to actual damages. Upon a showing that the sender of a commercial electronic mail message violated any provision of this section, whether or not the violation resulted in a financial loss or injury, the provider of internet access service may recover attorney fees and costs.

(II) In any such action, if the provider of internet access service prevails, the provider is also entitled to recover, as part of the judgment, statutory damages in the amount of one thousand

dollars for each commercial electronic mail message transmitted in violation of this section; except that the total amount of statutory damages awarded against a single defendant based on one transaction or occurrence shall not exceed ten million dollars.

(c) The remedies, duties, prohibitions, and penalties of this subsection (4) are not exclusive and are in addition to all other causes of action, remedies, and penalties provided by law.

(d) At the request of any party to an action brought pursuant to this subsection (4), the court may, in its discretion, conduct all legal proceedings in such a way as to protect the secrecy and security of any computer, computer network, computer data, or computer software involved in order to prevent possible recurrence of the same or similar conduct by another person and to protect the trade secrets of any party.

(e) Providers of internet access service that adopt and implement terms, conditions, or technical measures in good faith to prevent or prohibit the origination or transmission of commercial electronic mail messages in violation of this section are immune from civil liability for any such actions, and no provision of this section shall be construed to create any liability for such actions.

(f) A provider of internet access service is not liable for the mere transmission of commercial electronic mail messages over the provider's computer network or facilities.

(g) This section shall not be construed to require a provider of internet access service to carry or deliver any electronic mail merely because a sender complies with this section.

(h) This section shall apply when a commercial electronic mail message is sent to a computer located in Colorado or to an electronic mail address that the sender knows, or has reason to know, is held by a Colorado resident.

(5) (a) The attorney general is hereby specifically authorized to take all actions and invoke all remedies authorized under 15 U.S.C. sec. 7706 (f) to enforce this section. Such actions and remedies are not exclusive and are in addition to all other causes of action, remedies, and penalties provided by this article and any other state or federal law.

(b) The attorney general is encouraged to and may, in the attorney general's discretion, cooperate with a provider of internet access service in an action by the provider under 15 U.S.C. sec. 7706 (g).

(6) The general assembly:

(a) Finds that all violations of the federal "CAN-SPAM Act of 2003" are inherently false and deceptive;

(b) Determines that falsity and deception in any portion of a commercial electronic mail message or an attachment thereto harms Colorado consumers and threatens Colorado's economy; and

(c) Declares that the intent of this section and of section 18-5-308, C.R.S., is to exercise state authority in a manner consistent with, and to the maximum extent permissible under, the federal preemption provisions of 15 U.S.C. sec. 7707 (b).

Source: L. 2008: Entire section added, p. 593, § 1, effective August 5. **L. 2026:** (3)(c), (4)(a), (4)(b), (4)(e), (4)(f), (4)(g), and (5)(b) amended, (HB 26-1426), ch. 334, p. 1995, § 17, effective August 12.

6-1-703. Time shares and resale time shares - deceptive trade practices.

(1) A person engages in a deceptive trade practice when, in the course of the person's business, vocation, or occupation, the person engages in one or more of the following activities in connection with the advertisement or sale of a time share or the provision of a time share resale service:

(a) Misrepresents:

(I) The investment, resale, or rental value of any time share;

(II) The conditions under which a purchaser may exchange the right to use accommodations or facilities in one location for the right to use accommodations or facilities in another location; or

(III) The period of time during which the accommodations or facilities contracted for will be available to the purchaser;

(b) Fails to allow any purchaser a right to rescind the sale of a time share or a time share resale service within five calendar days after the sale;

(c) (I) Fails to provide conspicuous notice on the contract of the right of a purchaser of a time share or time share resale service to rescind the sale in writing either by electronic means, mail, or hand delivery.

(II) For purposes of this section, notice of rescission is given:

(A) If by mail, when postmarked;

(B) If by electronic mail or other electronic means, when sent; or

(C) If by hand delivery, when delivered to the seller's place of business.

(d) Fails to refund any down payment or deposit made pursuant to a time share contract or contract for time share resale service within seven days after the seller or time share resale entity receives the purchaser's written notice of rescission; except that, if the purchaser's check has not

cleared at the time notice of rescission is received, the person has seven additional days after receipt of funds from the purchaser's cleared check to refund the down payment or deposit;

(e) With respect to the sale or solicitation of any time share resale service, makes false or misleading statements, including statements concerning:

(I) The existence of offers to buy or rent the resale time share;

(II) The likelihood of, or the time necessary to complete, any sale, rental, transfer, or invalidation;

(III) The value of the resale time share;

(IV) The current or future costs of owning the resale time share, including assessments, maintenance fees, or taxes;

(V) How amounts paid by the purchaser of the time share resale service will be utilized;

(VI) The method or source from which the name, address, telephone number, or other contact information of the owner of the resale time share was obtained;

(VII) The identity of the time share resale entity or that entity's affiliates; or

(VIII) The terms and conditions upon which the time share resale service is offered;

(f) Engages in any time share resale service without first obtaining a written contract to provide the service, which contract is signed by the purchaser of the time share resale service and complies with the requirements of this section. For purposes of paragraph (c) of this subsection (1), the required notice of rescission rights applicable to a contract for a time share resale service is conspicuous if printed in at least fourteen-point, bold-faced type immediately preceding the space in the contract provided for the purchaser's signature. In addition to any other remedy provided in this article, a time share resale service contract that does not satisfy the requirements of this section is voidable at the option of the purchaser for up to one year after the date the purchaser executes the contract.

(g) With respect to time share resale transfer agreements, fails to comply with any provision of, or otherwise makes false or misleading statements in connection with, any disclosure or other act required to be made or observed under section 6-1-703.5.

(2) The unlawful practices listed in this section are in addition to, and do not limit, the types of deceptive trade practices actionable under section 6-1-105.

(3) No person shall knowingly circumvent the requirements of this section or section 6-1-703.5.

(4) (a) A person who, as director, officer, or agent of a time share resale entity or as agent of a person who violates this article, assists or aids, directly or indirectly, in a violation of this article is responsible equally with the person for which the person acts.

(b) In the prosecution of a person as officer, director, or agent, it is sufficient to allege and prove the unlawful intent of the person or entity for which the person acts.

Source: L. 99: Entire part added with relocations, p. 642, § 2, effective May 18. **L. 2013:** Entire section amended, (SB 13-182), ch. 166, p. 541, § 2, effective August 7.

Editor's note: This section is similar to former § 6-1-105 (1)(s), as it existed prior to 1999.

6-1-703.5. Time share resale transfer agreements - deceptive trade practices.

(1) A time share resale entity engages in a deceptive trade practice when the entity fails to include in a time share resale transfer agreement the following information:

(a) The name, telephone number, and physical address of the time share resale entity and the name and address of any agent or third-party service provider who will perform any of the time share resale services for that time share resale entity;

(b) A description of the applicable resale time share legally sufficient for recording or other legal transfer;

(c) A description of the method or documentation by which the transfer of the resale time share will be completed, including whether:

(I) The owner of the resale time share will retain any interest in the resale time share following the transfer; and

(II) The owner of the resale time share must grant a power of attorney or otherwise delegate any authority necessary to complete the transfer of the resale time share and the scope of the authority delegated by the owner of the resale time share;

(d) If the owner of the resale time share will retain any interest in the resale time share, a description of the interests retained by the owner of the resale time share;

(e) A listing of any fees, costs, or other consideration that the owner of the resale time share must pay or reimburse for performance of the time share resale service;

(f) A statement that neither the time share resale entity nor any affiliate or agent of the entity shall collect from the owner of the resale time share any fees, costs, or other consideration until the time share resale entity:

(I) Provides the owner of the resale time share a copy of the recordable deed or other equivalent written evidence clearly demonstrating that the resale time share has been transferred to a subsequent transferee in accordance with the time share resale transfer agreement and applicable law; and

(II) Satisfies all other requirements of this section;

(g) The date by which all acts sufficient to transfer the resale time share in accordance with the time share resale transfer agreement are estimated to be completed. The time share resale entity shall use commercially reasonable good faith efforts to complete the transfer of the subject time share within the estimated period. Commercially reasonable good faith efforts include making a request to the association of time share owners pursuant to section 38-33.3-316 (8), C.R.S., for a written statement detailing unpaid assessments levied against the time share.

(h) A statement as to whether any person, including the owner of the resale time share, may occupy, rent, exchange, or otherwise exercise any form of use of the resale time share during the term of the time share resale transfer agreement;

(i) The name of any person, other than the owner of the resale time share, who will receive any rents, profits, or other consideration or thing of value, if any, generated from the transfer of the applicable resale time share or the use of the applicable resale time share during the term of the time share resale transfer agreement;

(j) The following statement clearly and conspicuously and in substantially the following form:

> We [name of time share resale entity] will use commercially reasonable good faith efforts to transfer ownership of your resale time share to another person within the period we estimate for completing the transfer. Until the transfer of ownership is complete, you, the resale time share owner, will continue to be responsible for the payment of all costs and fees associated with your resale time share, including, as applicable, regular assessments, special assessments, and real and personal property taxes.

(k) A statement that the time share resale entity will notify the following persons or entities, in writing, when ownership of the resale time share is transferred, as applicable:

(I) The association of time share owners or other persons responsible for managing or operating the plan or arrangement by which the rights or interests associated with the applicable time share resale are utilized; and

(II) The exchange company operating any exchange program that the resale time share was part of at the time the transfer was completed.

(2) In making the disclosures required under this section, the time share resale entity may rely upon information provided in writing by the owner of the applicable resale time share or the developer, association of time share owners, or other person responsible for managing or operating the plan or arrangement by which the rights or interests associated with the applicable resale time share are utilized.

(3) A time share resale entity shall not transfer or offer to assist in transferring a resale time share, or receive consideration in connection with the transfer of a resale time share, if the time share resale entity knows that the transferee does not have the ability or the intent to fulfill the obligations of ownership of the resale time share, including the obligation to pay all assessments and taxes incurred in connection with ownership of the resale time share. If a time share resale entity transfers or offers to transfer, or receives compensation in connection with the transfer of, a resale time share to a person who has a demonstrated pattern of nonpayment of assessments or taxes or the demonstrated inability to meet payment obligations, the actions of the time share resale entity are prima facie evidence of a violation of this subsection (3).

(4) A time share resale entity shall supervise, manage, and control all aspects of the time share resale transfer agreement and the offering of the resale time share by any affiliate, agent, contractor, or employee of that time share resale entity. A violation of this section is a violation by the time share resale entity and by the person actually committing the conduct that constitutes the violation.

(5) If a time share resale entity engages in an act that is prohibited by this section, either directly or as a means to avoid or circumvent the purpose of this section, a person injured by the act may bring a private civil action pursuant to section 6-1-113.

Source: L. 2013: Entire section added, (SB 13-182), ch. 166, p. 543, § 3, effective August 7.

6-1-704. Health clubs - deceptive trade practices.

(1) A person engages in a deceptive trade practice when, in the course of the person's business, vocation, or occupation, the person engages in one or more of the following activities in connection with the advertisement or sale of a membership in a health club:

(a) Fails to allow any buyer of a membership in a health club to rescind the membership contract within three business days after receipt by the buyer of a copy of the contract;

(b) Fails to provide conspicuous notice of the right of a purchaser of a health club membership to rescind the sale either by telegram, mail, or hand delivery. For purposes of this section, notice of rescission is considered given, if by mail when postmarked, if by telegram when filed for telegraphic transmission, or if by hand delivery when delivered to the seller's place of business.

(c) Fails to allow the buyer, or the estate of the buyer, to cancel the membership contract when:

(I) The buyer dies;

(II) The buyer becomes totally physically disabled as determined by a licensed physician or advanced practice registered nurse for the duration of the membership contract;

(III) The health club is moved to a location that is more than five miles from the location of the establishment when the buyer entered into the membership contract;

(IV) The membership in the health club is transferred to a location of the same club or another club, which location is more than five miles from the location of the club when the buyer entered into the contract, and this transfer occurs because of cessation of health club services at the club location from which the membership is transferred;

(V) The seller permanently discontinues operation of the health club or sells the health club and the sale results in substantial alteration of the quality of health club services or health club facilities or the nature of benefits so that they no longer conform to the provisions of the membership contract; except that the health club has a thirty-day "right to cure" during which the fees payable by the buyer under the membership contract are suspended and the health club may bring the services, facilities, and benefits into conformance with the provisions of the membership contract;

(d) Fails to refund all payments made pursuant to the membership contract, less a prorated fee for days of actual use of the health club by the buyer, within fifteen days after the seller receives the buyer's written notice of rescission;

(e) When a health club is planned or under construction, and the sale of the membership takes place before the health club is completed, fails to:

(I) Disclose clearly and conspicuously in the membership contract the date on which the health club will open for use;

(II) Escrow all preopening membership sales receipts in a separate account in a bank or trust company doing business in the state of Colorado or provide a cash bond, letter of credit, certificate of deposit, or other similar surety, in the amount of fifty thousand dollars, for the repayment of amounts actually paid under preopening membership agreements until the health club is open for business;

(III) Allow the buyer to cancel the membership contract and receive a full refund of all payments made pursuant to the membership contract if the date the health club will open for use is delayed more than sixty days from the date of opening specified in the membership contract;

(f) Sells any membership contract, the actual or financial duration of which, including any option to renew, is longer than twenty-four months; except that a person does not engage in a deceptive trade practice when such person sells any membership contract the actual or financial duration of which is not longer than thirty-six months with a buyer's option to renew annually thereafter if:

(I) The health club has been in operation in this state more than two years; and

(II) The health club maintains a bond with a corporate surety from a company authorized to do business in this state or other security acceptable to and approved by the attorney general; and

(III) The aggregate amount of the bond is one hundred thousand dollars for each club location; and

(IV) The bond is payable to the state for the benefit of any buyer injured in the event the health club goes out of business prior to the expiration of the buyer's membership contract; and

(V) The bond is maintained for so long as the health club has any membership contracts in place and outstanding, the specified term for which exceeds twenty-four months; and

(VI) The bond is not canceled, revoked, or terminated except after notice to, and with the written consent of, the attorney general at least forty-five days in advance of such cancellation, revocation, or termination; and

(VII) The annual renewal option for continued membership contained in the membership contract is not automatic but requires that the buyer affirmatively accept the renewal option by notice in writing to the person selling the membership contract for reasonable consideration on or before the expiration of each contract term, but not more than six months prior to the expiration of any contract term; and

(VIII) In the event that the health club elects to cancel, revoke, or terminate the bond, it posts a notice of such action, in twenty-four-point bold-faced type, to its customers, on the front door of such health club; or

(g) Makes any representation, orally or in writing, in connection with the offer or sale of a membership in a health club that a membership contract is for a lifetime or is for a perpetual membership, or uses coercive sales tactics, or misrepresents the quality, benefits, or nature of the services.

Source: L. 99: Entire part added with relocations, p. 643, § 2, effective May 18. **L. 2008:** (1)(c)(II) amended, p. 123, § 1, effective January 1, 2009. **L. 2026:** IP(1) and (1)(c)(V) amended, (HB 26-1426), ch. 334, p. 1996, § 18, effective August 12.

Editor's note: This section is similar to former § 6-1-105 (1)(t), as it existed prior to 1999.

6-1-705. Dance studios - deceptive trade practices.

(1) A person engages in a deceptive trade practice when, in the course of such person's business, vocation, or occupation, such person engages in one or more of the following activities or practices in connection with the advertisement, sale, or performance of contracts for dance studio services in which the total amount of the obligation that the purchaser undertakes is in excess of five hundred dollars:

(a) Fails to execute a written contract and to provide a copy of the contract to the purchaser at the time the purchaser signs it;

(b) Fails to include, printed in ten-point, bold-faced type in the contract:

(I) The total amount of the obligation the purchaser undertakes;

(II) All goods and services that the purchaser is to receive under the contract set forth in specific terms, including the total number or hours of dance instruction to be given by the dance studio under the contract broken down by different hourly rates, if applicable, and all other goods and services;

(III) The itemized cost of all goods and services to be provided under the contract, including but not limited to the cost per hour of dance instruction and the different hourly rates for different types of dance lessons, if any, and any charges to be paid by the purchaser for cost of travel, accommodations, or other expenses of dance studio owners, operators, managers, agents, or employees, the total cost of which shall equal the amount to be specified in the contract pursuant to subparagraph (I) of this paragraph (b); and

(IV) The purchaser's right to cancel as specified in paragraphs (c) to (e) of this subsection (1);

(c) Fails to include in the contract the following statement in bold-faced type under the conspicuous caption:

PURCHASER'S RIGHT TO CANCEL:

YOU, THE PURCHASER, MAY CANCEL THIS CONTRACT AT ANY TIME DURING THE TERM OF ITS EFFECTIVENESS. YOU MUST GIVE WRITTEN NOTICE TO THE DANCE STUDIO THAT YOU DO NOT WANT TO BE FURTHER BOUND BY THIS CONTRACT. THE NOTICE OF CANCELLATION MAY BE SERVED IN PERSON, BY TELEGRAM, OR BY MAIL TO THE DANCE STUDIO AT THE ADDRESS STATED IN THIS CONTRACT OR AT THE LOCATION WHERE DANCE LESSONS ARE CONDUCTED. WITHIN THIRTY DAYS AFTER RECEIPT OF YOUR NOTICE OF CANCELLATION, THE DANCE STUDIO SHALL REFUND TO YOU THE CONTRACT PRICE LESS THE COST OF GOODS AND SERVICES ALREADY RECEIVED BY YOU AND AN AMOUNT OF LIQUIDATED DAMAGES EQUAL TO NOT MORE THAN TEN PERCENT OF THE COST OF THE REMAINING GOODS AND SERVICES.

(d) Fails to allow the contract to be canceled by the purchaser upon the purchaser's serving written notice to the dance studio;

(e) Fails, upon cancellation of a contract for dance studio services, to refund to the purchaser all prepayments made under the contract, minus the total of:

(I) The amount equal to the cost of goods and services actually received by the purchaser under the contract; and

(II) An amount of liquidated damages equal to not more than ten percent of the cost of the remaining goods and services not received by the purchaser;

(f) Subtracts a total amount under subparagraphs (I) and (II) of paragraph (e) of this subsection (1) that exceeds the total amount of the obligation as set out in subparagraph (I) of paragraph (b) of this subsection (1);

(g) Fails to have a performance bond in the amount of twenty-five thousand dollars, as to each studio, location, or owner, for the benefit of any person who enters into a contract for dance studio services in which the total amount of the obligation that the purchaser undertakes is in excess of five hundred dollars and who is damaged by the failure of the dance studio to provide the services specified in the contract or by the failure of the dance studio to comply with this

section, which performance bond guarantees the dance studio's performance of its contractual obligations with the purchaser in accordance with the provisions of this section, or fails to disclose in the contract with such purchaser the existence of the performance bond;

(h) Sells or induces any person to purchase or to become obligated directly or contingently, or both, under more than one contract for dance studio services at the same time for the purpose of avoiding the provisions of this section; or

(i) Assigns or accepts an assignment of dance studio services without the written consent of the purchaser.

Source: L. 99: Entire part added with relocations, p. 645, § 2, effective May 18.

Editor's note: This section is similar to former § 6-1-105 (1)(w), as it existed prior to 1999.

6-1-706. Buyers' clubs - deceptive trade practices.

(1) A person engages in a deceptive trade practice when, in the course of such person's business, vocation, or occupation, such person engages in one or more of the following activities or practices in connection with the advertisement, sale, or performance of any contract of membership in a buyers' club in which the price of the membership equals or exceeds one hundred dollars:

(a) Fails to allow any purchaser of a membership in a buyers' club to rescind the membership contract at any time prior to the close of business on the next business day following the day the purchaser signs the contract;

(b) Fails to provide in the membership contract the following mandatory disclosure under the heading:

PURCHASER'S RIGHT TO CANCEL:

THE PURCHASER MAY CANCEL THIS CONTRACT FOR ANY REASON AT ANY TIME PRIOR TO THE CLOSE OF BUSINESS ON THE NEXT BUSINESS DAY FOLLOWING THE DAY THE PURCHASER SIGNS THE MEMBERSHIP CONTRACT BY DELIVERING OR MAILING TO THE BUYERS' CLUB WRITTEN NOTICE OF CANCELLATION. NOTICE OF CANCELLATION, IF

SENT BY MAIL, IS DEEMED TO BE GIVEN AS OF THE DATE THE MAILED NOTICE WAS POSTMARKED.

Said heading and disclosure shall be in capital letters in no less than ten-point, bold-faced type.

(c) Fails to refund all payments made pursuant to the membership contract within fifteen days after the buyers' club receives notice of cancellation from the purchaser.

Source: L. 99: Entire part added with relocations, p. 646, § 2, effective May 18.

Editor's note: This section is similar to former § 6-1-105 (1)(bb), as it existed prior to 1999.

6-1-707. Use of title or degree - deceptive trade practice - subject to review - repeal.

(1) An individual engages in a deceptive trade practice when, in the course of the individual's business, vocation, or occupation, the individual:

(a) (I) Claims either orally or in writing to possess either an academic degree or an honorary degree or the title associated with such a degree, unless the individual has, in fact, been awarded such a degree from an institution that is:

(A) Accredited by a regional or professional accrediting agency recognized by the United States department of education or the council on postsecondary accreditation or is recognized as a candidate for accreditation by such an agency;

(B) Provided, operated, and supported by a state government or any of its political subdivisions or by the federal government;

(C) A school, institute, college, or university chartered outside the United States, the academic degree from which has been validated by an accrediting agency approved by the United States department of education as equivalent to the baccalaureate or postbaccalaureate degree conferred by a regionally accredited college or university in the United States;

(D) A religious seminary, institute, college, or university that offers only educational programs that prepare students for a religious vocation, career, occupation, profession, or lifework, and the nomenclature of whose certificates, diplomas, or degrees clearly identifies the religious character of the educational program;

(E) Authorized to grant degrees pursuant to article 2 of title 23.

(II) This subsection (1)(a) does not apply to individuals claiming degrees or certificates that were submitted as a requirement of the application process for licensure, certification, or registration pursuant to title 12.

(III) An individual awarded a doctoral degree from an institution not listed in this subsection (1)(a) shall not claim in the state, either orally or in writing, the title "Dr." before the individual's name or any mark, appellation, or series of letters, numbers, or words such as "Ph.D.","Ed.D.", "D.N.", or "D.Th.", which signify, purport, or are generally taken to signify satisfactory completion of the requirements of a doctorate degree, after the individual's name.

(b) Claims either orally or in writing to be a "dietitian", "dietician", "certified dietitian", or "certified dietician" or uses the abbreviation "C.D." or "D." to indicate that the individual is a dietitian, unless the individual:

(I) Possesses a baccalaureate, master's, or doctoral degree in human nutrition, foods and nutrition, dietetics, nutrition education, food systems management, or public health nutrition from an institution that is:

(A) Accredited by a regional or professional accrediting agency recognized by the United States department of education or the council on postsecondary accreditation or is recognized as a candidate for accreditation by such accrediting agency;

(B) Authorized to grant degrees pursuant to article 2 of title 23; or

(C) A school, institute, college, or university chartered outside the United States, the academic degree from which has been validated by an accrediting agency approved by the United States department of education as equivalent to a baccalaureate or postbaccalaureate degree conferred by a regionally accredited college or university in the United States; and

(II) Meets one of the following:

(A) Completes at least nine hundred hours of a planned, continuous, preprofessional work experience in a nutrition or dietetic practice under the supervision of a qualified dietitian; or

(B) Holds a certificate of registered dietitian through the commission on dietetic registration;

(c) Repealed.

(d) (I) Claims either orally or in writing to be a "certified optician" or "certified opticien", unless the individual holds a current certificate of competence issued by the American Board of Opticianry. Each certificate shall be prominently displayed or maintained in the individual's place of business and made available for immediate inspection and review by any consumer or agent of the state. An individual shall not associate a service, product, or business name with the title "certified optician" unless the individual holds the required certificate of competence. This subsection (1)(d) does not apply to individuals authorized under article 240 or 275 of title 12 to practice medicine or optometry.

(II) Performs or claims orally or in writing to be able to perform the following procedures, and the individual is a certified optician:

(A) Vision therapy;

(B) Refractions;

(C) Automated refractions; except that a certified optician may use an auto refractor to provide vision screenings for the sole purpose of determining if the subject of the screening needs a further eye examination;

(D) Refractometry;

(E) Fitting contact lenses;

(F) Keratometry or automated keratometry; or

(G) Any other act that constitutes the practice of optometry or the practice of medicine.

(III) A certified optician does not engage in a deceptive trade practice under subsection (1)(d)(II) of this section if the optician performs the described procedures under the direction and supervision of an individual who has statutory authority under title 12 to supervise the work of others within the scope of the individual's license.

(e) (I) Claims to be a "sign language interpreter", "interpreter for the deaf", "deaf interpreter", "ASL-English interpreter", "American sign language (ASL) interpreter", "translator" for sign language, "transliterator", "certified sign language interpreter", "certified translator" for sign language, "certified interpreter for the deaf", "certified deaf interpreter", "certified ASL-English interpreter", "certified American sign language (ASL) interpreter", or "certified transliterator", unless the individual holds:

(A) A currently valid certification issued by the Registry of Interpreters for the Deaf, Inc., or a successor entity; or

(B) A currently valid certification for sign language interpretation that is approved by the division for the deaf, hard of hearing, and deafblind pursuant to section 26-21-106 (1)(f).

(II) An individual who uses any of the titles listed in this subsection (1)(e) shall make available for immediate inspection by any consumer or agent of the state:

(A) A currently valid certification from the Registry of Interpreters for the Deaf, Inc., or a successor entity; or

(B) A currently valid certification that is approved in accordance with subsection (1)(e)(I)(B) of this section.

(f) Claims to be a verified instructor for a firearms safety course that satisfies the requirements for a concealed handgun training class described in section 18-12-202.5, unless the individual is verified as a firearms instructor by a sheriff pursuant to section 18-12-202.7.

(2) This section is repealed, effective September 1, 2034. Before the repeal, the implementation of this section is scheduled for review in accordance with section 24-34-104.

Source: L. 99: Entire part added with relocations, p. 647, § 2, effective May 18. **L. 2002:** (1)(c) amended, p. 97, § 1, effective August 7. **L. 2006:** IP(1)(b) amended, p. 1488, § 3, effective June 1. **L. 2008:** (1)(c) repealed, p. 829, § 2, effective July 1. **L. 2009:** (1)(e) added, (HB 09-1090), ch. 29, p. 121, § 1, effective September 1; (1)(e) amended, (SB 09-144), ch. 219, p. 993, § 12, effective August 5. **L. 2019:** IP(1) and (1)(e) amended, (HB 19-1069), ch. 114, p. 486, § 1, effective August 2; (1)(d)(I) amended, (HB 19-1172), ch. 136, p. 1644, § 11, effective October 1. **L. 2024:** (1)(f) added, (HB 24-1174), ch. 388, p. 2691, § 8, effective August 7. **L. 2025:** (1)(e)(I)(B) amended, (HB 25-1154), ch. 230, p. 1084, § 17, effective May 22. **L. 2026:** IP(1), IP(1)(a)(I), (1)(a)(I)(E), (1)(a)(II), (1)(a)(III), IP(1)(b), (1)(b)(I)(B), (1)(d)(I), IP(1)(d)(II), (1)(d)(III), IP(1)(e)(I), IP(1)(e)(II), and (1)(f) amended and (2) added, (HB 26-1426), ch. 334, p. 1996, § 19, effective August 12.

Editor's note: This section is similar to former § 6-1-105 (1)(dd), (1)(ee.5), (1)(ee.7), and (1)(ee.8), as it existed prior to 1999.

6-1-708. Vehicle sales and leases - deceptive trade practice - definition.

(1) A person engages in a deceptive trade practice when, in the course of the person's business, vocation, or occupation, such person:

(a) Commits any of the following acts pertaining to the sale or lease of a motor vehicle, used motor vehicle, powersports vehicle, or used powersports vehicle:

(I) Guarantees to a purchaser or lessee of a motor vehicle, used motor vehicle, powersports vehicle, or used powersports vehicle who conditions the purchase or lease on the approval of a consumer credit transaction as defined in section 5-1-301 (12) that such purchaser or lessee has been approved for a consumer credit transaction if the approval is not final. For purposes of this subsection (1)(a)(I), "guarantee" means a written document or oral representation between the purchaser or lessee and the person selling or leasing the vehicle that leads such purchaser or lessee to a reasonable good faith belief that the financing of the vehicle is certain.

(II) Accepts a used vehicle as a trade-in on the purchase or lease of a motor vehicle, used motor vehicle, powersports vehicle, or used powersports vehicle and sells or leases the vehicle

that has been traded in before the purchaser or lessee has been approved for a consumer credit transaction as defined in section 5-1-301 (12) if the approval is a condition of the purchase or lease;

(III) Fails to return to the consumer any collateral or down payment tendered by the consumer conditioned upon a guarantee by a motor vehicle dealer, used motor vehicle dealer, powersports vehicle dealer, or used powersports vehicle dealer that a consumer credit transaction as defined in section 5-1-301 (12) has been approved if the approval was a condition of the sale or lease and if the financing is not approved and the consumer is required to return the vehicle;

(b) Fails to disclose in writing, prior to sale, to the purchaser that a motor vehicle is a salvage vehicle, as defined in section 42-6-102 (17), or that a vehicle was repurchased by or returned to the manufacturer from a previous owner for inability to conform the motor vehicle to the manufacturer's warranty in accordance with article 10 of title 42 or with any other state or federal motor vehicle warranty law, or knowingly fails to disclose in writing, prior to sale, to the purchaser that a motor vehicle or powersports vehicle has sustained material damage at any one time from any one incident.

(2) For purposes of this section, if a motor vehicle or used motor vehicle dealer guarantees financing and if approval for financing is a condition of the sale or lease, such motor vehicle or used motor vehicle dealer shall not retain any portion of such purchaser's down payment or any trade-in vehicle as payment of rent on any vehicle released by such dealer to such purchaser pending approval of financing even if such dealer has obtained a waiver of such purchaser's right to return a vehicle or has contracted for a rental agreement with such purchaser.

Source: L. 99: Entire part added with relocations, p. 650, § 2, effective May 18. **L. 2000:** (1)(a) and (2) amended, p. 244, § 3, effective March 30; (1)(a) amended, p. 1871, § 104, effective August 2. **L. 2001:** (1)(a) amended, p. 1265, § 2, effective June 5. **L. 2007:** (1)(b) amended, p. 2018, § 5, effective June 1. **L. 2017:** (1) amended, (SB 17-240), ch. 395, p. 2064, § 45, effective July 1.

Editor's note: (1) Subsection (1)(a) is similar to former § 6-1-105 (1)(ff)(I), subsection (1)(b) is similar to former § 6-1-105 (1)(ii), and subsection (2) is similar to former § 6-1-105 (1)(ff)(II), as they existed prior to 1999.

(2) Amendments to subsection (1)(a) by Senate Bill 00-080 and House Bill 00-1463 were harmonized.

ANNOTATION

County court judgment finding a violation of subsection (1)(a)(I) is a final determination of fraud as a matter of law for purposes of the motor vehicle dealer bond statute. A plaintiff who wins such a judgment is therefore entitled to payment from the defendant's surety bond provider for actual damages and any attorney fees awarded by the county court. Mendoza v. Pioneer Gen. Ins. Co., 2014 COA 29, 365 P.3d 371.

Subsection (1)(b) does not require actual damage to a vehicle at the time of sale. The fact that a buyer would have paid less had the buyer known of any previous damage makes the damage material. Colo. Dept. of Rev. v. Astro Imports, 2016 COA 25, 370 P.3d 377.

6-1-709. Sales of manufactured and tiny homes - deceptive trade practices.

A person engages in a deceptive trade practice when, in the course of the person's business, vocation, or occupation, the person engages in conduct that constitutes an unlawful manufactured home sales practice or an unlawful tiny home sales practice, as either sales practice is described in section 24-32-3326.

Source: L. 99: Entire part added with relocations, p. 651, § 2, effective May 18. **L. 2003:** Entire section amended, p. 550, § 5, effective March 5. **L. 2022:** Entire section amended, (HB 22-1242), ch. 172, p. 1136, § 26, effective August 10.

Editor's note: (1) This section is similar to former § 6-1-105 (1)(qq), as it existed prior to 1999.

(2) Section 6-1-105 (1)(qq) as amended by House Bill 99-1270 was harmonized with Senate Bill 99-143 and relocated to this section.

6-1-710. Trafficking of false airbag - deceptive trade practices - criminal liability - definitions.

(1) A person engages in a deceptive trade practice when the person knowingly or intentionally manufactures, imports, distributes, sells, offers for sale, installs, or reinstalls a device intended to replace a supplemental restraint system component if the device is:

(a) A counterfeit supplemental restraint system component;

(b) A nonfunctional airbag; or

(c) Any object in lieu of a supplemental restraint system component that was not designed in accordance with federal safety regulations for the make, model, and year of the motor vehicle in which it is or will be installed.

(2) Any person who violates subsection (1) of this section commits a class 1 misdemeanor.

(3) As used in this section:

(a) "Airbag" means a motor vehicle inflatable occupant restraint system device that is part of a supplemental restraint system.

(b) "Counterfeit supplemental restraint system component" means a replacement supplemental restraint system component that displays a mark identical or substantially similar to the genuine mark of a motor vehicle manufacturer or a supplier of parts to the manufacturer of a motor vehicle without authorization from that manufacturer or supplier.

(c) "Nonfunctional airbag" means a replacement airbag that:

(I) Was previously deployed or damaged;

(II) Has an electric fault that is detected by the motor vehicle's diagnostic systems when the installation procedure is completed and the motor vehicle is returned to the customer who requested the work to be performed or when ownership is intended to be transferred;

(III) Includes a part or object, including a supplemental restraint system component, installed in a motor vehicle to mislead the owner or operator of the motor vehicle into believing that a functional airbag has been installed; or

(IV) Is prohibited from being sold or leased in accordance with 49 U.S.C. sec. 30120 (j).

(d) "Supplemental restraint system" means a passive inflatable motor vehicle occupant crash protection system designed for use in conjunction with active restraint systems as described in 49 CFR 571.208. A supplemental restraint system includes:

(I) Each airbag installed in accordance with the motor vehicle manufacturer's design; and

(II) All components required to ensure that an airbag operates as designed in the event of a crash and in accordance with the federal motor vehicle safety standards for the specific make, model, and year of the motor vehicle.

Source: L. 2002: Entire section added, p. 197, § 3, effective July 1. **L. 2021:** (1) amended and (3) added, (HB 21-1193), ch. 148, p. 865, § 1, effective September 7; (2) amended, (SB 21-271), ch. 462, p. 3134, § 57, effective March 1, 2022.

6-1-711. Restrictions on credit card receipts - legislative declaration - application - definitions.

(1) The general assembly hereby finds, determines, and declares that credit, particularly the use of credit cards, is an important tool for consumers in today's economy. Unscrupulous persons often fraudulently use the credit card accounts of others by stealing the credit card itself or obtaining the necessary information to fraudulently charge the purchase of goods and services to another person's credit card account. The general assembly, therefore, finds, determines, and declares that protection from unauthorized use of credit card accounts is necessary.

(2) No person that accepts credit cards for the transaction of business shall print more than the last five digits of the credit card account number or print the credit card expiration date, or both, on a credit card receipt.

(3) This section shall apply only to receipts that are electronically printed and shall not apply to transactions in which the sole means of recording the credit card number is by handwriting or by an imprint or copy of the credit card.

(4) For the purposes of this section, "credit card" means a card or device existing for the purpose of obtaining money, property, labor, or services on credit; those cards pursuant to which unpaid balances are payable upon demand; and any card or device used to withdraw moneys from a bank account.

(5) (a) Except as provided in paragraph (c) of this subsection (5), this section shall apply to any entity formed on and after April 25, 2002, that uses a cash register or any other machine or device that electronically imprints receipts on credit card transactions and is placed into service on or after April 25, 2002.

(b) Except as provided in paragraph (c) of this subsection (5), on and after January 1, 2004, this section shall apply to any cash register and any other machine or device that electronically imprints receipts on credit card transactions for entities that were formed on or before April 25, 2002.

(c) On and after January 1, 2005, this section shall apply to:

(I) Institutions of higher education; and

(II) Persons who employ no more than twenty-five employees or who have generated no more than five million dollars annually in revenues from the person's business activities.

Source: L. 2002: Entire section added, p. 379, § 1, effective April 25. **L. 2006:** (2) amended, p. 1324, § 10, effective July 1.

6-1-712. Discount health plan and cards - deceptive trade practices - definitions.

(1) A person engages in a deceptive trade practice when, in the course of such person's business, vocation, or occupation, such person:

(a) Solicits, markets, advertises, promotes, or sells to a consumer residing in Colorado a discount health plan and such plan materials:

(I) Fail to provide to the consumer a clear and conspicuous disclosure that the discount health plan is not insurance and that the plan only provides for discount health-care services from participating providers within the plan;

(II) Fail to provide the name, address, and telephone number of the administrator of the discount health plan;

(III) Fail to make available to the consumer through a toll-free telephone number, upon request of the consumer, a complete and accurate list of the participating providers within the plan in the consumer's local area and a list of the services for which the discounts are applicable. Such list shall be available to the consumer upon request commencing with the time of purchase and shall be updated at least every six months.

(IV) Fail to use common usage for words and phrases in describing the discounts or access to discounts offered, and such failure results in representations of the discounts that are misleading, deceptive, or fraudulent;

(V) Fail to provide to the consumer notice of the right to cancel such discount health plan pursuant to paragraph (c) of this subsection (1);

(b) Offers discounted health services or products that are not authorized by a contract with each provider listed in conjunction with the discount health plan;

(c) Fails to allow a purchaser of a discount health plan to cancel such plan within thirty days after purchase;

(d) Fails to refund all membership fees paid to the discount health plan by the consumer within thirty days after timely notification of the cancellation of the plan to the discount health plan administrator pursuant to paragraph (c) of this subsection (1).

(2) The provisions of this section shall not apply to:

(a) A carrier as defined in section 10-16-102 (8), C.R.S., that offers discounts for services to a covered person, as defined in section 10-16-102 (15), C.R.S., and such services are supplemental to and not part of the health coverage plan of the carrier;

(b) A medicare endorsed drug card as approved by the federal centers for medicare and medicaid services pursuant to the "Medicare Prescription Drug, Improvement, and Modernization Act of 2003", Public Law 108-173.

(3) For the purposes of this section, unless the context otherwise requires:

(a) "Health-care services" has the same meaning as in section 10-16-102 (33), C.R.S.

(b) "Provider" has the same meaning as in section 10-16-102 (56), C.R.S.

Source: L. 2004: Entire section added, p. 968, § 8, effective May 21. **L. 2013:** (2)(a), (3)(a), and (3)(b) amended, (HB 13-1266), ch. 217, p. 984, § 38, effective May 13. **L. 2023:** (2)(b) amended, (HB 23-1301), ch. 303, p. 1815, § 3, effective August 7.

6-1-713. Disposal of personal identifying information - policy - definitions.

(1) Each covered entity in the state that maintains paper or electronic documents during the course of business that contain personal identifying information shall develop a written policy for the destruction or proper disposal of those paper and electronic documents containing personal identifying information. Unless otherwise required by state or federal law or regulation, the written policy must require that, when such paper or electronic documents are no longer needed, the covered entity shall destroy or arrange for the destruction of such paper and electronic documents within its custody or control that contain personal identifying information by shredding, erasing, or otherwise modifying the personal identifying information in the paper or electronic documents to make the personal identifying information unreadable or indecipherable through any means.

(2) As used in this section and section 6-1-713.5:

(a) "Covered entity" means a person that maintains, owns, or licenses personal identifying information in the course of the person's business, vocation, or occupation. "Covered entity" does not include a person acting as a third-party service provider as defined in section 6-1-713.5.

(b) "Personal identifying information" means a social security number; a personal identification number; a password; a pass code; an official state or government-issued driver's license or identification card number; a government passport number; biometric data, as defined in section 6-1-716 (1)(a); an employer, student, or military identification number; or a financial transaction device, as defined in section 18-5-701 (3).

(3) A covered entity that is regulated by state or federal law and that maintains procedures for disposal of personal identifying information pursuant to the laws, rules, regulations, guidances, or guidelines established by its state or federal regulator is in compliance with this section.

(4) Unless an entity specifically contracts with a recycler or disposal firm for destruction of documents that contain personal identifying information, nothing herein shall require a recycler

or disposal firm to verify that the documents contained in the products it receives for disposal or recycling have been properly destroyed or disposed of as required by this section.

Source: L. 2004: Entire section added, p. 1959, § 2, effective August 4. **L. 2018:** (1), (2), and (3) amended, (HB 18-1128), ch. 266, p. 1632, § 1, effective September 1. **L. 2026:** IP(2) and (2)(a) amended, (HB 26-1426), ch. 334, p. 1998, § 20, effective August 12.

Editor's note: This section was originally numbered as § 6-1-712 in House Bill 04-1311, but has been renumbered on revision for ease of location.

ANNOTATION

Law reviews. For article, "Privacy Basics for Colorado Lawyers: The Colorado Consumer Data Privacy Act and the California Consumer Privacy Act", see 48 Colo. Law. 26 (Aug.-Sept. 2019).

6-1-713.5. Protection of personal identifying information - definition.

(1) To protect personal identifying information, as defined in section 6-1-713 (2), from unauthorized access, use, modification, disclosure, or destruction, a covered entity that maintains, owns, or licenses personal identifying information of an individual residing in the state shall implement and maintain reasonable security procedures and practices that are appropriate to the nature of the personal identifying information and the nature and size of the business and its operations.

(2) Unless a covered entity agrees to provide its own security protection for the information it discloses to a third-party service provider, the covered entity shall require that the third-party service provider implement and maintain reasonable security procedures and practices that are:

(a) Appropriate to the nature of the personal identifying information disclosed to the third-party service provider; and

(b) Reasonably designed to help protect the personal identifying information from unauthorized access, use, modification, disclosure, or destruction.

(3) For the purposes of subsection (2) of this section, a disclosure of personal identifying information does not include disclosure of information to a third party under circumstances where the covered entity retains primary responsibility for implementing and maintaining reasonable security procedures and practices appropriate to the nature of the personal identifying

information and the covered entity implements and maintains technical controls that are reasonably designed to:

(a) Help protect the personal identifying information from unauthorized access, use, modification, disclosure, or destruction; or

(b) Effectively eliminate the third party's ability to access the personal identifying information, notwithstanding the third party's physical possession of the personal identifying information.

(4) A covered entity that is regulated by state or federal law and that maintains procedures for protection of personal identifying information pursuant to the laws, rules, regulations, guidances, or guidelines established by its state or federal regulator is in compliance with this section.

(5) For the purposes of this section, "third-party service provider" means an entity that has been contracted to maintain, store, or process personal identifying information on behalf of a covered entity.

Source: L. 2018: Entire section added, (HB 18-1128), ch. 266, p. 1633, § 2, effective September 1.

ANNOTATION

Law reviews. For article, "Privacy Basics for Colorado Lawyers: The Colorado Consumer Data Privacy Act and the California Consumer Privacy Act", see 48 Colo. Law. 26 (Aug.-Sept. 2019).

6-1-714. Unfair drug pricing practice - deceptive trade practice - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) "Emergency" means a declaration made by the department of public health and environment pursuant to section 25-1.5-101 (1)(aa), C.R.S., after the department has determined that there is a shortage of drugs critical to public safety.

(b) "Unfair drug pricing" means charging a consumer an unconscionable amount for the sale of a drug. Unfair drug pricing occurs if:

(I) The price charged by a wholesaler, distributor, or retailer exceeds by more than ten percent the average price for the drug charged by that wholesaler, distributor, or retailer during the thirty days immediately preceding the declaration of an emergency; and

(II) The increase in the amount charged by a wholesaler, distributor, or retailer is not attributable to cost factors of the retailer, including, but not limited to, replacement costs, taxes, and transportation costs incurred by that wholesaler, distributor, or retailer.

(2) A person engages in a deceptive trade practice when, in the course of such person's business, vocation, or occupation, the person engages in the practice of unfair drug pricing.

Source: L. 2005: Entire section added, p. 372, § 2, effective April 22.

6-1-715. Confidentiality of social security numbers.

(1) Except as provided in subsections (2) to (4) of this section, a person shall not:

(a) Publicly post or publicly display in any manner an individual's social security number. "Publicly post" or "publicly display" means to intentionally communicate or otherwise make available to the general public.

(b) Print an individual's social security number on any card required for the individual to access products or services provided by the person or entity;

(c) Require an individual to transmit the individual's social security number over the internet, unless the connection is secure or the social security number is encrypted;

(d) Require an individual to use the individual's social security number to access an internet website, unless a password or unique personal identification number or other authentication device is also required to access the internet website; or

(e) Print an individual's social security number on any materials that are mailed to the individual, unless state or federal law requires, permits, or authorizes the social security number to be on the document to be mailed. Notwithstanding this paragraph (e), social security numbers may be included in applications and forms sent by mail, including documents sent as part of an application or enrollment process, or to establish, amend, or terminate an account, contract, or policy, or to confirm the accuracy of the social security number. A social security number that is permitted to be mailed under this section may not be printed, in whole or in part, on a postcard or other mailer not requiring an envelope, or visible on the envelope or without the envelope having been opened.

(2) (a) A person that has used, prior to January 1, 2007, an individual's social security number in a manner inconsistent with subsection (1) of this section may continue using that individual's social security number in that manner on or after January 1, 2007, if all of the following conditions are met:

(I) The use of the social security number is continuous. If the use is stopped for any reason, subsection (1) of this section shall apply.

(II) The person provides the individual with an annual disclosure that informs the individual that the individual has the right to stop the use of the individual's social security number in a manner prohibited by subsection (1) of this section.

(b) The person shall implement a written request by an individual to stop the use of the individual's social security number in a manner prohibited by subsection (1) of this section within thirty days after the receipt of the request. The person shall not impose a fee or charge for implementing the request.

(c) The person or entity shall not deny services to an individual because the individual makes a written request pursuant to paragraph (b) of this subsection (2).

(3) This section shall not prevent the collection, use, or release of a social security number as required, permitted, or authorized by state or federal law or the use of a social security number for internal verification or administrative purposes, including by the department of revenue.

(4) This section shall not apply to:

(a) Documents or records that are recorded or required to be open to the public pursuant to the constitution or laws of this state or by court rule or order, and this section shall not limit access to these documents or records; or

(b) An entity that is subject to the federal "Health Insurance Portability and Accountability Act of 1996", as amended, 42 U.S.C. secs. 1320d to 1320d-9.

Source: L. 2006: Entire section added, p. 274, § 1, effective January 1, 2007. **L. 2010:** (4)(b) amended, (HB 10-1422), ch. 419, p. 2063, § 8, effective August 11. **L. 2026:** IP(1), (1)(c), (1)(d), IP(2)(a), (2)(a)(II), and (2)(b) amended, (HB 26-1426), ch. 334, p. 1998, § 21, effective August 12.

6-1-716. Notification of security breach - definitions.

(1) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Biometric data" means unique biometric data generated from measurements or analysis of human body characteristics for the purpose of authenticating the individual when the individual accesses an online account.

(b) "Covered entity" means a person that maintains, owns, or licenses personal information in the course of the person's business, vocation, or occupation. "Covered entity" does not include a person acting as a third-party service provider.

(c) "Determination that a security breach occurred" means the point in time at which there is sufficient evidence to conclude that a security breach has taken place.

(d) "Encrypted" means rendered unusable, unreadable, or indecipherable to an unauthorized person through a security technology or methodology generally accepted in the field of information security.

(e) "Medical information" means any information about a consumer's medical or mental health treatment or diagnosis by a health-care professional.

(f) "Notice" means:

(I) Written notice to the postal address listed in the records of the covered entity;

(II) Telephonic notice;

(III) Electronic notice, if a primary means of communication by the covered entity with a Colorado resident is by electronic means or the notice provided is consistent with the provisions regarding electronic records and signatures set forth in the federal "Electronic Signatures in Global and National Commerce Act", 15 U.S.C. sec. 7001 et seq.; or

(IV) Substitute notice, if the covered entity required to provide notice demonstrates that the cost of providing notice will exceed two hundred fifty thousand dollars, the affected class of persons to be notified exceeds two hundred fifty thousand Colorado residents, or the covered entity does not have sufficient contact information to provide notice. Substitute notice consists of all of the following:

(A) Email notice if the covered entity has email addresses for the members of the affected class of Colorado residents;

(B) Conspicuous posting of the notice on the website page of the covered entity if the covered entity maintains one; and

(C) Notification to major statewide media.

(g) (I) (A) "Personal information" means a Colorado resident's first name or first initial and last name in combination with any one or more of the following data elements that relate to the resident, when the data elements are not encrypted, redacted, or secured by any other method rendering the name or the element unreadable or unusable: Social security number; student, military, or passport identification number; driver's license number or identification card number; medical information; health insurance identification number; or biometric data;

(B) A Colorado resident's username or email address, in combination with a password or security questions and answers, that would permit access to an online account; or

(C) A Colorado resident's account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to that account.

(II) "Personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records or widely distributed media.

(h) "Security breach" means the unauthorized acquisition of unencrypted computerized data that compromises the security, confidentiality, or integrity of personal information maintained by a covered entity. Good faith acquisition of personal information by an employee or agent of a covered entity for the covered entity's business purposes is not a security breach if the personal information is not used for a purpose unrelated to the lawful operation of the business or is not subject to further unauthorized disclosure.

(i) "Third-party service provider" means an entity that has been contracted to maintain, store, or process personal information on behalf of a covered entity.

(2) **Disclosure of breach.**

(a) A covered entity that maintains, owns, or licenses computerized data that includes personal information about a resident of Colorado shall, when it becomes aware that a security breach may have occurred, conduct in good faith a prompt investigation to determine the likelihood that personal information has been or will be misused. The covered entity shall give notice to the affected Colorado residents unless the investigation determines that the misuse of information about a Colorado resident has not occurred and is not reasonably likely to occur. Notice must be made in the most expedient time possible and without unreasonable delay, but not later than thirty days after the date of determination that a security breach occurred, consistent with the legitimate needs of law enforcement and consistent with any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the computerized data system.

(a.2) In the case of a breach of personal information, notice required by this subsection (2) to affected Colorado residents must include, but need not be limited to, the following information:

(I) The date, estimated date, or estimated date range of the security breach;

(II) A description of the personal information that was acquired or reasonably believed to have been acquired as part of the security breach;

(III) Information that the resident can use to contact the covered entity to inquire about the security breach;

(IV) The toll-free numbers, addresses, and websites for consumer reporting agencies;

(V) The toll-free number, address, and website for the federal trade commission; and

(VI) A statement that the resident can obtain information from the federal trade commission and the credit reporting agencies about fraud alerts and security freezes.

(a.3) If an investigation by a covered entity pursuant to subsection (2)(a) of this section determines that the type of personal information described in subsection (1)(g)(I)(B) of this section has been misused or is reasonably likely to be misused, the covered entity shall, in addition to the notice otherwise required by subsection (2)(a.2) of this section and without unreasonable delay, but not later than thirty days after the date of the determination that a security breach occurred, consistent with the legitimate needs of law enforcement and consistent with any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the computerized data system:

(I) Direct the individual whose personal information has been breached to promptly change the individual's password and security question or answer, as applicable, or to take other steps appropriate to protect the online account with the covered entity and all other online accounts for which the individual uses the same username or email address and password or security question or answer.

(II) For log-in credentials of an email account furnished by the covered entity, the covered entity shall not comply with this section by providing the security breach notification to that email address, but may instead comply with this section by providing notice through other methods, as defined in subsection (1)(f) of this section, or by clear and conspicuous notice delivered to the resident online when the resident is connected to the online account from an internet protocol address or online location from which the covered entity knows the resident customarily accesses the account.

(a.4) The breach of encrypted or otherwise secured personal information must be disclosed in accordance with this section if the confidential process, encryption key, or other means to decipher the secured information was also acquired in the security breach or was reasonably believed to have been acquired.

(a.5) A covered entity that is required to provide notice to affected Colorado residents pursuant to this subsection (2) is prohibited from charging the cost of providing such notice to such residents.

(a.6) Nothing in this subsection (2) prohibits the notice described in this subsection (2) from containing additional information, including any information that may be required by state or federal law.

(b) If a covered entity uses a third-party service provider to maintain computerized data that includes personal information, then the third-party service provider shall give notice to and cooperate with the covered entity in the event of a security breach that compromises such

computerized data, including notifying the covered entity of any security breach in the most expedient time possible, and without unreasonable delay following discovery of a security breach, if misuse of personal information about a Colorado resident occurred or is likely to occur. Cooperation includes sharing with the covered entity information relevant to the security breach; except that such cooperation does not require the disclosure of confidential business information or trade secrets.

(c) Notice required by this section may be delayed if a law enforcement agency determines that the notice will impede a criminal investigation and the law enforcement agency has notified the covered entity that conducts business in Colorado not to send notice required by this section. Notice required by this section must be made in good faith, in the most expedient time possible and without unreasonable delay, but not later than thirty days after the law enforcement agency determines that notification will no longer impede the investigation and has notified the covered entity that conducts business in Colorado that it is appropriate to send the notice required by this section.

(d) If a covered entity is required to notify more than one thousand Colorado residents of a security breach pursuant to this section, the covered entity shall also notify, in the most expedient time possible and without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined by the federal "Fair Credit Reporting Act", 15 U.S.C. sec. 1681a (p), of the anticipated date of the notification to the residents and the approximate number of residents who are to be notified. Nothing in this subsection (2)(d) requires the covered entity to provide to the consumer reporting agency the names or other personal information of security breach notice recipients. This subsection (2)(d) does not apply to a covered entity who is subject to Title V of the federal "Gramm-Leach-Bliley Act", 15 U.S.C. sec. 6801 et seq.

(e) A waiver of these notification rights or responsibilities is void as against public policy.

(f) (I) The covered entity that must notify Colorado residents of a data breach pursuant to this section shall provide notice of any security breach to the Colorado attorney general in the most expedient time possible and without unreasonable delay, but not later than thirty days after the date of determination that a security breach occurred, if the security breach is reasonably believed to have affected five hundred Colorado residents or more, unless the investigation determines that the misuse of information about a Colorado resident has not occurred and is not likely to occur.

(II) The Colorado attorney general shall designate a person or persons as a point of contact for functions set forth in this subsection (2)(f) and shall make the contact information for that person or those persons public on the attorney general's website and by any other appropriate means.

(g) The breach of encrypted or otherwise secured personal information must be disclosed in accordance with this section if the confidential process, encryption key, or other means to decipher the secured information was also acquired or was reasonably believed to have been acquired in the security breach.

(3) **Procedures deemed in compliance with notice requirements.**

(a) Pursuant to this section, a covered entity that maintains its own notification procedures as part of an information security policy for the treatment of personal information and whose procedures are otherwise consistent with the timing requirements of this section is in compliance with the notice requirements of this section if the covered entity notifies affected Colorado residents in accordance with its policies in the event of a security breach; except that notice to the attorney general is still required pursuant to subsection (2)(f) of this section.

(b) A covered entity that is regulated by state or federal law and that maintains procedures for a security breach pursuant to the laws, rules, regulations, guidances, or guidelines established by its state or federal regulator is in compliance with this section; except that notice to the attorney general is still required pursuant to subsection (2)(f) of this section. In the case of a conflict between the time period for notice to individuals that is required pursuant to this subsection (3) and the applicable state or federal law or regulation, the law or regulation with the shortest time frame for notice to the individual controls.

(4) **Violations.** The attorney general may bring an action in law or equity to address violations of this section, section 6-1-713, or section 6-1-713.5, and for other relief that may be appropriate to ensure compliance with this section or to recover direct economic damages resulting from a violation, or both. The provisions of this section are not exclusive and do not relieve a covered entity subject to this section from compliance with all other applicable provisions of law.

(5) **Attorney general criminal authority.** Upon receipt of notice pursuant to subsection (2) of this section, and with either a request from the governor to prosecute a particular case or with the approval of the district attorney with jurisdiction to prosecute cases in the judicial district where a case could be brought, the attorney general has the authority to prosecute any criminal violations of section 18-5.5-102.

Source: L. 2006: Entire section added, p. 536, § 1, effective September 1. **L. 2010:** (2)(d) amended, (HB 10-1422), ch. 419, p. 2064, § 9, effective August 11. **L. 2018:** (1) R&RE, (2), (3), and (4) amended, and (5) added, (HB 18-1128), ch. 266, p. 1634, § 3, effective September 1. **L. 2026:** (1)(a), (1)(b), IP(2)(a.3), and (2)(a.3)(I) amended, (HB 26-1426), ch. 334, p. 1999, § 22, effective August 12.

ANNOTATION

Law reviews. For article, "Privacy Basics for Colorado Lawyers: The Colorado Consumer Data Privacy Act and the California Consumer Privacy Act", see 48 Colo. Law. 26 (Aug.-Sept. 2019).

6-1-717. Influencing a real estate appraisal - deceptive trade practice.

(1) A person engages in a deceptive trade practice when, in the course of such person's business, vocation, or occupation, the person:

(a) Knowingly submits a false or misleading appraisal in connection with a dwelling offered as security for repayment of a mortgage loan; or

(b) Directly or indirectly compensates, coerces, or intimidates an appraiser, or attempts, directly or indirectly, to compensate, coerce, or intimidate an appraiser, for the purpose of influencing the independent judgment of the appraiser with respect to the value of a dwelling offered as security for repayment of a mortgage loan.

(2) The prohibition referred to in subsection (1) of this section shall not be construed as prohibiting a person from requesting an appraiser to:

(a) Consider additional, appropriate property information;

(b) Provide further detail, substantiation, or explanation for the appraiser's value conclusion; or

(c) Correct errors in the appraisal report.

Source: L. 2007: Entire section added, p. 1727, § 4, effective June 1.

6-1-718. Ticket sales and resales - prohibitions - unlawful conditions - definitions.

(1) As used in this section and in section 6-1-720, unless the context otherwise requires:

(a) "Operator" means a person or entity who owns, operates, or controls a place of entertainment or who promotes or produces entertainment and that sells a ticket to an event for original sale, including an employee of such person or entity.

(b) "Original sale" means the first sale of a ticket by an operator.

(c) (I) "Place of entertainment" or "venue" means a public or private entertainment facility in this state, such as a stadium, arena, racetrack, museum, amusement park, or other place where

performances, concerts, exhibits, athletic games, or contests are held, for which an entry fee is charged, to which the public is invited to observe, and for which tickets are sold.

(II) "Place of entertainment" or "venue" does not include a ski area or a movie theater.

(d) "Purchaser" means a person or entity who purchases a ticket to a place of entertainment.

(e) "Resale" or "resold" means a sale other than the original sale of a ticket by a person or entity.

(f) "Reseller" means a person or entity that offers or sells tickets for resale after the original sale by the operator including an entity that operates a platform or exchange for the purchase and sale of tickets to events that also engages in the purchase and resale of the ticket either on behalf of the operator or on its own behalf if a reseller.

(g) "Ticket" means a license issued by the operator of a place of entertainment for admission to an event at the date and time specified on the ticket, subject to the terms and conditions as specified by the operator.

(2) An operator or a reseller from which a purchaser bought a ticket, as applicable, shall guarantee a full refund of the ticket price to the purchaser if:

(a) The event is canceled;

(b) The ticket does not or would not in fact grant the purchaser admission to the event, except if nonadmission to the event is due to an act or omission by the purchaser;

(c) The ticket purchased from the reseller or operator, as applicable, is counterfeit; or

(d) The ticket purchased from the reseller or operator, as applicable, fails to reasonably conform to its description as advertised or as represented to the purchaser.

(3) (a) It is void as against public policy to apply a term or condition to the original sale to the purchaser to limit the terms or conditions of resale, including, but not limited to, a term or condition:

(I) That restricts resale in a subscription or season ticket package agreement as a condition of purchase;

(II) That a purchaser must comply with to retain a ticket for the duration of a subscription or season ticket package agreement that limits the rights of the purchaser to resell the ticket;

(III) That a purchaser must comply with to retain any contractually agreed-upon rights to purchase future subscriptions or season ticket package agreements; or

(IV) That imposes a sanction on the purchaser if the sale of the ticket is not through a reseller approved by the operator.

(b) Nothing in this section prohibits an operator from prohibiting the resale of:

(I) A contractual right in a season ticket package agreement that gives the original purchaser a priority or other preference to enter into a subsequent season ticket package agreement with the operator; or

(II) A ticket to a place of entertainment if the ticket was initially offered:

(A) At no charge, and access to the ticket is not contingent upon providing any form of monetary consideration; or

(B) By or on behalf of a charitable organization, as defined in section 6-16-103 (1), for a charitable purpose, as defined in section 6-16-103 (2), where all proceeds from the ticket sale are provided to the charitable organization.

(4) A person, including an operator, that regulates admission to an event shall not deny access to the event to a person in possession of a valid ticket to the event, or revoke a valid ticket to the event, regardless of whether the ticket is subject to a subscription or season ticket package agreement, based solely on the ground that the ticket was resold through a reseller that was not approved by the operator.

(5) Subject to the requirements of subsection (4) of this section, nothing in this section shall be construed to prohibit an operator from maintaining and enforcing policies regarding conduct or behavior at or in connection with the operator's place of entertainment. An operator may revoke or restrict tickets:

(a) For reasons relating to a violation of venue policies that are available in writing;

(b) For the protection of the safety of patrons; or

(c) To address fraud or misconduct.

Source: L. 2008: Entire section added, p. 108, § 1, effective March 19. **L. 2024:** IP(1), (1)(c), (2), (3)(b), (4), and (5) amended, (HB 24-1378), ch. 400, p. 2752, § 1, effective August 7.

6-1-719. Truth in music advertising.

(1) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Performing group" means a vocal or instrumental group seeking to use the name of a recording group.

(b) "Recording group" means a vocal or instrumental group, at least one of whose members has previously released a commercial sound recording under that group's name and in which at

least one of the members has a legal right by virtue of use or operation under the group name without having abandoned the name or affiliation with the group.

(c) "Sound recording" means a work that results from the fixation, on or in a recording medium or other material object, of a series of musical, spoken, or other sounds regardless of the nature of the medium or object, such as a disk, tape, or other phono record, in which the sounds are recorded.

(2) **Production.**

(a) Except as otherwise provided in paragraph (b) of this subsection (2), it is unlawful for any person to advertise or conduct a live musical performance or production in this state through the use of a false, deceptive, or misleading affiliation, connection, or association between a performing group and a recording group.

(b) Paragraph (a) of this subsection (2) does not apply if:

(I) The performing group is the authorized registrant and owner of a federal service mark for that group registered in the United States patent and trademark office;

(II) At least one member of the performing group was a member of the recording group and has a legal right by virtue of use or operation under the group name without having abandoned the name or affiliation with the group;

(III) The live musical performance or production is identified in all advertising and promotion as a salute or tribute;

(IV) The advertising does not relate to a live musical performance or production taking place in this state; or

(V) The performance or production is expressly authorized by the recording group.

(3) **Restraining prohibited acts.** In addition to the actions and remedies specified in part 1 of this article that may apply:

(a) **Injunction.** Whenever the attorney general or a district attorney has reason to believe that a person is advertising, conducting, or about to advertise or conduct a live musical performance or production in violation of this section and that proceedings would be in the public interest, the attorney general or district attorney may bring an action in the name of the state against the person to restrain that practice by temporary or permanent injunction.

(b) **Payment of costs and restitution.** Whenever a court issues a permanent injunction to restrain and prevent violations of this section as authorized in paragraph (a) of this subsection (3), the court may, in its discretion, direct that the defendant restore to any person in interest any moneys or property, real or personal, that may have been acquired by means of a violation of this section, under terms and conditions to be established by the court.

(c) **Penalty.** A person who violates this section is liable to the state for a civil penalty of not less than five thousand dollars nor more than fifteen thousand dollars per violation, which civil penalty shall be in addition to any other relief that may be granted under this subsection (3) but which shall not be cumulative with the penalty specified in section 6-1-112. Each performance or production that violates this section constitutes a separate violation.

Source: L. 2008: Entire section added, p. 364, § 1, effective August 5.

6-1-720. Ticket sales - deceptive trade practice - definitions.

(1) Notwithstanding section 6-1-737, a person engages in a deceptive trade practice when, in the course of the person's business, vocation, or occupation, the person:

(a) Uses or causes to be used a software application that runs automated tasks over the internet to access a computer, computer network, or computer system, or any part thereof, for the purpose of purchasing tickets in excess of authorized limits for an online event ticket sale with the intent to resell such tickets;

(b) Uses or causes to be used a software application that runs automated tasks over the internet that circumvents or disables any electronic queues, waiting periods, or other sales volume limitation systems associated with an online event ticket sale;

(c) Uses or causes to be used an internet domain name or subdomain name in an operator's or reseller's URL if the internet domain name or subdomain name used contains any of the following without prior written authorization:

(I) The name of the place of entertainment;

(II) The name of the event, including the name of the individual or entity scheduled to perform or appear at the event; or

(III) A name substantially similar to those described in subsections (1)(c)(I) and (1)(c)(II) of this section;

(d) Uses or causes to be used, without prior written authorization, an internet website to display a text, image, website graphic, website design, or internet address that individually or in combination is substantially similar to an operator's internet website in a manner that could reasonably be expected to mislead a potential purchaser;

(e) (I) Sells a ticket to an event at a place of entertainment without disclosing the total ticket cost, inclusive of all ancillary fees that must be paid in order to purchase the ticket, the first time a price is displayed to the purchaser and anytime the price is displayed thereafter.

(II) A person is not required to include the amount of any sales tax required to purchase a ticket when disclosing the total cost of a ticket to a purchaser in accordance with subsection (1)(e)(I) of this section if the person discloses the amount of any sales tax to the purchaser prior to completion of the transaction.

(f) Sells a ticket to an event at a place of entertainment without disclosing in a clear and conspicuous manner the portion of the ticket cost that represents a service charge for the purchase or other fee or surcharge for the purchase;

(g) Makes a false or misleading disclosure to a purchaser of subtotals, fees, charges, or any other component of the total price of a ticket;

(h) Presents subtotals, fees, charges, or any other component of the total price of the ticket more prominently or in a font size that is larger than the font size used to present the total price of the ticket; or

(i) Increases the total price of a ticket after the first time a price is displayed to the purchaser; except that the person:

(I) Shall add any applicable sales tax to the total price of a ticket prior to the completion of the transaction by the purchaser;

(II) May add fees for the delivery of nonelectronic tickets based on delivery to the purchaser's address or the delivery method selected by the purchaser if the person discloses the amount of each delivery fee prior to accepting payment; and

(III) May increase the total price of a ticket if the purchaser's transaction period has timed out and the purchaser has not yet purchased the ticket.

(2) As used in this section, unless the context otherwise requires:

(a) "In excess of authorized limits" means exceeding a restriction on the number of individual tickets that can be purchased by a single person or circumventing any other terms and conditions of access to an online event ticket sale established by the operator.

(b) "Internet domain name" means a globally unique, hierarchical reference to an internet host or service that is:

(I) Assigned through a centralized internet naming authority; and

(II) Composed of a series of character strings separated by periods with the rightmost string specifying the top of the hierarchy.

(c) "Online event ticket sale" means a process utilized by the operator to make an original sale of tickets to the event to the public over the internet.

(d) "URL" means a uniform resource locator for a website on the internet.

(2.5) Definitions in section 6-1-718 (1) apply to terms as they are used in this section.

(3) This section shall not prohibit the resale of tickets in a secondary market by a person other than the event sponsor or promoter.

(4) Every ticket acquired in violation of this section shall constitute a separate violation for purposes of assessing a civil penalty under section 6-1-112 (1)(a) and (1)(b).

Source: L. 2008: Entire section added, p. 2229, § 1, effective July 1. **L. 2009:** (4) amended, (SB 09-054), ch.138, p. 597, § 3, effective August 5. **L. 2024:** IP(1), (1)(a), and (2) amended and (1)(c) to (1)(i) and (2.5) added, (HB 24-1378), ch. 400, p. 2753, § 2, effective August 7. **L. 2025:** IP(1) amended, (HB 25-1090), ch. 94, p. 432, § 3, effective January 1, 2026.

Editor's note: Section 5 of chapter 94 (HB 25-1090), Session Laws of Colorado 2025, provides that the act changing this section applies to conduct occurring on or after January 1, 2026.

Cross references: For the legislative declaration in HB 25-1090, see section 1 of chapter 94, Session Laws of Colorado 2025.

6-1-721. Like-kind exchanges by exchange facilitators - deceptive trade practice - definitions.

(1) **Legislative declaration.** The general assembly hereby:

(a) Finds that, absent enactment of this section, Colorado has no requirements for the protection of taxpayers who engage persons or entities that facilitate like-kind exchanges pursuant to 26 U.S.C. sec. 1031; and

(b) Determines that, to protect taxpayers who engage exchange facilitators, exchange facilitators should meet certain requirements and follow certain procedures.

(2) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Affiliated with" means that a person directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with the other specified person.

(b) "Colorado property" means real property located in Colorado; except that replacement property need not be located in Colorado.

(c) (I) "Exchange facilitator" means a person that holds a taxpayer's exchange funds and that:

(A) For a fee, facilitates an exchange of like-kind Colorado property by entering into an agreement with a taxpayer by which the exchange facilitator acquires from the taxpayer the contractual rights to sell the taxpayer's relinquished Colorado property and transfer a replacement property to the taxpayer as an exchange facilitator, as is defined in 26 CFR 1.1031(k)-1 (g)(4), or enters into an agreement with a taxpayer to take title to Colorado property as an exchange accommodation titleholder, as that term is defined in federal internal revenue service revenue procedure 2000-37, or enters into an agreement with a taxpayer to act as a qualified trustee or qualified escrow holder, as those terms are defined in 26 CFR 1.1031(k)-1 (g)(3), except as otherwise provided in subparagraph (II) of this paragraph (c); or

(B) Maintains an office in this state for the purpose of soliciting business as an exchange facilitator regarding Colorado property.

(II) "Exchange facilitator" does not include:

(A) The taxpayer or disqualified person, as defined under 26 CFR 1.1031(k)-1 (k), seeking to qualify for the nonrecognition provisions of 26 U.S.C. sec. 1031;

(B) A bank, savings bank, savings and loan association, building and loan association, or credit union; a bank or savings association holding company organized under the laws of any state, the District of Columbia, a territory or protectorate of the United States, or the United States, subject to regulation and supervision by a federal banking agency; an operating subsidiary of such entities; or an employee or exclusive agent of any of such entities, including, without limitation, a subsidiary that is owned or controlled by such entities;

(C) A person who advertises for and teaches seminars or classes for, or gives presentations to, attorneys, accountants, real estate professionals, tax professionals, or other professionals, where the primary purpose is to teach the professionals about tax-deferred exchanges or train them to act as exchange facilitators;

(D) An exchange facilitator, as defined in 26 CFR 1.1031(k)-1 (g)(4), whose sole business in this state as an exchange facilitator consists of holding exchange funds from the disposition of relinquished property located outside this state; or

(E) An entity that is wholly owned by an exchange facilitator or is wholly owned by the owner of an exchange facilitator and is used by that exchange facilitator to facilitate exchanges or to take title to Colorado property as an exchange accommodation titleholder, as defined in federal internal revenue service revenue procedure 2000-37.

(III) For purposes of this paragraph (c), "fee" means compensation of any nature, direct or indirect, monetary or in-kind, that is received by a person or a related person as defined in 26 U.S.C. sec. 1031 (f)(3) for any services relating to or incidental to the exchange of like-kind property under 26 U.S.C. sec. 1031.

(d) "Like-kind exchange" means a section 1031 exchange that is subject to 26 U.S.C. sec. 1031.

(e) "Publicly traded company" means a corporation whose securities are publicly traded on a stock exchange that is regulated by the United States securities and exchange commission. The term "publicly traded company" also includes all subsidiaries of such publicly traded company.

(f) "Section 1031 exchange" means an exchange conducted pursuant to 26 U.S.C. sec. 1031 that allows investors to defer the tax on capital gains.

(g) "Taxpayer exchange funds" or "exchange funds" means money a taxpayer entrusts to an exchange facilitator.

(3) **Deceptive trade practices.** A person engages in a deceptive trade practice when a person acts as an exchange facilitator and:

(a) (I) Except as specified in subparagraph (III) of this paragraph (a), fails to notify all current clients of any change in control of the exchange facilitator within two business days after the effective date of the change by:

(A) Facsimile, email transmission, or first-class mail; and

(B) Posting such notice on the exchange facilitator's website for a period ending not sooner than ninety days after the change in control.

(II) The notice required in subparagraph (I) of this paragraph (a) shall specify the name, address, and other contact information of the transferees.

(III) If the exchange facilitator is a publicly traded company and remains a publicly traded company after a change in control, the exchange facilitator need not notify its client of the change in control.

(IV) For purposes of this paragraph (a), "change in control" means any transfer within twelve months of more than fifty percent of the assets or ownership interests, directly or indirectly, of the exchange facilitator.

(b) (I) Fails to maintain adequate financial assurance and errors and omissions insurance or deposits. An exchange facilitator may maintain bonds, insurance policies, deposits, or irrevocable letters of credit in excess of the amounts required by this subparagraph (I). An exchange facilitator shall at all times:

(A) Maintain a fidelity bond or bonds executed by an insurer authorized to do business in this state in the amount of at least one million dollars and maintain a policy of errors and omissions insurance, in an amount of at least two hundred fifty thousand dollars, executed by an insurer authorized to do business in this state;

(B) Deposit an amount of cash or irrevocable letters of credit in an amount of at least the sum of the amounts specified in sub-subparagraph (A) of this subparagraph (I) in an interest-bearing deposit account or in a money market account with a financial institution of the exchange facilitator's choice, with the interest earned on such account accruing to the exchange facilitator; or

(C) Deposit all exchange funds in a qualified escrow or qualified trust as those terms are defined under 26 CFR 1.1031(k)-1 (g)(3) with a financial institution and provide that any withdrawals from such qualified escrow or qualified trust require the taxpayer's and the exchange facilitator's written authorization.

(II) A person claiming to have sustained damage by reason of the failure of an exchange facilitator to comply with this section may file a claim to recover damages from the bond or deposit described in this paragraph (b).

(c) Fails to act as a custodian for all exchange funds, including money, Colorado property, other consideration, or instruments received by the exchange facilitator from or on behalf of the taxpayer, except funds received as the exchange facilitator's compensation. As used in this paragraph (c), "custodian" means a person who has the same responsibilities as a fiduciary under Colorado law to protect and preserve assets and shall not mean a person who has the same responsibilities as a fiduciary under Colorado law to increase assets or to accomplish other fiduciary duties. Exchange funds are not subject to execution or attachment on any claim against an exchange facilitator. An exchange facilitator shall not knowingly keep or cause to be kept any money in a financial institution under any name designating the money as belonging to a taxpayer unless the money equitably belongs to the taxpayer and was actually entrusted to the exchange facilitator by the taxpayer. Taxpayer exchange funds in excess of two hundred fifty thousand dollars shall be invested or deposited in such manner as to require both the taxpayer's and the exchange facilitator's commercially reasonable means of authorization for withdrawal, including: The taxpayer's delivery to the exchange facilitator of the taxpayer's authorization to disburse exchange funds, and the exchange facilitator's delivery to the depository of the exchange facilitator's authorization to disburse exchange funds; or delivery to the depository of both the taxpayer's and the exchange facilitator's authorizations to disburse exchange funds. An exchange facilitator shall provide the taxpayer with written notification of the manner in which the exchange funds will be invested or deposited, shall invest or deposit exchange funds for the benefit of the taxpayer in investments that meet a standard of care that an ordinarily prudent investor would use when dealing with the property of another, and shall satisfy investment goals of liquidity and preservation of principal. For purposes of this paragraph (c), a prudent investor standard of care shall be deemed to have been violated if:

(I) A taxpayer's exchange funds are commingled by the exchange facilitator with the operating accounts of the exchange facilitator or with the exchange funds of another taxpayer;

except that an exchange facilitator may aggregate exchange funds. For purposes of this subparagraph (I):

(A) "Aggregate" means to combine exchange funds of multiple taxpayers for investment purposes to achieve common investment goals and efficiencies. Exchange funds that have been aggregated into common investments shall be readily identifiable by the financial institution or other regulated investment custodian holding the funds as to each taxpayer for whom they are held through an accounting or subaccounting system.

(B) "Commingle" means to mix together exchange funds of taxpayers with other funds belonging to or under the control of the exchange facilitator in such a manner that a taxpayer's exchange funds cannot be distinguished from other funds belonging to or under the control of the exchange facilitator.

(II) Exchange funds are loaned or otherwise transferred to any person or entity affiliated with the exchange facilitator; except that this subparagraph (II) shall not apply to a transfer or loan made to a financial institution that is the parent of or affiliated with the exchange facilitator or from an exchange facilitator to an exchange accommodation titleholder, as defined in federal internal revenue service revenue procedure 2000-37, as required under the section 1031 exchange contract; or

(III) Exchange funds are invested in a manner that does not provide sufficient liquidity to meet the exchange facilitator's contractual obligations to the taxpayer and does not preserve the principal of the exchange funds. The deposit of funds in a financial institution exempted from this section pursuant to sub-subparagraph (B) of subparagraph (II) of paragraph (c) of subsection (2) of this section shall be deemed to be sufficiently liquid to meet the requirements of this subparagraph (III).

(d) Commits any of the following:

(I) Knowingly makes any material misrepresentation concerning an exchange facilitator's transaction that is intended to mislead another;

(II) Pursues a continued or flagrant course of misrepresentation or makes false statements through advertising or otherwise;

(III) Fails, within a reasonable time, to account for any money or property belonging to others that may be in the possession or under the control of the exchange facilitator;

(IV) Engages in any conduct constituting fraudulent or dishonest dealing;

(V) Is convicted of, or, in the case of an entity, one or more of its owners, officers, directors, or employees who has access to exchange funds is convicted of, any crime involving fraud, misrepresentation, deceit, embezzlement, misappropriation of funds, robbery, or other theft of property; except that commission of such crime by an officer, director, or employee of an

exchange facilitator shall not be considered a violation of this subparagraph (V) if the employment or appointment of the officer, director, or employee has been terminated and no clients of the exchange facilitator were harmed or full restitution has been made to all harmed clients;

(VI) Wilfully fails to fulfill an exchange facilitator's contractual duties to the taxpayer to deliver property or funds to the taxpayer unless such failure is due to circumstances beyond the control of the exchange facilitator;

(VII) Materially violates this section or aids, abets, or knowingly permits any person to violate this section;

(VIII) Commits an act that does not meet generally accepted standards of practice for ordinarily prudent investors or fails to perform an act necessary to meet generally accepted standards of practice for ordinarily prudent investors;

(IX) Fails to keep appropriate business and transaction records, falsifies such records, or knowingly and wilfully makes incorrect entries of an essential nature on such records; except that an exchange facilitator may dispose of records after a reasonable time pursuant to the exchange facilitator's document retention and document destruction policy;

(X) Is disciplined in any way by a national certifying agency or by a regulatory agency of another jurisdiction for conduct that relates to the person's employment as an exchange facilitator; or

(XI) Is convicted of or pleads guilty or nolo contendere to a felony or any crime defined in title 18, C.R.S., that relates to the person's employment as an exchange facilitator. A certified copy of the judgment of a court of competent jurisdiction of the conviction or plea shall be prima facie evidence of the conviction or plea.

Source: L. 2009: Entire section added, (HB 09-1254), ch. 116, p. 487, § 1, effective April 16.

6-1-722. Gift certificates - validity - exemptions - definition.

(1) (a) As used in this section, "gift card" means a prefunded tangible or electronic record of a specific monetary value evidencing an issuer's agreement to provide goods, services, credit, money, or anything of value. A "gift card" includes, but is not limited to, a tangible card; electronic card; stored-value card; or certificate or similar instrument, card, or tangible record, all of which contain a microprocessor chip, magnetic chip, or other means for the storage of information and for which the value is decremented upon each use. A "gift card" does not include a prefunded tangible or electronic record issued by, or on behalf of, any government agency; a gift certificate that is issued only on paper; a prepaid telecommunications or technology card; a

card or certificate issued to a consumer pursuant to an awards, loyalty, or promotional program for which no money or other item of monetary value was exchanged; or a card that is donated or sold below face value at a volume discount to an employer or charitable organization for fundraising purposes.

(b) This section shall not apply to gift cards that are usable with multiple sellers of goods or services. This exception shall not apply to a gift card usable only with affiliated sellers of goods or services.

(2) On and after August 11, 2010, the issuer shall redeem the remaining value of a gift card for cash if the amount remaining is five dollars or less on request of the holder.

(3) It is unlawful for any person or entity to sell to a purchaser a gift card that contains a service fee, a dormancy fee, an inactivity fee, a maintenance fee, or any other type of fee.

(4) A violation of this section is an unfair or deceptive trade practice as provided in this article 1.

Source: L. 2010: Entire section added, (SB 10-155), ch. 180, p. 647, § 1, effective August 11. **L. 2026:** (4) amended, (HB 26-1426), ch. 334, p. 2000, § 23, effective August 12.

6-1-723. Cathinone bath salts - unfair or deceptive trade practice.

(1) It is unlawful for any person or entity to distribute, dispense, manufacture, display for sale, offer for sale, attempt to sell, or sell to a purchaser any product that is labeled as a bath salt or any other trademark if the product contains any amount of any cathinones, as defined in section 18-18-102 (3.5), C.R.S.

(2) (a) A violation of this section is an unfair or deceptive trade practice, and a violator is subject to a civil penalty as described in section 6-1-112 (1)(d) in addition to any applicable criminal penalty.

(b) For the purposes of this section, a person is deemed to have committed a violation for each individually packaged product that the person distributed, dispensed, manufactured, displayed for sale, offered for sale, attempted to sell, or sold in violation of subsection (1) of this section.

Source: L. 2012: Entire section added, (HB 12-1310), ch. 268, p. 1406, § 32, effective June 7. **L. 2014:** Entire section amended, (HB 14-1037), ch. 358, p. 1683, § 5, effective August 6. **L. 2026:** (2) amended, (HB 26-1426), ch. 334, p. 2000, § 24, effective August 12.

6-1-724. Unlicensed alternative health-care practitioners - unfair or deceptive trade practice - short title - legislative declaration - definitions.

(1) This section shall be known and may be cited as the "Colorado Natural Health Consumer Protection Act".

(2) The general assembly hereby finds and declares that:

(a) According to a July 2009 report from the national institute of health's national center for complementary and alternative medicine, which was based on 2007 survey data:

(I) Thirty-eight percent of Americans use complementary and alternative medicine; and

(II) Americans spent nearly thirty-four billion dollars in out-of-pocket costs in a twelve-month period for complementary and alternative medicine;

(b) It is estimated that more than one million five hundred thousand Coloradans currently receive a substantial volume of health-care services from complementary and alternative health-care practitioners;

(c) Those studies further indicate that individuals who use complementary and alternative health-care services represent a wide variety of age, ethnic, socioeconomic, and other demographic categories;

(d) Although complementary and alternative health-care practitioners are not regulated by the state and are not required to obtain a state-issued license, certification, or registration, the provision of alternative health-care services in some circumstances may be interpreted as the provision of a health-care service that only a professional who is licensed or otherwise regulated by the state may perform, thereby subjecting complementary and alternative health-care practitioners to potential fines, penalties, and restrictions of their practices even though their practices do not pose an imminent and discernable risk of significant harm to public health and safety;

(e) Because the state recognizes and values the freedom of consumers to choose their health-care providers, including the ability to choose a person who is not regulated by the state, the intent of this section is to protect consumer choice and, in consideration of the public's health and safety, to remove technical barriers to access to unregulated health-care practitioners and include appropriate consumer protections and disclosures as required in this section; and

(f) Nothing in this section:

(I) Requires a person engaged in complementary and alternative health care to obtain a license, certification, or registration from the state as long as the person practices within the parameters of this section;

(II) Limits the public's right to access complementary and alternative health-care practitioners or the right of an unregulated complementary and alternative health-care practitioner to practice.

(3) As used in this section, unless the context otherwise requires:

(a) "Complementary and alternative health-care practitioner" means a person who provides complementary and alternative health-care services in accordance with this section and who is not licensed, certified, or registered by the state as a health-care professional.

(b) (I) "Complementary and alternative health-care services" means advice and services:

(A) Within the broad domain of health-care and healing arts therapies and methods that are based on complementary and alternative theories of health and wellness, including those that are traditional, cultural, religious, or integrative; and

(B) That are not prohibited by subsection (6) of this section.

(II) "Complementary and alternative health-care services" include:

(A) Healing practices using food; food extracts; dietary supplements, as defined in the federal "Dietary Supplement Health and Education Act of 1994", Pub.L. 103-417; nutrients; homeopathic remedies and preparations; and the physical forces of heat, cold, water, touch, sound, and light;

(B) Stress reduction healing practices; and

(C) Mind-body and energetic healing practices.

(c) "Health-care professional" means a person engaged in a health-care profession for which the state requires the person to obtain a license, certification, or registration under title 12, C.R.S., in order to engage in the health-care profession.

(4) This section applies to any person who is not licensed, certified, or registered by the state as a health-care professional and who is practicing complementary and alternative health-care services.

(5) (a) A person who is not licensed, certified, or registered by the state as a health-care professional and who is practicing complementary and alternative health-care services consistent with this section does not violate any statute relating to a health-care profession or professional practice act unless the person:

(I) Engages in an activity prohibited in subsection (6) of this section; or

(II) Fails to fulfill the disclosure duties specified in subsection (7) of this section.

(b) A complementary and alternative health-care practitioner who engages in an activity prohibited by subsection (6) of this section is subject to the enforcement provisions, civil

penalties, and damages specified in part 1 of this article, is no longer exempt from laws regulating the practice of health-care professionals under title 12, C.R.S., and may be subject to penalties for unauthorized practice of a state-regulated health-care profession.

(c) A person who fails to comply with subsection (7) of this section is subject to the enforcement provisions, civil penalties, and damages specified in part 1 of this article.

(6) A complementary and alternative health-care practitioner providing complementary and alternative health-care services described under this section who is not licensed, certified, or registered by the state shall not:

(a) Perform surgery or any invasive procedure, including a procedure that requires entry into the body through skin, puncture, mucosa, incision, or other intrusive method, except as permitted under paragraph (g) of this subsection (6);

(b) Administer or prescribe X ray radiation to another person;

(c) Prescribe, administer, inject, dispense, suggest, or recommend a prescription or legend drug or a controlled substance or device identified in the federal "Controlled Substances Act", 21 U.S.C. sec. 801 et seq., as amended;

(d) Use general or spinal anesthetics, other than topical anesthetics;

(e) Administer ionizing radioactive substances for therapeutic purposes;

(f) Use a laser device that punctures the skin, incises the body, or is otherwise used as an invasive instrument. If a complementary and alternative health-care practitioner uses a laser device as a noninvasive instrument, the laser device must be cleared by the federal food and drug administration for over-the-counter use.

(g) Perform an enema or a colonic irrigation unless the complementary and alternative health-care practitioner:

(I) Maintains board certification through the international association of colon hydrotherapy or the national board for colon hydrotherapy or their successor entities;

(II) Discloses that the practitioner is not a physician licensed pursuant to article 240 of title 12; and

(III) Recommends that the client have a relationship with a licensed physician;

(h) Practice midwifery;

(i) Practice psychotherapy, as defined in section 12-245-202 (14);

(j) Perform spinal adjustment, manipulation, or mobilization;

(k) Provide optometric procedures or interventions that constitute the practice of optometry, as defined in article 275 of title 12;

(l) Directly administer medical protocols to a pregnant woman or to a client who has cancer;

(m) Treat a child who is under two years of age;

(n) Treat a child who is two years old or older but less than eight years old unless the complementary and alternative health-care practitioner:

(I) Obtains the written, signed consent of the child's parent or legal guardian;

(II) Discloses that the practitioner is not a physician licensed pursuant to article 240 of title 12;

(III) Recommends that the child have a relationship with a licensed pediatric health-care provider; and

(IV) Requests permission from the parent or legal guardian for the complementary and alternative health-care practitioner to attempt to develop and maintain a collaborative relationship with the child's licensed pediatric health-care provider, if the child has a relationship with a licensed pediatric health-care provider;

(o) Provide dental procedures or interventions that constitute the practice of dentistry, as defined in article 220 of title 12;

(p) Set fractures;

(q) Practice or represent that the practitioner is practicing massage or massage therapy as defined in article 235 of title 12;

(r) Provide a conventional medical disease diagnosis to a client;

(s) Recommend the discontinuation of a course of care, including a prescription drug, that was recommended or prescribed by a health-care professional; or

(t) Hold oneself out as, state, indicate, advertise, or imply to a client or prospective client that the practitioner is a physician, surgeon, or both or that the practitioner is a health-care professional who is licensed, certified, or registered by the state.

(7) (a) An individual providing complementary and alternative health-care services in this state who is not licensed, certified, or registered by the state as a health-care professional; is not regulated by a professional board or the division of professions and occupations in the department of regulatory agencies pursuant to title 12; and is advertising or charging a fee for health-care services shall provide to each client during the initial client contact the following information in a plainly worded written statement:

(I) The complementary and alternative health-care practitioner's name, business address, telephone number, and any other contact information for the practitioner;

(II) The fact that the complementary and alternative health-care practitioner is not licensed, certified, or registered by the state as a health-care professional;

(III) The nature of the complementary and alternative health-care services to be provided;

(IV) A listing of any degrees, training, experience, credentials, or other qualifications the individual holds regarding the complementary and alternative health-care services the individual provides;

(V) A statement that the client should discuss any recommendations made by the complementary and alternative health-care practitioner with the client's primary care physician, obstetrician, gynecologist, oncologist, cardiologist, pediatrician, or other board-certified physician; and

(VI) A statement indicating whether or not the complementary and alternative health-care practitioner is covered by liability insurance applicable to any injury caused by an act or omission of the complementary and alternative health-care practitioner in providing complementary and alternative health-care services pursuant to this section.

(b) Before a complementary and alternative health-care practitioner provides complementary and alternative health-care services for the first time to a client, the complementary and alternative health-care practitioner shall obtain a written, signed acknowledgment from the client stating that the client has received the information described in paragraph (a) of this subsection (7). The complementary and alternative health-care practitioner shall give a copy of the acknowledgment to the client and shall retain the original or a copy of the acknowledgment for at least two years after the last date of service.

(c) A complementary and alternative health-care practitioner shall not represent in any advertisement for complementary and alternative health-care services that the complementary and alternative health-care practitioner is licensed, certified, or registered by the state as a health-care professional.

(8) The following persons shall not provide complementary and alternative health-care services pursuant to this section:

(a) A health-care professional whose state-issued license, certification, or registration has been revoked or suspended by the state and has not been reinstated;

(b) A person who has been convicted of a felony for a crime against a person or a felony related to health care and who has not satisfied the terms of the sentence imposed for the crime. As used in this paragraph (b), "convicted" includes entering a plea of guilty or nolo contendere or the imposition of a deferred sentence.

(c) A person who has been deemed mentally incompetent by a court of law.

(9) (a) A complementary and alternative health-care practitioner who renders complementary and alternative health-care services consistent with this section is not engaging in the practice of medicine, as defined in article 240 of title 12, and is not violating the "Colorado Medical Practice Act", article 240 of title 12, as long as the complementary and alternative health-care practitioner does not engage in an act prohibited in subsection (6) of this section.

(b) Nothing otherwise authorizes a complementary and alternative health-care practitioner practicing within the scope of practice in this section to engage in the practice of medicine.

(10) This section does not apply to or prohibit:

(a) A licensed, certified, or registered health-care professional from practicing their regulated profession;

(b) The practice of health-care services that are exempt from state regulation or the provision of health-care services by a person who is exempt from state regulation; or

(c) A person from selling dietary supplements as stipulated under the federal "Dietary Supplement Health and Education Act of 1994", Pub.L. 103-417, or other natural health-care products or advising, educating, or counseling about the structure and function of the human body and the use of natural health-care products to support health and wellness.

(11) This section does not limit the right of any person to seek relief under this article or any other available civil or common law remedy for damages resulting from the negligence of a person providing complementary and alternative health-care services.

(12) Nothing in this section relieves a licensed, certified, or registered health-care professional from liability arising from any injury caused by the health-care professional in the course of providing complementary or alternative health-care services.

(13) Nothing in this section prevents a consumer from obtaining nutritional information from a nutritionist employed by or under contract with a health food store or wellness center or the nutritionist from providing nutritional information to the consumer.

(14) A violation of this section constitutes a deceptive trade practice under this article.

Source: L. 2013: Entire section added, (SB 13-215), ch. 399, p. 2328, § 1, effective June 5. **L. 2016:** (6)(q) amended, (HB 16-1320), ch. 265, p. 1101, § 9, effective June 8. **L. 2019:** (6)(g)(II), (6)(i), (6)(k), (6)(n)(II), (6)(o), (6)(q), and (9)(a) amended, (HB 19-1172), ch. 136, p. 1644, § 12, effective October 1. **L. 2026:** IP(6), IP(6)(g), (6)(g)(II), IP(6)(n), (6)(n)(II), (6)(q), (6)(t), IP(7)(a), (7)(a)(IV), and (10)(a) amended, (HB 26-1426), ch. 334, p. 2000, § 25, effective August 12.

Cross references: For the legislative declaration in HB 16-1320, see section 1 of chapter 265, Session Laws of Colorado 2016.

6-1-725. Synthetic cannabinoids - incense - unfair or deceptive trade practice.

(1) Except in accordance with article 10 of title 44 or article 4 of title 25, it is unlawful for any person or entity to distribute, dispense, manufacture, display for sale, offer for sale, attempt to sell, or sell to a purchaser any product that contains any amount of any synthetic cannabinoid, as defined in section 18-18-102 (34.5).

(2) (a) A violation of this section is an unfair or deceptive trade practice, and a violator is subject to a civil penalty as described in section 6-1-112 (1)(e) in addition to any applicable criminal penalty.

(b) For the purposes of this section, a person is deemed to have committed a violation for each individually packaged product that the person distributed, dispensed, manufactured, displayed for sale, offered for sale, attempted to sell, or sold in violation of subsection (1) of this section.

Source: L. 2014: Entire section added, (HB 14-1037), ch. 358, p. 1681, § 1, effective August 6. **L. 2023:** (1) amended, (SB 23-271), ch. 444, p. 2617, § 9, effective June 7. **L. 2026:** (2) amended, (HB 26-1426), ch. 334, p. 2001, § 26, effective August 12.

6-1-726. Sale of public services - deceptive trade practice - definition.

(1) A person engages in a deceptive trade practice when, in the course of the person's business, vocation, or occupation, the person does any of the following with respect to a government service or an appointment to receive a government service and if a government entity makes the service or appointment publicly available without charge:

(a) The person reserves or obtains the service or appointment, and the person sells the service or appointment;

(b) The person reserves or obtains, with the intent to sell, the service or appointment;

(c) The person reserves or obtains the service or appointment, and the person appends the service or appointment to another good or service the person offers for sale; or

(d) The person falsely represents to the potential customer that the person has obtained or secured the service or appointment, and the person attempts to sell the service or appointment.

(2) This section does not apply when the person:

(a) Has consent from the government entity to sell the specific service or appointment obtained or reserved; or

(b) Is obtaining and selling or offering to sell only information.

(3) As used in this section, "government entity" means the state of Colorado, a political subdivision of Colorado, or an agency of either the state of Colorado or a political subdivision of Colorado.

Source: L. 2016: Entire section added, (HB 16-1335), ch. 246, p. 1015, § 3, effective July 1.

6-1-727. Immigration-related services provided by nonattorneys - unfair or deceptive trade practice - definitions.

(1) **Legislative declaration.** The general assembly hereby finds and determines that the practice by some nonattorneys of providing legal advice or services in immigration matters negatively impacts the people who use their services and the public interest in preventing fraud and providing adequate opportunities to pursue immigration relief. While the Colorado supreme court regulates the practice of law in this state, the general assembly hereby finds and declares that it is in the public interest to prohibit nonattorneys from engaging in deceptive trade practices in immigration services in addition to the Colorado supreme court's prohibition against the unauthorized practice of law.

(2) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Compensation" means money, property, or anything else of value.

(b) (I) "Immigration matter" means a proceeding, filing, or other action that affects a person's immigrant, nonimmigrant, or citizenship status that arises under an immigration and naturalization law, executive order, or presidential proclamation or pursuant to an action of the United States citizenship and immigration services, the United States immigration and customs enforcement, the United States department of labor, the United States department of state, the United States department of justice, the United States department of homeland security, the board of immigration appeals, or their successor agencies, or any other entity having jurisdiction over immigration law.

(II) "Immigration matter" includes a pending or future act of congress or executive order that concerns immigration reform.

(c) "Practice of law" has the meaning established by the Colorado supreme court, whether by rule or decision.

(3) **Prohibited practices - assistance with immigration matters - permitted practices.**

(a) A person shall not engage in the practice of law in an immigration matter for compensation unless the person is:

(I) Licensed or otherwise authorized to practice law in this state pursuant to Colorado supreme court rules and article 93 of title 13; or

(II) Authorized, under federal law, whether acting through a charitable organization or otherwise, to represent others in immigration matters.

(b) If a person other than a person listed in subsection (3)(a)(I) or (3)(a)(II) of this section engages in or offers to engage in one or more of the following acts or practices in an immigration matter for compensation, the person engages in an unfair or deceptive trade practice as described in this article 1:

(I) Advising or assisting another person in a determination of the person's legal or illegal status for the purpose of an immigration matter;

(II) For the purpose of applying for a benefit, visa, or program related to an immigration matter, selecting for another person, assisting another person in selecting, or advising another person in selecting a benefit, visa, or program;

(III) Selecting for another person, assisting another person in selecting, or advising another person in selecting the person's answers on a government agency form or document related to an immigration matter;

(IV) Preparing documents for, or otherwise representing the interests of, another person in a judicial or administrative proceeding in an immigration matter;

(V) Explaining, advising, or otherwise interpreting the meaning or intent of a question on a government agency form in an immigration matter;

(VI) Demanding or accepting advance payment for the future performance of services in an immigration matter, especially with regard to services to be performed if a pending or future act of congress or executive order that concerns immigration reform is made effective; or

(VII) Selecting, drafting, or completing a legal document affecting the legal rights of another person in an immigration matter.

(c) With or without compensation or the expectation of compensation, a person other than a person listed in subsection (3)(a)(I) or (3)(a)(II) of this section engages in an unfair or deceptive trade practice in an immigration matter if the person represents, in any language, either orally or in a document, letterhead, advertisement, stationery, business card, website, or other written material that the person:

(I) Is a notario publico, notario, immigration assistant, immigration consultant, immigration specialist, or other designation or title that conveys or implies in any language that the person possesses professional legal skills or expertise in the area of immigration law; or

(II) Can or is willing to provide services in an immigration matter, if such services would constitute the practice of law.

(d) The prohibitions of subsection (3)(a) to (3)(c) of this section do not apply to the activities of a nonattorney assistant acting under the supervision of a person who is:

(I) Licensed or otherwise authorized to practice law in this state pursuant to Colorado supreme court rules and article 93 of title 13; or

(II) Authorized, under federal law, to represent others in immigration matters.

(e) Notwithstanding paragraphs (a) to (d) of this subsection (3), a person other than a person listed in subparagraph (I) or (II) of paragraph (a) of this subsection (3) may:

(I) Offer or provide language translation or typing services, regardless of whether compensation is sought;

(II) Secure or offer to secure existing documents, such as birth and marriage certificates, for a person seeking services; or

(III) Offer other immigration-related services that:

(A) Are not prohibited under this subsection (3), section 24-21-523 (1)(f) or (1)(i) or 24-21-525 (3), (4), or (5), or any other provision of law; and

(B) Do not constitute the practice of law.

Source: L. 2016: Entire section added, (HB 16-1391), ch. 354, p. 1453, § 1, effective June 10. **L. 2017:** (3)(a)(I), IP(3)(d), and (3)(d)(I) amended, (SB 17-227), ch. 192, p. 704, § 3, effective August 9; (3)(e)(III)(A) amended, (SB 17-132), ch. 207, p. 808, § 5, effective July 1, 2018. **L. 2026:** IP(3)(b), (3)(b)(III), IP(3)(c), and (3)(c)(I) amended, (HB 26-1426), ch. 334, p. 2001, § 27, effective August 12.

Editor's note: Section 8(1) of Senate Bill 17-132 was amended by section 121 of Senate Bill 17-294 to change the effective date of Senate Bill 17-132 from August 9, 2017, to July 1, 2018.

6-1-728. Solicitation of fee for a deed or deed of trust - definitions.

(1) As used in this section:

(a) "Local government" means a political subdivision of this state, a special purpose district in this state, an instrumentality or corporation of such a political subdivision or special purpose district, or a combination or subunit of any of them.

(b) "Solicit" or "solicitation" means to directly advertise or market through writing or graphics and via mail, telefax, or electronic mail to an individually identified person, residence, or business location. "Solicit" and "solicitation" do not include any of the following:

(I) Communicating via telephone, mail, or electronic communication, if initiated by a consumer; or

(II) Advertising and marketing to those with whom the solicitor has a preexisting business relationship.

(c) "State agency" means any office, department, or independent agency in the executive branch of Colorado state government, the general assembly, or the courts.

(2) A person who solicits a fee for providing a copy of a deed or deed of trust shall:

(a) Not less than fifteen days before distributing a solicitation, furnish a copy of the document that will be used for the solicitation to each county clerk and recorder where the solicitation is to be distributed;

(b) Not charge a fee of more than four times the amount charged by the county clerk and recorder that has custody of the deed or deed of trust for a copy of the same deed or deed of trust; and

(c) (I) State on the top of the document used for the solicitation, in at least twenty-four-point type:

(A) That the solicitation is not from a state agency or local government;

(B) That no action is legally required of the person being solicited;

(C) The fee for, or the cost of, obtaining a copy of the deed or deed of trust from the county clerk and recorder that has custody of the deed or deed of trust;

(D) The information necessary to contact the county clerk and recorder that has custody of the deed or deed of trust; and

(E) The name and physical address of the person soliciting the fee.

(II) The document used for a solicitation must not be in a form or use deadline dates or other language that makes the document appear to be a document issued by a state agency or local government or that appears to impose a legal duty on the individual being solicited.

(3) Only the attorney general or district attorney may bring an action against a person who violates this section. The penalties specified in section 6-1-112 apply to the action.

Source: L. 2018: Entire section added, (HB 18-1154), ch. 136, p. 892, § 1, effective August 8.

6-1-729. Assisted living residence referral - disclosures - penalty - fine - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) (I) "Assisted living residence" means a residential facility that makes available to three or more adults not related to the owner of the facility, either directly or indirectly through an agreement with a resident, room and board and at least the following services: Personal services; protective oversight; social care due to impaired capacity to live independently; and regular supervision that is available on a twenty-four-hour basis.

(II) "Assisted living residence" includes a facility operated for persons with intellectual and developmental disabilities, a long-term care facility, and any other facility of a similar nature.

(b) "Referral agency" means an individual or entity that provides referrals to an assisted living residence for a fee that is collected from either the prospective resident or the assisted living residence. "Referral agency" does not include an assisted living residence or its employees; a resident's family member; or a resident of an assisted living residence, regardless of whether the resident who refers a prospective resident to an assisted living residence receives a discount or other remuneration from the assisted living residence.

(2) A referral agency shall disclose to a prospective resident or the representative of the prospective resident referred to an assisted living residence:

(a) Documentation of the existence of any relationships between the referral agency and the assisted living residence, including common ownership or control of the assisted living residence, and financial, business, management, or familial relationships between the referral agency and the assisted living residence;

(b) That the referral agency receives a fee from the assisted living residence for the referral; and

(c) Written documentation of the agreement between the referral agency and the prospective resident or representative of the prospective resident. The agreement must include:

(I) The right of the prospective resident or representative of the prospective resident to terminate the referral agency's services for any reason at any time; and

(II) A requirement that the referral agency communicate the cancellation of the agreement to all assisted living residences to which the prospective resident has been referred.

(3) (a) The referral agency and the prospective resident or representative of the prospective resident shall sign and date the documentation required in subsection (2) of this section. The referral agency shall provide a written or electronic copy of the signed disclosure to the assisted living residence on or before the date the resident is admitted to the assisted living residence.

(b) The assisted living residence shall:

(I) Not pay the referral agency a fee:

(A) Until written receipt of the documentation required in subsection (2) of this section; and

(B) On or after the date the agreement between the referral agency and the prospective client or representative of the prospective client is terminated;

(II) Maintain a written or electronic copy of the documentation required in subsection (2) of this section at the assisted living residence for at least one year after the date that the new resident is admitted; and

(III) Not sell or transfer the prospective resident's or prospective resident's representative's contact information to a third party without the written consent of the prospective resident or representative of the prospective resident.

(4) A referral agency that violates this section is subject to a civil penalty of up to five hundred dollars per violation.

(5) The attorney general or a district attorney may bring a civil action on behalf of the state to seek the imposition of civil penalty for a violation of this section or to enjoin the continuance of the violation by the referral agency.

Source: L. 2019: Entire section added, (HB 19-1268), ch. 167, p. 1967, § 1, effective August 2. **L. 2020:** (1)(a), (2), and (3) amended, (HB 20-1101), ch. 54, p. 186, § 1, effective September 14.

6-1-730. Price gouging during declared disaster prohibited - deceptive trade practice - legislative declaration - definitions.

(1) The general assembly hereby:

(a) Finds and determines that:

(I) Under ordinary conditions, the pricing of consumer goods and services generally is best left to the marketplace; except that, when a declared disaster results in abnormal disruptions of the market, the public interest requires that any unfair and unconscionable increase in the price of consumer goods or services be discouraged; and

(II) Protecting consumers from price gouging is a vital function of the state's interest in providing for the health, safety, and welfare of the public; and

(b) Declares that existing prohibitions on deceptive or unfair and unconscionable trade practices under this article 1 should be clarified to ensure that price gouging has been and remains a violation of this article 1.

(2) A person engages in an unfair and unconscionable act or practice when, during a disaster period and within the designated area, the person charges a price so excessive as to amount to price gouging in:

(a) The sale or offer for sale of:

(I) Building materials;

(II) Consumer food items;

(III) Emergency supplies;

(IV) Fuel;

(V) Medical supplies; or

(VI) Other necessities; or

(b) The provision of or offer to provide:

(I) Repair or reconstruction services;

(II) Transportation, freight, or storage services; or

(III) Services used in an emergency cleanup.

(2.5) If the governor declares a disaster emergency pursuant to section 24-33.5-704 (4) and the disaster emergency declaration cites to this subsection (2.5), a price increase in the sale or offer for sale of any good or service listed in subsection (2) of this section amounts to price gouging if the price has increased by more than ten percent of the price at which the seller sold or offered for sale similar goods or services before the disaster began or, if the seller did not sell or offer for sale similar goods or services before the disaster began, the price at which a similarly situated seller sold or offered for sale similar goods or services before the disaster began.

(3) A price shall not be considered unreasonably excessive if the seller can prove that, due to the events that gave rise to the disaster declaration, the price charged by the seller is directly attributable to additional costs imposed by the seller's supplier or suppliers or other direct costs of providing the good or service sold or offered for sale by the seller.

(3.5) For the purposes of subsection (2.5) of this section, a price shall not be considered unreasonably excessive if the seller can prove that the price charged by the seller is directly attributable to seasonal pricing.

(4) This section is enforceable solely by, and at the discretion of, the attorney general or the district attorney with jurisdiction over the conduct at issue.

(5) As used in this section:

(a) "Building materials" means lumber, construction tools, windows, and other materials used in the repair or reconstruction of a structure or other property.

(b) "Consumer food item" means an article used or intended for use as food, beverage, confection, or condiment for human or animal consumption.

(c) "Designated area" means the specific geographic area identified in a disaster declaration.

(d) "Disaster" has the meaning set forth in section 24-33.5-703 (3).

(e) "Disaster declaration" means the declaration of:

(I) A national emergency by the president of the United States pursuant to the "National Emergencies Act", 50 U.S.C. sec. 1601 et seq., as amended; or

(II) A disaster emergency by the governor pursuant to section 24-33.5-704 (4).

(f) "Disaster period" means the date a disaster declaration begins and continuing for one hundred eighty days after the date that the final disaster declaration concerning the disaster expires.

(g) "Emergency supplies" includes water, ice, flashlights, radios, batteries, candles, blankets, soap, diapers, temporary shelters, tape, toilet paper, tissues, paper towels, and toiletries.

(h) (I) "Fuel" means any liquid or gas used to power a vehicle or power tool or used to heat and power a building.

(II) "Fuel" includes gasoline, diesel fuel, and methyl alcohol.

(i) "Medical device" has the same meaning as "device" as set forth in section 25-5-402 (8).

(j) "Medical supplies" includes prescription and nonprescription medication, medical devices, bandages, gauze, isopropyl alcohol, and antibacterial products.

(k) "Necessities" means goods and services that are necessary for human or animal survival during a disaster period.

(l) "Repair or reconstruction services" means services performed to repair or reconstruct any type of vehicle; residential, commercial, agricultural, or government-owned property; or any property owned by an educational institution, that is damaged as a result of a disaster.

(m) (I) "Transportation, freight, or storage services" means a service that is performed by a person that:

(A) Contracts to move, transport, or store property; or

(B) Rents equipment for the purpose of moving, transporting, or storing property.

(II) "Transportation, freight, or storage services" includes towing services.

Source: L. 2020: Entire section added, (HB 20-1414), ch. 305, p. 1552, § 1, effective July 14. **L. 2023:** (5)(f) amended, (HB 23-1192), ch. 427, p. 2509, § 1, effective June 7. **L. 2025:** (2.5) and (3.5) added, (HB 25-1010), ch. 174, p. 726, § 2, effective August 6.

Editor's note: Section 5 of chapter 174 (HB 25-1010), Session Laws of Colorado 2025, provides that the act changing this section applies to conduct occurring on or after August 6, 2025.

6-1-731. Contracts for dating services and online dating services - right of cancellation - remedy for violations - required notice regarding fraud bans - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) "Banned member" means a member whose account or profile is the subject of a fraud ban.

(b) "Buyer" means an individual who purchases services from a dating service.

(c) (I) "Dating service" means any person that offers dating, matrimonial, or social referral services by any of the following means:

(A) An exchange of names, telephone numbers, addresses, and statistics;

(B) A photograph or video selection process;

(C) Personal introductions provided by the person at its place of business; or

(D) A social environment provided by the person intended primarily as an alternative to other singles' bars or club-type environments.

(II) "Dating service" includes an online dating service.

(d) (I) "Dating service contract" means a contract between a buyer and a dating service.

(II) "Dating service contract" includes an online dating service contract.

(e) "Dating service office" means the principal place of business of a dating service.

(f) "Disability" means a condition that precludes a buyer from physically using the services specified in a dating service contract during the term of disability, which condition is verified in writing by a physician designated and remunerated by the buyer.

(g) "Fraud ban" means the barring of a member from an online dating service because, in the judgment of the online dating service, the member poses a significant risk of attempting to obtain money from other members through fraudulent means, by using a false identity, or by attempting to defraud other members of the online dating service.

(h) "Member" means an individual who signs up or registers with an online dating service.

(i) "Member in this state" means a member who provides a billing address or zip code in this state when registering with an online dating service.

(j) "Online dating service" means any person engaged in the business of offering dating, matrimonial, or social referral services that are offered primarily online, such as by means of a website or a mobile application.

(k) "Online dating service contract" means a contract between a buyer and an online dating service.

(2) (a) In addition to any other right to revoke an offer, a buyer has the right to cancel a dating service contract until midnight of the third business day after the day on which the buyer signs the contract.

(b) (I) Except as described in subsection (2)(b)(II) of this section, cancellation of a dating services contract occurs when the buyer gives written notice of cancellation by mail, telegram, or delivery to the dating service at the address specified in the contract or offer.

(II) In the case of an online dating service contract, cancellation occurs when the buyer gives written notice of cancellation by email to an email address provided by the online dating service or through another simple, cost-effective, timely, and easy-to-use mechanism for cancellation provided by the online dating service. Additional electronic means of cancellation may be provided by the contract.

(c) Notice of cancellation, if given by mail, is effective when deposited in the mail properly addressed with postage prepaid. If notice of cancellation is given by email, it is effective at the time the buyer sends the notice.

(d) Notice of cancellation given by the buyer need not take the particular form as provided in the contract and, however expressed, is effective if it indicates the intention of the buyer to not be bound by the dating service contract.

(e) All money paid pursuant to any dating service contract shall be refunded within ten days after receipt of the notice of cancellation.

(f) The buyer may notify the dating service of the buyer's intent to cancel the contract within the three-day period specified in this subsection (2) and stop the processing of a credit card voucher or check by telephone notification to the dating service. However, this does not negate the obligation of the buyer to cancel the contract by mail, email or other electronic means, telegram, or delivery as required pursuant to this section.

(3) (a) A dating service contract must be set forth in writing, which, in the case of an online dating service contract, may be an electronic writing made available for viewing online. A copy of the contract shall be provided to the buyer at the time the buyer signs the contract; except that an online dating service shall not be required to provide a copy of the contract if:

(I) The contract is available through a direct online link that is provided in a clear and conspicuous manner on the website where the buyer provides consent to the contract; and

(II) Upon request by the buyer, the online dating service provides a retainable digital copy of the contract.

(b) (I) Each dating service contract must contain on its face, in close proximity to the space reserved for the signature of the buyer, a conspicuous statement in a larger size type than the surrounding text; in contrasting type, font, or color to the surrounding text of the same size; or set off from the surrounding text of the same size by symbols or other marks in a manner that clearly calls attention to the language, as follows:

YOU, THE BUYER, MAY CANCEL THIS CONTRACT, WITHOUT ANY PENALTY OR OBLIGATION, AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY FOLLOWING THE DATE OF THIS CONTRACT, EXCLUDING SUNDAYS AND HOLIDAYS. NOTICE OF CANCELLATION NEED NOT TAKE A PARTICULAR FORM AND IS EFFECTIVE IF IT INDICATES YOUR DESIRE TO NOT BE BOUND BY THIS CONTRACT. TO CANCEL THIS CONTRACT, MAIL OR DELIVER A SIGNED AND DATED NOTICE OR SEND A TELEGRAM THAT STATES THAT YOU, THE BUYER, ARE CANCELING THIS CONTRACT, OR WORDS OF SIMILAR EFFECT. SEND THIS NOTICE TO:

_____ (Name of the dating service that sold you the contract)

_____ (Address of the dating service that sold you the contract)

(II) Notwithstanding subsection (3)(b)(I) of this section, an online dating service contract must include the following statement in a clear and conspicuous manner in a standalone first paragraph of the contract:

YOU, THE BUYER, MAY CANCEL THIS CONTRACT, WITHOUT ANY PENALTY OR OBLIGATION, AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY FOLLOWING THE DATE OF THIS CONTRACT, EXCLUDING SUNDAYS AND HOLIDAYS. NOTICE OF CANCELLATION NEED NOT TAKE A PARTICULAR FORM AND IS EFFECTIVE IF IT INDICATES YOUR DESIRE TO NOT BE BOUND BY THIS CONTRACT. TO CANCEL THIS CONTRACT, SEND AN EMAIL THAT STATES THAT YOU, THE BUYER, ARE CANCELING THIS CONTRACT, OR WORDS OF SIMILAR EFFECT. SEND THIS NOTICE TO: _____ (Email address of the online dating service that sold the contract)

(c) (I) Each dating service contract must contain on the first page, in a type size no smaller than that generally used in the body of the document, the name and address of the dating service to which the notice of cancellation is to be mailed or delivered and the date the buyer signed the contract.

(II) Notwithstanding subsection (3)(c)(I) of this section, in the case of an online dating service contract, said subsection (3)(c)(I) does not apply if the name of the online dating service and the email address or other simple, cost-effective, timely, and easy-to-use mechanism that can be used for cancellation appears in the first paragraph of the contract in a type size no smaller than that generally used in the body of the document.

(d) (I) A dating service contract shall not require payments or financing by the buyer over a period exceeding two years after the date the contract is entered into, nor shall the term of any such contract be measured by the life of the buyer. However, the services to be rendered to the buyer under the contract may extend over a period beginning within six months and ending within three years after the date the contract is executed.

(II) Notwithstanding subsection (3)(d)(I) of this section, in the case of an online dating service contract, said subsection (3)(d)(I) does not apply if the length of the initial term is one year or less and the length of each subsequent term is one year or less.

(e) If a dating service contract does not comply with the requirements of this section, the buyer may cancel the contract at any time.

(4) (a) Each dating service contract must contain language providing that:

(I) If by reason of death or disability the buyer is unable to receive all services for which the buyer has contracted, the buyer and the buyer's estate may elect to be relieved of the obligation to make payments for services other than those received before death or the onset of disability, except as provided in subsection (4)(a)(III) of this section, so long as the buyer or the buyer's estate provides written verification of the disability to the dating service.

(II) If the buyer has prepaid any amount for services, so much of the amount prepaid that is allocable to services that the buyer has not received shall be promptly refunded to the buyer or the buyer's representative; and

(III) If the physician verifying the buyer's disability determines that the duration of the disability will be less than six months, the dating service may extend the term of the contract for a period of six months at no additional charge to the buyer in lieu of cancellation.

(b) (I) If a dating service provides services within a limited geographical area, and a buyer relocates the buyer's primary residence more than fifty miles from the dating service office and is unable to transfer the contract to a comparable facility, the buyer may elect to be relieved of the obligation to make payment for services other than those received prior to the relocation, and if the buyer has prepaid any amount for services, so much of the amount prepaid that is allocable to services that the buyer has not received shall be promptly refunded to the buyer. A buyer who elects to be relieved of further obligation pursuant to this subsection (4)(b)(I) may be charged a predetermined fee not to exceed one hundred dollars or, if more than half the life of the contract has expired, a predetermined fee not to exceed fifty dollars.

(II) Notwithstanding subsection (4)(b)(I) of this section, said subsection (4)(b)(I) does not apply to an online dating service that is generally available to users on a regional, national, or global basis.

(c) In addition to any other requirements, an online dating service shall also maintain:

(I) A reference or online link to dating safety awareness information that includes, at a minimum, a list or descriptions of safety measures reasonably intended to increase awareness of safe dating practices; and

(II) A means by which a member may report issues or concerns relating to the behavior of other members of the online dating service arising out of their use of the service.

(5) (a) Any dating service contract that does not comply with this section is void and unenforceable.

(b) Any dating service contract that is entered into by a buyer in response to willfully fraudulent or misleading information or advertisements of the dating service is void and unenforceable.

(c) Notwithstanding the provisions of any dating service contract, in any case in which a contract price is payable in installments and the buyer is relieved from making further payments or entitled to a refund under this section, the buyer is entitled to receive a refund or refund credit of that portion of the cash price that is allocable to the services not actually received by the buyer. The refund of any finance charge shall be computed according to the "sum of the balance method", also known as the "Rule of 78".

(d) Any waiver by a buyer of the rights afforded to the buyer by this section is void and unenforceable.

(6) (a) An online dating service shall provide notice to all of its members in this state who the online dating service knows have previously received and responded to an on-site message from a banned member. The notice must include all of the following:

(I) The username, identification number, or other profile identifier of the banned member;

(II) A statement that the banned member may have been using a false identity or may attempt to defraud other members;

(III) A statement that members should not send money or personal financial information to another member; and

(IV) An online link that provides information regarding ways to avoid online fraud or being defrauded by a member of an online dating service.

(b) The notification required by subsection (6)(a) of this section must be:

(I) Clear and conspicuous;

(II) Sent via email, text message, or other appropriate means of communication consented to by the member; and

(III) Sent within twenty-four hours after the fraud ban is initiated against the banned member; except that notification may be sent within three days after the fraud ban is initiated if, in the judgment of the online dating service, circumstances require additional time.

(c) An online dating service whose agents and employees are acting in good faith is not liable to any person, other than this state or any agency, department, or political subdivision of this state, for damages resulting from:

(I) The means of communication used to notify a member;

(II) When notification is sent pursuant to this section; or

(III) Disclosing any of the following information:

(A) That a member has been banned;

(B) The username, identification number, or other profile identifier of the banned member; or

(C) The reason that the online dating service initiated the fraud ban of a banned member.

(d) This section does not create a private right of action or diminish or adversely affect the protections afforded in 47 U.S.C. sec. 230.

Source: L. 2021: Entire section added, (HB 21-1239), ch. 410, p. 2711, § 1, effective January 1, 2022.

6-1-731.5. Online dating services - deceptive trade practice - safety policy required - report - rules - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) "Member" and "member in this state" have the same meaning set forth in section 6-1-731.

(b) "Misconduct that threatens public or personal safety" means an act, threatened act, or attempted act of homicide, unlawful sexual behavior, assault, kidnapping, stalking, harassment, involuntary intoxication, robbery, theft, or any other conduct that threatens public or another person's safety.

(c) "Online dating service" has the same meaning set forth in section 6-1-731.

(d) "Online dating service contract" has the same meaning set forth in section 6-1-731.

(e) "Remedial action" means suspending the member's profile from the service, barring the member from the service, or providing actual notice that the service received a report of prohibited content and conduct to other members who have had contact on the service with the member who was the subject of the reports.

(f) "Safety policy" means an online dating service's safety policy required in subsection (2) of this section.

(2) An online dating service shall adopt a safety policy that complies with this subsection (2). An online dating service that has a member located in this state on August 7, 2024, shall make the safety policy effective on or before January 1, 2025. An online dating service that registers its first member in this state after August 7, 2024, shall make the safety policy effective one year after it registers its first member in this state. The safety policy must include the following:

(a) A description of prohibited content and conduct used by the online dating service, which must include misconduct that threatens public or personal safety.

(b) A statement of whether and under what circumstances the online dating service conducts a criminal background screening of members and whether the online dating service excludes as a member a person who is found to have a criminal conviction and, if so, which types of criminal convictions result in exclusion.

(c) A description of whether and when the online dating service verifies a member's identity or that the member is at least eighteen years of age.

(d) A description of whether and when the online dating service suspends a member's profile from the service as a result of reports of prohibited content and conduct committed by the member received by the online dating service and the circumstances under which the online dating service bars a member from the online dating service as a result of received reports.

(e) A description of whether the online dating service permits a member who was suspended or barred as a result of reports of prohibited content and conduct committed by the member to appeal the adverse action and, if the online dating service permits an appeal, the appeal process.

(f) A description of whether and when the online dating service, after receiving a report of prohibited content and conduct committed by a member, provides actual notice that it received the report to other members who have had contact with the member who was the subject of the report and, if so, the types of content and conduct that result in providing a notice and the process for providing the notice.

(g) Clear guidelines for reporting to the online dating service prohibited content and conduct committed by a member against another member. The guidelines must warn members not to submit false reports or report for malicious, biased, or other illegitimate reasons.

(h) A notice that engaging in sexual conduct with another person without the other person's consent violates the safety policy, is against the law, and may result in criminal or civil liability.

(i) Information about resources available for members in Colorado who experience sexual assault, domestic violence, and other crimes.

(j) A list of safety measures taken by the platform that are reasonably designed to promote safer online and in-person dating experiences for members.

(3) An online dating service shall post a clear and conspicuous link to the service's safety policy on the main page of its website and on the settings, or a similar screen, of its mobile application, if applicable, and include a link to the safety policy in a dating service contract described in section 6-1-731. The text of each link must explicitly inform a Colorado member that the link navigates the member to the online dating service's safety policy.

(4) (a) An online dating service shall submit the URL for its safety policy posted on its website to the attorney general's office within fifteen days after enacting the safety policy. If an

online dating service updates the URL for its safety policy, it shall submit the updated URL to the attorney general's office within seven days after updating the URL.

(b) On or before January 31, 2026, and on or before January 31 of each year thereafter, an online dating service shall submit an annual report to the attorney general's office concerning member safety and the online dating service's compliance with this section. The report must include the information required by the rules promulgated pursuant to this section.

(c) The report required pursuant to subsection (4)(b) of this section is only required to include information about a member located in, or reports made by a member located in, Colorado, if that information is available. If that information is not available, the report must include information from the entire United States.

(4.5) The attorney general shall promulgate rules to carry out this section. The rules may include the process for an online dating service to submit to the attorney general's office the URL for its safety policy.

(5) The attorney general's office shall post on a public page of its website a link to each safety policy and each annual report filed with the office pursuant to subsection (4) of this section by each online dating service.

(6) Prior to commencing an enforcement action pursuant to this article 1 against an online dating service that registers its first member in this state after August 7, 2024, for the service's first violation of this section, the attorney general or a district attorney must issue a notice of violation to the online dating service if the attorney general or district attorney determines that it is possible for the online dating service to cure the violation. If the online dating service fails to cure the violation within thirty days of receiving the notice of violation, the attorney general or district attorney may bring an enforcement action pursuant to this article 1.

(7) (a) Nothing in this section alters the scope of the federal "Communications Decency Act of 1996", 47 U.S.C. sec. 230.

(b) Nothing in this section limits any rights or remedies of an injured party that are available under Colorado law nor removes any remedies available to an injured person prior to August 7, 2024.

(c) An online dating service is not liable to a barred or suspended member for taking, in good faith, remedial action in accordance with its membership agreement against a member for violating the service's safety policy.

Source: L. 2024: Entire section added, (SB 24-011), ch. 402, p. 2764, § 2, effective August 7.

Cross references: For the legislative declaration in SB 24-011, see section 1 of chapter 402, Session Laws of Colorado 2024.

6-1-732. Automatic renewal contracts - unlawful acts - required disclosures - right to cancel - trial period offers - exemptions - rules - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) "Automatic renewal contract" means a plan or arrangement in which a paid subscription or purchasing agreement is automatically renewed at the end of a definite term for a subsequent term or on a continuous or recurring basis.

(b) "Automatic renewal offer terms" means the following clear and conspicuous disclosures:

(I) That an automatic renewal contract will automatically renew or extend after the initial period for a set term not to exceed one year unless the consumer gives express written consent for a longer renewal term;

(II) A description of the cancellation policy that applies to the offer;

(III) Any recurring charges that will be charged to the consumer's credit card, debit card, or payment account with a third party as part of an automatic renewal contract;

(IV) The length of an automatic renewal term; and

(V) The minimum purchase obligation, if any.

(c) (I) "Clear and conspicuous" or "clearly and conspicuously" means in larger type than the surrounding text; in contrasting type, font, or color to the surrounding text of the same size; or set off from the surrounding text of the same size by symbols or other marks in a manner that clearly calls attention to the language.

(II) In the case of an audio disclosure, "clear and conspicuous" or "clearly and conspicuously" means in a volume and cadence sufficient to be readily audible and understandable.

(d) "Consumer" means a person that seeks or acquires, by purchase or lease, any goods, services, money, or credit.

(d.7) "One-step online cancellation" means an online method of cancellation that does not require additional action from the consumer which obstructs or delays the consumer's ability to terminate an automatic renewal contract or continuous service immediately.

(e) "Trial period offer" means a solicitation offering a consumer a period of time in which to sample a product or service, which offer is used as an inducement for the consumer to make a purchase of the product or service or a similar product or service.

(2) It is unlawful for a person that offers an automatic renewal contract to a consumer in this state to:

(a) Fail to present the automatic renewal offer terms in a clear and conspicuous manner before the automatic renewal contract is executed. In the case of an offer that is conveyed by voice, the person must present the terms in temporal proximity to the request for the consumer's consent to the offer. If the offer includes a trial period offer, the offer must also include a clear and conspicuous explanation of the price that will be charged and any further purchase obligations that will be imposed on the consumer after the trial period ends.

(b) Utilize an online link that is presented as part of an offer of an automatic renewal contract, which online link directs a consumer to detailed information about the automatic renewal contract, unless the online link:

(I) Is available before a consumer elects to purchase any good or service subject to the automatic renewal contract;

(II) Appears directly adjacent to any online link used by the consumer to purchase any good or service subject to the automatic renewal contract; and

(III) Is labeled with, or is directly adjacent to, a clear and conspicuous disclosure that states that by purchasing the good or service, the consumer agrees to enroll in an automatic renewal contract;

(c) Fail to provide the consumer a written acknowledgment that includes the automatic renewal offer terms, the cancellation policy, and information regarding how to cancel in a manner that is capable of being retained by the consumer. If the offer of an automatic renewal contract includes a trial period offer, the person shall also disclose in the written acknowledgment how the consumer may cancel the automatic renewal contract, and the person shall allow the consumer to cancel the contract before the consumer is required to pay for the goods or services.

(d) Fail to provide a simple, cost-effective, timely, easy-to-use, and readily accessible mechanism for canceling an automatic renewal contract or trial period offer. A person is deemed to comply with this subsection (2)(d) if the person offers:

(I) A one-step online cancellation link to a consumer who consented to the automatic renewal contract or trial period offer through a website or other online medium or through an electronic communication, and the one-step online cancellation link is:

(A) Located on the person's website or contained in an electronic device or service or an electronic communication made to the consumer; and

(B) Available to the consumer immediately after the consumer completes a reasonable authentication protocol used solely to confirm that the consumer is authorized to make changes to the account; or

(II) One of the following means of canceling the automatic renewal contract to the consumer if the consumer consented to the automatic renewal contract or trial period offer through means other than those listed in subsection (2)(d)(I) of this section:

(A) A one-step online cancellation link that is located on the person's website or contained in an electronic device or service or an electronic communication made to the consumer and available to the consumer immediately after the consumer completes a reasonable authentication protocol used solely to confirm that the consumer is authorized to make changes to the account; or

(B) An in-person mechanism for canceling an automatic renewal contract or trial period offer that is at a physical location where the consumer regularly utilizes any goods or services that are subject to the automatic renewal contract and satisfies the requirements of this subsection (2)(d).

(2.5) If a consumer requests to cancel an automatic renewal contract by an online system, a person may display a discounted offer, a retention benefit, or information regarding the effects of cancellation if the business simultaneously displays a prominently located and continuously proximate direct link to cancel alongside the presentation of the discounted offer, retention benefit, or information regarding the effects of cancellation. If the consumer utilizes the direct link to cancel, the business shall promptly process the cancellation and shall not otherwise obstruct or delay the consumer's request to cancel.

(3) If a material change occurs in the terms of an automatic renewal contract that has been accepted by a consumer in this state, the person shall provide to the consumer, in a manner that may be retained by the consumer, a clear and conspicuous notice of the material change and information regarding cancellation of the automatic renewal contract, including information concerning the mechanism described in subsection (2)(d) of this section.

(4) (a) A person that sells a good or service to a consumer pursuant to an automatic renewal contract shall notify the consumer that the automatic renewal contract will automatically renew or continue unless the consumer cancels the automatic renewal contract. The notice must inform the consumer of the process for canceling the automatic renewal contract, and the process must provide clear and accurate information about the identity of the sender and be consistent with subsection (2)(d) of this section. The person shall provide the notice by:

(I) Physical mail;

(II) Email; or

(III) Another easily accessible form of communication, such as a text message or a mobile phone application, if the consumer specifically authorizes the person to provide notice in such form or if the consumer customarily uses such form to communicate with the person.

(b) A person that sells a good or service to a consumer pursuant to an automatic renewal contract shall send the notice described in subsection (4)(a) of this section at least twenty-five and no more than forty days before the first automatic renewal and at least twenty-five and no more than forty days before each automatic renewal thereafter; except that, if the initial automatic renewal or any subsequent automatic renewal is for a term of less than twelve months, the person shall send the notice:

(I) At least once in the period between twenty-five and forty days directly preceding the first automatic renewal that would extend the contract beyond a continuous twelve-month period; and

(II) At least once in the period between twenty-five and forty days directly preceding any subsequent automatic renewal that would extend the contract beyond any additional consecutive and continuous twelve-month period.

(5) Notwithstanding any provision of this section to the contrary, this section does not apply to:

(a) A service provided by a person pursuant to a franchise issued by a political subdivision of the state or a license, franchise, certificate, or other authorization issued by the public utilities commission created in section 40-2-101;

(b) A service provided by a person that is regulated by the federal communications commission, the federal energy regulatory commission, or the public utilities commission created in section 40-2-101;

(c) An entity regulated by the division of insurance;

(d) A bank or bank holding company that is licensed under state or federal law, or a subsidiary or affiliate of such a bank or bank holding company;

(e) A credit union or other financial institution that is licensed under state or federal law; or

(f) An air carrier as defined in and regulated under the "Federal Aviation Act of 1958", 49 U.S.C. sec. 40101 et seq., as amended, including the federal "Airline Deregulation Act of 1978", 49 U.S.C. sec. 41713, as amended.

(6) The attorney general and the district attorneys of the state have exclusive authority to enforce this section.

(7) The attorney general may adopt rules as necessary for the purpose of implementing and enforcing this section.

Source: L. 2021: Entire section added, (HB 21-1239), ch. 410, p. 2711, § 1, effective January 1, 2022. **L. 2025:** (1)(d.7), (2.5), and (7) added and (2)(d) R&RE, (SB 25-145), ch. 368, p. 1989, § 1, effective August 6; (1)(d) amended, (SB 25-145), ch. 368, p. 1989, § 1, effective February 16, 2026.

Editor's note: Section 2 of chapter 368 (SB 25-145), Session Laws of Colorado 2025, provides that the act changing this section applies to automatic renewal contracts offered or renewed on or after August 6, 2025.

6-1-733. Solicitations to file a secretary of state document or retrieve a copy of a public record for a fee - requirements - deceptive trade practice - definition.

(1) As used in this section, "solicit" or "solicitation" means to directly advertise to a person with a form or notice that could reasonably be considered a bill, invoice, or compliance obligation but that is actually an offer to sell to a person goods or services that the person did not request. "Solicit" and "solicitation" do not include:

(a) A request for bona fide services that is initiated by a consumer; or

(b) Advertising or marketing to a person with whom the solicitor has a bona fide, preexisting business relationship.

(2) A person who, in the course of the person's business, vocation, or occupation, solicits a fee for filing a document with, or retrieving a copy of a public record from, the secretary of state shall:

(a) State in the solicitation and in the same language as the solicitation: "This is an advertisement. This offer is not being made by, or on behalf of, any government agency. You are not required to make any payment or take any other action in response to this offer." This statement must be at the top of a physical document in at least twenty-four-point type and at the beginning of an electronic communication.

(b) Include in the solicitation:

(I) Information on where the person can file a document directly with the secretary of state or retrieve a copy of a public record; and

(II) The name and physical address of the person soliciting the fee.

(3) The document used for a solicitation must not be in a form or use deadline dates or other language that makes the document appear to be a document issued by a state agency or local government or that appears to impose a legal duty on the person being solicited.

(4) A person who violates this section engages in a deceptive trade practice.

Source: L. 2023: Entire section added, (SB 23-037), ch. 61, p. 218, § 2, effective August 7.

6-1-734. Access to abortion services and emergency contraception - deceptive trade practice - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) "Abortion" has the meaning set forth in section 25-6-402 (1).

(b) "Emergency contraceptive" means a drug or device approved by the food and drug administration to significantly reduce the risk of pregnancy if taken or administered within a specified period of time after sexual intercourse, including emergency contraceptive pills and intrauterine devices.

(c) "Food and drug administration" means the food and drug administration in the United States department of health and human services, or any successor entity.

(2) A person engages in a deceptive trade practice when the person makes or disseminates to the public or causes to be made or disseminated to the public any advertisement that indicates that the person provides abortions or emergency contraceptives, or referrals for abortions or emergency contraceptives, when the person knows or reasonably should have known, at the time of publication or dissemination to the public of the advertisement, that the person does not provide those specific services.

Source: L. 2023: Entire section added, (SB 23-190), ch. 70, p. 265, § 2, effective April 14.

Cross references: For the legislative declaration in SB 23-190, see section 1 of chapter 70, Session Laws of Colorado 2023.

6-1-735. Rental price gouging during declared disaster prohibited - definitions.

(1) A person engages in an unfair and unconscionable act or practice when, during a disaster period and within the designated area if a disaster declaration specifically declares a material decrease in residential housing units, the person engages in price gouging in the provision of or offer to provide rent-based housing.

(2) (a) A violation of this section may be enforced by the attorney general or the district attorney with jurisdiction over the conduct at issue or by an aggrieved party.

(b) Notwithstanding section 6-1-113, a tenant affected by a violation of this section may bring a civil action to restrain further violations and to recover damages, costs, and reasonable attorney fees. If a court or jury finds that a violation occurred, the tenant must be awarded statutory damages equal to the tenant's actual damages, attorney fees, and costs that may be owed.

(3) As used in this section:

(a) "Designated area" means a specific geographic area identified in a disaster declaration.

(b) "Disaster" has the same meaning as set forth in section 24-33.5-703 (3).

(c) "Disaster declaration" means a declaration of one of the following, which results in a material decrease in residential housing units:

(I) A national emergency by the president of the United States pursuant to the "National Emergencies Act", 50 U.S.C. sec. 1601 et seq., as amended; or

(II) A disaster emergency by the governor pursuant to section 24-33.5-704 (4).

(d) "Disaster period" means the date a disaster declaration begins and continuing for one year after the date of the initial disaster.

(e) "Price gouging" means:

(I) For dwellings that were on the market immediately preceding the disaster, an increase in rent for an individual dwelling in a designated area that is more than the greater of the percentage of the rent increase for the immediately preceding year or ten percent compared to the rent for the individual dwelling immediately preceding the disaster; or

(II) For dwellings that were not on the market immediately preceding the disaster, rent for an individual dwelling in a designated area that is more than the greater of the percentage of the rent increase for the immediately preceding year or ten percent higher than rent for similar dwellings located in the designated area and that were on the market immediately preceding the disaster.

Source: L. 2024: Entire section added, (HB 24-1259), ch. 415, p. 2847, § 1, effective June 5.

ANNOTATION

Law reviews. For article, "Significant Changes to Landlord-Tenant Law in 2024", see 53 Colo. Law. 48 (Dec. 2024).

6-1-736. Organized youth athletic activities - notice of requirements.

The attorney general shall draft a notice that explains the requirements of part 4 of article 4 of title 26.5 and shall make the notice available to all youth sports organizations, as defined in section 26.5-4-401, for a youth sports organization to post on its website or provide to parents or legal guardians under the youth sports organization's name.

Source: L. 2024: Entire section added, (SB 24-113), ch. 196, p. 1197, § 4, effective August 7.

6-1-737. Requirement to disclose certain pricing information - landlords and tenants - remedies - rules - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) "Clearly and conspicuously" or "clear and conspicuous" means that a required disclosure is easily noticeable and understandable, including in all of the following ways:

(I) For a communication that is only visual or only audible, the disclosure must be made through the same means by which the communication is presented;

(II) For a communication that is both visual and audible, such as a television advertisement, the disclosure must be made simultaneously in both the visual and audible portions of the communication, even if the communication requiring the disclosure is made through only visual or audible means;

(III) For a visual disclosure, the disclosure must be distinguishable by its size, contrast, and location; the length of time for which it appears; and other characteristics from accompanying text or other visual elements so that it is easily noticeable, readable, and understandable to ordinary persons;

(IV) For an audible disclosure, including by telephone or streaming video, the disclosure must be delivered in a volume, speed, and cadence sufficient for ordinary persons to easily hear and understand it;

(V) In any communication using an interactive electronic medium, such as the internet or software, the disclosure must be unavoidable;

(VI) The disclosure uses diction and syntax understandable to ordinary persons and must appear in each language in which the representation requiring the disclosure appears;

(VII) The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication requiring the disclosure; and

(VIII) The disclosure must comply with the requirements of this subsection (1)(a) for each medium through which it is received by a person, including an electronic device or face-to-face communication.

(b) "Common areas" has the meaning set forth in section 38-12-502 (2).

(c) "Delivery network company" has the meaning set forth in section 8-4-126 (1)(c).

(d) (I) "Dwelling unit" has the meaning set forth in section 38-12-502 (3).

(II) "Dwelling unit" does not include common areas.

(e) "Food and beverage service establishment" means:

(I) A retail food establishment, as defined in section 25-4-1602 (14);

(II) An alcoholic beverages drinking places industry, as defined in section 39-26-105 (1.3)(a)(I);

(III) A brew pub, distillery pub, or vintner's restaurant, as those terms are defined in section 44-3-103; or

(IV) A retail portion of a brewery, distillery, or winery, as those terms are defined in section 44-3-103, that sells beverages for consumption on the premises.

(f) "Government charge" means a fee or charge imposed on consumers by a federal, state, or local government agency, unit, or department, including taxes or fees that are imposed by, paid to, or passed on to a government, including a local government entity or other unit of local government, or a political subdivision of the state, including a government-created special district.

(g) "Landlord" has the meaning set forth in section 38-12-502 (5).

(h) "Mandatory service charge" means a mandatory fee, charge, or amount that a food and beverage service establishment adds to a customer's, guest's, or patron's bill.

(i) "Pricing information" means information relating to an amount a person may pay.

(j) "Rental agreement" has the meaning set forth in section 38-12-502 (7).

(k) "Shipping charge" means a fee or charge that reflects the actual cost that a person incurs to send physical goods to a person.

(l) "Tenant" has the meaning set forth in section 38-12-502 (9).

(m) (I) "Total price" means the maximum total of all amounts, including fees and charges, that a person must pay for a good, service, or property, including any additional mandatory goods, services, or properties.

(II) "Total price" includes all amounts that:

(A) Must be paid to purchase, enjoy, or utilize a good, service, or property; or

(B) Are not reasonably avoidable by the person.

(III) "Total price" does not include a government charge or shipping charge unless included at the option of the person offering, displaying, or advertising the good, service, or property.

(2) (a) A person shall not offer, display, or advertise an amount a person may pay for a good, service, or property unless the person offering, displaying, or advertising the good, service, or property clearly and conspicuously discloses the total price for the good, service, or property as a single number without separating the total price into separate fees, charges, or amounts. The total price for the good, service, or property must be disclosed more prominently than any other pricing information for the good, service, or property.

(b) Notwithstanding any provision of this section to the contrary, a person is compliant with subsections (2)(a) and (3)(b) of this section if the person does not use deceptive, unfair, and unconscionable acts or practices related to the pricing of goods, services, or property and if the person:

(I) Is a food and beverage service establishment that, in every offer, display, or advertisement for the purchase of a good or service, includes with the price of the good or service offered, displayed, or advertised a clear and conspicuous disclosure of the percentage or amount of any mandatory service charge and an accurate description of how the mandatory service charge is distributed;

(II) Can demonstrate that the person is offering services for which the total price of the service cannot reasonably be known at the time of the offer due to factors that determine the total price that are beyond the control of the person offering the service, including factors that are determined by consumer selections or preferences or that relate to distance or time, and clearly and conspicuously discloses:

(A) The factors that determine the total price;

(B) Any mandatory fees associated with the transaction; and

(C) That the total price of the services may vary.

(III) Can demonstrate that the person is governed by and compliant with applicable federal law, rule, or regulation regarding price transparency for the purposes of the transaction at issue, including, but not limited to:

(A) The federal "Truth in Savings Act", 12 U.S.C. sec. 4301 et seq.;

(B) The federal "Electronic Fund Transfer Act", 15 U.S.C. sec. 1693 et seq.;

(C) Section 19 of the "Federal Reserve Act", 12 U.S.C. sec. 461 et seq., as amended;

(D) The federal "Truth in Lending Act", 15 U.S.C. sec. 1601 et seq.;

(E) The federal "Home Ownership and Equity Protection Act", 15 U.S.C. sec. 1639;

(F) The federal "Investment Company Act of 1940", 15 U.S.C. 80a-1 et seq.;

(G) The federal "Investment Advisers Act of 1940", 15 U.S.C. sec. 80b-1 et seq.; or

(H) The federal regulation best interest regulation in 17 CFR 240.15l-1 pursuant to the federal "Securities Exchange Act of 1934", 15 U.S.C. 78a et seq.;

(IV) Can demonstrate that any fees, costs, or amounts charged in addition to the total price were:

(A) Associated with settlement services, as defined by the federal "Real Estate Settlement Procedures Act", 12 U.S.C. sec. 2602 (3); and

(B) Not real estate broker commissions or fees;

(V) Can demonstrate that the person is providing broadband internet access service on their own or as part of a bundle, as defined in 47 CFR 8.1 (b), and is compliant with the broadband consumer label requirements adopted by the federal communications commission in FCC 22-86 on November 14, 2022; or

(VI) Can demonstrate that the person is a cable operator or direct broadcast satellite provider and is compliant with truth in billing and advertising requirements specified in 47 CFR 76.310.

(c) (I) Notwithstanding any provision of this section to the contrary, a delivery network company is compliant with subsections (2)(a) and (3)(b) of this section if the delivery network company does not use deceptive, unfair, and unconscionable acts or practices related to the pricing of goods, services, or property and:

(A) Clearly and conspicuously discloses, at the point when a consumer views and selects a vendor or goods or services for purchase, that an additional flat fee, variable fee, or percentage fee is charged, including the amount of or, in the case of a variable fee that is dependent on consumer selections or distance and time, the factors determining the fee, any mandatory fees associated with the transaction, and that the total price of the services may vary;

(B) Provides an accurate description of the recipients and purposes of the additional flat fee, variable fee, or percentage fee in concise language; and

(C) Displays, after a consumer selects a vendor or goods or services for purchase but before completing the transaction, a subtotal page that itemizes the price of the goods or services for purchase and the additional flat fee, variable fee, or percentage fee that is included in the total price.

(II) A delivery network company may display the information required by this subsection (2)(c) as follows:

(A) By displaying all of the information specified in subsection (2)(c)(I) of this section on the same page; or

(B) By using concise language displayed via reasonable and accessible means as defined by the attorney general by rule.

(d) Subsection (2)(a) of this section does not require a landlord or landlord's agent to include, in the disclosure of the total price for a dwelling unit, the actual cost charged by a utility provider for service to a tenant's dwelling unit.

(3) (a) A person shall not misrepresent the nature and purpose of pricing information for a good, service, or property, including:

(I) The refundability of an amount charged;

(II) The identity of a good, service, or property for which an amount is charged;

(III) The recipient of an amount charged for the good, service, or property; and

(IV) The actual price of the good, service, or property for which an amount is charged.

(b) Upon offering, displaying, or advertising an amount a person may pay for a good, service, or property and before a person consents to pay for the good, service, or property, the person offering, displaying, or advertising the good, service, or property shall clearly and conspicuously disclose the nature and purpose of pricing information for the good, service, or property that is not part of the total price for the good, service, or property, including:

(I) The refundability of the amount charged for that good, service, or property that is not part of the total price;

(II) The identity of that good, service, or property for which an amount is charged that is not part of the total price; and

(III) The recipient of the amount charged for that good, service, or property that is not part of the total price.

(4) A landlord or the landlord's agent shall not require a tenant to pay a fee, charge, or amount:

(a) Related to the provision of utilities that is above the amount charged by the utility provider for service to the tenant's dwelling unit, except for fees, charges, or amounts related to the provision of utilities that are charged to a tenant in accordance with:

(I) Section 38-12-801 (3)(a)(VI); or

(II) Subsection (4.5) of this section.

(b) That increases by more than two percent over the course of a rental agreement of one year or less, except for the cost of utilities provided to the tenant's dwelling unit;

(c) Related to the payment of property taxes;

(d) Related to the processing of rent or other payments if a means of payment that is cost-free to the tenant is not reasonably accessible by the tenant;

(e) Related to the overdue payment of a fee, charge, or amount that is not rent;

(f) For a good, service, or property necessary to comply with the responsibilities or obligations of a landlord or the landlord's agent, including the landlord's responsibility to provide a habitable living environment in accordance with section 38-12-503;

(g) Above the total price of the good, service, or property for which an amount is charged, except as provided in section 38-12-801 (3)(a)(VI);

(h) For a good, service, or property not actually provided;

(i) For the maintenance of common areas; or

(j) That violates this section.

(4.5) (a) Except as provided in subsection (4.5)(b) of this section, this section does not prohibit a landlord or landlord's agent from allocating utility costs among tenants of the same residential premises using a ratio utility billing system if:

(I) The aggregate amount billed to all tenants of the residential premises does not exceed the total amount charged by the utility provider for service to the entire residential premises;

(II) The landlord or landlord's agent does not apply any markup, surcharge, administrative fee, or other amount in excess of the actual charges from the utility, except as otherwise permitted by law;

(III) The utility costs for common areas or shared facilities at the residential premises are excluded from any tenant allocation; and

(IV) The landlord clearly and conspicuously discloses the method of allocation for the dwelling unit in a tenant's rental agreement or an addendum to the tenant's rental agreement.

(b) For residential premises constructed with permits applied for on or after July 1, 2027, gas, electric, and water utility service delivered to a residential premises must be metered either directly by the utility provider or by a submeter.

(5) (a) A person that violates any of the requirements or prohibitions of this section engages in a deceptive, unfair, and unconscionable act or practice.

(b) (I) In addition to any remedies otherwise provided by law or in equity, pursuant to a good faith belief that a violation of any provision of this section has occurred in a dispute between a landlord and a tenant over a residential property or a lessor and a lessee of a commercial property, a person aggrieved by a violation may send a written demand to the alleged violator for reimbursement of any fees, charges, or amounts in violation of this section paid by the aggrieved person or a group of similarly situated aggrieved persons, for the actual damages suffered, and for the alleged violator to cease violating this section. The aggrieved person may notify the alleged violator of their refusal to pay any fees, charges, or amounts that violate this section.

(II) If an alleged violator declines to make full legal tender of all fees, charges, amounts, or actual damages demanded or refuses to cease charging the aggrieved person and those similarly situated the fees, charges, or amounts in violation of this section within fourteen days after the receipt of a written demand sent pursuant to subsection (5)(b)(I) of this section, in addition to any other damages available by law or in equity, the person is liable for actual damages plus an interest rate of eighteen percent per annum compounded annually.

(c) (I) A person aggrieved by a violation of this section does not need to send a written demand, or satisfy any other pre-suit requirement, before asserting a claim based on a violation of this section.

(II) Nothing in this section limits remedies available elsewhere by law or in equity.

(6) This section does not apply to a person governed by federal law that preempts state law.

(7) The attorney general may adopt rules to implement this section.

Source: L. 2025: Entire section added, (HB 25-1090), ch. 94, p. 425, § 2, effective January 1, 2026. **L. 2026:** (4)(a) amended and (4.5) added, (HB 26-1013), ch. 11, p. 52, § 1, effective March 26.

Editor's note: Section 5 of chapter 94 (HB 25-1090), Session Laws of Colorado 2025, provides that the act adding this section applies to conduct occurring on or after January 1, 2026.

Cross references: For the legislative declaration in HB 25-1090, see section 1 of chapter 94, Session Laws of Colorado 2025.

6-1-738. Funeral directors - theft of client funds - deceptive trade practice.

A funeral director, as defined in section 12-135-103 (15), engages in a deceptive trade practice when the funeral director commits theft, as described in section 18-4-401, of money that a client or prospective client has paid to the funeral director in exchange for funeral services, as defined in section 12-135-103 (18).

Source: L. 2025: Entire section added, (HB 25-1217), ch. 92, p. 415, § 2, effective August 6.

Editor's note: Section 6 of chapter 92 (HB 25-1217), Session Laws of Colorado 2025, provides that the act adding this section applies to offenses committed on or after August 6, 2025.

6-1-739. Veterans' benefits matters - compensation for services - written agreements - advertising - disclosures - deceptive trade practice - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) "Compensation" means any money, thing of value, or economic benefit conferred on or received by a person in return for services rendered or to be rendered by the person or another.

(b) Repealed.

(c) "Veteran" means a person who served on active duty in the armed forces of the United States and who was discharged or released under conditions other than dishonorable, in accordance with U.S.C. title 38. "Veteran" includes an eligible member of the reserves or national guard, a veteran's dependent, a veteran's survivor, or another individual eligible for a benefit pursuant to the laws and regulations administered by the United States department of veterans affairs or the Colorado department of military and veterans affairs.

(d) "Veterans' benefits matter" means the preparation, presentation, or prosecution of a claim affecting a veteran who has filed or expressed an intent to file a claim for a benefit, program, service, commodity, function, status, or entitlement for which the veteran may be eligible pursuant to the laws and regulations administered by the United States department of veterans affairs or the Colorado department of military and veterans affairs.

(2) (a) A person may only be compensated for consulting with, advising, or assisting a veteran on a veterans' benefits matter if the person secures an increase in the benefits awarded. Compensation for consulting with, advising, or assisting a veteran on a veterans' benefits matter must not exceed the lesser of nine thousand two hundred dollars or twenty-five percent of any past-due benefits a veteran actually receives after an increase in monthly benefits is awarded as a result of the person's consultation, advice, or assistance.

(b) A person shall not receive any compensation for consulting with, advising, or assisting a veteran on a veterans' benefits matter beyond the compensation calculated pursuant to subsection (2)(a) of this section. The prohibition on additional compensation extends to, but is not limited to, an initial or nonrefundable fee.

(3) A person consulting, advising, or assisting on a veterans' benefits matter shall not receive compensation in connection with a claim filed prior to a veteran's release from active duty or within the one-year period following a veteran's release from active duty during which the United States department of veterans affairs presumes certain disabling conditions are service-connected.

(4) A person consulting, advising, or assisting on a veterans' benefits matter shall not guarantee, either directly or by implication, a successful or specific outcome in a veterans' benefits matter, including that a veteran is certain to receive specific veterans' benefits or that a veteran is certain to receive a specific level, percentage, or amount of veterans' benefits.

(5) A person seeking compensation for consulting, advising, or assisting on a veterans' benefits matter shall, before rendering any services, memorialize in readable, clear, and unambiguous language in a written contract signed by both parties the terms and conditions of the agreement for services, including a description of the services; the disclosures required pursuant to subsection (6)(a) of this section; and how the amount of compensation is determined and paid.

(6) (a) A person consulting, advising, or assisting on a veterans' benefits matter for compensation shall provide the following disclosure in the contract required pursuant to subsection (5) of this section and in all advertising:

> This business is not sponsored by or affiliated with the United States Department of Veterans Affairs or the Colorado Department of Military and Veterans Affairs, or any other federally chartered veterans' service organization. Other organizations, including, but not limited to, the Colorado Department of Military and Veterans Affairs, a local veterans' service organization, and other federally chartered veterans' service organizations, provide this service free of charge. You may qualify for other veterans' benefits services outside the scope of what this business offers. All disability claims for

increased ratings are processed by the United States department of veterans affairs. This business cannot expedite the processing of your claim by the United States department of veterans affairs.

(b) A person consulting, advising, or assisting on a veterans' benefits matter for compensation shall ensure that the disclosure required pursuant to subsection (6)(a) of this section is clearly and conspicuously displayed in any print or visual advertising medium, communicated at a volume and cadence sufficient to be readily audible and understandable in any audio advertising medium, or otherwise intelligible as appropriate to the advertising medium.

(7) A person consulting, advising, or assisting on a veterans' benefits matter for compensation shall not make a false representation that the person is a representative of a veterans' service organization, a claims agent, or an attorney, who is accredited by the United States veterans administration to assist veterans in the preparation, presentation, or prosecution of benefit claims.

(8) (a) A person consulting, advising, or assisting on a veterans' benefits matter for compensation shall not:

(I) Use a veteran's personal log-in credentials to access the veteran's medical, financial, or government benefits information; or

(II) Disclose personal data obtained in connection with a veterans' benefits matter to a third person, unless the disclosure is made pursuant to a court order.

(b) A person consulting, advising, or assisting on a veterans' benefits matter for compensation shall safeguard a veteran's personal, financial, and medical information in compliance with federal and state privacy laws, including the federal "Health Insurance Portability and Accountability Act of 1996", 42 U.S.C. secs. 1320d to 1320d-9.

(9) If a veteran dies before a claim is processed by the United States department of veterans affairs or the Colorado department of military and veterans affairs, a person consulting, advising, or assisting on the veterans' benefits matter shall not collect compensation in connection with the veterans' benefits matter. The death of the veteran immediately terminates a contract or payment plan for services the person performs in connection with the veterans' benefits matter.

(10) Following an initial decision by the United States department of veterans affairs in a veterans' benefits matter, a person who is not accredited by the United States department of veterans affairs shall not consult, advise, assist, or offer other services in connection with an appeal or review of the decision.

(11) A person who violates a provision of this section engages in a deceptive trade practice.

(12) This section does not apply to agents, attorneys, or other representatives accredited by the United States department of veterans affairs and regulated by that agency.

Source: L. 2025: Entire section added, (SB 25-282), ch. 412, p. 2343, § 2, effective August 6. **L. 2026:** (1)(b) repealed, (HB 26-1426), ch. 334, p. 2002, § 28, effective August 12.

6-1-740. Kratom - deceptive trade practice - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) "Adulterated" means the addition of fentanyl or any other controlled substance, a synthesized alkaloid or semi-synthesized alkaloid, or another substance prohibited by law.

(b) "Alkaloid fraction" means a portion of a plant or plant extract that contains primarily alkaloid compounds.

(c) "Controlled substance" means a substance listed in part 2 of article 18 of title 18.

(d) "Kratom leaf" means the leaf of the Mitragyna speciosa plant, in fresh, dehydrated, or dried form.

(e) "Kratom leaf extract" means the material extracted from a kratom leaf through the application of a solvent consisting of water, ethanol, food-grade carbon dioxide, or another solvent allowed by federal or state law to be used in the manufacturing of a food ingredient.

(f) "Kratom product" means a food or dietary supplement that consists of, or contains, any part of a kratom leaf, a kratom leaf extract, or any kratom alkaloid, kratom constituent, or kratom metabolite and does not include any synthesized alkaloids or semi-synthesized alkaloids.

(g) "Semi-synthesized alkaloid" means an alkaloid or alkaloid derivative contained in a kratom leaf extract that has been exposed to chemicals or processes that would confer a structural change in the alkaloids, such as oxidation, reduction, and ring opening and closing, resulting in material that has been chemically altered.

(h) "Synthesized alkaloid" means an alkaloid or alkaloid derivative of the kratom leaf that has been created by chemical synthesis or biosynthetic means, including fermentation, recombinant techniques, yeast-derived techniques, and enzymatic techniques, rather than by traditional food preparation techniques such as heating or extracting.

(2) A person shall not:

(a) Knowingly prepare, distribute, advertise, sell, or offer to sell a kratom product:

(I) That is adulterated;

(II) To a person under twenty-one years of age;

(III) That contains a level of 7-hydroxymitragynine in the alkaloid fraction that is greater than two percent of the alkaloid composition of the kratom product;

(IV) That is a confection; mimics a candy product; or is manufactured, packaged, labeled, or distributed in a way that is appealing to children, including in the distinct shape of a human, an animal, or fruit; or

(V) That is combustible or intended for vaporization;

(b) Prepare, distribute, advertise, sell, or offer to sell a kratom product that does not have a label that clearly and conspicuously sets forth on each retail package:

(I) The name and address for the place of business of the manufacturer or distributor of the kratom product;

(II) The full list of ingredients in the kratom product;

(III) Disclosure and advice:

(A) Against use by individuals who are under twenty-one years of age, pregnant, or breastfeeding;

(B) To consult a health-care professional prior to use;

(C) That kratom may be habit-forming; and

(D) That kratom may interact with certain medications, drugs, and controlled substances;

(IV) The following statements:

(A) "These statements have not been evaluated by the food and drug administration. This product is not intended to diagnose, treat, cure, or prevent any disease."; and

(B) "Keep out of reach of children."; and

(V) Directions for use that include:

(A) A recommended amount of the kratom product per serving;

(B) The number of recommended servings per package;

(C) A recommended number of servings of the kratom product that can be safely consumed in a twenty-four-hour period; and

(D) Quantitative declarations of the amount of mitragynine and the amount of 7-hydroxymitragynine per serving of the kratom product;

(c) Display or store kratom products in a retail location in a manner that will allow the products to be accessed by individuals under twenty-one years of age; or

(d) Manufacture, package, label, or distribute a kratom product that:

(I) Contains synthesized alkaloids or semi-synthesized alkaloids; or

(II) Has a level of 7-hydroxymitragynine in the alkaloid fraction that is greater than two percent of the alkaloid composition of the product.

(3) A person that conducts the activities described in subsection (2) of this section engages in a deceptive trade practice.

Source: L. 2025: Entire section added, (SB 25-072), ch. 283, p. 1464, § 2, effective May 29.

Editor's note: Section 4 of chapter 283 (SB 25-072), Session Laws of Colorado 2025, provides that the act adding this section applies to conduct occurring on or after May 29, 2025.

Cross references: For the short title ("Daniel Bregger Act") in SB 25-072, see section 1 of chapter 283, Session Laws of Colorado 2025.

6-1-741. Lead generation legal marketing - deceptive trade practice - enforcement - penalties - rules - definitions - legislative declaration.

(1) The general assembly finds and declares that:

(a) Consistent with rules adopted by the Colorado supreme court regarding the practice of law by attorneys and licensed legal paraprofessionals, traditional legal marketing allows attorneys and law firms to advertise their services while clearly identifying themselves and allowing consumers to make informed decisions regarding their legal representation;

(b) Lead generation legal marketing for legal services involves third parties that solicit consumers who may need legal services by obtaining the consumer's personal information and information about the consumer's legal issue and then selling that information to attorneys or law firms;

(c) Lead generation legal marketing for legal services is inherently misleading to consumers because the person conducting the lead generation legal marketing purports to be an attorney or representative from a law firm but is actually not an attorney or law-firm representative;

(d) Lead generation legal marketing firms typically use "bait-and-switch" tactics, "look-alike" advertising, impersonation, fraud, and other deceptive advertising practices to target injured or vulnerable consumers who are in need of legal representation;

(e) Lead generation legal marketing also misleads the attorneys or law firms that purchase the consumer information from the lead generation legal marketing organization because the consumer information is often sold to multiple firms, the information is erroneous, or the information does not represent a viable legal case;

(f) Because of the harm that lead generation legal marketing can have on consumers, attorneys, and the legal profession, it is imperative that this practice be prohibited in the state and enforced through civil and criminal penalties;

(g) Civil and criminal violations related to the practice of lead generation legal marketing are capable of being enforced by the attorney general and the state's district attorneys under the "Colorado Consumer Protection Act", article 1 of title 6, and the Colorado criminal code, including, but not limited to, criminal impersonation, fraud, and racketeering; and

(h) Therefore, it is in the best interest of Coloradans to prohibit persons that conduct lead generation legal marketing for legal services from doing business in the state.

(2) As used in this section, unless the context otherwise requires:

(a) (I) "Lead generation legal marketing" means any form of marketing in which an attorney, law firm, or licensed legal paraprofessional pays money or other compensation to a third party to receive information about a potential client or case, which information may include the potential client's contact information or information about the potential client's legal issue.

(II) "Lead generation legal marketing" includes marketing in which compensation is provided to a third party directly, indirectly, on a per-lead or per-case basis, or as a subscription model and includes compensation made through intermediaries, affiliates, or other entities.

(III) "Lead generation legal marketing" does not include the sharing of fees between licensed attorneys, law firms, or licensed legal paraprofessionals so long as the fees are shared in compliance with state law and rules adopted by the Colorado supreme court.

(b) (I) "Traditional legal marketing" means marketing done by an attorney, law firm, or licensed legal paraprofessional, or by a third party on behalf of an attorney, law firm, or licensed legal paraprofessional, during which marketing the attorney, law firm, or licensed legal paraprofessional that is advertising their services is clearly identified to the consumer.

(II) "Traditional legal marketing" includes, but is not limited to, search engine optimization, pay-per-click internet advertising, radio advertising, television advertising, streaming advertising, billboard advertising, and listing in legal directories in which the name or identity of the attorney, law firm, or licensed legal paraprofessional is clearly disclosed.

(3) Consistent with rules adopted by the Colorado supreme court regarding the practice of law by attorneys and licensed legal paraprofessionals, and unless a person meets the criteria described in subsection (4) of this section, a person shall not:

(a) Pay money or other compensation for lead generation legal marketing services in the state;

(b) Engage in the practice of lead generation legal marketing in the state; or

(c) Sell leads to an attorney, law firm, or licensed legal paraprofessional in the state.

(4) A person may solicit a potential client or market for legal services in the state if the person is:

(a) Authorized by the Colorado supreme court to practice law in the state;

(b) Working on behalf of a person authorized by the Colorado supreme court to practice law in the state, and the person who is authorized to practice law in the state or the law firm or business for which the person works is clearly identified in any advertisement, marketing material, information, or resources; or

(c) A nonprofit organization that engages in legal services in the state.

(5) This section does not prohibit a person from engaging in the practice of traditional legal marketing.

(6) (a) A court may order injunctive relief in a civil action brought pursuant to this section.

(b) An attorney, law firm, or licensed legal paraprofessional or any consumer who has been affected by lead generation legal marketing may bring a civil action to enforce this section.

(c) If a person is held to be in violation of this section as a result of a civil action, the claimant is entitled to damages in the amount of ten thousand dollars per violation, plus reasonable attorney fees and costs.

(7) The attorney general or a district attorney may bring a criminal action against a person that engages in the practice of lead generation legal marketing if the attorney general or district attorney determines that the person's actions constitute a crime pursuant to the Colorado criminal code, including:

(a) Criminal impersonation, as described in section 18-5-113;

(b) Offenses involving fraud, as described in article 5 of title 18;

(c) Racketeering activity, as defined in section 18-17-103 (5); or

(d) Any other crime under Colorado law.

(8) The attorney general may adopt any rules necessary to enforce this section.

(9) This section does not limit the Colorado supreme court's rule-making authority, decision-making authority, or enforcement authority related to the practice of law in the state, including the unauthorized practice of law.

Source: L. 2026: Entire section added, (SB 26-174), ch. 345, p. 2099, § 2, effective August 12.

Editor's note: Section 3(2) of chapter 345 (SB 26-174), Session Laws of Colorado 2026, provides that the act adding this section applies to conduct occurring on or after August 12, 2026.

PART 8

SWEEPSTAKES AND CONTESTS

6-1-801. Legislative finding, declaration, and intent.

(1) The general assembly hereby finds, determines, and declares that a vast number of sweepstakes and contests have been and are being directed to Colorado consumers; that Colorado consumers may have paid millions of dollars to purchase goods or services to enter sweepstakes and contests based on representations created by the sponsors of those sweepstakes and contests; that these sweepstakes and contests may be targeted to certain vulnerable Colorado consumers; that there is a compelling need to curtail and prevent the most deceptive practices in connection with the promotion of sweepstakes and contests; that there is a compelling need for more complete disclosure of rules and operation of sweepstakes and contests in which money or other valuable consideration may be solicited; that preventing the deceptive promotions of sweepstakes and contests is a matter vitally affecting the public interest; and, therefore, that statutory regulation of sweepstakes and contests is necessary to the general welfare of the public.

(2) It is the intent of the general assembly to require that Colorado consumers be provided with all relevant information necessary to make an informed decision concerning sweepstakes and contests. It is also the intent of the general assembly to prohibit misleading and deceptive prize promotions. The terms of this part 8 shall be construed liberally in order to achieve this purpose.

Source: L. 2000: Entire part added, p. 861, § 1, effective August 2.

6-1-802. Definitions.

As used in this part 8, unless the context otherwise requires:

(1) "Contest" means any game, puzzle, competition, or plan that holds out or offers to prospective participants the opportunity to receive or compete for gifts, prizes, or gratuities as determined by skill or any combination of chance and skill; except that "contest" shall not be construed to include any activity of licensees regulated under part 6 of article 21 of title 24 or article 30 or 40 of title 44.

(2) "No purchase necessary message" means the following statement, set apart and in bold-faced type, and at least ten-point type: "No purchase or payment of any kind is necessary to enter or win this [sweepstakes or contest].".

(3) "Official rules" means the formal printed statement of the rules for the sweepstakes or contest, which statement shall be printed in contrasting type face at least ten-point type.

(4) "Prize" means cash or an item or service of monetary value that is offered or awarded to a person in a real or purported sweepstakes or contest.

(5) "Prize notice" means a written notice, other than an advertisement appearing in a magazine or newspaper of general circulation, delivered by the United States postal service or by a private carrier, that is or contains a representation that the recipient will receive, or may be or may become eligible to receive, a prize.

(6) "Represent" and "representation" includes express statements and the implications and inferences that would be drawn from those statements, taking into account the context in which the representation is made, including, but not limited to, emphasis, font, size, color, location, and presentation of the representation and any qualifying language. If the representation is made on or visible through a mailing envelope, the context in which the representation is to be considered, including any qualifying language, shall be limited to that which is visible without opening the mailing envelope.

(7) "Retail value" of a prize means:

(a) A price at which the sponsor can demonstrate that a substantial number of the prizes or substantially similar items have been sold to the public in this state by someone other than the sponsor during the preceding year; or

(b) If the sponsor is unable to satisfy the requirement in paragraph (a) of this subsection (7), then the retail value is no more than one and one-half times the amount that the sponsor paid or would pay for the prize in a bona fide purchase from a seller unaffiliated with the sponsor.

(8) "Specially selected" means a representation that a person is a winner, a finalist, in first place or tied for first place, or otherwise among a limited group of persons with an enhanced likelihood of receiving a prize.

(9) "Sponsor" means a person who offers, by means of a prize notice, a prize to another person in this state in conjunction with any real or purported sweepstakes or contest that requires or allows, or creates the impression of requiring or allowing, the person to purchase any goods or services or pay any money as a condition of receiving, or in conjunction with allowing the person to receive, use, compete for, or obtain a prize or information about a prize.

(10) "Sweepstakes" means any competition, giveaway, drawing, plan, or other selection process or other enterprise or promotion in which anything of value is awarded to participants by chance or random selection that is not otherwise unlawful under other provisions of law; except that "sweepstakes" shall not be construed to include any activity of licensees regulated under part 6 of article 21 of title 24 or article 30 or 40 of title 44.

Source: L. 2000: Entire part added, p. 862, § 1, effective August 2. **L. 2018:** (1) and (10) amended, (SB 18-034), ch. 14, p. 237, § 6, effective October 1; (1) and (10) amended, (HB 18-1027), ch. 31, p. 362, § 4, effective October 1.

Editor's note: Amendments to subsections (1) and (10) by HB 18-1027 and SB 18-034 were harmonized.

6-1-803. Prohibited practices and required disclosures.

(1) No sponsor shall require a person to pay the sponsor money or any other consideration as a condition of awarding the person a prize, or as a condition of allowing the person to receive, use, compete for, or obtain a prize or information about a prize.

(2) A sponsor shall not represent that a person has won or unconditionally will be the winner of a prize or use language that may lead a person to believe the person has won a prize, unless all of the following conditions are met:

(a) The person shall be given the prize without obligation;

(b) The person shall be notified at no expense to such person within fifteen days of winning a prize; and

(c) The representation is not false, deceptive, or misleading.

(3) If a sponsor offers one or more items of the same or substantially the same value to all or substantially all of the recipients of a prize notice, the sponsor shall not:

(a) Represent that such items are prizes or that the process by which such items are to be distributed is a sweepstakes or contest, or otherwise represent that such process involves a distribution by chance; or

(b) Represent that the recipient is or has been specially selected unless it is true.

(4) No sponsor shall represent that a person has been specially selected in connection with a sweepstakes or contest unless it is true.

(5) No sponsor shall represent that a person may be or may become a winner of a prize, characterize the person as a possible winner of a prize, or represent that the person will, upon the satisfaction of some condition or the occurrence of some event or other contingency, become the winner of a prize, unless each of the following is clearly and conspicuously disclosed:

(a) The material conditions necessary to make the representation truthful and not misleading, including but not limited to the conditions that must be satisfied in order for the person to be determined as the winner. All such conditions shall be:

(I) Presented in such a manner that they are an integral part of the representation and not separated from the remainder of the representation by intervening words, graphics, colors, or excessive blank space;

(II) Made in terms, syntax, and grammar that are as simple and easy to understand as those used in the representation; and

(III) Presented in such a manner that they appear in the same type size and in the same type face, color, style, and font as the remainder of the representation.

(b) The fact that the person has not yet won;

(c) The no purchase necessary message;

(d) The retail value of each prize;

(e) The estimated odds of receiving each prize pursuant to paragraph (c) of subsection (6) of this section;

(f) The true name or names of the sponsor, the address of the sponsor's actual principal place of business, and the address at which the sponsor may be contacted;

(g) If receipt of a prize is subject to a restriction, a statement that a restriction applies and a description of the restriction;

(h) The deadline for submission of an entry to be eligible to win each prize;

(i) If a sponsor represents that the person is or has been specially selected, and if the representation is not prohibited under subsections (3) and (4) of this section, then immediately adjacent to such representation, in the same type size and boldness as the representation, a

statement of the maximum number of persons in the group or purported group of persons with this enhanced likelihood of receiving a prize;

(j) The official rules for the sweepstakes or contest.

(6) Unless otherwise provided by subsection (5) of this section, the information required by subsection (5) of this section shall be presented in the following form:

(a) The information required by paragraphs (b) to (h) of subsection (5) of this section may be presented either:

(I) Immediately adjacent to the first identification of the prize to which it refers and in the same type size and boldness as the reference to the prize; or

(II) In a separate section of official rules with a section entitled "consumer disclosure", which title shall be printed in no less than twelve-point, bold-faced type, which section shall contain only a description of the prize, and which text shall be printed in no less than ten-point type.

(b) In addition to the other requirements of this subsection (6), the no purchase necessary message shall be presented in the official rules and, if the official rules do not appear thereon, on any device by which a person enters a sweepstakes or contest or purchases any goods or services or pays any money in connection with a sweepstakes or contest. The no purchase necessary message included in the official rules shall be set out in a separate paragraph in the official rules and be printed in capital letters in contrasting type face not smaller than the largest type face used in the text of the official rules. If a person is required or allowed to enter the sweepstakes or contest, or purchase any goods or services or pay any money in connection with a sweepstakes or contest, through a telephone call, the no purchase necessary message must be read to the person during the telephone call prior to accepting the entry, purchase, or payment.

(c) The statement of the odds of receiving each prize shall include, for each prize, the total number of prizes to be given away and the estimated odds of winning each prize based upon the following formula: "____ [number of prizes] out of _____ prize notices distributed".

(d) All dollar values shall be stated in Arabic numerals and be preceded by a dollar sign.

(7) No sponsor shall subject sweepstakes or contest entries not accompanied by an order for products or services to any disability or disadvantage in the winner selection process to which an entry accompanied by an order for products or services would not be subject.

(8) No sponsor shall represent that an entry in a sweepstakes or contest accompanied by an order for products or services will be eligible to receive additional prizes or be more likely to win than an entry not accompanied by an order for products or services, or that an entry not accompanied by an order for products or services will have a reduced chance of winning a prize in the sweepstakes or contest.

(9) No sponsor shall represent that a person will have an increased chance of receiving a prize by making multiple or duplicate purchases, payments, or donations, or by entering a sweepstakes or contest more than one time.

(10) No sponsor shall represent that a person is being notified a second or final time of the opportunity to receive or compete for a prize, unless the representation is true.

(11) No sponsor shall represent that a prize notice is urgent or otherwise convey an impression of urgency by use of description, narrative copy, phrasing on a mailing envelope, or similar method, unless there is a limited time period in which the recipient must take some action to claim or be eligible to receive a prize, and the date by which such action is required appears immediately adjacent to each representation of urgency in the same type size and boldness as each representation of urgency.

(12) No sponsor shall deliver, or cause to be delivered, a prize notice which is in the form of, or a prize notice which includes, a document which simulates a bond, check, or other negotiable instrument, unless that document contains a statement that such document is nonnegotiable and has no cash value.

(13) No sponsor shall deliver, or cause to be delivered, a prize notice which:

(a) Simulates or falsely represents that it is a document authorized, issued, or approved by any court, official, or agency of the United States or any state or by any lawyer, law firm, or insurance or brokerage company; or

(b) Creates a false impression as to its source, authorization, or approval.

(14) No sponsor shall represent that a prize notice is being delivered by any method other than bulk mail unless that is the case or otherwise misrepresent the manner in which the prize notice is delivered.

(15) In the operation of a sweepstakes or contest, no sponsor shall:

(a) Misrepresent in any manner the likelihood or odds of winning any prize or misrepresent in any manner the rules, terms, or conditions of participation in a sweepstakes or contest;

(b) Fail to clearly and conspicuously disclose with all contest puzzles and games all of the following in the rules:

(I) The number of rounds or levels which may be necessary to complete the contest and determine winners;

(II) Whether future puzzles or games, if any, or tie breakers, if any, will be significantly more difficult than the initial puzzle;

(III) The date or dates on or before which the contest will terminate and upon which all prizes will be awarded;

(IV) The method of determining prizewinners if a tie remains after the last tie breaker puzzle is completed; and

(V) All rules, regulations, terms, and conditions of the contest.

(16) The prohibited practices listed in this section are in addition to and do not limit the types of unfair trade practices actionable at common law or under other civil and criminal statutes of this state.

(17) No sponsor, requiring a person to respond in any manner to claim a prize, shall require the person to purchase insurance; except that the sponsor is in no way responsible for applicable state and federal taxes on the prize; and except that a sponsor may require proof of health insurance in order to claim a prize for travel or recreational activities. Such health insurance may not be acquired from the sponsor.

Source: L. 2000: Entire part added, p. 863, § 1, effective August 2. **L. 2002:** (17) added, p. 383, § 1, effective April 25. **L. 2026:** IP(2) amended, (HB 26-1426), ch. 334, p. 2002, § 29, effective August 12.

6-1-804. Exemptions.

(1) The requirements of section 6-1-803 (5) and (6) shall not apply to solicitations or representations made in connection with the sale of goods:

(a) By a catalog seller that derives at least thirty-seven and one-half percent of its annual revenues from the sale of products sold in connection with the distribution of catalogs of at least twenty-four pages that contain written descriptions or illustrations and sale prices for each item of merchandise, if the catalogs are distributed in more than one state with a total annual distribution of at least two hundred fifty thousand; or

(b) From a membership group or club selling books, periodicals, recordings, videocassettes and similar items that is regulated by the federal trade commission pursuant to 16 CFR 425.1 concerning the use of negative option plans by sellers in commerce.

Source: L. 2000: (1)(a) amended, p. 989, § 108, effective July 1; entire part added, p. 867, § 1, effective August 2.

PART 9

COLORADO NO-CALL LIST ACT

6-1-901. Short title.

This part 9 shall be known and may be cited as the "Colorado No-Call List Act".

Source: L. 2001: Entire part added, p. 1454, § 1, effective August 8.

6-1-902. Legislative declaration.

(1) The general assembly hereby finds, determines, and declares that:

(a) The use of the telephone and telefacsimile ("fax") to market goods and services is widespread;

(b) Many citizens of this state view telemarketing as an invasion of privacy;

(c) Individuals' privacy rights and commercial freedom of speech should be balanced in a way that accommodates both the privacy of individuals and legitimate telemarketing practices;

(d) Although charitable and political organizations are exempt from the provisions of this part 9 because of considerations of freedom of speech, the general assembly encourages such organizations to voluntarily comply with this part 9 when possible; and

(e) It is in the public interest to establish a mechanism under which the individual citizens of this state can decide whether or not to receive telephone solicitations by phone or fax.

Source: L. 2001: Entire part added, p. 1454, § 1, effective August 8.

6-1-903. Definitions.

As used in this part 9, unless the context otherwise requires:

(1) "Caller identification service" means a type of telephone service that permits telephone subscribers to see the telephone number of incoming telephone calls.

(2) "Colorado no-call list" means the database of Colorado residential subscribers and wireless telephone service subscribers that have given notice, in accordance with rules promulgated under section 6-1-905, of such subscribers' objection to receiving telephone solicitations.

(3) "Conforming consolidated no-call list" means any database that includes telephone numbers of telephone subscribers that do not wish to receive telephone solicitations, if such database has been updated within the prior thirty days to include all of the telephone numbers on the Colorado no-call list.

(4) "Conforming list broker" means any person or entity that provides lists for the purpose of telephone solicitation, if such lists shall have removed, at a minimum of every thirty days, any phone numbers that are included on the Colorado no-call list.

(5) "Designated agent" means the party with which the public utilities commission contracts under section 6-1-905 (2).

(6) "Electronic mail" means an electronic message that is transmitted between two or more computers or electronic terminals. "Electronic mail" includes electronic messages that are transmitted within or between computer networks.

(7) (a) "Established business relationship" means a relationship that:

(I) Was formed, prior to the telephone solicitation, through a voluntary, two-way communication between a seller or telephone solicitor and a residential subscriber or wireless telephone service subscriber, with or without consideration, on the basis of an application, purchase, ongoing contractual agreement, or commercial transaction between the parties regarding products or services offered by such seller or telephone solicitor; and

(II) Has not been previously terminated by either party; and

(III) Currently exists or has existed within the immediately preceding eighteen months.

(b) "Established business relationship", with respect to a financial institution or affiliate, as those terms are defined in section 527 of the federal "Gramm-Leach-Bliley Act", includes any situation in which a financial institution or affiliate makes solicitation calls related to other financial services offered, if the financial institution or affiliate is subject to the requirements regarding privacy of Title V of the federal "Gramm-Leach-Bliley Act", and the financial institution or affiliate regularly conducts business in Colorado.

(8) "Internet" means the international computer network consisting of federal and nonfederal, interoperable, packet-controlled switched data networks.

(9) "Residential subscriber" means a person who has subscribed to residential telephone service with a local exchange provider, as defined in section 40-15-102 (18), C.R.S. "Person" also includes any other persons living or residing with such person.

(10) (a) "Telephone solicitation" means any voice, telefacsimile, graphic imaging, or data communication, including text messaging communication over a telephone line or through a wireless telephone for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services.

(b) Notwithstanding paragraph (a) of this subsection (10), "telephone solicitation" does not include communications:

(I) To any residential subscriber or wireless telephone service subscriber with the subscriber's prior express invitation or permission;

(II) By or on behalf of any person or entity with whom a residential subscriber or wireless telephone service subscriber has an established business relationship;

(III) For thirty days after a residential subscriber or wireless telephone service subscriber has contacted a business to inquire about the potential purchase of goods or services or until the subscriber requests that no further calls be made, whichever occurs first;

(IV) By or on behalf of a charitable organization that is required to comply and that has complied with the notice and reporting requirements of section 6-16-104 or is excluded from such notice and reporting requirements by section 6-16-104 (6);

(V) Made for the sole purpose of urging support for or opposition to a political candidate or ballot issue; or

(VI) Made for the sole purpose of conducting political polls or soliciting the expression of opinions, ideas, or votes.

(c) "Telephone solicitation" includes any communication described in paragraph (a) of this subsection (10), whether such communication originates from a live operator, through the use of automatic dialing and recorded message equipment, or by other means.

(11) "Wireless telephone" means a telephone that operates without a physical, wireline connection to the provider's equipment. The term includes, without limitation, cellular and mobile telephones.

(12) "Wireless telephone service subscriber" means a person who has subscribed to a telephone service that does not employ a wireline telephone or that employs both wireline and wireless telephones on the same customer account.

Source: L. 2001: Entire part added, p. 1455, § 1, effective August 8. **L. 2003:** (2), (7)(a)(I), (10)(a), (10)(b)(I), (10)(b)(II), and (10)(b)(III) amended and (11) and (12) added, p. 771, § 1, effective March 25. **L. 2004:** (7)(b) amended, p. 1188, § 7, effective August 4. **L. 2008:** (10)(b)(IV) amended, p. 1879, § 7, effective August 5.

Cross references: For the "Gramm-Leach-Bliley Act", see Pub.L. 106-102.

ANNOTATION

"Residential subscriber" defined. A "residential subscriber", for purposes of the No-Call List Act, is a person who has subscribed to residential telephone service and has added that number to the Colorado no-call list. The act contains no exceptions or qualifying language based on the use of the number for business purposes. Holcomb v. Steven D. Smith, Inc., 170 P.3d 815 (Colo. App. 2007).

Nothing suggests that using a no-call listed telephone number for business purposes or permitting it to appear on commercial telephone listings causes an otherwise qualifying "residential subscriber" to somehow lose the protections of the act. Holcomb v. Jan-Pro Cleaning Sys., 172 P.3d 888 (Colo. 2007).

6-1-904. Unlawful to make telephone solicitations to subscribers on the Colorado no-call list - requirements for telephone solicitations generally.

(1) (a) A person shall not make or cause to be made any telephone solicitation to the telephone of any residential subscriber or wireless telephone service subscriber in this state that has added the subscriber's telephone number and zip code to the Colorado no-call list in accordance with rules adopted under section 6-1-905.

(b) Any person or entity that makes a telephone solicitation to the telephone of any residential subscriber or wireless telephone service subscriber in this state shall register in accordance with the provisions of section 6-1-905 (3)(b)(II).

(2) Repealed.

(3) No person or entity that makes a telephone solicitation to the telephone of a residential subscriber or a wireless telephone service subscriber in this state shall knowingly utilize any method to block or otherwise circumvent such subscriber's use of a caller identification service when that person or entity's service or equipment is capable of allowing the display of the number.

(4) Persons or entities desiring to make telephone solicitations shall update their copies of the Colorado no-call list, conforming consolidated no-call list, or a list obtained from a conforming list broker within thirty days after the beginning of every calendar quarter, on or after July 1, 2002, or upon the initial availability and accessibility of the Colorado no-call list, whichever is earlier.

Source: L. 2001: Entire part added, p. 1457, § 1, effective August 8. **L. 2003:** (1), (2), and (3) amended, p. 772, § 2, effective March 25. **L. 2007:** (2) repealed, p. 2018, § 6, effective June 1. **L. 2026:** (1)(a) amended, (HB 26-1426), ch. 334, p. 2002, § 30, effective August 12.

ANNOTATION

No implied exception for dual use of number. A "residential subscriber", for purposes of the No-Call List Act, is a person who has subscribed to residential telephone service and has added that number to the Colorado no-call list. The act contains no exceptions or qualifying language based on the use of the number for business purposes. Holcomb v. Steven D. Smith, Inc., 170 P.3d 815 (Colo. App. 2007).

6-1-905. Establishment and operation of a Colorado no-call list - rules.

(1) The Colorado no-call list program is hereby created for the purpose of establishing a database to use when verifying residential subscribers and wireless telephone service subscribers in this state who have given notice, in accordance with rules promulgated under paragraph (b) of subsection (3) of this section, of such subscribers' objection to receiving telephone solicitations. The program shall be administered by the public utilities commission.

(2) Not later than January 1, 2002, the public utilities commission shall contract with a designated agent, which shall maintain the website and database containing the Colorado no-call list. If no more than one entity bids on the contract, the public utilities commission may award, at its discretion, such contract.

(3) (a) Not later than July 1, 2002, the designated agent, using the designated state internet website, shall develop and maintain the Colorado no-call list database with information provided by residential subscribers and, as soon as practicable after March 25, 2003, shall include information provided by wireless telephone service subscribers.

(b) The public utilities commission shall establish, by rule, guidelines for the designated agent for the development and maintenance of the Colorado no-call list so that the no-call list can easily be accessed by persons desiring to make telephone solicitations and by state and local law enforcement agencies. As soon as practicable, the public utilities commission shall adopt rules that:

(I) Specify that there shall be no cost for a residential subscriber or wireless telephone service subscriber to provide notification to the designated agent that such subscriber objects to receiving telephone solicitations;

(II) Specify an annual registration fee in an amount of not more than one thousand dollars to be paid by persons or entities that wish to make telephone solicitations or otherwise access the

database of telephone numbers and zip codes contained in the Colorado no-call list database. The public utilities commission shall determine the amount of the fee on a sliding scale so that persons or entities with fewer than five employees do not pay a fee. In addition, a fee shall not be charged to nonprofit corporations, as defined in section 7-121-401 (26). The maximum fee amount to be paid by persons or entities that wish to make telephone solicitations or otherwise access the Colorado no-call list database shall be charged only to persons or entities with more than one thousand employees. The commission shall establish, by rule, a separate fee charged to conforming list brokers. Money collected as fees pursuant to this subsection (3)(b)(II) shall be used to cover the direct and indirect costs related to the creation and operation of the Colorado no-call list. The fees shall be collected by and paid directly to the designated agent. The public utilities commission may annually adjust the fees below the stated maximum based on revenue history of the fees received by the designated agent. The designated agent shall provide means for online registration and credit card payment of fees charged pursuant to this subsection (3)(b)(II). Each person or entity shall provide a current business name, business address, email address if available, and telephone number when initially registering for the no-call list. This information shall be updated when changes occur.

(III) Specify that the method by which each residential subscriber and wireless telephone service subscriber may give notice to the designated agent of the subscriber's objection to receiving such solicitations, or may revoke such notice, is exclusively by entering the area code, phone number, and zip code of the subscriber directly into the database via the designated state internet website or by using a touch-tone phone to enter the area code, phone number, and zip code of the subscriber via a designated statewide, toll-free telephone number maintained by the designated agent as a part of the Colorado no-call list;

(IV) Specify that the date of every notice received in accordance with subparagraph (III) of this paragraph (b) be recorded and included as part of the information in the no-call list;

(V) Require the designated agent to provide updated information about the Colorado no-call list program on the designated state website, subject to supervision by the public utilities commission;

(VI) Prohibit the designated agent or any person or entity collecting information to be transmitted to the designated agent from making any use or distribution of subscriber information contained in the no-call list except as expressly authorized under this part 9;

(VII) Specify the methods by which additions, deletions, changes, and modifications shall be made to the Colorado no-call list database and how updates of the database shall be made available to persons or entities desiring such updates. Such methods shall include provisions to remove from the Colorado no-call list, on at least an annual basis, any telephone number that has been disconnected or reassigned.

(VIII) Require the designated agent to maintain an automated, online complaint system for residential subscribers and wireless telephone service subscribers to report suspected violations over the internet website. The automated, online complaint system shall have the capability to collect, sort, and report suspected violations to the appropriate state enforcement agency electronically for enforcement purposes.

(IX) Specify that the no-call list shall be available on line at the Colorado no-call list website to a person or entity desiring to make telephone solicitations if the person or entity has registered in accordance with the provisions of subparagraph (II) of this paragraph (b). The list shall be available in a text or other compatible format, at the discretion of the public utilities commission, but shall allow telephone solicitors to select and sort by specific zip codes and telephone area codes. Telephone solicitors and conforming list brokers shall not receive additional compensation for distributing the Colorado no-call list, but are encouraged to freely distribute the Colorado no-call list at no cost.

(X) Specify such other matters relating to the database as the public utilities commission deems necessary or desirable.

(c) If the federal government establishes one or more official databases of residential or wireless telephone service subscribers who object to receiving telephone solicitations, the designated agent is authorized to provide appropriate data from the official Colorado no-call list exclusively for inclusion in an official, national do-not-call database. To the extent allowed by federal law, the designated agent shall ensure that the Colorado no-call list includes that portion of an official national do-not-call database that relates to Colorado.

(4) The state shall not be liable to any person for gathering, managing, or using information in the Colorado no-call list database pursuant to this part 9 and for enforcing the provisions of this part 9.

(5) The designated agent shall not be liable to any person for performing its duties under this part 9 unless, and only to the extent that, the designated agent commits a willful and wanton act or omission.

(6) As soon as practicable after March 25, 2003, the designated agent shall update the database, on an ongoing basis, with information provided by residential subscribers, wireless telephone service subscribers, and local exchange providers.

(7) No person shall place the telephone number of another person on the Colorado no-call list without the authorization of the person to whom the number is assigned.

(8) Repealed.

Source: L. 2001: Entire part added, p. 1457, § 1, effective August 8. **L. 2003:** (1), (3)(a), IP(3)(b), (3)(b)(I), (3)(b)(III), (3)(b)(VIII), (3)(c), and (6) amended, p. 773, § 3, effective March 25. **L. 2004:** (8) repealed, p. 585, § 1, effective August 4. **L. 2026:** IP(3)(b) and (3)(b)(II) amended, (HB 26-1326), ch. 210, p. 1238, § 39, effective August 12; IP(3)(b) and (3)(b)(III) amended, (HB 26-1426), ch. 334, p. 2002, § 31, effective August 12.

Editor's note: (1) Section 50(2) of chapter 210 (HB 26-1326), Session Laws of Colorado 2026, provides that the act changing this section applies to conduct occurring on or after August 12, 2026.

(2) Amendments to subsection IP(3)(b) by HB 26-1326 and HB 26-1426 were harmonized.

6-1-906. Enforcement - penalties - defenses.

(1) On and after July 1, 2002, violation of any provision of this part 9 constitutes a deceptive trade practice under the provisions of section 6-1-105 (1) and may be enforced under sections 6-1-110, 6-1-112, and 6-1-113. No state enforcement action under this part 9 may be brought against a person or entity for fewer than three violations per month.

(2) Notwithstanding subsection (1) of this section, it shall not be a violation of this part 9 if:

(a) The person or entity has otherwise fully complied with the provisions of this part 9 and has established and implemented, prior to the violation, written practices and procedures to effectively prevent telephone solicitations in violation of this part 9; or

(b) The violation resulted from an error in transcription or other technical defect, not the fault of the person or entity, that caused the information in the no-call list as received by the person or entity to differ from the information that was or should have been included in the no-call list as transmitted by the designated agent.

(3) The remedies, duties, prohibitions, and penalties of this section are not exclusive and are in addition to all other causes of action, remedies, and penalties provided by law.

(4) No provider of telephone caller identification service shall be held liable for violations of this part 9 committed by other persons or entities.

Source: L. 2001: Entire part added, p. 1460, § 1, effective August 8.

6-1-907. Acceptance of gifts, grants, and donations.

The public utilities commission may accept and expend moneys from gifts, grants, and donations for purposes of administering the provisions of this part 9.

Source: L. 2001: Entire part added, p. 1460, § 1, effective August 8.

6-1-908. Severability.

If any provision of this part 9 or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this part 9 which can be given effect without the invalid provision or application, and to this end the provisions of this part 9 are declared to be severable.

Source: L. 2001: Entire part added, p. 1460, § 1, effective August 8.

PART 10

RESTRICTIONS ON USE OF LOAN INFORMATION - SOLICITATIONS

6-1-1001. Restrictions on use of loan information for solicitations - definition.

(1) A person shall not reference the trade name or trademark of a lender or a trade name or trademark confusingly similar to that of a lender in a solicitation for the offering of services or products without the consent of the lender unless the solicitation clearly and conspicuously states in bold-faced type on the front page of the correspondence containing the solicitation:

(a) The name, address, and telephone number of the person making the solicitation;

(b) That the person making the solicitation is not affiliated with the lender;

(c) That the solicitation is not authorized or sponsored by the lender; and

(d) That the loan information referenced was not provided by the lender.

(2) A person shall not reference a loan number, loan amount, or other specific loan information that is not publicly available in a solicitation for the purchase of services or products; except that this prohibition shall not apply to communications by a lender or its affiliates with a current customer of the lender or with a person who was a customer of the lender.

(3) (a) A person shall not reference a loan number, loan amount, or other specific loan information that is publicly available in a solicitation for the purchase of services or products unless the communication clearly and conspicuously states in bold-faced type on the front page of the correspondence containing the solicitation:

(I) The name, address, and telephone number of the person making the solicitation;

(II) That the person making the solicitation is not affiliated with the lender;

(III) That the solicitation is not authorized or sponsored by the lender; and

(IV) That the loan information referenced was not provided by the lender.

(b) The prohibition in paragraph (a) of this subsection (3) shall not apply to communications by a lender or its affiliates with a current customer of the lender or with a person who was a customer of the lender.

(4) Any reference to an existing lender without the consent of the lender, and any reference to a loan number, loan amount, or other specific loan information, appearing on the outside of an envelope, visible through the envelope window, or on a postcard, in connection with any written communication that includes or contains a solicitation for goods or services is prohibited.

(5) It is not a violation of this section for a person to use the trade name of another lender in an advertisement for services or products to compare the services or products offered by the other lender.

(6) A lender or owner of a trade name or trademark may seek an injunction against a person who violates this section to stop the unlawful use of the trade name, trademark, or loan information. The person seeking the injunction shall not have to prove actual damage as a result of the violation. Irreparable harm and interim harm to the lender or owner shall be presumed. The lender or owner seeking the injunction may seek to recover actual damages and any profits the defendant has accrued as a result of the violation. The prevailing party in any action brought pursuant to this section is entitled to recover costs associated with the action and reasonable attorney fees from the other party.

(7) For the purposes of this section, "lender" means a bank, savings and loan association, savings bank, credit union, finance company, mortgage bank, mortgage broker, loan originator or holder of the loan, or other person who makes loans in this state, and any affiliate thereof, or any third party operating with the consent of the lender. For the purposes of this section, a person is not a lender based on the person's former employment with a lender.

(8) Nothing in this section shall apply to title insurance.

Source: L. 2004: Entire part added, p. 1533, § 1, effective August 4. **L. 2013:** (7) amended, (SB 13-154), ch. 282, p. 1468, § 22, effective July 1.

PART 11

COLORADO FORECLOSURE PROTECTION ACT

SUBPART 1

GENERAL PROVISIONS

6-1-1101. Short title.

This part 11 shall be known and may be cited as the "Colorado Foreclosure Protection Act".

Source: L. 2006: Entire part added, p. 1330, § 1, effective May 30.

6-1-1102. Legislative declaration.

The general assembly hereby finds, determines, and declares that home ownership and the accumulation of equity in one's home provide significant social and economic benefits to the state and its citizens. Unfortunately, too many home owners in financial distress, especially the poor, elderly, and financially unsophisticated, are vulnerable to a variety of deceptive or unconscionable business practices designed to dispossess them or otherwise strip the equity from their homes. There is a compelling need to curtail and to prevent the most deceptive and unconscionable of these business practices, to provide each home owner with information necessary to make an informed and intelligent decision regarding transactions with certain foreclosure consultants and equity purchasers, to provide certain minimum requirements for contracts between such parties, including statutory rights to cancel such contracts, and to ensure and foster fair dealing in the sale and purchase of homes in foreclosure. Therefore, it is the intent of the general assembly that all violations of this part 11 have a significant public impact and that the terms of this part 11 be liberally construed to achieve these purposes.

Source: L. 2006: Entire part added, p. 1330, § 1, effective May 30.

6-1-1103. Definitions.

As used in this part 11, unless the context otherwise requires:

(1) "Associate" means a partner, subsidiary, affiliate, agent, or any other person working in association with a foreclosure consultant or an equity purchaser. "Associate" does not include a person who is excluded from the definition of an "equity purchaser" or a "foreclosure consultant".

(2) "Equity purchaser" means a person, other than a person who acquires a property for the purpose of using such property as the person's own residence, who acquires title to a residence in foreclosure; except that the term does not include a person who acquires such title:

(a) (Deleted by amendment, L. 2010, (HB 10-1133), ch. 350, p. 1615, § 1, effective January 1, 2011.)

(b) By a deed in lieu of foreclosure to the holder of an evidence of debt, or an associate of the holder of an evidence of debt, of a consensual lien or encumbrance of record if such consensual lien or encumbrance is recorded in the real property records of the clerk and recorder of the county where the residence in foreclosure is located prior to the recording of the notice of election and demand for sale required under section 38-38-101, C.R.S.;

(c) By a deed from the public trustee or a county sheriff as a result of a foreclosure sale conducted pursuant to article 38 of title 38, C.R.S.;

(d) At a sale of property authorized by statute;

(e) By order or judgment of any court;

(f) From the person's spouse, relative, or relative of a spouse, by the half or whole blood or by adoption, or from a guardian, conservator, or personal representative of a person identified in this paragraph (f);

(g) While performing services as a part of a person's normal business activities under any law of this state or the United States that regulates banks, trust companies, savings and loan associations, credit unions, insurance companies, title insurers, insurance producers, or escrow companies authorized to conduct business in the state, an affiliate or subsidiary of such person, or an employee or agent acting on behalf of such person; or

(h) As a result of a short sale transaction in which a short sale addendum form, as promulgated by the Colorado real estate commission, is part of the contract used to acquire a residence in foreclosure and such transaction complies with section 6-1-1121.

(3) "Evidence of debt" means a writing that evidences a promise to pay or a right to the payment of a monetary obligation, such as a promissory note, bond, negotiable instrument, a loan, credit, or similar agreement, or a monetary judgment entered by a court of competent jurisdiction.

(4) (a) "Foreclosure consultant" means a person who does not, directly or through an associate, take or acquire any interest in or title to a homeowner's property and who, in the

course of such person's business, vocation, or occupation, makes a solicitation, representation, or offer to a home owner to perform, in exchange for compensation from the home owner or from the proceeds of any loan or advance of funds, a service that the person represents will do any of the following:

(I) Stop or postpone a foreclosure sale;

(II) Obtain a forbearance from a beneficiary under a deed of trust, mortgage, or other lien;

(III) Assist the home owner in exercising a right to cure a default as provided in article 38 of title 38, C.R.S.;

(IV) Obtain an extension of the period within which the home owner may cure a default as provided in article 38 of title 38, C.R.S.;

(V) Obtain a waiver of an acceleration clause contained in an evidence of debt secured by a deed of trust, mortgage, or other lien on a residence in foreclosure or contained in such deed of trust, mortgage, or other lien;

(VI) Assist the home owner to obtain a loan or advance of funds;

(VII) Avoid or reduce the impairment of the home owner's credit resulting from the recording of a notice of election and demand for sale, commencement of a judicial foreclosure action, or due to any foreclosure sale or the granting of a deed in lieu of foreclosure or resulting from any late payment or other failure to pay or perform under the evidence of debt, the deed of trust, or other lien securing such evidence of debt;

(VIII) In any way delay, hinder, or prevent the foreclosure upon the home owner's residence; or

(IX) Repealed.

(b) The term "foreclosure consultant" does not include:

(I) A person licensed to practice law in this state, while performing any activity related to the person's attorney-client relationship with a home owner or any activity related to the person's attorney-client relationship with the beneficiary, mortgagee, grantee, or holder of any lien being enforced by way of foreclosure;

(II) A holder or servicer of an evidence of debt or the attorney for the holder or servicer of an evidence of debt secured by a deed of trust or other lien on any residence in foreclosure while the person performs services in connection with the evidence of debt, lien, deed of trust, or other lien securing such debt;

(III) A person doing business under any law of this state or the United States, which law regulates banks, trust companies, savings and loan associations, credit unions, insurance companies, title insurers, insurance producers, or escrow companies authorized to conduct

business in the state, while the person performs services as part of the person's normal business activities, an affiliate or subsidiary of any of the foregoing, or an employee or agent acting on behalf of any of the foregoing;

(IV) A person originating or closing a loan in a person's normal course of business if, as to that loan:

(A) The loan is subject to the requirements of the federal "Real Estate Settlement Procedures Act of 1974", as amended, 12 U.S.C. secs. 2601 to 2617; or

(B) With respect to any second mortgage or home equity line of credit, the loan is subordinate to and closed simultaneously with a qualified first mortgage loan under sub-subparagraph (A) of this subparagraph (IV) or is initially payable on the face of the note or contract to an entity included in subparagraph (III) of this paragraph (b);

(V) A judgment creditor of the home owner, if the judgment is recorded in the real property records of the clerk and recorder of the county where the residence in foreclosure is located and the legal action giving rise to the judgment was commenced before the notice of election and demand for sale required under section 38-38-101, C.R.S.;

(VI) A title insurance company or title insurance agent authorized to conduct business in this state, while performing title insurance and settlement services;

(VII) A person licensed as a real estate broker under article 10 of title 12 while the person engages in any activity for which the person is licensed; or

(VIII) A nonprofit organization that solely offers counseling or advice to home owners in foreclosure or loan default, unless the organization is an associate of the foreclosure consultant.

(5) "Foreclosure consulting contract" means any agreement between a foreclosure consultant and a home owner.

(6) "Holder of evidence of debt" means the person in actual possession of or otherwise entitled to enforce an evidence of debt; except that "holder of evidence of debt" does not include a person acting as a nominee solely for the purpose of holding the evidence of debt or deed of trust as an electronic registry without any authority to enforce the evidence of debt or deed of trust. The following persons are presumed to be the holder of evidence of debt:

(a) The person who is the obligee of and who is in possession of an original evidence of debt;

(b) The person in possession of an original evidence of debt together with the proper indorsement or assignment thereof to such person in accordance with section 38-38-101 (6), C.R.S.;

(c) The person in possession of a negotiable instrument evidencing a debt, which has been duly negotiated to such person or to bearer or indorsed in blank; or

(d) The person in possession of an evidence of debt with authority, which may be granted by the original evidence of debt or deed of trust, to enforce the evidence of debt as agent, nominee, or trustee or in a similar capacity for the obligee of the evidence of debt.

(7) "Home owner" means the owner of a dwelling who occupies it as a principal place of residence, including a vendee under a contract for deed to real property, as that term is defined in section 38-35-126 (1)(b).

(8) (a) Except as otherwise provided in paragraph (b) of this subsection (8), "residence in foreclosure" means a residence or dwelling, as defined in sections 5-1-201 and 5-1-301, C.R.S., that is occupied as the home owner's principal place of residence and that is encumbered by a residential mortgage loan that is at least thirty days delinquent or in default.

(b) With respect to subpart 3 of this part 11, "residence in foreclosure" means a residence or dwelling, as defined in sections 5-1-201 and 5-1-301, C.R.S., that is occupied as the home owner's principal place of residence, is encumbered by a residential mortgage loan, and against which a foreclosure action has been commenced or as to which an equity purchaser otherwise has actual or constructive knowledge that the loan is at least thirty days delinquent or in default.

(9) "Short sale" or "short sale transaction" means a transaction in which the residence in foreclosure is sold when:

(a) A holder of evidence of debt agrees to release its lien for an amount that is less than the outstanding amount due and owing under such evidence of debt; and

(b) The lien described in paragraph (a) of this subsection (9) is recorded in the real property records of the county where the residence in foreclosure is located.

Source: L. 2006: Entire part added, p. 1331, § 1, effective May 30. **L. 2007:** (4)(b)(IV)(A) amended, p. 2018, § 7, effective June 1. **L. 2008:** (4)(b)(VII) amended, p. 511, § 29, effective April 17. **L. 2009:** (8) amended, (HB 09-1109), ch. 39, p. 154, § 1, effective July 1. **L. 2010:** IP(2), (2)(a), IP(4)(a), (7), and (8) amended and (2)(h) and (9) added, (HB 10-1133), ch. 350, pp. 1615, 1616, §§ 1, 2, effective January 1, 2011. **L. 2016:** (4)(a)(IX) repealed, (HB 16-1090), ch. 97, p. 277, § 3, effective August 10. **L. 2019:** (4)(b)(VII) amended, (HB 19-1172), ch. 136, p. 1645, § 13, effective October 1. **L. 2026:** IP(2) and (7) amended, (HB 26-1426), ch. 334, p. 2003, § 32, effective August 12.

Cross references: For the legislative declaration in HB 16-1090, see section 1 of chapter 97, Session Laws of Colorado 2016.

SUBPART 2

FORECLOSURE CONSULTANTS

6-1-1104. Foreclosure consulting contract.

(1) A foreclosure consulting contract shall be in writing and provided to and retained by the home owner, without changes, alterations, or modifications, for review at least twenty-four hours before it is signed by the home owner.

(2) A foreclosure consulting contract shall be printed in at least twelve-point type and shall include the name and address of the foreclosure consultant to which a notice of cancellation can be mailed and the date the home owner signed the contract.

(3) A foreclosure consulting contract shall fully disclose the exact nature of the foreclosure consulting services to be provided and the total amount and terms of any compensation to be received by the foreclosure consultant or associate.

(4) A foreclosure consulting contract shall be dated and personally signed, with each page being initialed, by each home owner and the foreclosure consultant and shall be acknowledged by a notary public in the presence of the home owner at the time the contract is signed by the home owner.

(5) A foreclosure consulting contract shall contain the following notice, as described in this section or as established under section 24-31-101 (1)(z)(III), which shall be printed in at least fourteen-point bold-faced type, completed with the name of the foreclosure consultant, and located in immediate proximity to the space reserved for the home owner's signature:

Notice Required by Colorado Law

_____ (Name) or (their) associate cannot ask you to sign or have you sign any document that transfers any interest in your home or property to (them) or to (their) associate.

_____ (Name) or (their) associate cannot guarantee you that they will be able to refinance your home or arrange for you to keep your home.

You may, at any time, cancel this contract, without penalty of any kind.

If you want to cancel this contract, mail or deliver a signed and dated copy of this notice of cancellation, or any other written notice, indicating your intent to cancel to _____ (name and address of foreclosure consultant) at

_____ (address of foreclosure consultant, including facsimile and electronic mail address).

As part of any cancellation, you (the home owner) must repay any money actually spent on your behalf by _____ (name of foreclosure consultant) prior to receipt of this notice and as a result of this agreement, within sixty days, along with interest at the prime rate published by the federal reserve plus two percentage points, with the total interest rate not to exceed eight percent per year.

This is an important legal contract and could result in the loss of your home. Contact an attorney or a housing counselor approved by the federal department of housing and urban development before signing.

(6) A completed form in duplicate, captioned "Notice of Cancellation" shall accompany the foreclosure consulting contract. The notice of cancellation shall:

(a) Be on a separate sheet of paper attached to the contract;

(b) Be easily detachable; and

(c) Contain the following statement, printed in at least fourteen-point type:

Notice of Cancellation

(Date of contract)

To: (name of foreclosure consultant)

(Address of foreclosure consultant, including facsimile and electronic mail)

I hereby cancel this contract.

_____ (Date)

_____ (Home owner's signature)

(7) The foreclosure consultant shall provide to the home owner a signed, dated, and acknowledged copy of the foreclosure consulting contract and the attached notice of cancellation immediately upon execution of the contract.

(8) The time during which the home owner may cancel the foreclosure consulting contract does not begin to run until the foreclosure consultant has complied with this section.

Source: L. 2006: Entire part added, p. 1334, § 1, effective May 30. **L. 2010:** (4) amended, (HB 10-1133), ch. 350, p. 1616, § 3, effective January 1, 2011. **L. 2026:** (5) amended, (HB 26-1426), ch. 334, p. 2003, § 33, effective August 12.

6-1-1105. Right of cancellation.

(1) In addition to any right of rescission available under state or federal law, the home owner has the right to cancel a foreclosure consulting contract at any time.

(2) Cancellation occurs when the home owner gives written notice of cancellation of the foreclosure consulting contract to the foreclosure consultant at the address specified in the contract or through any facsimile or electronic mail address identified in the contract or other materials provided to the home owner by the foreclosure consultant.

(3) Notice of cancellation, if given by mail, is effective when deposited in the United States mail, properly addressed, with postage prepaid.

(4) Notice of cancellation need not be in the form provided with the contract and is effective, however expressed, if it indicates the intention of the home owner to cancel the foreclosure consulting contract.

(5) As part of the cancellation of a foreclosure consulting contract, the home owner shall repay, within sixty days after the date of cancellation, all funds paid or advanced in good faith prior to the receipt of notice of cancellation by the foreclosure consultant or associate under the terms of the foreclosure consulting contract, together with interest at the prime rate published by the federal reserve plus two percentage points, with the total interest rate not to exceed eight percent per year, from the date of expenditure until repaid by the home owner.

(6) The right to cancel may not be conditioned on the repayment of any funds.

Source: L. 2006: Entire part added, p. 1336, § 1, effective May 30.

6-1-1106. Waiver of rights - void.

(1) A provision in a foreclosure consulting contract is void as against public policy if the provision attempts or purports to:

(a) Waive any of the rights specified in this subpart 2 or the right to a jury trial;

(b) Consent to jurisdiction for litigation or choice of law in a state other than Colorado;

(c) Consent to venue in a county other than the county in which the property is located; or

(d) Impose any costs or fees greater than the actual costs and fees.

Source: L. 2006: Entire part added, p. 1337, § 1, effective May 30.

6-1-1107. Prohibited acts.

(1) A foreclosure consultant may not:

(a) Claim, demand, charge, collect, or receive any compensation until after the foreclosure consultant has fully performed each and every service the foreclosure consultant contracted to perform or represented that the foreclosure consultant would perform;

(b) Claim, demand, charge, collect, or receive any interest or any other compensation for a loan that the foreclosure consultant makes to the home owner that exceeds the prime rate published by the federal reserve at the time of any loan plus two percentage points, with the total interest rate not to exceed eight percent per year;

(c) Take a wage assignment, lien of any type on real or personal property, or other security to secure the payment of compensation;

(d) Receive any consideration from a third party in connection with foreclosure consulting services provided to a home owner unless the consideration is first fully disclosed in writing to the home owner;

(e) Acquire an interest, directly, indirectly, or through an associate, in the real or personal property of a home owner with whom the foreclosure consultant has contracted;

(f) Obtain a power of attorney from a home owner for any purpose other than to inspect documents as provided by law; or

(g) Induce or attempt to induce a home owner to enter into a foreclosure consulting contract that does not comply in all respects with this subpart 2.

Source: L. 2006: Entire part added, p. 1337, § 1, effective May 30.

6-1-1108. Criminal penalties.

A person who violates section 6-1-1107 is guilty of a misdemeanor, as defined in section 18-1.3-504, C.R.S., and shall be subject to imprisonment in county jail for up to one year, a fine of up to twenty-five thousand dollars, or both.

Source: L. 2006: Entire part added, p. 1338, § 1, effective May 30.

6-1-1109. Unconscionability.

(1) A foreclosure consultant or associate may not facilitate or engage in any transaction that is unconscionable given the terms and circumstances of the transaction.

(2) (a) If a court, as a matter of law, finds a foreclosure consultant contract or any clause of such contract to have been unconscionable at the time it was made, the court may refuse to enforce the contract, enforce the remainder of the contract without the unconscionable clause, or so limit the application of any unconscionable clause as to avoid an unconscionable result.

(b) When it is claimed or appears to the court that a foreclosure consultant contract or any clause of such contract may be unconscionable, the parties shall be afforded a reasonable opportunity to present evidence as to its commercial setting, purpose, and effect, to aid the court in making the determination.

(c) In order to support a finding of unconscionability, there must be evidence of some bad faith overreaching on the part of the foreclosure consultant or associate such as that which results from an unreasonable inequality of bargaining power or other circumstances in which there is an absence of meaningful choice for one of the parties, together with contract terms that are, under standard industry practices, unreasonably favorable to the foreclosure consultant or associate.

Source: L. 2006: Entire part added, p. 1338, § 1, effective May 30.

6-1-1110. Language.

A foreclosure consulting contract, and all notices of cancellation provided for therein, shall be written in English and shall be accompanied by a written translation from English into any other language principally spoken by the home owner, certified by the person making the translation as a true and correct translation of the English version. The translated version shall be presumed to have equal status and credibility as the English version.

Source: L. 2006: Entire part added, p. 1338, § 1, effective May 30.

SUBPART 3

EQUITY PURCHASERS

6-1-1111. Written contract required.

Every contract shall be written in at least nine-point, legible type and fully completed, signed, and dated by the home owner and equity purchaser prior to the execution of any instrument quit-claiming, assigning, transferring, conveying, or encumbering an interest in the residence in foreclosure.

Source: L. 2006: Entire part added, p. 1338, § 1, effective May 30. **L. 2010:** Entire section amended, (HB 10-1133), ch. 350, p. 1616, § 4, effective January 1, 2011.

6-1-1112. Written contract - contents - notice.

(1) Every contract shall contain the entire agreement of the parties and shall include the following terms:

(a) The name, business address, and telephone number of the equity purchaser;

(b) The street address and full legal description of the residence in foreclosure;

(c) Clear and conspicuous disclosure of any financial or legal obligations of the home owner that will be assumed by the equity purchaser. If the equity purchaser will not be assuming any financial or legal obligations of the home owner, the equity purchaser shall provide to the home owner a separate written disclosure that substantially complies with section 18-5-802 (6), C.R.S.

(d) The total consideration to be paid by the equity purchaser in connection with or incident to the acquisition by the equity purchaser of the residence in foreclosure;

(e) The terms of payment or other consideration, including, but not limited to, any services of any nature that the equity purchaser represents will be performed for the home owner before or after the sale;

(f) The date and time when possession of the residence in foreclosure is to be transferred to the equity purchaser;

(g) The terms of any rental agreement or lease;

(h) The specifications of any option or right to repurchase the residence in foreclosure, including the specific amounts of any escrow deposit, down payment, purchase price, closing costs, commissions, or other fees or costs;

(i) A notice of cancellation as provided in section 6-1-1114; and

(j) The following notice, in at least nine-point bold-faced type, and completed with the name of the equity purchaser, immediately above the statement required by section 6-1-1114:

NOTICE REQUIRED BY COLORADO LAW

Until your right to cancel this contract has ended, (Name) or anyone working for _____ (Name) CANNOT ask you to sign or have you sign any deed or any other document.

(2) The contract required by this section survives delivery of any instrument of conveyance of the residence in foreclosure, but does not have any effect on persons other than the parties to the contract or affect title to the residence in foreclosure.

Source: L. 2006: Entire part added, p. 1339, § 1, effective May 30. **L. 2010:** IP(1)(j) amended, (HB 10-1133), ch. 350, p. 1617, § 5, effective January 1, 2011.

6-1-1113. Cancellation.

(1) In addition to any right of rescission available under state or federal law, the home owner has the right to cancel a contract with an equity purchaser until 12 midnight of the third business day following the day on which the home owner signs a contract that complies with this part 11 or until 12 noon on the day before the foreclosure sale of the residence in foreclosure, whichever occurs first.

(2) Cancellation occurs when the home owner personally delivers written notice of cancellation to the address specified in the contract or upon deposit of such notice in the United States mail, properly addressed, with postage prepaid.

(3) A notice of cancellation given by the home owner need not take the particular form as provided with the contract and, however expressed, is effective if it indicates the intention of the home owner not to be bound by the contract.

(4) In the absence of any written notice of cancellation from the home owner, the execution by the home owner of a deed or other instrument of conveyance of an interest in the residence in foreclosure to the equity purchaser after the expiration of the rescission period creates a rebuttable presumption that the home owner did not cancel the contract with the equity purchaser.

Source: L. 2006: Entire part added, p. 1340, § 1, effective May 30.

6-1-1114. Notice of cancellation.

(1) (a) The contract shall contain, as the last provision before the space reserved for the home owner's signature, a conspicuous statement in at least twelve-point bold-faced type, as follows:

You may cancel this contract for the sale of your house without any penalty or obligation at any time before _____ (Date and time of day). See the attached notice of cancellation form for an explanation of this right.

(b) The equity purchaser shall accurately specify the date and time of day on which the cancellation right ends.

(2) The contract shall be accompanied by duplicate completed forms, captioned "notice of cancellation" in at least nine-point bold-faced type if the contract is printed or in capital letters if the contract is typed, followed by a space in which the equity purchaser shall enter the date on which the home owner executed the contract. Such form shall:

(a) Be attached to the contract;

(b) Be easily detachable; and

(c) Contain the following statement, in at least nine-point type if the contract is printed or in capital letters if the contract is typed:

NOTICE OF CANCELLATION

_____ (Enter date contract signed). You may cancel this contract for the sale of your house, without any penalty or obligation, at any time before _____ (Enter date and time of day). To cancel this transaction, personally deliver a signed and dated copy of this Notice of Cancellation in the United States mail, postage prepaid, to _____, (Name of purchaser) at _____ (Street address of purchaser's place of business) NOT LATER THAN _____ (Enter date and time of day). I hereby cancel this transaction _____ (Date) _____ (Seller's signature)

(3) The equity purchaser shall provide the home owner with a copy of the contract and the attached notice of cancellation.

(4) Until the equity purchaser has complied with this section, the home owner may cancel the contract.

Source: L. 2006: Entire part added, p. 1340, § 1, effective May 30. **L. 2010:** IP(2) and IP(2)(c) amended, (HB 10-1133), ch. 350, p. 1617, § 6, effective January 1, 2011.

6-1-1115. Options through reconveyances.

(1) A transaction in which a home owner purports to grant a residence in foreclosure to an equity purchaser by an instrument that appears to be an absolute conveyance and reserves to the home owner or is given by the equity purchaser an option to repurchase shall be permitted only where all of the following conditions have been met:

(a) The reconveyance contract complies in all respects with section 6-1-1112;

(b) The reconveyance contract provides the home owner with a nonwaivable thirty-day right to cure any default of said reconveyance contract and specifies that the home owner may exercise this right to cure on at least three separate occasions during such reconveyance contract;

(c) The equity purchaser fully assumes or discharges the lien in foreclosure as well as any prior liens that will not be extinguished by such foreclosure, which assumption or discharge shall be accomplished without violation of the terms and conditions of the liens being assumed or discharged;

(d) The equity purchaser verifies and can demonstrate that the home owner has or will have a reasonable ability to make the lease payments and to repurchase the residence in foreclosure within the term of the option to repurchase under the reconveyance contract. For purposes of this

section, there is a rebuttable presumption that the home owner has a reasonable ability to make lease payments and to repurchase the residence in foreclosure if the home owner's payments for primary housing expenses and regular principal and interest payments on other personal debt do not exceed sixty percent of the home owner's monthly gross income; and

(e) The price the home owner must pay to exercise the option to repurchase the residence in foreclosure is not unconscionable. Without limitation on available claims under section 6-1-1119, a repurchase price exceeding twenty-five percent of the price at which the equity purchaser acquired the residence in foreclosure creates a rebuttable presumption that the reconveyance contract is unconscionable. The acquisition price paid by the equity purchaser may include any actual costs incurred by the equity purchaser in acquiring the residence in foreclosure.

Source: L. 2006: Entire part added, p. 1341, § 1, effective May 30.

6-1-1116. Waiver of rights - void.

(1) A provision in a contract between an equity purchaser and home owner is void as against public policy if it attempts or purports to:

(a) Waive any of the rights specified in this subpart 3 or the right to a jury trial;

(b) Consent to jurisdiction for litigation or choice of law in a state other than Colorado;

(c) Consent to venue in a county other than the county in which the property is located; or

(d) Impose any costs or fees greater than the actual costs and fees.

Source: L. 2006: Entire part added, p. 1342, § 1, effective May 30.

6-1-1117. Prohibited conduct.

(1) The contract provisions required by sections 6-1-1111 to 6-1-1114 shall be provided and completed in conformity with such sections by the equity purchaser.

(2) Until the time within which the home owner may cancel the transaction has fully elapsed, the equity purchaser shall not do any of the following:

(a) Accept from a home owner an execution of, or induce a home owner to execute, an instrument of conveyance of any interest in the residence in foreclosure;

(b) Record with the county recorder any document, including, but not limited to, the contract or any lease, lien, or instrument of conveyance, that has been signed by the home owner;

(c) Transfer or encumber or purport to transfer or encumber an interest in the residence in foreclosure to a third party; or

(d) Pay the home owner any consideration.

(3) Within ten days following receipt of a notice of cancellation given in accordance with sections 6-1-1113 and 6-1-1114, the equity purchaser shall return without condition the original contract and any other documents signed by the home owner.

(4) An equity purchaser shall make no untrue or misleading statements of material fact regarding the value of the residence in foreclosure, the amount of proceeds the home owner will receive after a foreclosure sale, any contract term, the home owner's rights or obligations incident to or arising out of the sale transaction, the nature of any document that the equity purchaser induces the home owner to sign, or any other untrue or misleading statement concerning the sale of the residence in foreclosure to the equity purchaser.

Source: L. 2006: Entire part added, p. 1342, § 1, effective May 30.

6-1-1118. Criminal penalties.

A person who violates section 6-1-1117 (2) or (3) or who intentionally violates section 6-1-1117 (4) is guilty of a misdemeanor, as defined in section 18-1.3-504, C.R.S., and shall be subject to imprisonment in county jail for up to one year, a fine of up to twenty-five thousand dollars, or both.

Source: L. 2006: Entire part added, p. 1343, § 1, effective May 30.

6-1-1119. Unconscionability.

(1) An equity purchaser or associate may not facilitate or engage in any transaction that is unconscionable given the terms and circumstances of the transaction.

(2) (a) If a court, as a matter of law, finds an equity purchaser contract or any clause of such contract to have been unconscionable at the time it was made, the court may refuse to enforce the contract, enforce the remainder of the contract without the unconscionable clause, or so limit the application of any unconscionable clause as to avoid an unconscionable result.

(b) When it is claimed or appears to the court that the contract or any clause thereof may be unconscionable, the parties shall be afforded a reasonable opportunity to present evidence as to its commercial setting, purpose, and effect, to aid the court in making the determination.

(c) In order to support a finding of unconscionability, there must be evidence of some bad faith overreaching on the part of the equity purchaser or associate such as that which results from an unreasonable inequality of bargaining power or under other circumstances in which there is an absence of meaningful choice for one of the parties, together with contract terms that are, under standard industry practices, unreasonably favorable to the equity purchaser or associate.

Source: L. 2006: Entire part added, p. 1343, § 1, effective May 30.

6-1-1120. Language.

(1) Any contract, rental agreement, lease, option or right to repurchase, and any notice, conveyance, lien, encumbrance, consent, or other document or instrument signed by a home owner, shall be written in English; except that, if the equity purchaser has actual or constructive knowledge that the home owner's principal language is other than English, the home owner shall be provided with a notice, written in the home owner's principal language, substantially as follows:

> **This transaction involves important and complex legal consequences, including your right to cancel this transaction within three business days following the date you sign this contract. You should consult with an attorney or seek assistance from a housing counselor by calling the Colorado foreclosure hotline at _____** [current, correct telephone number].

(2) If a notice in the home owner's principal language is required to be provided under subsection (1) of this section, the notice shall be given to the home owner as a separate document accompanying the written contract required by section 6-1-1111.

Source: L. 2006: Entire part added, p. 1343, § 1, effective May 30. **L. 2010:** Entire section amended, (HB 10-1133), ch. 350, p. 1617, § 7, effective January 1, 2011.

6-1-1121. Short sales - subsequent purchaser - definition.

(1) With respect to any short sale transaction in which an equity purchaser intends to resell the residence in foreclosure to a subsequent purchaser, the equity purchaser shall:

(a) Provide full disclosure to the home owner and to the holders of the evidence of debt on the residence in foreclosure, or such holders' representatives, of the terms of the agreement between the equity purchaser and any subsequent purchaser, including but not limited to the purchase price to be paid by the subsequent purchaser for the residence in foreclosure, which disclosure shall be made within one business day of identifying any such subsequent purchaser and in no event later than closing on the short sale transaction;

(b) Provide full disclosure to any subsequent purchaser and to any subsequent purchaser's lender, or such lender's representative, at the time of contract with the equity purchaser, of the terms of the agreement between the equity purchaser and the home owner, including but not limited to the purchase price paid by the equity purchaser for the residence in foreclosure;

(c) Comply with all applicable rules adopted by the Colorado real estate commission with regard to short sales; and

(d) Comply with section 38-35-125, C.R.S.

(2) As used in this section, a "subsequent purchaser" means any person who enters into a contract with an equity purchaser prior to the disbursement of the short sale transaction to acquire the residence in foreclosure and who acquires the residence in foreclosure within fourteen days after the disbursement of the short sale transaction.

Source: L. 2010: Entire section added, (HB 10-1133), ch. 350, p. 1618, § 8, effective January 1, 2011.

PART 12

PEER-TO-PEER CAR SHARING ACT

6-1-1201. Short title.

The short title of this part 12 is the "Colorado Peer-to-peer Car Sharing Act".

Source: L. 2019: Entire part added, (SB 19-090), ch. 391, p. 3492, § 1, effective January 1, 2020.

6-1-1202. Definitions.

As used in this part 12, unless the context otherwise requires:

(1) "Car" means a motor vehicle as defined in section 42-1-102 (58).

(2) "Car sharing" means the authorized use of a shared car by persons other than the shared car's owner, facilitated by a car sharing program.

(3) (a) "Car sharing agreement" means the terms and conditions that apply to a shared car owner and a shared car driver and that govern the use of a shared car.

(b) "Car sharing agreement" excludes a rental agreement as defined in section 6-1-201.

(4) (a) "Car sharing program" means a person that is in the business of operating an online platform to connect third-party vehicle owners with third-party vehicle drivers to enable peer-to-peer car sharing within Colorado.

(b) "Car sharing program" excludes:

(I) The registered owner of the car involved in car sharing facilitated by a car sharing program; and

(II) A lessor as defined in section 6-1-201.

(5) "Delivery period" means the time when a shared car is being delivered to the location of the sharing start time, as documented by the governing car sharing agreement.

(6) (a) "Shared car" means a motor vehicle that is available for sharing through a car sharing program but is not used exclusively for car sharing.

(b) "Shared car" excludes a rental motor vehicle as defined in section 6-1-201.

(7) (a) "Shared car driver" means an individual who has been authorized to drive the shared car by a car sharing program under a car sharing agreement.

(b) "Shared car driver" excludes a lessee as defined in section 6-1-201.

(8) "Shared car owner" means a person that makes a shared car available for sharing to shared car drivers through a car sharing program.

(9) "Sharing period" means the time that begins at the sharing start time and ends at the sharing termination time.

(10) "Sharing start time" means the time when a shared car driver takes possession and control of the shared car. The sharing start time may be at or after the time the reservation of a shared car is scheduled to begin under a car sharing agreement.

(11) "Sharing termination time" means the earliest of the following events:

(a) The expiration of the agreed period of time established for the use of a shared car in the governing car sharing agreement if the shared car is delivered to the location agreed upon in the agreement;

(b) When the shared car is returned to an alternative location as agreed upon by the shared car owner and shared car driver as communicated through a car sharing program; or

(c) The shared car owner, or the shared car owner's authorized designee, takes possession and control of the shared car.

Source: L. 2019: Entire part added, (SB 19-090), ch. 391, p. 3492, § 1, effective January 1, 2020. **L. 2020:** (5) amended, (HB 20-1402), ch. 216, p. 1041, § 3, effective June 30.

6-1-1203. Insurance coverage during car sharing period.

(1) (a) Except as provided in subsection (1)(b) of this section, a car sharing program shall assume the liability of a shared car owner for any bodily injury or property damage to third parties, or uninsured and underinsured motorist or personal injury protection losses, during the sharing period up to an amount stated in the car sharing agreement, but not less than the minimum amount of financial responsibility required by article 7 of title 42.

(b) The assumption of liability under subsection (1)(a) of this section does not apply to a shared car owner if:

(I) The shared car owner makes an intentional or fraudulent material misrepresentation to or omission to the car sharing program before the sharing period when the loss occurred; or

(II) The shared car owner acts in concert with a shared car driver who fails to return the shared car in accordance with the car sharing agreement.

(c) Notwithstanding subsection (1)(b) of this section, the definition of "sharing termination time" in section 6-1-1202 (11), or the amount of liability coverage stated in the car sharing agreement, the assumption of liability under subsection (1)(a) of this section in the amount required by article 7 of title 42 applies to any bodily injury or property damage suffered by innocent third parties for injuries or losses during the sharing period.

(2) A car sharing program shall ensure that, during each sharing period, the shared car owner and the shared car driver are insured under an automobile liability insurance policy that:

(a) (I) Recognizes that the shared car insured under the policy is made available through and used through a car sharing program; or

(II) Does not exclude use of a shared car by a shared car driver; and

(b) Provides insurance coverage under a:

(I) Commercial liability policy issued to the car sharing program that is not less than three times the minimum amount of financial responsibility required by article 7 of title 42; or

(II) Personal liability policy issued to the shared car driver that is not less than the minimum amount of financial responsibility required by article 7 of title 42.

(3) The financial responsibility required in subsection (2) of this section may be satisfied by automobile liability insurance that is maintained by any one or a combination of the following:

(a) A shared car driver; or

(b) A car sharing program.

(4) The insurance described in subsection (3) of this section that satisfies the insurance requirement in subsection (2) of this section is the primary coverage during the sharing period.

(5) A car sharing program shall assume primary liability for a claim if:

(a) The program is in whole or in part providing the insurance required in subsections (2) and (3) of this section;

(b) A dispute exists as to who was in control of the shared car at the time of the loss; and

(c) The program does not have available, did not retain, or fails to provide the information required in section 6-1-1207 that relates to the claim.

(6) (a) If the insurance that complies with subsection (2) of this section is provided by the shared car driver or shared car owner, a car sharing program shall maintain insurance that provides coverage meeting the requirements of this section and that covers a lapse in or lack of coverage of the shared car driver's or shared car owner's insurance, beginning with the first dollar of a claim and including a duty to defend the claim.

(b) The insurance required by this subsection (6) may be procured from:

(I) An insurer licensed under title 10; or

(II) A surplus lines insurer authorized under article 5 of title 10 that has a credit rating of no less than:

(A) "A-" from A.M. Best Company, Inc.;

(B) "A" from Demotech, Inc.; or

(C) A similar rating from another rating agency if both the rating and agency are recognized by the commissioner of insurance by rule under section 10-5-117.

(7) Coverage under an automobile liability insurance policy maintained by the car sharing program does not depend on a personal automobile liability insurer first denying or being required to deny a claim.

(8) This section does not:

(a) Limit the liability of the car sharing program for an act or omission of the car sharing program that results in bodily injury to any person as a result of the use of a shared car through a car sharing program; or

(b) Limit the ability of the car sharing program to contract for indemnification from the shared car owner or the shared car driver for economic loss sustained by the car sharing program caused by a breach of the terms and conditions of the car sharing agreement.

Source: L. 2019: Entire part added, (SB 19-090), ch. 391, p. 3494, § 1, effective January 1, 2020. **L. 2020:** (8)(a) amended, (HB 20-1402), ch. 216, p. 1041, § 4, effective June 30.

6-1-1204. Notification of implications of lien.

When a car owner registers as a shared car owner on a car sharing program and before the shared car is made available for car sharing, the car sharing program shall notify the shared car owner that, if the shared car has a lien against it, the use of the shared car through a car sharing program, including use without physical damage coverage, may violate the terms of the contract with the lienholder.

Source: L. 2019: Entire part added, (SB 19-090), ch. 391, p. 3496, § 1, effective January 1, 2020.

6-1-1205. Liability - exclusions for personal automobile liability insurance policy - indemnification.

(1) An authorized insurer may exclude coverage and the duty to defend or indemnify for any claim under a shared car owner's personal automobile liability insurance policy. This part 12 does not invalidate or limit an exclusion contained in an automobile liability insurance policy, including any insurance policy that excludes coverage for motor vehicles made available for rent, sharing, hire, or business use.

(2) An automobile insurer of the shared car owner that defends or indemnifies a shared car claim has the right to contribution against the insurer of the car sharing program if the claim is:

(a) Made against the shared car owner or the shared car driver for damages occurring during the sharing period; and

(b) Excluded under the terms of the shared car owner's insurance policy.

Source: L. 2019: Entire part added, (SB 19-090), ch. 391, p. 3496, § 1, effective January 1, 2020. **L. 2020:** IP(2) amended, (HB 20-1402), ch. 216, p. 1041, § 5, effective June 30.

6-1-1206. Prohibition on exclusion of coverage for car sharing.

An automobile insurance company shall not exclude otherwise applicable uninsured or underinsured motorist coverage from a shared car driver's or passenger's personal automobile insurance policy because of the person's participation in car sharing.

Source: L. 2019: Entire part added, (SB 19-090), ch. 391, p. 3496, § 1, effective January 1, 2020.

6-1-1207. Record keeping.

A car sharing program shall collect and verify records concerning the use of a vehicle, including times used, fees paid by the shared car driver, and revenues received by the shared car owner. A car sharing program shall provide these records upon request to the shared car owner; to facilitate a claim investigation, to the shared car owner's insurer or the shared car driver's insurer; or as required by an airport concession agreement. The car sharing program shall retain these records for at least the duration of the applicable personal injury statute of limitations.

Source: L. 2019: Entire part added, (SB 19-090), ch. 391, p. 3496, § 1, effective January 1, 2020.

6-1-1208. Federal law - vicarious liability.

A car sharing program and a shared car owner are exempt from vicarious liability in accordance with 49 U.S.C. sec. 30106 and under any state or local law that imposes liability based only on vehicle ownership.

Source: L. 2019: Entire part added, (SB 19-090), ch. 391, p. 3497, § 1, effective January 1, 2020.

6-1-1209. Insurable interest.

(1) A car sharing program shall have an insurable interest in a shared car during the sharing period. This section does not create liability for a car sharing program for failure to maintain the insurance coverage required in section 6-1-1203 if insurance coverage is maintained in compliance with section 6-1-1203 by the shared car driver or the shared car owner.

(2) A car sharing program may own and maintain, as the named insured, one or more policies of automobile liability insurance that provide coverage in the amount of, in excess of, or optional to the amount of coverage required in this part 12. The coverage may include coverage for:

(a) Liability assumed by the car sharing program under a car sharing agreement;

(b) The liability of the shared car owner;

(c) Damage or loss to the shared car; or

(d) The liability of the shared car driver.

Source: L. 2019: Entire part added, (SB 19-090), ch. 391, p. 3497, § 1, effective January 1, 2020.

6-1-1210. Required disclosures and notices.

(1) A car sharing program shall, for each shared car participating in a car sharing agreement on its platform, do all of the following:

(a) Provide the shared car owner and the shared car driver with the terms and conditions of the car sharing agreement;

(b) Disclose to the shared car driver any costs or fees that are charged to the shared car driver under the car sharing agreement;

(c) Disclose to the shared car owner any costs or fees that are charged to the shared car owner under the car sharing agreement;

(d) Provide an emergency telephone number for a person capable of facilitating roadside assistance to the shared car driver;

(e) Disclose any right of the car sharing program to seek indemnification from the shared car owner or the shared car driver for economic loss sustained by the car sharing program caused by a breach of the car sharing agreement;

(f) Disclose that an automobile liability insurance policy issued to the shared car owner for the shared car or to the shared car driver does not provide a defense or indemnification for any claim asserted by the car sharing program;

(g) Disclose that the car sharing program's insurance coverage on the shared car owner and the shared car driver is in effect only during each sharing period and that the shared car may not have insurance coverage for use of the shared car by the shared car driver after the sharing termination time;

(h) Disclose any insurance or protection package costs that are charged to the shared car owner or the shared car driver;

(i) Disclose that the shared car owner's automobile liability insurance might not provide coverage for a shared car; and

(j) Disclose to the shared car driver any conditions in which the shared car driver is required to maintain a personal automobile liability policy as the primary coverage for the shared car in order to drive a shared car.

Source: L. 2019: Entire part added, (SB 19-090), ch. 391, p. 3497, § 1, effective January 1, 2020.

6-1-1211. Driver's license verification and data retention.

(1) A car sharing program shall not enter into a car sharing agreement with a shared car driver unless the driver:

(a) Holds a driver's license, issued under article 2 of title 42, that authorizes the driver to operate cars of the class of the shared car; or

(b) Is a nonresident who is exempt from licensure under section 42-2-102.

(2) A car sharing program shall keep a record of:

(a) The name and address of the shared car driver;

(b) The number of the driver's license of each shared car driver; and

(c) The date and place of issuance of the driver's license.

Source: L. 2019: Entire part added, (SB 19-090), ch. 391, p. 3498, § 1, effective January 1, 2020. **L. 2020:** IP(1) amended, (HB 20-1402), ch. 216, p. 1041, § 6, effective June 30.

6-1-1212. Shared car equipment.

A car sharing program is responsible for any equipment, including a GPS system, that is put in or on the car to monitor or facilitate the car sharing transaction. A car sharing program shall indemnify and hold harmless the shared car owner for any damage to or theft of the equipment during the sharing period, unless caused by the shared car owner. The car sharing program has the right to be indemnified from the shared car driver for any loss or damage to the equipment that occurs during the sharing period.

Source: L. 2019: Entire part added, (SB 19-090), ch. 391, p. 3498, § 1, effective January 1, 2020.

6-1-1213. Safety recalls.

(1) When a shared car owner registers a shared car with a car sharing program and before the shared car is available for car sharing, the car sharing program shall:

(a) Verify that the shared car does not have any open safety recalls for which the repairs have not been made; and

(b) Notify the shared car owner of the requirements under subsection (2) of this section.

(2) If the shared car owner has actual notice of a safety recall on the shared car, a shared car owner shall not make the shared car available with a car sharing program until the safety recall repair has been made.

(3) If a shared car owner has actual notice of a safety recall on a shared car while available for sharing with a car sharing program, the shared car owner shall remove the shared car's availability with the car sharing program:

(a) As soon as practicable, but no later than seventy-two hours, after receiving the notice of the safety recall; and

(b) Until the safety recall repair has been made.

(4) If a shared car owner has actual notice of a safety recall during the sharing period, the shared car owner shall notify both the shared car driver and the car sharing program about the safety recall.

Source: L. 2019: Entire part added, (SB 19-090), ch. 391, p. 3498, § 1, effective January 1, 2020.

6-1-1214. Enabling operation at airport.

(1) A car sharing program shall enter into an airport concession agreement before enabling car sharing at the airport, unless the airport explicitly and in writing waives the right to require an agreement.

(2) A car sharing program is enabling car sharing at an airport if the car sharing program or a shared car owner uses the car sharing program to:

(a) List vehicles parked on airport property or at airport facilities;

(b) Contract for transportation to or from airport facilities;

(c) Facilitate the use of a shared car to transport airport passengers on or off of airport property; or

(d) Promote or market a shared car to transport airport passengers on or off of airport property.

(3) An airport concession agreement may impose the taxes and fees that are imposed on other concessionaires operating at the airport.

(4) If a car sharing program fails to or refuses to enter into an airport concession agreement, the affected airport may seek an injunction prohibiting the car sharing program from operating at the airport and may seek damages and punitive damages against the car sharing program.

Source: L. 2019: Entire part added, (SB 19-090), ch. 391, p. 3499, § 1, effective January 1, 2020.

6-1-1215. Shared car accessibility.

(1) Effective January 1, 2028, at the time a shared car is first made available through a car sharing program, the program must enable the shared car owner to indicate whether the shared car has been modified for accessibility for individuals with disabilities.

(2) If a shared car owner has indicated that the shared car has been modified for accessibility pursuant to subsection (1) of this section, the shared car owner shall list what modifications have been made, including what adaptive equipment is available.

(3) A car sharing program that makes a reasonable effort to obtain accurate information from a shared car owner regarding any modification for accessibility is not liable for incorrect or false information provided by the shared car owner.

Source: L. 2024: Entire section added, (HB 24-1161), ch. 322, p. 2147, § 1, effective June 3.

PART 13

COLORADO PRIVACY ACT

Law reviews: For article, "Comprehensive Data Privacy Rules Reach Colorado: How to Comply with the Colorado Privacy Act", see 52 Colo. Law. 24 (Oct. 2023); "Data Controllers as Data Fiduciaries: Theory, Definitions & Burdens of Proof", see 95 U. Colo. L. Rev. 175 (2024).

6-1-1301. Short title.

The short title of this part 13 is the "Colorado Privacy Act".

Source: L. 2021: Entire part added, (SB 21-190), ch. 483, p. 3445, § 1, effective July 1, 2023.

6-1-1302. Legislative declaration.

(1) The general assembly hereby:

(a) Finds that:

(I) The people of Colorado regard their privacy as a fundamental right and an essential element of their individual freedom;

(II) Colorado's constitution explicitly provides the right to privacy under section 7 of article II, and fundamental privacy rights have long been, and continue to be, integral to protecting Coloradans and to safeguarding our democratic republic;

(III) Ongoing advances in technology have produced exponential growth in the volume and variety of personal data from individuals, including minors, being generated, collected, stored, and analyzed, and these advances present both promise and potential peril;

(IV) The ability to harness and use data in positive ways is driving innovation and brings beneficial technologies to society, but it has also created risks to privacy and freedom; and

(V) The unauthorized disclosure of personal information, including a minor's personal information, and loss of privacy can have devastating impacts ranging from financial fraud, identity theft, and unnecessary costs in personal time and finances to destruction of property, harassment, reputational damage, emotional distress, and physical harm;

(b) Determines that:

(I) Technological innovation and new uses of data can help solve societal problems and improve lives, and it is possible to build a world where technological innovation and privacy can coexist; and

(II) States across the United States are looking to this part 13 and similar models to enact state-based data privacy requirements, including data privacy requirements specifically targeted at minors' data, and to exercise the leadership that is lacking at the national level; and

(c) Declares that:

(I) By enacting this part 13, Colorado will be among the states that empower consumers, including minors, to protect their privacy and require companies to be responsible custodians of data as they continue to innovate;

(II) This part 13 addresses issues of statewide concern and:

(A) Provides consumers the right to access, correct, and delete personal data and the right to opt out not only of the sale of personal data but also of the collection and use of personal data;

(A.5) Provides minors the right to control their personal data;

(B) Imposes an affirmative obligation upon companies to safeguard personal data; to provide clear, understandable, and transparent information to consumers about how their personal data are used; and to strengthen compliance and accountability by requiring data protection assessments in the collection and use of personal data; and

(C) Empowers the attorney general and district attorneys to access and evaluate a company's data protection assessments, to impose penalties where violations occur, and to prevent future violations.

Source: L. 2021: Entire part added, (SB 21-190), ch. 483, p. 3445, § 1, effective July 1, 2023. **L. 2024:** (1)(a)(III), (1)(a)(V), (1)(b)(II), and (1)(c)(I) amended and (1)(c)(II)(A.5) added, (SB 24-041), ch. 296, p. 2018, § 1, effective October 1, 2025.

6-1-1303. Definitions.

As used in this part 13, unless the context otherwise requires:

(1) "Adult" means an individual who is eighteen years of age or older.

(1.5) (a) "Affiliate" means a legal entity that controls, is controlled by, or is under common control with another legal entity.

(b) As used in subsection (1.5)(a) of this section, "control" means:

(I) Ownership of, control of, or power to vote twenty-five percent or more of the outstanding shares of any class of voting security of the entity, directly or indirectly, or acting through one or more other persons;

(II) Control in any manner over the election of a majority of the directors, trustees, or general partners of the entity or of individuals exercising similar functions; or

(III) The power to exercise, directly or indirectly, a controlling influence over the management or policies of the entity as determined by the applicable prudential regulator, as that term is defined in 12 U.S.C. sec. 5481 (24), if any.

(2) "Authenticate" means to use reasonable means to determine that a request to exercise any of the rights in section 6-1-1306 (1) is being made by or on behalf of the consumer who is entitled to exercise the rights.

(2.2) "Biological data" means data generated by the technological processing, measurement, or analysis of an individual's biological, genetic, biochemical, physiological, or neural properties, compositions, or activities or of an individual's body or bodily functions, which data is used or intended to be used, singly or in combination with other personal data, for identification purposes. "Biological data" includes neural data.

(2.4) (a) "Biometric data" means one or more biometric identifiers that are used or intended to be used, singly or in combination with each other or with other personal data, for identification purposes.

(b) "Biometric data" does not include the following unless the biometric data is used for identification purposes:

(I) A digital or physical photograph;

(II) An audio or voice recording; or

(III) Any data generated from a digital or physical photograph or an audio or video recording.

(2.5) "Biometric identifier" means data generated by the technological processing, measurement, or analysis of a consumer's biological, physical, or behavioral characteristics, which data can be processed for the purpose of uniquely identifying an individual. "Biometric identifier" includes:

(a) A fingerprint;

(b) A voiceprint;

(c) A scan or record of an eye retina or iris;

(d) A facial map, facial geometry, or facial template; or

(e) Other unique biological, physical, or behavioral patterns or characteristics.

(3) "Business associate" has the meaning established in 45 CFR 160.103.

(4) "Child" means an individual under thirteen years of age.

(5) "Consent" means a clear, affirmative act signifying a consumer's freely given, specific, informed, and unambiguous agreement, such as by a written statement, including by electronic means, or other clear, affirmative action by which the consumer signifies agreement to the processing of personal data. The following does not constitute consent:

(a) Acceptance of a general or broad terms of use or similar document that contains descriptions of personal data processing along with other, unrelated information;

(b) Hovering over, muting, pausing, or closing a given piece of content; and

(c) Agreement obtained through dark patterns.

(6) "Consumer":

(a) Means an individual who is a Colorado resident acting only in an individual or household context; and

(b) Does not include an individual acting in a commercial or employment context, as a job applicant, or as a beneficiary of someone acting in an employment context.

(7) "Controller" means a person that, alone or jointly with others, determines the purposes for and means of processing personal data.

(8) "Covered entity" has the meaning established in 45 CFR 160.103.

(9) "Dark pattern" means a user interface designed or manipulated with the substantial effect of subverting or impairing user autonomy, decision-making, or choice.

(10) "Decisions that produce legal or similarly significant effects concerning a consumer" means a decision that results in the provision or denial of financial or lending services, housing, insurance, education enrollment or opportunity, criminal justice, employment opportunities, health-care services, or access to essential goods or services.

(11) "De-identified data" means data that cannot reasonably be used to infer information about, or otherwise be linked to, an identified or identifiable individual, or a device linked to such an individual, if the controller that possesses the data:

(a) Takes reasonable measures to ensure that the data cannot be associated with an individual;

(b) Publicly commits to maintain and use the data only in a de-identified fashion and not attempt to re-identify the data; and

(c) Contractually obligates any recipients of the information to comply with the requirements of this subsection (11).

(12) "Health-care facility" means any entity that is licensed, certified, or otherwise authorized or permitted by law to administer medical treatment in this state.

(13) "Health-care information" means individually identifiable information relating to the past, present, or future health status of an individual.

(14) "Health-care provider" means a person licensed, certified, or registered in this state to practice medicine, pharmacy, chiropractic, nursing, physical therapy, podiatry, dentistry, optometry, occupational therapy, or other healing arts under title 12.

(14.5) "Heightened risk of harm to minors" means processing the personal data of minors in a manner that presents a reasonably foreseeable risk that could cause:

(a) Unfair or deceptive treatment of, or unlawful disparate impact on, minors;

(b) Financial, physical, or reputational injury to minors;

(c) Unauthorized disclosure of the personal data of minors as a result of a security breach, as defined in section 6-1-716 (1)(h); or

(d) Physical or other intrusion upon the solitude or seclusion, or the private affairs or concerns, of minors if the intrusion would be offensive to a reasonable person.

(15) "HIPAA" means the federal "Health Insurance Portability and Accountability Act of 1996", as amended, 42 U.S.C. secs. 1320d to 1320d-9.

(16) "Identified or identifiable individual" means an individual who can be readily identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, specific geolocation data, or an online identifier.

(16.5) "Minor" means any consumer who is under eighteen years of age.

(16.7) "Neural data" means information that is generated by the measurement of the activity of an individual's central or peripheral nervous systems and that can be processed by or with the assistance of a device.

(16.8) "Online service, product, or feature":

(a) Means any service, product, or feature that is provided online; and

(b) Does not include:

(I) Telecommunications service, as defined in 47 U.S.C. sec. 153 (53), as amended;

(II) Broadband internet access service, as defined in 47 CFR 54.400 (l), as amended; or

(III) The delivery or use of a physical product.

(17) "Personal data":

(a) Means information that is linked or reasonably linkable to an identified or identifiable individual; and

(b) Does not include de-identified data or publicly available information. As used in this subsection (17)(b), "publicly available information" means information that is lawfully made available from federal, state, or local government records and information that a controller has a reasonable basis to believe the consumer has lawfully made available to the general public.

(17.4) (a) "Precise geolocation data" means information derived from technology that accurately identifies the present or past location of a device that links or is linkable to an individual within a radius of one thousand eight hundred fifty feet.

(b) "Precise geolocation data" includes:

(I) Global positioning system (GPS) coordinates within a radius of one thousand eight hundred fifty feet; or

(II) Any data derived from a device and that is used or intended to be used to locate a consumer within a geographic area within a radius of one thousand eight hundred fifty feet.

(c) "Precise geolocation data" does not include the content of communications or any data generated by or connected to advanced utility meeting infrastructure systems or equipment for use by a utility.

(17.5) Repealed.

(18) "Process" or "processing" means the collection, use, sale, storage, disclosure, analysis, deletion, or modification of personal data and includes the actions of a controller directing a processor to process personal data.

(19) "Processor" means a person that processes personal data on behalf of a controller.

(20) "Profiling" means any form of automated processing of personal data to evaluate, analyze, or predict personal aspects concerning an identified or identifiable individual's

economic situation, health, personal preferences, interests, reliability, behavior, location, or movements.

(21) "Protected health information" has the meaning established in 45 CFR 160.103.

(22) "Pseudonymous data" means personal data that can no longer be attributed to a specific individual without the use of additional information if the additional information is kept separately and is subject to technical and organizational measures to ensure that the personal data are not attributed to a specific individual.

(23) (a) "Sale", "sell", or "sold" means the exchange of personal data for monetary or other valuable consideration by a controller to a third party.

(b) "Sale", "sell", or "sold" does not include the following:

(I) The disclosure of personal data to a processor that processes the personal data on behalf of a controller;

(II) The disclosure of personal data to a third party for purposes of providing a product or service requested by the consumer;

(III) The disclosure or transfer of personal data to an affiliate of the controller;

(IV) The disclosure or transfer to a third party of personal data as an asset that is part of a proposed or actual merger, acquisition, bankruptcy, or other transaction in which the third party assumes control of all or part of the controller's assets; or

(V) The disclosure of personal data:

(A) That a consumer directs the controller to disclose or intentionally discloses by using the controller to interact with a third party; or

(B) Intentionally made available by a consumer to the general public via a channel of mass media.

(24) "Sensitive data" means:

(a) Personal data revealing racial or ethnic origin, religious beliefs, a mental or physical health condition or diagnosis, sex life or sexual orientation, or citizenship or citizenship status;

(b) Genetic or biometric data that may be processed for the purpose of uniquely identifying an individual;

(c) Personal data from a known child;

(d) Biological data; or

(e) Precise geolocation data.

(25) "Targeted advertising":

(a) Means displaying to a consumer an advertisement that is selected based on personal data obtained or inferred over time from the consumer's activities across nonaffiliated websites, applications, or online services to predict consumer preferences or interests; and

(b) Does not include:

(I) Advertising to a consumer in response to the consumer's request for information or feedback;

(II) Advertisements based on activities within a controller's own websites or online applications;

(III) Advertisements based on the context of a consumer's current search query, visit to a website, or online application; or

(IV) Processing personal data solely for measuring or reporting advertising performance, reach, or frequency.

(26) "Third party" means a person, public authority, agency, or body other than a consumer, controller, processor, or affiliate of the processor or the controller.

Source: L. 2021: Entire part added, (SB 21-190), ch. 483, p. 3446, § 1, effective July 1, 2023. **L. 2024:** (2.5), (16.7), and (24)(d) added and (24)(b) and (24)(c) amended, (HB 24-1058), ch. 68, p. 224, § 2, effective August 7; (2.2) and (2.4) added, (HB 24-1130), ch. 313, p. 2107, § 3, effective July 1, 2025; (1) amended and (1.5), (14.5), (16.5), (16.8), and (17.5) added, (SB 24-041), ch. 296, p. 2019, § 1, effective October 1, 2025. **L. 2025:** (17.4) and (24)(e) added, (17.5) repealed, and (24)(c) and (24)(d) amended, (SB 25-276), ch. 240, pp. 1220, 1221, §§ 18, 19, effective May 23.

Editor's note: (1) Subsection (2.2) was numbered as (2.5) in HB 24-1058 but was renumbered on revision for ease of location; subsections (2.4) and (2.5) were numbered as (2.2) and (2.4) in HB 24-1130 but were renumbered on revision for ease of location.

(2) Subsections (17.4), (17.4)(a), (17.4)(a)(I), (17.4)(a)(II), and (17.4)(b) were renumbered on revision as subsections (17.4)(a), (17.4)(b), (17.4)(b)(I), (17.4)(b)(II), and (17.4)(c), respectively, in 2025.

(3) Subsection (17.5) was added by SB 24-041, effective October 1, 2025. However, those amendments were superseded by the repeal of subsection (17.5) by SB 25-276, effective May 23, 2025.

Cross references: For the legislative declaration in HB 24-1058, see section 1 of chapter 68, Session Laws of Colorado 2024. For the legislative declaration in HB 24-1130, see section 1 of chapter 313, Session Laws of Colorado 2024. For the legislative declaration in SB 25-276, see section 1 of chapter 240, Session Laws of Colorado 2025.

6-1-1304. Applicability of part.

(1) Except as specified in subsection (2) of this section:

(a) This part 13, other than sections 6-1-1305.5, 6-1-1308.5, and 6-1-1309.5, applies to a controller that:

(I) (A) Conducts business in Colorado or produces or delivers commercial products or services that are intentionally targeted to residents of Colorado; and

(B) Satisfies one or both of the following thresholds: controls or processes the personal data of one hundred thousand consumers or more during a calendar year; or derives revenue or receives a discount on the price of goods or services from the sale of personal data and processes or controls the personal data of twenty-five thousand consumers or more; or

(II) Controls or processes any amount of biometric identifiers or biometric data regardless of the amount of biometric identifiers or biometric data controlled or processed annually; except that a controller that meets the qualifications of this subsection (1)(b) but does not meet the qualifications of subsection (1)(a) of this section shall comply with this part 13 only for the purposes of a biometric identifier or biometric data that the controller collects and processes;

(b) Sections 6-1-1305.5, 6-1-1308.5, and 6-1-1309.5 to 6-1-1313 apply to a controller that conducts business in Colorado or delivers commercial products or services that are intentionally targeted to residents of Colorado.

(2) This part 13 does not apply to:

(a) Protected health information that is collected, stored, and processed by a covered entity or its business associates;

(b) Health-care information that is governed by part 8 of article 1 of title 25 solely for the purpose of access to medical records;

(c) Patient identifying information, as defined in 42 CFR 2.11, that are governed by and collected and processed pursuant to 42 CFR 2, established pursuant to 42 U.S.C. sec. 290dd-2;

(d) Identifiable private information, as defined in 45 CFR 46.102, for purposes of the federal policy for the protection of human subjects pursuant to 45 CFR 46; identifiable private

information that is collected as part of human subjects research pursuant to the ICH E6 Good Clinical Practice Guideline issued by the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use or the protection of human subjects under 21 CFR 50 and 56; or personal data used or shared in research conducted in accordance with one or more of the categories set forth in this subsection (2)(d);

(e) Information and documents created by a covered entity for purposes of complying with HIPAA and its implementing regulations;

(f) Patient safety work product, as defined in 42 CFR 3.20, that is created for purposes of patient safety improvement pursuant to 42 CFR 3, established pursuant to 42 U.S.C. secs. 299b-21 to 299b-26;

(g) Information that is:

(I) De-identified in accordance with the requirements for de-identification set forth in 45 CFR 164; and

(II) Derived from any of the health-care-related information described in this section;

(h) Information maintained in the same manner as information under subsections (2)(a) to (2)(g) of this section by:

(I) A covered entity or business associate;

(II) A health-care facility or health-care provider; or

(III) A program of a qualified service organization as defined in 42 CFR 2.11;

(i) (I) Except as provided in subsection (2)(i)(II) of this section, an activity involving the collection, maintenance, disclosure, sale, communication, or use of any personal data bearing on a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living by:

(A) A consumer reporting agency as defined in 15 U.S.C. sec. 1681a (f);

(B) A furnisher of information as set forth in 15 U.S.C. sec. 1681s-2 that provides information for use in a consumer report, as defined in 15 U.S.C. sec. 1681a (d); or

(C) A user of a consumer report as set forth in 15 U.S.C. sec. 1681b.

(II) This subsection (2)(i) applies only to the extent that the activity is regulated by the federal "Fair Credit Reporting Act", 15 U.S.C. sec. 1681 et seq., as amended, and the personal data are not collected, maintained, disclosed, sold, communicated, or used except as authorized by the federal "Fair Credit Reporting Act", as amended.

(j) Personal data:

(I) Collected and maintained for purposes of article 22 of title 10;

(II) Collected, processed, sold, or disclosed pursuant to the federal "Gramm-Leach-Bliley Act", 15 U.S.C. sec. 6801 et seq., as amended, and implementing regulations, if the collection, processing, sale, or disclosure is in compliance with that law;

(III) Collected, processed, sold, or disclosed pursuant to the federal "Driver's Privacy Protection Act of 1994", 18 U.S.C. sec. 2721 et seq., as amended, if the collection, processing, sale, or disclosure is regulated by that law, including implementing rules, regulations, or exemptions;

(IV) Regulated by the federal "Children's Online Privacy Protection Act of 1998", 15 U.S.C. secs. 6501 to 6506, as amended, if collected, processed, and maintained in compliance with that law; or

(V) Regulated by the federal "Family Educational Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232g et seq., as amended, and its implementing regulations;

(k) Data maintained for employment records purposes;

(l) An air carrier as defined in and regulated under 49 U.S.C. sec. 40101 et seq., as amended, and 49 U.S.C. sec. 41713, as amended;

(m) A national securities association registered pursuant to the federal "Securities Exchange Act of 1934", 15 U.S.C. sec. 78o-3, as amended, or implementing regulations;

(n) Customer data maintained by a public utility as defined in section 40-1-103 (1)(a)(I) or an authority as defined in section 43-4-503 (1), if the data are not collected, maintained, disclosed, sold, communicated, or used except as authorized by state and federal law;

(o) Data maintained by a state institution of higher education, as defined in section 23-18-102 (10), the state, the judicial department of the state, or a county, city and county, or municipality if the data is collected, maintained, disclosed, communicated, and used as authorized by state and federal law for noncommercial purposes. This subsection (2)(o) does not effect any other exemption available under this part 13.

(p) Information used and disclosed in compliance with 45 CFR 164.512; or

(q) A financial institution or an affiliate of a financial institution as defined by and that is subject to the federal "Gramm-Leach-Bliley Act", 15 U.S.C. sec. 6801 et seq., as amended, and implementing regulations, including Regulation P, 12 CFR 1016.

(3) The obligations imposed on controllers or processors under this part 13 do not:

(a) Restrict a controller's or processor's ability to:

(I) Comply with federal, state, or local laws, rules, or regulations;

(II) Comply with a civil, criminal, or regulatory inquiry, investigation, subpoena, or summons by federal, state, local, or other governmental authorities;

(III) Cooperate with law enforcement agencies concerning conduct or activity that the controller or processor reasonably and in good faith believes may violate federal, state, or local law;

(IV) Investigate, exercise, prepare for, or defend actual or anticipated legal claims;

(V) Conduct internal research to improve, repair, or develop products, services, or technology;

(VI) Identify and repair technical errors that impair existing or intended functionality;

(VII) Perform internal operations that are reasonably aligned with the expectations of the consumer based on the consumer's existing relationship with the controller;

(VIII) Provide a product or service specifically requested by a consumer or the parent or guardian of a child, perform a contract to which the consumer is a party, or take steps at the request of the consumer prior to entering into a contract;

(IX) Protect the vital interests of the consumer or of another individual;

(X) Prevent, detect, protect against, or respond to security incidents, identity theft, fraud, harassment, or malicious, deceptive, or illegal activity; preserve the integrity or security of systems; or investigate, report, or prosecute those responsible for any such action;

(XI) Process personal data for reasons of public interest in the area of public health, but solely to the extent that the processing:

(A) Is subject to suitable and specific measures to safeguard the rights of the consumer whose personal data are processed; and

(B) Is under the responsibility of a professional subject to confidentiality obligations under federal, state, or local law; or

(XII) Assist another person with any of the activities set forth in this subsection (3);

(b) Apply where compliance by the controller or processor with this part 13 would violate an evidentiary privilege under Colorado law;

(c) Prevent a controller or processor from providing personal data concerning a consumer to a person covered by an evidentiary privilege under Colorado law as part of a privileged communication;

(d) Apply to information made available by a third party that the controller has a reasonable basis to believe is protected speech pursuant to applicable law;

(e) Apply to the processing of personal data by an individual in the course of a purely personal or household activity;

(f) Require a controller or processor to implement an age verification or age-gating system or otherwise affirmatively collect the age of consumers, but a controller that chooses to conduct commercially reasonable age estimation to determine which consumers are minors is not liable for an erroneous age estimation; and

(g) Impose any obligation on a controller or processor that adversely affects the rights of any person to freedom of speech or freedom of the press guaranteed by the first amendment to the United States constitution.

(4) Personal data that are processed by a controller pursuant to an exception provided by this section:

(a) Shall not be processed for any purpose other than a purpose expressly listed in this section or as otherwise authorized by this part 13; and

(b) Shall be processed solely to the extent that the processing is necessary, reasonable, and proportionate to the specific purpose or purposes listed in this section or as otherwise authorized by this part 13.

(5) If a controller processes personal data pursuant to an exemption in this section, the controller bears the burden of demonstrating that the processing qualifies for the exemption and complies with the requirements in subsection (4) of this section.

Source: L. 2021: Entire part added, (SB 21-190), ch. 483, p. 3450, § 1, effective July 1, 2023. **L. 2024:** (1) amended, (HB 24-1130), ch. 313, p. 2108, § 4, effective July 1, 2025; (1), (3)(d), and (3)(e) amended and (3)(f) and (3)(g) added, (SB 24-041), ch. 296, p. 2021, § 3, effective October 1, 2025.

Editor's note: Amendments to subsection (1) by SB 24-041 and HB 24-1130 were harmonized, effective October 1, 2025.

Cross references: For the legislative declaration in HB 24-1130, see section 1 of chapter 313, Session Laws of Colorado 2024.

6-1-1305. Responsibility according to role.

(1) Controllers and processors shall meet their respective obligations established under this part 13.

(2) Processors shall adhere to the instructions of the controller and assist the controller to meet its obligations under this part 13. Taking into account the nature of processing and the information available to the processor, the processor shall assist the controller by:

(a) Taking appropriate technical and organizational measures, insofar as this is possible, for the fulfillment of the controller's obligation to respond to consumer requests to exercise their rights pursuant to section 6-1-1306;

(b) Helping to meet the controller's obligations in relation to the security of processing the personal data and in relation to the notification of a breach of the security of the system pursuant to section 6-1-716; and

(c) Providing information to the controller necessary to enable the controller to conduct and document any data protection assessments required by section 6-1-1309. The controller and processor are each responsible for only the measures allocated to them.

(3) Notwithstanding the instructions of the controller, a processor shall:

(a) Ensure that each person processing the personal data is subject to a duty of confidentiality with respect to the data; and

(b) Engage a subcontractor only after providing the controller with an opportunity to object and pursuant to a written contract in accordance with subsection (5) of this section that requires the subcontractor to meet the obligations of the processor with respect to the personal data.

(4) Taking into account the context of processing, the controller and the processor shall implement appropriate technical and organizational measures to ensure a level of security appropriate to the risk and establish a clear allocation of the responsibilities between them to implement the measures.

(5) Processing by a processor must be governed by a contract between the controller and the processor that is binding on both parties and that sets out:

(a) The processing instructions to which the processor is bound, including the nature and purpose of the processing;

(b) The type of personal data subject to the processing, and the duration of the processing;

(c) The requirements imposed by this subsection (5) and subsections (3) and (4) of this section; and

(d) The following requirements:

(I) At the choice of the controller, the processor shall delete or return all personal data to the controller as requested at the end of the provision of services, unless retention of the personal data is required by law;

(II) (A) The processor shall make available to the controller all information necessary to demonstrate compliance with the obligations in this part 13; and

(B) The processor shall allow for, and contribute to, reasonable audits and inspections by the controller or the controller's designated auditor. Alternatively, the processor may, with the controller's consent, arrange for a qualified and independent auditor to conduct, at least annually and at the processor's expense, an audit of the processor's policies and technical and organizational measures in support of the obligations under this part 13 using an appropriate and accepted control standard or framework and audit procedure for the audits as applicable. The processor shall provide a report of the audit to the controller upon request.

(6) In no event may a contract relieve a controller or a processor from the liabilities imposed on them by virtue of its role in the processing relationship as defined by this part 13.

(7) Determining whether a person is acting as a controller or processor with respect to a specific processing of data is a fact-based determination that depends upon the context in which personal data are to be processed. A person that is not limited in its processing of personal data pursuant to a controller's instructions, or that fails to adhere to the instructions, is a controller and not a processor with respect to a specific processing of data. A processor that continues to adhere to a controller's instructions with respect to a specific processing of personal data remains a processor. If a processor begins, alone or jointly with others, determining the purposes and means of the processing of personal data, it is a controller with respect to the processing.

(8) (a) A controller or processor that discloses personal data to another controller or processor in compliance with this part 13 does not violate this part 13 if the recipient processes the personal data in violation of this part 13, and, at the time of disclosing the personal data, the disclosing controller or processor did not have actual knowledge that the recipient intended to commit a violation.

(b) A controller or processor receiving personal data from a controller or processor in compliance with this part 13 as specified in subsection (8)(a) of this section does not violate this part 13 if the controller or processor from which it receives the personal data fails to comply with applicable obligations under this part 13.

Source: L. 2021: Entire part added, (SB 21-190), ch. 483, p. 3455, § 1, effective July 1, 2023.

6-1-1305.5. Responsibility according to role - processing data of minors.

(1) A processor shall adhere to the instructions of a controller and shall assist the controller to meet the controller's obligations under sections 6-1-1308.5 and 6-1-1309.5, taking into account the nature of the processing and the information available to the processor. The processor shall assist the controller by:

(a) Taking appropriate technical and organizational measures, insofar as this is possible, for the fulfillment of the controller's obligations under section 6-1-1308.5; and

(b) Providing information to enable the controller to conduct and document data protection assessments pursuant to section 6-1-1309.5.

(2) A contract between a controller and a processor must satisfy the requirements in section 6-1-1305 (5).

(3) Nothing in this section shall be construed to relieve a controller or processor from the liabilities imposed on the controller or processor by virtue of the controller's or processor's role in the processing relationship as described in sections 6-1-1308.5 and 6-1-1309.5.

(4) Determining whether a person is acting as a controller or processor with respect to a specific processing of data is a fact-based determination that depends upon the context in which personal data is to be processed. A person that is not limited in the person's processing of personal data pursuant to a controller's instructions, or that fails to adhere to the instructions, is a controller and not a processor with respect to a specific processing of data. A processor that continues to adhere to a controller's instructions with respect to a specific processing of personal data remains a processor. If a processor begins, alone or jointly with others, determining the purposes and means of the processing of personal data, the processor is a controller with respect to the processing and may be subject to an enforcement action under section 6-1-1311.

Source: L. 2024: Entire section added, (SB 24-041), ch. 296, p. 2021, § 4, effective October 1, 2025.

6-1-1306. Consumer personal data rights.

(1) Consumers may exercise the following rights by submitting a request using the methods specified by the controller in the privacy notice required under section 6-1-1308 (1)(a). The method must take into account the ways in which consumers normally interact with the controller, the need for secure and reliable communication relating to the request, and the ability of the controller to authenticate the identity of the consumer making the request. Controllers shall not require a consumer to create a new account in order to exercise consumer rights pursuant to this section but may require a consumer to use an existing account. A consumer may

submit a request at any time to a controller specifying which of the following rights the consumer wishes to exercise:

(a) **Right to opt out.**

(I) A consumer has the right to opt out of the processing of personal data concerning the consumer for purposes of:

(A) Targeted advertising;

(B) The sale of personal data; or

(C) Profiling in furtherance of decisions that produce legal or similarly significant effects concerning a consumer.

(II) A consumer may authorize another person, acting on the consumer's behalf, to opt out of the processing of the consumer's personal data for one or more of the purposes specified in subsection (1)(a)(I) of this section, including through a technology indicating the consumer's intent to opt out such as a web link indicating a preference or browser setting, browser extension, or global device setting. A controller shall comply with an opt-out request received from a person authorized by the consumer to act on the consumer's behalf if the controller is able to authenticate, with commercially reasonable effort, the identity of the consumer and the authorized agent's authority to act on the consumer's behalf.

(III) A controller that processes personal data for purposes of targeted advertising or the sale of personal data shall provide a clear and conspicuous method to exercise the right to opt out of the processing of personal data concerning the consumer pursuant to subsection (1)(a)(I) of this section. The controller shall provide the opt-out method clearly and conspicuously in any privacy notice required to be provided to consumers under this part 13, and in a clear, conspicuous, and readily accessible location outside the privacy notice.

(IV) (A) Repealed.

(B) Effective July 1, 2024, a controller that processes personal data for purposes of targeted advertising or the sale of personal data shall allow consumers to exercise the right to opt out of the processing of personal data concerning the consumer for purposes of targeted advertising or the sale of personal data pursuant to subsections (1)(a)(I)(A) and (1)(a)(I)(B) of this section by controllers through a user-selected universal opt-out mechanism that meets the technical specifications established by the attorney general pursuant to section 6-1-1313.

(C) Notwithstanding a consumer's decision to exercise the right to opt out of the processing of personal data through a universal opt-out mechanism pursuant to subsection (1)(a)(IV)(B) of this section, a controller may enable the consumer to consent, through a web page, application, or a similar method, to the processing of the consumer's personal data for purposes of targeted advertising or the sale of personal data, and the consent takes precedence over any choice

reflected through the universal opt-out mechanism. Before obtaining a consumer's consent to process personal data for purposes of targeted advertising or the sale of personal data pursuant to this subsection (1)(a)(IV)(C), a controller shall provide the consumer with a clear and conspicuous notice informing the consumer about the choices available under this section, describing the categories of personal data to be processed and the purposes for which they will be processed, and explaining how and where the consumer may withdraw consent. The web page, application, or other means by which a controller obtains a consumer's consent to process personal data for purposes of targeted advertising or the sale of personal data must also allow the consumer to revoke the consent as easily as it is affirmatively provided.

(b) **Right of access.** A consumer has the right to confirm whether a controller is processing personal data concerning the consumer and to access the consumer's personal data.

(c) **Right to correction.** A consumer has the right to correct inaccuracies in the consumer's personal data, taking into account the nature of the personal data and the purposes of the processing of the consumer's personal data.

(d) **Right to deletion.** A consumer has the right to delete personal data concerning the consumer.

(e) **Right to data portability.** When exercising the right to access personal data pursuant to subsection (1)(b) of this section, a consumer has the right to obtain the personal data in a portable and, to the extent technically feasible, readily usable format that allows the consumer to transmit the data to another entity without hindrance. A consumer may exercise this right no more than two times per calendar year. Nothing in this subsection (1)(e) requires a controller to provide the data to the consumer in a manner that would disclose the controller's trade secrets.

(2) **Responding to consumer requests.**

(a) A controller shall inform a consumer of any action taken on a request under subsection (1) of this section without undue delay and, in any event, within forty-five days after receipt of the request. The controller may extend the forty-five-day period by forty-five additional days where reasonably necessary, taking into account the complexity and number of the requests. The controller shall inform the consumer of an extension within forty-five days after receipt of the request, together with the reasons for the delay.

(b) If a controller does not take action on the request of a consumer, the controller shall inform the consumer, without undue delay and, at the latest, within forty-five days after receipt of the request, of the reasons for not taking action and instructions for how to appeal the decision with the controller as described in subsection (3) of this section.

(c) Upon request, a controller shall provide to the consumer the information specified in this section free of charge; except that, for a second or subsequent request within a twelve-month

period, the controller may charge an amount calculated in the manner specified in section 24-72-205 (5)(a).

(d) A controller is not required to comply with a request to exercise any of the rights under subsection (1) of this section if the controller is unable to authenticate the request using commercially reasonable efforts, in which case the controller may request the provision of additional information reasonably necessary to authenticate the request.

(3) (a) A controller shall establish an internal process whereby consumers may appeal a refusal to take action on a request to exercise any of the rights under subsection (1) of this section within a reasonable period after the consumer's receipt of the notice sent by the controller under subsection (2)(b) of this section. The appeal process must be conspicuously available and as easy to use as the process for submitting a request under this section.

(b) Within forty-five days after receipt of an appeal, a controller shall inform the consumer of any action taken or not taken in response to the appeal, along with a written explanation of the reasons in support of the response. The controller may extend the forty-five-day period by sixty additional days where reasonably necessary, taking into account the complexity and number of requests serving as the basis for the appeal. The controller shall inform the consumer of an extension within forty-five days after receipt of the appeal, together with the reasons for the delay.

(c) The controller shall inform the consumer of the consumer's ability to contact the attorney general if the consumer has concerns about the result of the appeal.

Source: L. 2021: Entire part added, (SB 21-190), ch. 483, p. 3457, § 1, effective July 1, 2023.

Editor's note: Subsection (1)(a)(IV)(A) provided for the repeal of subsection (1)(a)(IV)(A), effective July 1, 2024. (See L. 2021, p. 3457.)

6-1-1307. Processing de-identified data.

(1) This part 13 does not require a controller or processor to do any of the following solely for purposes of complying with this part 13:

(a) Reidentify de-identified data;

(b) Comply with an authenticated consumer request to access, correct, delete, or provide personal data in a portable format pursuant to section 6-1-1306 (1), if all of the following are true:

(I) (A) The controller is not reasonably capable of associating the request with the personal data; or

(B) It would be unreasonably burdensome for the controller to associate the request with the personal data;

(II) The controller does not use the personal data to recognize or respond to the specific consumer who is the subject of the personal data or associate the personal data with other personal data about the same specific consumer; and

(III) The controller does not sell the personal data to any third party or otherwise voluntarily disclose the personal data to any third party, except as otherwise authorized by the consumer; or

(c) Maintain data in identifiable form or collect, obtain, retain, or access any data or technology in order to enable the controller to associate an authenticated consumer request with personal data.

(2) A controller that uses de-identified data shall exercise reasonable oversight to monitor compliance with any contractual commitments to which the de-identified data are subject and shall take appropriate steps to address any breaches of contractual commitments.

(3) The rights contained in section 6-1-1306 (1)(b) to (1)(e) do not apply to pseudonymous data if the controller can demonstrate that the information necessary to identify the consumer is kept separately and is subject to effective technical and organizational controls that prevent the controller from accessing the information.

Source: L. 2021: Entire part added, (SB 21-190), ch. 483, p. 3460, § 1, effective July 1, 2023.

6-1-1308. Duties of controllers.

(1) **Duty of transparency.**

(a) A controller shall provide consumers with a reasonably accessible, clear, and meaningful privacy notice that includes:

(I) The categories of personal data collected or processed by the controller or a processor;

(II) The purposes for which the categories of personal data are processed;

(III) How and where consumers may exercise the rights pursuant to section 6-1-1306, including the controller's contact information and how a consumer may appeal a controller's action with regard to the consumer's request;

(IV) The categories of personal data that the controller shares with third parties, if any; and

(V) The categories of third parties, if any, with whom the controller shares personal data.

(b) If a controller sells personal data to third parties or processes personal data for targeted advertising, the controller shall clearly and conspicuously disclose the sale or processing, as well as the manner in which a consumer may exercise the right to opt out of the sale or processing.

(c) A controller shall not:

(I) Require a consumer to create a new account in order to exercise a right; or

(II) Based solely on the exercise of a right and unrelated to feasibility or the value of a service, increase the cost of, or decrease the availability of, the product or service.

(d) Nothing in this part 13 shall be construed to require a controller to provide a product or service that requires the personal data of a consumer that the controller does not collect or maintain or to prohibit a controller from offering a different price, rate, level, quality, or selection of goods or services to a consumer, including offering goods or services for no fee, if the offer is related to a consumer's voluntary participation in a bona fide loyalty, rewards, premium features, discount, or club card program.

(2) **Duty of purpose specification.** A controller shall specify the express purposes for which personal data are collected and processed.

(3) **Duty of data minimization.** A controller's collection of personal data must be adequate, relevant, and limited to what is reasonably necessary in relation to the specified purposes for which the data are processed.

(4) **Duty to avoid secondary use.** A controller shall not process personal data for purposes that are not reasonably necessary to or compatible with the specified purposes for which the personal data are processed, unless the controller first obtains the consumer's consent.

(5) **Duty of care.** A controller shall take reasonable measures to secure personal data during both storage and use from unauthorized acquisition. The data security practices must be appropriate to the volume, scope, and nature of the personal data processed and the nature of the business.

(6) **Duty to avoid unlawful discrimination.** A controller shall not process personal data in violation of state or federal laws that prohibit unlawful discrimination against consumers.

(7) **Duty regarding sensitive data.** A controller shall not process or sell a consumer's sensitive data without first obtaining the consumer's consent or, in the case of the processing of personal data concerning a known child, without first obtaining consent from the child's parent or lawful guardian.

Source: L. 2021: Entire part added, (SB 21-190), ch. 483, p. 3460, § 1, effective July 1, 2023. **L. 2025:** (7) amended, (SB 25-276), ch. 240, p. 1222, § 20, effective May 23.

Cross references: For the legislative declaration in SB 25-276, see section 1 of chapter 240, Session Laws of Colorado 2025.

6-1-1308.5. Duties of controllers - duty of care - rebuttable presumption.

(1) (a) A controller that offers any online service, product, or feature to a consumer whom the controller actually knows or willfully disregards is a minor shall use reasonable care to avoid any heightened risk of harm to minors caused by the online service, product, or feature.

(b) In any enforcement action brought by the attorney general or a district attorney pursuant to section 6-1-1311, there is a rebuttable presumption that a controller used reasonable care as required under this section if the controller complied with this section.

(2) Unless a controller has obtained consent in accordance with subsection (3) of this section, a controller that offers any online service, product, or feature to a consumer whom the controller actually knows or willfully disregards is a minor shall not:

(a) Process a minor's personal data:

(I) For the purposes of:

(A) Targeted advertising;

(B) The sale of personal data; or

(C) Profiling in furtherance of decisions that produce legal or similarly significant effects concerning a consumer;

(II) For any processing purpose other than the processing purpose that the controller disclosed at the time the controller collected the minor's personal data or that is reasonably necessary for, and compatible with, the processing purpose that the controller disclosed at the time the controller collected the minor's personal data; or

(III) For longer than is reasonably necessary to provide the online service, product, or feature;

(b) Use any system design feature to significantly increase, sustain, or extend a minor's use of the online service, product, or feature; or

(c) Collect a minor's precise geolocation data unless:

(I) The minor's precise geolocation data is reasonably necessary for the controller to provide the online service, product, or feature;

(II) The controller only collects and retains the minor's precise geolocation data for the time necessary to provide the online service, product, or feature; and

(III) The controller provides to the minor a signal indicating that the controller is collecting the minor's precise geolocation data and makes the signal available to the minor for the entire duration of the collection of the minor's precise geolocation data; except that this subsection (2)(c)(III) does not apply to any service or application that is used by and under the direction of a ski area operator, as defined in section 33-44-103 (7).

(3) (a) A controller shall not engage in the activities described in subsection (2) of this section unless the controller obtains:

(I) The minor's consent; or

(II) (A) If the minor is a child, the consent of the minor's parent or legal guardian.

(B) A controller that complies with the verifiable parental consent requirements established in the "Children's Online Privacy Protection Act of 1998", 15 U.S.C. sec. 6501 et seq., as amended, and the regulations, rules, guidance, and exemptions adopted pursuant to said act, as amended, is deemed to have satisfied any requirement to obtain parental consent under this subsection (3)(a)(II).

(b) (I) A controller that offers any online service, product, or feature to a consumer whom that controller actually knows or willfully disregards is a minor shall not:

(A) Provide any consent mechanism that is designed to substantially subvert or impair, or is manipulated with the effect of substantially subverting or impairing, user autonomy, decision-making, or choice; or

(B) Except as provided in subsection (3)(b)(II) of this section, offer any direct messaging apparatus for use by a minor without providing readily accessible and easy-to-use safeguards to limit the ability of an adult to send unsolicited communications to the minor with whom the adult is not connected.

(II) Subsection (3)(b)(I)(B) of this section does not apply to an online service, product, or feature of which the predominant or exclusive function is:

(A) Electronic mail; or

(B) Direct messaging consisting of text, photos, or videos that are sent between devices by electronic means, where messages are shared between the sender and the recipient, only visible to the sender and the recipient, and not posted publicly.

(4) Subsections (2)(a) and (2)(b) of this section do not apply to any service or application that is used by and under the direction of an educational entity, including a learning management system or a student engagement program.

Source: L. 2024: Entire section added, (SB 24-041), ch. 296, p. 2022, § 4, effective October 1, 2025.

6-1-1309. Data protection assessments - attorney general access and evaluation - definition.

(1) A controller shall not conduct processing that presents a heightened risk of harm to a consumer without conducting and documenting a data protection assessment of each of its processing activities that involve personal data acquired on or after July 1, 2023, that present a heightened risk of harm to a consumer.

(2) For purposes of this section, "processing that presents a heightened risk of harm to a consumer" includes the following:

(a) Processing personal data for purposes of targeted advertising or for profiling if the profiling presents a reasonably foreseeable risk of:

(I) Unfair or deceptive treatment of, or unlawful disparate impact on, consumers;

(II) Financial or physical injury to consumers;

(III) A physical or other intrusion upon the solitude or seclusion, or the private affairs or concerns, of consumers if the intrusion would be offensive to a reasonable person; or

(IV) Other substantial injury to consumers;

(b) Selling personal data; and

(c) Processing sensitive data.

(3) Data protection assessments must identify and weigh the benefits that may flow, directly and indirectly, from the processing to the controller, the consumer, other stakeholders, and the public against the potential risks to the rights of the consumer associated with the processing, as mitigated by safeguards that the controller can employ to reduce the risks. The controller shall factor into this assessment the use of de-identified data and the reasonable expectations of consumers, as well as the context of the processing and the relationship between the controller and the consumer whose personal data will be processed.

(4) A controller shall make the data protection assessment available to the attorney general upon request. The attorney general may evaluate the data protection assessment for compliance

with the duties contained in section 6-1-1308 and with other laws, including this article 1. Data protection assessments are confidential and exempt from public inspection and copying under the "Colorado Open Records Act", part 2 of article 72 of title 24. The disclosure of a data protection assessment pursuant to a request from the attorney general under this subsection (4) does not constitute a waiver of any attorney-client privilege or work-product protection that might otherwise exist with respect to the assessment and any information contained in the assessment.

(5) A single data protection assessment may address a comparable set of processing operations that include similar activities.

(6) Data protection assessment requirements apply to processing activities created or generated after July 1, 2023, and are not retroactive.

Source: L. 2021: Entire part added, (SB 21-190), ch. 483, p. 3462, § 1, effective July 1, 2023.

ANNOTATION

Law reviews. For article, "The Legality of Generative AI -- Part 2", see 52 Colo. Law. 30 (Sept. 2023).

6-1-1309.5. Data protection assessments - heightened risk of harm to minors.

(1) A controller that, on or after October 1, 2025, offers any online service, product, or feature to a consumer whom such controller actually knows or willfully disregards is a minor shall conduct a data protection assessment for the online service, product, or feature if there is a heightened risk of harm to minors. The controller shall conduct the data protection assessment:

(a) In a manner that is consistent with the requirements established in section 6-1-1309; and

(b) That addresses:

(I) The purpose of the online service, product, or feature;

(II) The categories of a minor's personal data that the online service, product, or feature processes;

(III) The purposes for which the controller processes a minor's personal data with respect to the online service, product, or feature; and

(IV) Any heightened risk of harm to minors that is a reasonably foreseeable result of offering the online service, product, or feature to minors.

(2) A controller that conducts a data protection assessment pursuant to subsection (1) of this section shall:

(a) Review the data protection assessment as necessary to account for any material change to the processing operations of the online service, product, or feature that is the subject of the data protection assessment; and

(b) Maintain documentation concerning the data protection assessment for the longer of:

(I) Three years after the date on which the processing operations cease; or

(II) The date the controller ceases offering the online service, product, or feature.

(3) A single data protection assessment may address a comparable set of processing operations that include similar activities.

(4) If a controller conducts a data protection assessment for the purpose of complying with another applicable law or regulation, the data protection assessment is deemed to satisfy the requirements established in this section if the data protection assessment is reasonably similar in scope and effect to the data protection assessment that would otherwise be conducted pursuant to this section.

(5) If a controller conducts a data protection assessment pursuant to subsection (1) of this section or a data protection assessment review pursuant to subsection (2)(a) of this section and determines that the online service, product, or feature that is the subject of the assessment poses a heightened risk of harm to minors, the controller shall establish and implement a plan to mitigate or eliminate the heightened risk.

(6) (a) A data protection assessment conducted pursuant to this section:

(I) Is confidential, except as provided in subsection (6)(b) of this section; and

(II) Is not a public record, and is exempt from public inspection and copying, under the "Colorado Open Records Act", part 2 of article 72 of title 24.

(b) (I) A controller shall make a data protection assessment conducted pursuant to this section available to the attorney general upon request. The attorney general may evaluate the data protection assessment for compliance with section 6-1-1308.5 and with other laws, including this article 1.

(II) The disclosure of a data protection assessment pursuant to a request from the attorney general does not constitute a waiver of any attorney-client privilege or work-product protection that might otherwise exist with respect to the assessment and any information in the assessment.

(7) Data protection assessment requirements apply to processing activities created or generated after October 1, 2025, and are not retroactive.

Source: L. 2024: Entire section added, (SB 24-041), ch. 296, p. 2024, § 4, effective October 1, 2025.

6-1-1310. Liability.

(1) Notwithstanding any provision in part 1 of this article 1, this part 13 does not authorize a private right of action for a violation of this part 13 or any other provision of law. This subsection (1) neither relieves any party from any duties or obligations imposed, nor alters any independent rights that consumers have, under other laws, including this article 1, the state constitution, or the United States constitution.

(2) Where more than one controller or processor, or both a controller and a processor, involved in the same processing violates this part 13, the liability shall be allocated among the parties according to principles of comparative fault.

Source: L. 2021: Entire part added, (SB 21-190), ch. 483, p. 3463, § 1, effective July 1, 2023.

6-1-1311. Enforcement - penalties - repeal.

(1) (a) Notwithstanding any other provision of this article 1, the attorney general and district attorneys have exclusive authority to enforce this part 13 by bringing an action in the name of the state or as parens patriae on behalf of persons residing in the state to enforce this part 13 as provided in this article 1, including seeking an injunction to enjoin a violation of this part 13.

(b) Notwithstanding any other provision of this article 1, nothing in this part 13 shall be construed as providing the basis for, or being subject to, a private right of action for violations of this part 13 or any other law.

(c) For purposes only of enforcement of this part 13 by the attorney general or a district attorney, a violation of this part 13 is a deceptive trade practice.

(d) (I) Repealed.

(II) Prior to any enforcement action pursuant to subsection (1)(a) of this section to enforce section 6-1-1305.5, 6-1-1308.5, or 6-1-1309.5, the attorney general or district attorney must issue a notice of violation to the controller if a cure is deemed possible. If the controller fails to cure the violation within sixty days after receipt of the notice of violation, an action may be brought pursuant to this section. This subsection (1)(d)(II) is repealed, effective December 31, 2026.

(2) The state treasurer shall credit all receipts from the imposition of civil penalties under this part 13 pursuant to section 24-31-108.

Source: L. 2021: Entire part added, (SB 21-190), ch. 483, p. 3463, § 1, effective July 1, 2023. **L. 2024:** (1)(d) amended (SB 24-041), ch. 296, p. 2026, § 5, effective October 1, 2025 (see editor's note).

Editor's note: SB 24-041 amended subsection (1)(d), effective October 1, 2025, but those amendments to subsection (1)(d)(I), as it would become effective October 1, 2025, did not take effect due to the repeal of subsection (1)(d)(I), effective January 1, 2025. Subsection (1)(d)(II) took effect October 1, 2025. (See L. 2024, p. 2026.)

6-1-1312. Preemption - local governments.

This part 13 supersedes and preempts laws, ordinances, resolutions, regulations, or the equivalent adopted by any statutory or home rule municipality, county, or city and county regarding the processing of personal data by controllers or processors.

Source: L. 2021: Entire part added, (SB 21-190), ch. 483, p. 3464, § 1, effective July 1, 2023.

6-1-1313. Rules - opt-out mechanism.

(1) The attorney general may promulgate rules for the purpose of carrying out this part 13.

(2) By July 1, 2023, the attorney general shall adopt rules that detail the technical specifications for one or more universal opt-out mechanisms that clearly communicate a consumer's affirmative, freely given, and unambiguous choice to opt out of the processing of personal data for purposes of targeted advertising or the sale of personal data pursuant to section 6-1-1306 (1)(a)(I)(A) or (1)(a)(I)(B). The attorney general may update the rules that detail the technical specifications for the mechanisms from time to time to reflect the means by which consumers interact with controllers. The rules must:

(a) Not permit the manufacturer of a platform, browser, device, or any other product offering a universal opt-out mechanism to unfairly disadvantage another controller;

(b) Require controllers to inform consumers about the opt-out choices available under section 6-1-1306 (1)(a)(I);

(c) Not adopt a mechanism that is a default setting, but rather clearly represents the consumer's affirmative, freely given, and unambiguous choice to opt out of the processing of personal data pursuant to section 6-1-1306 (1)(a)(I)(A) or (1)(a)(I)(B);

(d) Adopt a mechanism that is consumer-friendly, clearly described, and easy to use by the average consumer;

(e) Adopt a mechanism that is as consistent as possible with any other similar mechanism required by law or regulation in the United States; and

(f) Permit the controller to accurately authenticate the consumer as a resident of this state and determine that the mechanism represents a legitimate request to opt out of the processing of personal data for purposes of targeted advertising or the sale of personal data pursuant to section 6-1-1306 (1)(a)(I)(A) or (1)(a)(I)(B).

(3) By January 1, 2025, the attorney general may adopt rules that govern the process of issuing opinion letters and interpretive guidance to develop an operational framework for business that includes a good faith reliance defense of an action that may otherwise constitute a violation of this part 13. The rules must become effective by July 1, 2025.

Source: L. 2021: Entire part added, (SB 21-190), ch. 483 p. 3464, § 1, effective July 1, 2023.

6-1-1314. Biometric data and biometric identifiers - controllers - duties and requirements - written policy - prohibited acts - right to correct biometric identifiers - right to access biometric identifiers - remedies and civil actions - rules - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) "Collect", "collection", or "collecting" means to access, assemble, buy, rent, gather, procure, receive, capture, or otherwise obtain any biometric identifier or biometric data pertaining to a consumer by any means, online or offline, including:

(I) Actively or passively receiving a biometric identifier or biometric data from the consumer or from a third party; and

(II) Obtaining biometric data by observing the consumer's behavior.

(b) "Employee" means an individual who is employed full-time, part-time, or on-call or who is hired as a contractor, subcontractor, intern, or fellow.

(c) "Legally authorized representative" means a parent or legal guardian of a minor or a legal guardian of an adult.

(2) **Written policy required.**

(a) A controller that controls or processes one or more biometric identifiers shall adopt a written policy that:

(I) Establishes a retention schedule for biometric identifiers and biometric data;

(II) Includes a protocol for responding to a data security incident that may compromise the security of biometric identifiers or biometric data, including a process for notifying a consumer when the security of the consumer's biometric identifier or biometric data has been breached, pursuant to section 6-1-716; and

(III) Includes guidelines that require the deletion of a biometric identifier on or before the earliest of the following dates:

(A) The date upon which the initial purpose for collecting the biometric identifier has been satisfied;

(B) Twenty-four months after the consumer last interacted with the controller; or

(C) The earliest reasonably feasible date, which date must be no more than forty-five days after a controller determines that storage of the biometric identifier is no longer necessary, adequate, or relevant to the express processing purpose identified by a review conducted by the controller at least once annually. The controller may extend the forty-five-day period described in this subsection (2)(a)(III)(C) by up to forty-five additional days if such an extension is reasonably necessary, taking into account the complexity and number of biometric identifiers required to be deleted.

(b) A controller shall make its policy adopted pursuant to subsection (2)(a) of this section available to the public; except that a controller is not required to make available to the public:

(I) A written policy that applies only to current employees of the controller;

(II) A written policy that is used solely by employees and agents of the controller for the operation of the controller; or

(III) The internal protocol for responding to a data security incident that may compromise the security of biometric identifiers or biometric data.

(3) **Processors - security breach protocols.** A processor of biometric identifiers or biometric data must have a protocol for responding to a data security incident that may compromise the security of biometric identifiers or biometric data, including a process for notifying the controller when the security of a consumer's biometric identifier or biometric data has been breached, pursuant to section 6-1-716.

(4) **Collection and retention of biometric identifiers - requirements - prohibited acts.**

(a) A controller shall not collect or process a biometric identifier of a consumer unless the controller first:

(I) Satisfies all duties required by section 6-1-1308;

(II) Informs the consumer or the consumer's legally authorized representative in a clear, reasonably accessible, and understandable manner that a biometric identifier is being collected;

(III) Informs the consumer or the consumer's legally authorized representative in a clear, reasonably accessible, and understandable manner of the specific purpose for which a biometric identifier is being collected and the length of time that the controller will retain the biometric identifier; and

(IV) Informs the consumer or the consumer's legally authorized representative in a clear, reasonably accessible, and understandable manner if the biometric identifier will be disclosed, redisclosed, or otherwise disseminated to a processor and the specific purpose for which the biometric identifier is being shared with a processor.

(b) A controller that processes a consumer's biometric identifier shall not:

(I) Sell, lease, or trade the biometric identifier with any entity; or

(II) Disclose, redisclose, or otherwise disseminate the biometric identifier unless:

(A) The consumer or the consumer's legally authorized representative consents to the disclosure, redisclosure, or other dissemination;

(B) The disclosure, redisclosure, or other dissemination is requested or authorized by the consumer or the consumer's legally authorized representative for the purpose of completing a financial transaction;

(C) The disclosure, redisclosure, or other dissemination is to a processor and is necessary for the purpose for which the biometric identifier was collected and to which the consumer or the consumer's legally authorized representative consented; or

(D) The disclosure, redisclosure, or other dissemination is required by state or federal law.

(c) A controller shall not:

(I) Refuse to provide a good or service to a consumer based on the consumer's refusal to consent to the controller's collection, use, disclosure, transfer, sale, retention, or processing of a biometric identifier unless the collection, use, disclosure, transfer, sale, retention, or processing of the biometric identifier is necessary to provide the good or service;

(II) Charge a different price or rate for a good or service or provide a different level of quality of a good or service to any consumer who exercises the consumer's rights under this part 13; or

(III) Purchase a biometric identifier unless the controller pays the consumer for the collection of the consumer's biometric identifier, the purchase is unrelated to the provision of a product or

service to the consumer, and the controller has obtained consent as described in subsection (4)(a) of this section.

(d) A controller or processor shall store, transmit, and protect from disclosure all biometric identifiers using the standard of care within the controller's industry and in accordance with sections 6-1-1305 (4) and 6-1-1308 (5).

(e) A controller shall obtain consent from a consumer or from the consumer's legally authorized representative before collecting the consumer's biometric data, as required by section 6-1-1308 (7).

(5) **Right to access biometric data - applicability - definition.**

(a) Except as described in subsection (5)(b) of this section, at the request of a consumer or a consumer's legally authorized representative, a controller that collects the consumer's biometric data shall disclose to the consumer, free of charge, the category or description of the consumer's biometric data and the following information:

(I) The source from which the controller collected the biometric data;

(II) The purpose for which the controller collected or processed the biometric data and any associated personal data;

(III) The identity of any third party with which the controller disclosed or discloses the biometric data and the purposes for disclosing; and

(IV) The category or a description of the specific biometric data that the controller discloses to third parties.

(b) The requirements of subsection (5)(a) of this section apply only to:

(I) A sole proprietorship, a partnership, a limited liability company, a corporation, an association, or another legal entity that:

(A) Conducts business in Colorado or produces or delivers commercial products or services that are marketed to Colorado residents;

(B) Collects biometric data or has biometric data collected on its behalf; and

(C) Either collects or processes the personal data of one hundred thousand individuals or more during a calendar year or collects and processes the personal data of twenty-five thousand individuals or more and derives revenue from, or receives a discount on the price of goods or services from, the sale of personal data;

(II) A controller that controls or is controlled by another controller and that shares common branding with the other controller. As used in this subsection (5)(b)(II), "common branding"

means a shared name, service mark, or trademark that a consumer would reasonably understand to indicate that two or more entities are commonly owned.

(III) A joint venture or partnership consisting of no more than two businesses that share consumers' personal data with each other.

(6) **Use of consent by employers.**

(a) An employer may require as a condition of employment that an employee or a prospective employee consent to allowing the employer to collect and process the employee's or the prospective employee's biometric identifier only to:

(I) Permit access to secure physical locations and secure electronic hardware and software applications; except that an employer shall not obtain the employee's or prospective employee's consent to retain biometric data that is used for current employee location tracking or the tracking of how much time the employee spends using a hardware or software application;

(II) Record the commencement and conclusion of the employee's full work day, including meal breaks and rest breaks in excess of thirty minutes;

(III) Improve or monitor workplace safety or security or ensure the safety or security of employees; or

(IV) Improve or monitor the safety or security of the public in the event of an emergency or crisis situation.

(b) An employer and its processor may collect and process an employee's or prospective employee's biometric identifier for uses other than those described in subsection (6)(a) of this section only with the employee's or prospective employee's consent. An employer may not require that an employee or prospective employee consent to such collection or processing as a condition of employment or retaliate against an employee or prospective employee who does not consent to such collection or processing.

(c) So long as consent that is obtained for collection and processing as described in this section satisfies the definition of consent provided in section 6-1-1303 (5), consent is considered to be freely given and valid for the purposes described in subsection (6)(a) of this section.

(d) Nothing in this section restricts an employer's or its processor's ability to collect and process an employee's or prospective employee's biometric identifier for uses aligned with the reasonable expectations of:

(I) An employee based on the employee's job description or role; or

(II) A prospective employee based on a reasonable background check, an application, or identification requirements in accordance with this section.

(7) **Rules.** The department of law may promulgate rules for the implementation of this section, including rules promulgated in consultation with the office of information technology and the department of regulatory agencies establishing appropriate security standards for biometric identifiers and biometric data that are more stringent than the requirements described in this section.

Source: L. 2024: Entire section added, (HB 24-1130), ch. 313, p. 2102, § 2, effective July 1, 2025.

Cross references: For the legislative declaration in HB 24-1130, see section 1 of chapter 313, Session Laws of Colorado 2024.

6-1-1315. Colorado privacy act advisory council - created - membership - duties - subject to review - repeal.

(1) The Colorado privacy act advisory council, referred to in this section as the "advisory council", is created in the department of law. The advisory council consists of three members appointed by the attorney general as follows:

(a) One member representing a technology company or a statewide organization representing technology companies;

(b) One member representing a statewide consumer advocacy organization that focuses on data privacy and technology; and

(c) One member of the public.

(2) The members of the advisory council shall elect a chair and vice-chair from among the advisory council members appointed pursuant to subsection (1) of this section, which presiding officers shall serve terms of two years. Advisory council members may reelect a presiding officer.

(3) (a) Each member of the advisory council serves at the pleasure of the attorney general for a term of three years; except that:

(I) The initial member appointed pursuant to subsection (1)(a) of this section shall serve a term of one year; and

(II) The initial member appointed pursuant to subsection (1)(b) of this section shall serve a term of two years.

(b) The attorney general may reappoint a member to serve no more than three terms.

(c) Members of the advisory council may be reimbursed by the department of law for actual and necessary expenses incurred in the conduct of official business.

(4) The advisory council shall meet at least two times each year to discuss emerging issues in data privacy and any matters referred to the advisory council by the attorney general for the advisory council's discussion.

(5) This section is repealed, effective September 1, 2032. Before the repeal, the advisory council is scheduled for review in accordance with section 2-3-1203.

Source: L. 2026: Entire section added, (HB 26-1426), ch. 334, p. 2004, § 34, effective August 12.

PART 14

ONLINE MARKETPLACES

6-1-1401. Definitions.

As used in this part 14, unless the context otherwise requires:

(1) "Consumer product" means any tangible personal property that is distributed in commerce and that is normally used for personal, family, or household purposes, including any such property intended to be attached to or installed in any real property without regard to whether it is so attached or installed.

(2) "High-volume third-party seller" means a third-party seller that, in any continuous twelve-month period during the previous twenty-four months, has entered into two hundred or more discrete sales or transactions of new or unused consumer products for which the third-party seller has earned aggregate total gross revenues of five thousand dollars or more. For purposes of calculating the number of discrete sales or transactions or the aggregate gross revenues under this subsection (2), an online marketplace is only required to count sales or transactions made through the online marketplace and for which payment was processed by the online marketplace, either directly or through its payment processor.

(3) "Online marketplace" means any person that operates a consumer-directed electronically based or accessed platform that:

(a) Includes features that allow for, facilitate, or enable third-party sellers to engage in the sale, purchase, payment, storage, shipping, or delivery of a consumer product in the United States;

(b) Is used by one or more third-party sellers for the sale, purchase, payment, storage, shipping, or delivery of a consumer product; and

(c) Has a contractual or similar relationship with consumers governing their use of the platform to purchase consumer products.

(4) "Seller" means a person who sells, offers to sell, or contracts to sell a consumer product through an online marketplace's platform.

(5) (a) "Third-party seller" means any seller, independent of an operator, facilitator, or owner of an online marketplace, that sells, offers to sell, or contracts to sell a consumer product in the United States through an online marketplace.

(b) "Third-party seller" does not include a seller that:

(I) Operates the online marketplace's platform;

(II) Is a business entity that has made available to the general public the entity's name, business address, and working contact information;

(III) Is a business entity that has an ongoing contractual relationship with the online marketplace to provide the online marketplace with the manufacture, distribution, wholesale distribution, or fulfillment of shipments of consumer products; or

(IV) Is a business entity that has provided to the online marketplace identifying information, as described in section 6-1-1402 (1), that has been verified pursuant to that section.

(6) "Verify" means to confirm information provided to an online marketplace pursuant to this part 14, which may include the use of one or more methods that enable the online marketplace to reliably determine that any information and documents provided:

(a) Are valid;

(b) Correspond to the seller or an individual acting on the seller's behalf;

(c) Are not misappropriated; and

(d) Are not falsified.

Source: L. 2022: Entire part added, (HB 22-1099), ch. 21, p. 137, § 1, effective January 1, 2023.

6-1-1402. Disclosure of information by online marketplaces to inform consumers - reporting of suspicious marketplace activity.

(1) **Collection required.** An online marketplace shall require a high-volume third-party seller participating in the online marketplace to provide the online marketplace with the following information within ten days after qualifying as a high-volume third-party seller:

(a) Bank account number or, if the high-volume third-party seller does not have a bank account, the name of the payee for payments issued by the online marketplace to the high-volume third-party seller. The bank account or payee information may be provided by the seller either:

(I) To the online marketplace; or

(II) To a payment processor or other third party contracted by the online marketplace to maintain the information, if the online marketplace ensures that it can obtain such information on demand from the payment processor or other third party.

(b) Contact information, including:

(I) If the high-volume third-party seller is an individual, the individual's name; or

(II) If the high-volume third-party seller is not an individual, either:

(A) A copy of a valid government-issued photo identification document for an individual acting on behalf of the high-volume third-party seller that includes the individual's name; or

(B) A copy of a valid government-issued record or tax document that includes the business name and physical address of the high-volume third-party seller;

(c) A business tax identification number or, if the high-volume third-party seller does not have a business tax identification number, an individual taxpayer identification number; and

(d) A current working email address and phone number for the high-volume third-party seller.

(2) **Notification.** An online marketplace shall:

(a) Periodically, but not less than annually, notify any high-volume third-party seller on the online marketplace's platform of the requirement to keep any information collected under subsection (1) of this section current;

(b) Require any high-volume third-party seller on such online marketplace's platform, not later than ten days after receiving the notice under subsection (2)(a) of this section, to electronically certify that:

(I) The high-volume third-party seller has provided any changes to such information to the online marketplace, if such changes have occurred; or

(II) There have been no changes to the high-volume third-party seller's information; and

(c) If a high-volume third-party seller does not provide the information or certification required under subsection (1) of this section, and after the online marketplace provides the seller with written or electronic notice and an opportunity to provide such information or certification not later than ten days after the issuance of such notice, suspend any future sales activity of the seller on the online marketplace until the seller provides the information or certification.

(3) **Verification required.**

(a) The online marketplace shall:

(I) Verify the information collected under subsection (1) of this section not later than ten days after the collection; and

(II) Verify any change to such information not later than ten days after being notified of the change by a high-volume third-party seller in response to the notice required by subsection (2)(a) of this section.

(b) In the case of a high-volume third-party seller that provides a copy of a valid government-issued tax document, any information contained in such document shall be presumed to be verified as of the date of issuance of the document.

(c) Data collected solely to comply with the requirements of this section may not be used for any other purpose unless required by law.

(d) To protect data that has been collected in compliance with this section from unauthorized use, disclosure, access, destruction, or modification, an online marketplace shall implement and maintain reasonable security procedures and practices, including administrative, physical, and technical safeguards, appropriate to the nature of the data and the purposes for which the data will be used.

(4) **Disclosure required.**

(a) An online marketplace shall require a high-volume third-party seller with an aggregate total of twenty thousand dollars or more in annual gross revenues on the online marketplace, and that uses the online marketplace's platform, to provide, and, except as provided in subsection (4)(b) of this section, disclose to consumers in a conspicuous manner in the order confirmation message or other document or communication made to a consumer after a purchase is finalized and in the consumer's account transaction history:

(I) The full name of the seller, which may include the seller's name or the seller's company name, or the name by which the seller or company operates on the online marketplace;

(II) The physical address of the seller;

(III) Contact information for the seller, to allow users of the online marketplace to engage in direct, unhindered communication with the high-volume third-party seller, including a current working phone number, a current working email address, or other means of direct electronic messaging that the online marketplace may provide for the high-volume third-party seller; and

(IV) Whether the high-volume third-party seller used a different seller to supply the consumer product to the consumer upon purchase, and, upon the request of an authenticated purchaser, the information described in subsections (4)(a)(I) to (4)(a)(III) of this section relating to any such seller that supplied the consumer product to the purchaser, if the seller is different than the high-volume third-party seller listed on the product listing prior to purchase.

(b) (I) Subject to subsection (4)(b)(II) of this section, upon the request of a high-volume third-party seller, an online marketplace may allow for the seller to provide partial disclosure of the identity information required pursuant to subsection (4)(a) of this section in the following situations:

(A) If the high-volume third-party seller certifies to the online marketplace that the seller does not have a business address and only has a residential street address, or has a combined business and residential address, the online marketplace may disclose only the country and, if applicable, the state in which the high-volume third-party seller resides and may inform consumers that there is no business address available for the high-volume third-party seller and that consumer inquiries should be submitted to the high-volume third-party seller by telephone, email address, or other means of electronic messaging that the online marketplace provides the seller.

(B) If the high-volume third-party seller certifies to the online marketplace that the seller is a business that has a separate physical address for product returns, the online marketplace may disclose only the seller's physical address for product returns.

(C) If a high-volume third-party seller certifies to the online marketplace that the seller does not have a telephone number other than a personal telephone number, the online marketplace shall inform consumers that there is no telephone number available for the seller and that consumer inquiries should be submitted to the seller's email address, or other means of electronic messaging that the online marketplace provides the seller.

(II) If an online marketplace becomes aware that a high-volume third-party seller has made a false representation to the online marketplace in order to justify the provision of a partial disclosure pursuant to subsection (4)(b)(I) of this section or that a high-volume third-party seller that has requested and received an allowance for a partial disclosure pursuant to subsection (4)(b)(I) of this section has not provided responsive answers within a reasonable time frame to consumer inquiries submitted to the seller by telephone, email address, or other means of electronic messaging that the online marketplace provides the seller, the online marketplace shall, after providing the seller with written or electronic notice and an opportunity to respond

not later than ten days after the issuance of the notice, suspend any future sales activity of the seller unless the seller consents to the disclosure of the identity information required under subsection (4)(b)(I)(A) of this section.

(5) **Reporting mechanism.**

(a) An online marketplace shall disclose to consumers, in a clear and conspicuous manner on the product listing of any high-volume third-party seller, a reporting mechanism that allows for electronic and telephonic reporting of suspicious marketplace activity to the online marketplace.

(b) An online marketplace shall alert a law enforcement agency if the online marketplace knows or should have known that a third-party seller is selling or attempting to sell stolen goods to a consumer in Colorado, unless the online marketplace has received a notice from the law enforcement agency that the same third-party seller is suspected of selling or attempting to sell the same stolen goods on the online marketplace to a consumer in Colorado. An online marketplace shall establish:

(I) A mechanism that allows the online marketplace to communicate with a law enforcement agency in a timely and confidential manner, through a link to a dedicated web page, online portal, or point of contact; and

(II) Internal systems, staff, and written policies to monitor product listings to detect and prevent organized retail crime.

(6) **Compliance.** If a high-volume third-party seller does not comply with the requirements to provide and disclose information under this section, the online marketplace shall, after providing the seller with written or electronic notice and an opportunity to provide or disclose such information not later than ten days after the issuance of such notice, suspend any future sales activity of such seller until the seller complies with the requirements.

Source: L. 2022: Entire part added, (HB 22-1099), ch. 21, p. 139, § 1, effective January 1, 2023. **L. 2025:** (5) amended, (SB 25-070), ch. 417, p. 2362, § 1, effective August 6. **L. 2026:** IP(5)(b) amended, (HB 26-1215), ch. 111, p. 449, § 1, effective August 12.

6-1-1403. Enforcement.

(1) (a) The attorney general and district attorneys have exclusive authority to enforce this part 14 by bringing an action in the name of the state or as parens patriae on behalf of persons residing in the state to enforce this part 14 as provided in part 1 of this article 1.

(b) Nothing in this part 14 shall be construed as providing the basis for, or subjecting a party to, a private right of action for violations of this part 14 or any other law.

(2) **Unfair and deceptive acts or practices.** A violation of this part 14 is an unfair or deceptive trade practice pursuant to section 6-1-105 (1)(ooo).

Source: L. 2022: Entire part added, (HB 22-1099), ch. 21, p. 142, § 1, effective January 1, 2023.

6-1-1404. Preemption.

(1) A political subdivision shall not establish, mandate, or otherwise require online marketplaces to:

(a) Verify information from high-volume third-party sellers on a one-time or ongoing basis; or

(b) Disclose or require the disclosure of information to consumers.

Source: L. 2022: Entire part added, (HB 22-1099), ch. 21, p. 142, § 1, effective January 1, 2023.

PART 15

CONSUMER RIGHT TO REPAIR

6-1-1501. Short title.

The short title of this part 15 is the "Consumer Repair Bill of Rights Act".

Source: L. 2022: Entire part added, (HB 22-1031), ch. 327, p. 2307, § 2, effective January 1, 2023. **L. 2023:** Entire section amended, (HB 23-1011), ch. 107, p. 383, § 1, effective January 1, 2024.

6-1-1502. Definitions.

As used in this part 15, unless the context otherwise requires:

(1) (a) "Agricultural equipment" means equipment that is primarily designed for use in a farm or ranch operation.

(b) "Agricultural equipment" includes:

(I) A tractor, trailer, combine, sprayer, tillage implement, baler, and other equipment used to plant, cultivate, or harvest agricultural products or to ranch;

(II) Attachments to and repair parts for equipment described in subsection (1)(b)(I) of this section; and

(III) A nonroad compression-ignition engine. As used in this subsection (1)(b)(III):

(A) "Compression-ignition" has the meaning set forth in 40 CFR 1039.801; and

(B) "Engine" has the meaning set forth in 40 CFR 1068.30.

(c) "Agricultural equipment" does not include:

(I) A self-propelled vehicle designed primarily for the transportation of individuals or property on a street or highway;

(II) A powersports vehicle as defined in section 44-20-402 (11);

(III) Any aircraft used in an agricultural aircraft operation, as defined in 14 CFR 137.3; or

(IV) Any equipment designed and used primarily for irrigation purposes.

(1.1) "Agricultural equipment dealer" means any person, partnership, corporation, association, or other form of business enterprise that is primarily engaged in the retail sale of agricultural equipment.

(1.3) (a) "Authorized repair provider" means a person that is unaffiliated with a manufacturer other than through an arrangement with the manufacturer, whether for a definite or an indefinite period, in which the manufacturer, for the purpose of offering to provide services to an equipment owner regarding the owner's equipment or a part, grants the person:

(I) A license to use a trade name, service mark, or other proprietary identifier; or

(II) Authorization under any other arrangement to act on behalf of the manufacturer.

(b) "Authorized repair provider" includes a manufacturer that offers to provide services to an owner of the manufacturer's equipment regarding the owner's equipment or a part if the manufacturer does not have an arrangement with an unaffiliated person, as described in subsection (1.3)(a) of this section.

(1.5) "Data" means, with the consent of an owner, transmitted or compiled information arising from the operation of an owner's agricultural equipment or its parts.

(1.7) (a) "Digital electronic equipment" or "digital equipment" means a hardware product:

(I) Manufactured for the first time and first sold or used in Colorado on or after July 1, 2021; and

(II) That depends, in whole or in part, on digital electronics embedded in or attached to the product in order for the product to function as intended.

(b) "Digital electronic equipment" or "digital equipment" does not include agricultural equipment and powered wheelchairs.

(2) "Documentation" means a manual; diagram, including a schematic diagram; reporting output; service code description; security code or password; or similar type of guidance or information, whether in an electronic or tangible format, that a manufacturer provides to an authorized repair provider to assist the authorized repair provider with services performed on the manufacturer's equipment or a part.

(3) "Embedded software":

(a) Means programmable instructions provided on firmware delivered with an electronic component of equipment or with any part for the purpose of restoring or improving operation of the equipment or part; and

(b) Includes all relevant patches and fixes that the manufacturer makes to equipment or to any part for the purpose of restoring or improving the equipment or part.

(3.2) (a) "Embedded software for agricultural equipment" means any programmable instructions provided on firmware delivered with or loaded to the agricultural equipment, with respect to agricultural equipment operation.

(b) "Embedded software for agricultural equipment" includes all relevant patches and fixes that the manufacturer makes, including, but not limited to, items described as "basic internal operating system", "internal operating system", "machine code", "assembly code", "root code", and "microcode".

(4) and (4.3) Repealed.

(5) "Fair and reasonable terms and costs", as applied to agricultural equipment and powered wheelchairs, means the following:

(a) (I) With respect to obtaining documentation, parts, embedded software, firmware, or tools from a manufacturer to provide services, terms that are equivalent to the most favorable terms that the manufacturer offers to an authorized repair provider and costs that are no greater than the manufacturer's suggested retail price.

(II) Except as provided in subsection (5)(d) of this section, costs considered under subsection (5)(a)(I) of this section are calculated using net costs incurred, accounting for any discounts, rebates, or incentives offered.

(b) With respect to documentation, the manufacturer provides the documentation, including any relevant updates to the documentation, at no charge; except that the manufacturer may charge a fee for a printed copy of the documentation if the amount of the fee covers only the manufacturer's actual cost to prepare and send the printed copy of the documentation.

(c) With respect to tools that are software programs, the manufacturer provides the tools that are software programs:

(I) At no charge and without requiring authorization or internet access or otherwise imposing impediments to access or use;

(II) In the course of effectuating the diagnosis, maintenance, or repair and enabling the full functionality of the equipment or part; and

(III) In a manner that does not impair the efficient and cost-effective performance of the equipment or part.

(d) With respect to parts for agricultural equipment and notwithstanding subsection (5)(a)(I) of this section, parts shall be sold to an owner or an independent repair provider under equitable terms for access to or receipt of any part pertaining to agricultural equipment and in a manner that:

(I) Is fair to both parties in light of any agreed-upon conditions, the promised quality, and the timeliness of the delivery; or

(II) Does not discourage or disincentivize repairs to be made by an owner or an independent repair provider.

(e) Terms are fair if the terms do not impose on an owner or independent repair provider any:

(I) Substantial obligation to use, or any restriction on the use of, a part, embedded software, embedded software for agricultural equipment, firmware, or tool, including a condition that the owner or independent repair provider become an authorized repair provider of the manufacturer; or

(II) Requirement that a part, embedded software, embedded software for agricultural equipment, firmware, or tool be registered or paired with or approved by the manufacturer or an authorized repair provider before the part, embedded software, embedded software for agricultural equipment, firmware, or tool is operational.

(5.5) "Fair and reasonable terms and costs for digital electronic equipment" means:

(a) (I) With respect to obtaining documentation, embedded software, firmware, or tools from a manufacturer to provide services, costs and terms that are equivalent to the most favorable costs and terms that the manufacturer offers to an authorized repair provider and costs that are no greater than the manufacturer's suggested retail price, including terms that are equivalent to the

methods and timeliness of delivery of the embedded software, firmware, or tools to an authorized repair provider.

(II) Costs considered under subsection (5.5)(a)(I) of this section are calculated using net costs incurred, accounting for any discounts, rebates, convenient and timely means of delivery, means of enabling fully restored and updated functionality, rights of use, or other incentives or preferences offered.

(b) With respect to tools, the manufacturer provides a tool in a manner that does not impair access to, the use of, or the efficient and cost-effective performance of the tool for the purpose of diagnosing, maintaining, or repairing the digital equipment to its full functionality. If an owner or independent repair provider requests a tool in physical form, the manufacturer may include a charge for the reasonable, actual cost of preparing and sending the tool to the owner or independent repair provider.

(c) With respect to tools that are software programs, the manufacturer provides the tools that are software programs:

(I) At no charge;

(II) In the course of effectuating the diagnosis, maintenance, or repair and enabling the full functionality of the digital equipment or part; and

(III) In a manner that does not impair the efficient and cost-effective performance of the digital equipment or part;

(d) With respect to parts, costs that are fair to both parties and terms under which a manufacturer offers the part to an authorized repair provider.

(6) "Firmware" means a software program or set of instructions programmed on equipment or a part to allow the equipment or part to function or communicate with itself or with other computer hardware.

(7) (a) "Independent repair provider", except as otherwise provided in subsection (7)(b) of this section, means a person in the state that is:

(I) Neither a manufacturer's authorized repair provider nor affiliated with a manufacturer's authorized repair provider; and

(II) Engaged in offering or providing services.

(b) "Independent repair provider" includes:

(I) An authorized repair provider if the authorized repair provider is offering or providing services for a manufacturer other than a manufacturer with which the authorized repair provider has an arrangement described in subsection (1) of this section; and

(II) A manufacturer with respect to offering or providing services for another manufacturer's equipment or part.

(7.2) "Manufacturer of motor vehicle equipment" means an entity engaged in the business of manufacturing or supplying components used to manufacture, maintain, or repair a motor vehicle.

(7.3) "Medical device" has the same meaning as "device" as set forth in section 201 of the "Federal Food, Drug, and Cosmetic Act", 21 U.S.C. sec. 321 (h), as amended.

(7.5) (a) "Motor vehicle" means a vehicle that is:

(I) Designed to transport individuals or property on a street or highway; and

(II) Certified by a motor vehicle manufacturer under:

(A) All applicable federal safety and emission standards; and

(B) All requirements for the distribution and sale of motor vehicles in the United States.

(b) "Motor vehicle" does not include a recreational vehicle, as defined in section 44-20-102 (23), or a motor home, as defined in section 42-1-102 (57), equipped for habitation.

(7.7) "Motor vehicle dealer" has the meaning set forth in section 44-20-102 (18).

(7.8) "Motor vehicle manufacturer" means an entity engaged in the business of manufacturing or assembling new motor vehicles.

(8) "Original equipment manufacturer" or "manufacturer" means a person doing business in the state and engaged in the business of selling, leasing, or otherwise supplying new digital electronic equipment, agricultural equipment, or powered wheelchairs or parts manufactured by or on behalf of itself to any individual, business, or other entity.

(9) "Owner" means a person that owns digital electronic equipment, agricultural equipment, or a powered wheelchair or an agent of the owner.

(10) "Part" means a new or used replacement part for equipment that a manufacturer offers for sale or otherwise makes available for the purpose of providing services.

(10.3) "Parts pairing" means a manufacturer's practice of using software to identify component parts through a unique identifier.

(11) "Powered wheelchair" means a motorized wheeled device designed for use by a person with a physical disability.

(12) "Services" means diagnostic, maintenance, or repair services performed on digital electronic equipment, agricultural equipment, or powered wheelchairs or a part.

(13) "Tools" means any software program, hardware implement, or other apparatus used for diagnosis, maintenance, or repair of equipment or parts, including software or other mechanism that provides, programs, or pairs a new part; calibrates functionality; or performs any other function required to return the equipment or part to fully functional condition.

(14) "Trade secret" has the meaning set forth in section 7-74-102 (4).

(15) (a) "Video game console" means a computing device that is:

(I) Primarily used by consumers for playing video games; and

(II) Neither a general nor an all-purpose computer.

(b) "Video game console" includes:

(I) A console machine;

(II) A handheld console device; and

(III) The components and peripherals of a video game console.

(c) "Video game console" does not include a desktop computer, laptop computer, computer tablet, or cell phone.

Source: L. 2022: Entire part added, (HB 22-1031), ch. 327, p. 2307, § 2, effective January 1, 2023. **L. 2023:** (1), (2), (4), (5)(a)(II), and (6) amended and (1.3), (1.5), (3.2), (4.3), (5)(d), and (5)(e) added, (HB 23-1011), ch. 107, p. 383, § 2, effective January 1, 2024. **L. 2024:** (1)(b), (5)(a)(I), (5)(b), IP(5)(c), IP(5)(d), IP(5)(e), (8), (9), and (12) amended and (1.1), (1.7), IP(5), (5.5), (7.2), (7.3), (7.5), (7.7), (7.8), (10.3), and (15) added, (HB 24-1121), ch. 258, p. 1702, § 1, effective January 1, 2026; (4)(c) and (4.3)(b) added by revision, (HB 24-1121), ch. 258, pp. 1702, 1710, §§ 1, 3.

Editor's note: Subsections (4)(c) and (4.3)(b) provided for the repeal of subsections (4) and (4.3), respectively, effective January 1, 2026. (See L. 2024, pp. 1702, 1710.)

6-1-1503. Manufacturer obligations regarding services - exemptions.

(1) Except as provided in subsections (2) and (5) of this section:

(a) (I) For the purpose of providing services for digital electronic equipment, agricultural equipment, or powered wheelchairs in the state, an original equipment manufacturer shall, with fair and reasonable terms and costs, as applied to agricultural equipment or powered wheelchairs, or fair and reasonable terms and costs for digital electronic equipment, make available to an

independent repair provider or owner of the manufacturer's digital electronic equipment, agricultural equipment, or powered wheelchair any documentation, parts, embedded software, embedded software for agricultural equipment, firmware, or tools that are intended for use with the digital electronic equipment, agricultural equipment, or powered wheelchair or any part, including updates to documentation, parts, embedded software, embedded software for agricultural equipment, firmware, or tools.

(II) A manufacturer shall make available to an independent repair provider or owner, on fair and reasonable terms, any documentation, embedded software, tool, part, or other device or implement that the manufacturer provides for effecting the services of maintenance, repair, or diagnosis on the manufacturer's digital electronic equipment.

(III) With respect to parts, a manufacturer complies with this subsection (1)(a) if a contractor makes the parts available to an independent repair provider or owner on behalf of the manufacturer.

(a.5) For the purpose of providing services for agricultural equipment in the state, a manufacturer shall, with fair and reasonable terms and costs and with owner authorization, make data available to an independent provider or owner, including updates to the data.

(b) (I) With respect to agricultural equipment or a powered wheelchair that contains an electronic security lock or other security- related function, a manufacturer shall, with fair and reasonable terms and costs, as applied to agricultural equipment or powered wheelchairs, make available to independent repair providers and owners any documentation, parts, embedded software, embedded software for agricultural equipment, firmware, tools, or, with owner authorization, data needed to reset the lock or function when disabled in the course of providing services. The manufacturer may make the documentation, parts, embedded software, embedded software for agricultural equipment, firmware, tools, or, with owner authorization, data available to independent repair providers and owners through appropriate secure release systems.

(II) The requirement set forth in subsection (1)(b)(I) of this section does not apply to digital electronic equipment.

(2) (a) Subsection (1) of this section does not apply to:

(I) A part that is no longer available to the original equipment manufacturer; and

(II) Conduct that would require the original equipment manufacturer of digital electronic equipment, agricultural equipment, or powered wheelchairs to divulge a trade secret; except that a manufacturer shall not refuse to make available to an independent repair provider or owner any documentation, part, embedded software, embedded software for agricultural equipment, firmware, tool, or, with owner authorization, data necessary to provide services on grounds that the documentation, part, embedded software, embedded software for agricultural equipment, firmware, tool, or, with owner authorization, data itself is a trade secret.

(b) (I) A manufacturer may redact documentation to remove trade secrets from the documentation before providing access to the documentation if the usability of the redacted documentation for the purpose of providing services is not diminished.

(II) A manufacturer may withhold information regarding a component of, design of, functionality of, or process of developing a part, embedded software, embedded software for agricultural equipment, firmware, or a tool if the information is a trade secret and the usability of the part, embedded software, embedded software for agricultural equipment, firmware, or tool for the purpose of providing services is not diminished.

(3) Neither an original equipment manufacturer nor an agricultural equipment dealer is liable for faulty or otherwise improper repairs provided by independent repair providers or owners, including faulty or otherwise improper repairs that cause:

(a) Damage to digital electronic equipment, powered wheelchairs, or agricultural equipment that occurs during such repairs;

(b) Any indirect, incidental, special, or consequential damages; or

(c) An inability to use, or a reduced functionality of, a piece of digital electronic equipment, powered wheelchair, or piece of agricultural equipment resulting from the faulty or otherwise improper repair.

(4) A manufacturer that provides data to an independent repair provider in compliance with this part 15 is neither responsible nor liable to the owner, the independent repair provider, or another party for any action that the independent repair provider or another party takes while using or relying on the data.

(5) With respect to digital electronic equipment, this part 15 does not apply to:

(a) A person acting in the person's official capacity as a motor vehicle manufacturer, manufacturer of motor vehicle equipment, or motor vehicle dealer;

(b) Any product or service of a person acting in the person's official capacity as a motor vehicle manufacturer, manufacturer of motor vehicle equipment, or motor vehicle dealer;

(c) A manufacturer or distributor of a medical device or any product or service that the manufacturer or distributor of a medical device offers; except that this part 15 applies to powered wheelchairs;

(d) Any digital electronic equipment product or software manufactured for use in a medical setting, including diagnostic, monitoring, or control digital equipment;

(e) Industrial, utility, construction, compact construction, mining, forestry, or road-building digital equipment;

(f) Electric vehicle charging infrastructure equipment;

(g) Outside-the-meter commercial or industrial electrical equipment, including power distribution equipment, and any tools, attachments, accessories, components, and replacement and repair parts of the electrical equipment;

(h) Portable generators, energy storage systems, fuel cell power systems, or power tools;

(i) Marine vessels, aviation, all-terrain sport vehicles, and recreational vehicles, including racing vehicles;

(j) Safety communications equipment, the intended use of which is for emergency response or prevention purposes by an emergency system organization, such as a police, fire, life safety, or medical and emergency rescue services agency;

(k) Equipment installed for the purpose of energy storage, renewable power generation, power management, or distribution;

(l) Set top boxes, modems, routers, or all-in-one devices delivering internet, video, and voice services that are distributed by a video, internet, or voice service provider if the service provider offers equivalent or better, readily available replacement equipment at no charge to the customer;

(m) Video game consoles; or

(n) Fire alarm systems, intrusion detection equipment that is provided with a security monitoring service, life safety systems, and physical access control equipment, including electronic keypads and similar building access control electronics.

(o) Devices, components, or systems designed to perform or facilitate quantum information processing, including, solely to the extent necessary for such processing, storing, computing, communicating, measuring, or sensing quantum information, through manipulation, measurement, sensing, or utilization of quantum phenomena, limited to instances where the phenomena are integral to the device's primary function, including quantum superposition, quantum entanglement, quantum interference, quantum tunneling, or quantum transduction; or

(p) Quantum sensing devices that exploit quantum phenomena, limited to instances where the phenomena are integral to the device's primary function, such as quantum coherence, quantum entanglement, quantized energy states that do not include the semiconductor band gap phenomenon, quantum squeezing, quantum superposition, quantum interference, quantum transduction, or quantum tunneling, to detect, measure, or monitor physical quantities, environmental parameters, or external stimuli.

(6) With respect to digital electronic equipment, nothing in this section:

(a) Requires a manufacturer to license any intellectual property, including obtaining a copyright or patent for any intellectual property, unless such licensing is necessary for providing services;

(b) Requires the distribution of a product's source code;

(c) Requires a manufacturer to make available special documentation, tools, or parts that would disable or override any privacy or anti-theft security measures for the owner's digital electronic equipment that the owner has set for the digital equipment;

(d) Requires a manufacturer to make available documentation or tools used exclusively for repairs that are completed by machines that operate on several pieces of digital electronic equipment simultaneously if the manufacturer makes available to owners and independent repair providers sufficient alternative documentation or tools for the diagnosis, maintenance, or repair of digital electronic equipment;

(e) Shall be construed to require any original equipment manufacturer or authorized repair provider to make available any parts, tools, or documentation required for the diagnosis, maintenance, or repair of digital electronic equipment in a manner that is inconsistent with or in violation of any federal laws, such as federal laws regarding gaming and entertainment consoles, related software, and components; or

(f) Requires a manufacturer to provide or make available a tool or documentation to an independent repair provider or owner if the manufacturer itself uses the tool or documentation only to perform, at no cost, diagnostic services virtually through use of a telephone, the internet, chat, email, or other similar means of communication that do not involve the manufacturer physically handling the customer's digital electronic equipment, unless the manufacturer also makes the tool or documentation available to an individual or business that is unaffiliated with the manufacturer.

(7) (a) Except as provided in subsection (7)(b) of this section, for digital electronic equipment that is manufactured for the first time and sold or used in the state after January 1, 2026, a manufacturer shall not use parts pairing to:

(I) Prevent an independent repair provider or owner from installing or enabling, or inhibit an independent repair provider's or owner's ability to install or enable, the function of an otherwise functional replacement part or component of digital electronic equipment, including a replacement part or component that the manufacturer has not approved;

(II) Reduce the functionality or performance of digital electronic equipment; or

(III) Cause digital electronic equipment to display misleading alerts or warnings about unidentified parts, particularly if the alerts or warnings cannot immediately be dismissed by the owner.

(b) Nothing in this part 15 prohibits:

(I) The use of parts pairing to enable digital electronic equipment to record, catalog, and display information related to repairs done on that digital electronic equipment; or

(II) A manufacturer's use of parts pairing for standalone biometric components used for authentication purposes in digital electronic equipment, which components are not bundled in commonly replaced parts, such as a device's screen, keyboard, ports, or battery.

(8) Before providing services for digital electronic equipment, an independent repair provider shall provide the owner seeking services written notice, provided on site and in a conspicuous location at the independent repair provider's premises for providing services or provided in an email to the owner, indicating:

(a) That the independent repair provider is not an authorized repair provider of the digital equipment's manufacturer; and

(b) Whether the independent repair provider, in providing services, uses any new or used replacement parts obtained from a supplier other than the manufacturer.

(9) An original equipment manufacturer is not responsible for the quality or functionality of parts provided by a third-party parts manufacturer.

(10) Nothing in this part 15 authorizes an owner or independent repair provider to alter digital electronic equipment in a manner that brings the equipment out of compliance with any applicable federal or state laws, including any applicable federal or state rules or regulations.

Source: L. 2022: Entire part added, (HB 22-1031), ch. 327, p. 2310, § 2, effective January 1, 2023. **L. 2023:** (1), (2)(a)(II), (2)(b)(II), IP(3), (3)(a), and (3)(c) amended and (4) added, (HB 23-1011), ch. 107, p. 386, § 3, effective January 1, 2024. **L. 2024:** (1), (2)(a)(II), IP(3), (3)(a), and (3)(c) amended and (5) to (10) added, (HB 24-1121), ch. 258, p. 1706, § 2, effective January 1, 2026. **L. 2025:** (5)(o) and (5)(p) added, (HB 25-1330), ch. 408, p. 2323, § 2, effective January 1, 2026.

Cross references: For the short title ("Entanglement Exception Act") in HB 25-1330, see section 1 of chapter 408, Session Laws of Colorado 2025.

6-1-1504. Limitations.

(1) Subject to subsection (2) of this section, nothing in this part 15:

(a) Alters the terms of any contract or other arrangement in force between an original equipment manufacturer and an authorized repair provider, including the performance or provision of warranty or recall repair work and any exclusivity or noncompete clause in a contract;

(a.5) Authorizes an independent repair provider or owner to:

(I) Make any modification to agricultural equipment that deactivates a safety notification system, except as necessary to provide services;

(II) Access any function of a tool that enables the independent repair provider or owner to change the settings for a piece of agricultural equipment in a manner that brings the equipment out of compliance with any applicable federal, state, or local safety or emissions law, except as necessary to provide services;

(III) Evade emissions, copyright, trademark, or patent laws; or

(IV) Engage in any other illegal equipment modification activities;

(b) Requires a manufacturer to provide an independent repair provider or owner access to information, other than documentation, that the manufacturer provides to an authorized repair provider pursuant to a contract or other arrangement with the authorized repair provider except as necessary to comply with section 6-1-1503 (1); or

(c) Exempts a manufacturer from a products liability claim that is otherwise authorized in law.

(2) (a) With respect to a contract or other arrangement, or renewal of a contract or existing arrangement, that an original equipment manufacturer enters into after January 1, 2023, any contract term, provision, agreement, or language in the contract or arrangement that waives, avoids, restricts, or limits the manufacturer's obligations under this part 15 is void and unenforceable.

(b) If an agricultural equipment manufacturer enters into, or is covered under, a nationwide memorandum of understanding regarding a right to repair agricultural equipment, the memorandum of understanding governs an owner's right to provide services, or to engage the services of an independent repair provider, for that manufacturer's brand of agricultural equipment; except that, if compliance with the memorandum of understanding would deny the owner any rights afforded to the owner in this part 15, including any rights to documentation, data, tools, or embedded software for agricultural equipment necessary for the diagnosis, maintenance, or repair of the owner's agricultural equipment, the owner is entitled to the documentation, data, tools, or embedded software for agricultural equipment in accordance with this part 15. An agricultural equipment manufacturer that enters into a memorandum of understanding is still obligated to meet the requirements established in this part 15.

Source: L. 2022: Entire part added, (HB 22-1031), ch. 327, p. 2311, § 2, effective January 1, 2023. **L. 2023:** (1)(a.5) added and (2) amended, (HB 23-1011), ch. 107, p. 387, § 4, effective January 1, 2024.

6-1-1505. Federal legislation on right to repair agricultural equipment - repeal - notice to revisor.

This part 15, as amended by House Bill 23-1011, enacted in 2023, will be repealed if the United States congress enacts federal legislation establishing a right to repair agricultural equipment. The attorney general shall notify the revisor of statutes in writing of the date on which the condition specified in this section has occurred by emailing the notice to revisorofstatutes.ga@coleg.gov. This part 15, as amended by House Bill 23-1011, enacted in 2023, is repealed, effective upon the date identified in the notice that the federal legislation was enacted or, if the notice does not specify that date, upon the date of the notice to the revisor of statutes.

Source: L. 2023: Entire section added, (HB 23-1011), ch. 107, p. 388, § 5, effective January 1, 2024.

Editor's note: As of publication date, the revisor of statutes has not received the notice referred to in this section.

PART 16

PROTECTIONS FOR YOUTH USING SOCIAL MEDIA

Cross references: For the legislative declaration in HB 24-1136, see section 1 of chapter 460, Session Laws of Colorado 2024.

6-1-1601. Social media platform - youth users - definition.

(1) On or after January 1, 2026, a social media platform must establish a function that either:

(a) Meets the criteria in subsection (2) of this section and be informed by the standards established in subsection (5) of this section; or

(b) Displays a pop-up or full screen notification to a user who attests to being under the age of eighteen when the user:

(I) Has spent one cumulative hour on the social media platform during a twenty-four-hour period; or

(II) Is on a social media platform between the hours of 10 p.m. and 6 a.m.

(2) The function established pursuant to subsection (1) of this section must provide users who are under the age of eighteen with information about their engagement in social media that helps the user understand the impact of social media on the developing brain and the mental and physical health of youth users. The information must be supported by data from peer-reviewed scholarly articles or the sources included in the mental health and technology resource bank established in section 22-2-127.8 (1).

(3) If the social media platform establishes the function described in subsection (1)(b) of this section, the function must repeat at least every thirty minutes after the initial notification.

(4) (a) As used in this section, "social media platform" means an internet-based service, website, or application that:

(I) Has more than one hundred thousand active users in Colorado;

(II) Permits a person to become a registered user, establish an account, or create a public or semipublic profile for the purpose of allowing users to create, share, and view user-generated content through the account or profile;

(III) Enables one or more users to create or post content that can be viewed by other users of the medium; and

(IV) Includes a substantial function to allow users to interact socially with each other within the service or application. A service or application that provides electronic mail or direct messaging services does not meet the criteria described in this subsection (4) on the basis of that function alone.

(b) "Social media platform" does not include an internet-based service or application in which the predominant or exclusive function is:

(I) Providing electronic mail;

(II) Facilitating commercial transactions, if the interaction with other users or account holders is generally limited to:

(A) The ability to upload a post and comment on reviews or the ability to display lists or collections of goods for sale or wish lists; and

(B) The primary function of the platform is focused on online shopping or e-commerce rather than interactions between users or account holders;

(III) Facilitating teleconferencing and video conferencing features that are limited to certain participants in the teleconference or video conference and are not posted publicly or for broad distribution to other users;

(IV) Facilitating crowd-sourced content for reference guides such as encyclopedias and dictionaries;

(V) Providing cloud-based electronic services, including cloud-based services that allow collaborative editing by invited users;

(VI) Consisting primarily of news, sports, entertainment, or other content that is preselected by the provider and not user generated and any chat, comment, or interactive functionality that is provided incidental to, directly related to, or dependent upon provision of the content;

(VII) Interactive gaming, virtual gaming, or an online service that allows the creation and uploading of content for the purpose of interactive or virtual gaming;

(VIII) Providing information concerning businesses, products, or travel information, including user reviews or rankings of businesses or products;

(IX) Facilitating communication within a business or an enterprise among employees or affiliates of the business or enterprise, so long as access to the service or application is restricted to employees or affiliates of the business or enterprise;

(X) Selling enterprise software to businesses, governments, or nonprofit organizations;

(XI) Providing a streaming service that streams only licensed media in a continuous flow from the service, website, or application to the end user and does not require a user or account holder to obtain a license for the media by agreement with a social media platform's terms of service;

(XII) Providing an online service, website, or application that is used by or under the direction of an educational entity, including a learning management system, a student engagement program, or a subject- or skill-specific program, for which the majority of the content is created or posted by the provider of the online service, website, or application and the ability to chat, comment, or interact with other users is directly related to the provider's content;

(XIII) Providing or obtaining technical support for a platform, product, or service;

(XIV) Providing career development opportunities, including professional networking, job skills, learning certifications, and job posting and application services;

(XV) Focused on facilitating academic or scholarly research; or

(XVI) Reporting or disseminating news information for a mass medium, as defined in section 13-90-119.

(5) The chief information officer in the office of information technology, in consultation with the director of the center for health and environmental data division of the Colorado department of public health and environment and the temporary stakeholder group established in section 22-

2-127.8, shall establish standards for a user tool or function that meets the requirements of subsection (1) of this section for a social media platform. The standards must:

(a) Recommend intervals for notification frequency that are similar to those in subsection (3) of this section;

(b) Provide sample messaging for the content of the notification;

(c) Be informed by data and research on the efficacy of notifications; and

(d) Recommend the age range of users who would most benefit from notifications.

Source: L. 2024: Entire part added, (HB 24-1136), ch. 460, p. 3189, § 4, effective August 7.

PART 17

ARTIFICIAL INTELLIGENCE

6-1-1701. Definitions.

[*Editor's note: This version of this section is effective until January 1, 2027.*] As used in this part 17, unless the context otherwise requires:

(1) (a) "Algorithmic discrimination" means any condition in which the use of an artificial intelligence system results in an unlawful differential treatment or impact that disfavors an individual or group of individuals on the basis of their actual or perceived age, color, disability, ethnicity, genetic information, limited proficiency in the English language, national origin, race, religion, reproductive health, sex, veteran status, or other classification protected under the laws of this state or federal law.

(b) "Algorithmic discrimination" does not include:

(I) The offer, license, or use of a high-risk artificial intelligence system by a developer or deployer for the sole purpose of:

(A) The developer's or deployer's self-testing to identify, mitigate, or prevent discrimination or otherwise ensure compliance with state and federal law; or

(B) Expanding an applicant, customer, or participant pool to increase diversity or redress historical discrimination; or

(II) An act or omission by or on behalf of a private club or other establishment that is not in fact open to the public, as set forth in Title II of the federal "Civil Rights Act of 1964", 42 U.S.C. sec. 2000a (e), as amended.

(2) "Artificial intelligence system" means any machine-based system that, for any explicit or implicit objective, infers from the inputs the system receives how to generate outputs, including content, decisions, predictions, or recommendations, that can influence physical or virtual environments.

(3) "Consequential decision" means a decision that has a material legal or similarly significant effect on the provision or denial to any consumer of, or the cost or terms of:

(a) Education enrollment or an education opportunity;

(b) Employment or an employment opportunity;

(c) A financial or lending service;

(d) An essential government service;

(e) Health-care services;

(f) Housing;

(g) Insurance; or

(h) A legal service.

(4) "Consumer" means an individual who is a Colorado resident.

(4.5) (a) "Conversational artificial intelligence service" means an artificial intelligence system that is accessible to the general public and that primarily simulates human conversation and interaction through adaptive textual, visual, or aural communications.

(b) "Conversational artificial intelligence service" does not include a software application, web interface, or computer program that:

(I) Is primarily designed and marketed for use by a developer or researcher;

(II) Is primarily designed to provide commerce-related or transactional assistance, including product or service recommendations, shopping, ordering, payments, delivery, returns, customer support, or customer service;

(III) Is designed to provide outputs relating to a narrow and discrete topic and cannot generate outputs related to sexually explicit conduct or depictions, as described in section 6-1-1708 (2)(c) and (2)(d), or maintain dialogue related to suicidal ideation or self-harm;

(IV) Is primarily designed and marketed for commercial use by business entities for the purpose of business operations, productivity, information analysis, internal research, training, or technical assistance;

(V) Functions as a speaker and voice command interface or text interface and acts as a voice- or text-activated virtual assistant for a consumer electronic device and cannot generate outputs

related to sexually explicit conduct or depictions, as described in section 6-1-1708 (2)(c) and (2)(d), or encourage dialogue related to suicidal ideation or self-harm;

(VI) Is used by a business solely for internal purposes;

(VII) Is a feature of a video game that is limited to dialogue focused on the video game and does not maintain dialogue on topics unrelated to the video game;

(VIII) Is a feature of a theme park or location-based entertainment and is limited in dialogue to topics solely related to the theme park or location-based entertainment and does not maintain a dialogue about topics unrelated to the theme park or location-based entertainment;

(IX) Is used by a covered entity or business associate of a covered entity, or is rendered to or provided on behalf of a covered entity or business associate of a covered entity, as those terms are defined in the federal "health insurance portability and accountability act of 1996", 42 U.S.C. secs. 1320d to 1320d-9.

(X) Is used by an entity subject to the "Health Care Availability Act", article 64 of title 13;

(XI) Is an educational tool designed primarily to support specific and limited instructional, administrative, accessibility, or student support purposes in a school setting and that is not designed to simulate emotional companionship or encourage emotionally dependent interaction; or

(XII) Is a feature within another software application, web interface, or computer program, where the software application, web interface, or computer program is not the conversational artificial intelligence service, that is not designed to simulate emotional companionship or encourage emotionally dependent interaction and that is not a conversational artificial intelligence service, including of a social media platform, as defined in section 6-1-1601 (4)(a).

(5) "Deploy" means to use a high-risk artificial intelligence system.

(6) "Deployer" means a person doing business in this state that deploys a high-risk artificial intelligence system.

(7) "Developer" means a person doing business in this state that develops or intentionally and substantially modifies an artificial intelligence system.

(7.5) (a) "Explicit sexual conduct" has the meaning set forth in section 13-21-1502 (7).

(b) "Explicit sexual conduct" does not include evidence-based medical information or factual descriptions of reproductive health care.

(8) "Health-care services" has the same meaning as provided in 42 U.S.C. sec. 234 (d)(2).

(9) (a) "High-risk artificial intelligence system" means any artificial intelligence system that, when deployed, makes, or is a substantial factor in making, a consequential decision.

(b) "High-risk artificial intelligence system" does not include:

(I) An artificial intelligence system if the artificial intelligence system is intended to:

(A) Perform a narrow procedural task; or

(B) Detect decision-making patterns or deviations from prior decision-making patterns and is not intended to replace or influence a previously completed human assessment without sufficient human review; or

(II) The following technologies, unless the technologies, when deployed, make, or are a substantial factor in making, a consequential decision:

(A) Anti-fraud technology that does not use facial recognition technology;

(B) Anti-malware;

(C) Anti-virus;

(D) Artificial intelligence-enabled video games;

(E) Calculators;

(F) Cybersecurity;

(G) Databases;

(H) Data storage;

(I) Firewall;

(J) Internet domain registration;

(K) Internet website loading;

(L) Networking;

(M) Spam- and robocall-filtering;

(N) Spell-checking;

(O) Spreadsheets;

(P) Web caching;

(Q) Web hosting or any similar technology; or

(R) Technology that communicates with consumers in natural language for the purpose of providing users with information, making referrals or recommendations, and answering questions and is subject to an accepted use policy that prohibits generating content that is discriminatory or harmful.

(10) (a) "Intentional and substantial modification" or "intentionally and substantially modifies" means a deliberate change made to an artificial intelligence system that results in any new reasonably foreseeable risk of algorithmic discrimination.

(b) "Intentional and substantial modification" or "intentionally and substantially modifies" does not include a change made to a high-risk artificial intelligence system, or the performance of a high-risk artificial intelligence system, if:

(I) The high-risk artificial intelligence system continues to learn after the high-risk artificial intelligence system is:

(A) Offered, sold, leased, licensed, given, or otherwise made available to a deployer; or

(B) Deployed;

(II) The change is made to the high-risk artificial intelligence system as a result of any learning described in subsection (10)(b)(I) of this section;

(III) The change was predetermined by the deployer, or a third party contracted by the deployer, when the deployer or third party completed an initial impact assessment of such high-risk artificial intelligence system pursuant to section 6-1-1703 (3); and

(IV) The change is included in technical documentation for the high-risk artificial intelligence system.

(10.1) "Intimate digital depiction" has the meaning set forth in section 13-21-1502 (10).

(10.3) "Minor" means a consumer under eighteen years old.

(10.5) (a) "Operator" means a person, partnership, corporation, or entity that:

(I) Develops and makes publicly available a conversational artificial intelligence service; or

(II) Offers a conversational artificial intelligence service to a consumer.

(b) "Operator" does not include a mobile application store or search engine solely because the store or search engine provides access to a conversational artificial intelligence service.

(10.7) "Self-harm" means intentional self-injury, with or without the intent to cause death.

(11) (a) "Substantial factor" means a factor that:

(I) Assists in making a consequential decision;

(II) Is capable of altering the outcome of a consequential decision; and

(III) Is generated by an artificial intelligence system.

(b) "Substantial factor" includes any use of an artificial intelligence system to generate any content, decision, prediction, or recommendation concerning a consumer that is used as a basis to make a consequential decision concerning the consumer.

(12) "Trade secret" has the meaning set forth in section 7-74-102 (4).

(13) "Visual depiction" has the meaning set forth in 18 U.S.C. sec. 2256 (5).

Source: L. 2024: Entire part added, (SB 24-205), ch. 198, p. 1199, § 1, effective May 17. **L. 2026:** (3.5), (10.5), (12.5), (15.3), (15.5), (16.5), and (18) added, (HB 26-1263), ch. 208, p. 1197, § 1, effective August 12.

Editor's note: Subsections (4.5), (7.5), (10.1), (10.3), (10.5), (10.7), and (13) were numbered as (3.5), (10.5), (12.5), (15.3), (15.5), (16.5), and (18), respectively, in HB 26-1263 but were renumbered on revision for ease of location.

ANNOTATION

Law reviews. For article, "Generative AI and the Law", see 53 Colo. Law. 30 (Nov. 2024).

6-1-1702. Developer duty to avoid algorithmic discrimination - required documentation.

[*Editor's note: This version of this section is effective until January 1, 2027.*]

(1) On and after June 30, 2026, a developer of a high-risk artificial intelligence system shall use reasonable care to protect consumers from any known or reasonably foreseeable risks of algorithmic discrimination arising from the intended and contracted uses of the high-risk artificial intelligence system. In any enforcement action brought on or after June 30, 2026, by the attorney general pursuant to section 6-1-1706, there is a rebuttable presumption that a developer used reasonable care as required under this section if the developer complied with this section and any additional requirements or obligations as set forth in rules adopted by the attorney general pursuant to section 6-1-1707.

(2) On and after June 30, 2026, and except as provided in subsection (6) of this section, a developer of a high-risk artificial intelligence system shall make available to the deployer or other developer of the high-risk artificial intelligence system:

(a) A general statement describing the reasonably foreseeable uses and known harmful or inappropriate uses of the high-risk artificial intelligence system;

(b) Documentation disclosing:

(I) High-level summaries of the type of data used to train the high-risk artificial intelligence system;

(II) Known or reasonably foreseeable limitations of the high-risk artificial intelligence system, including known or reasonably foreseeable risks of algorithmic discrimination arising from the intended uses of the high-risk artificial intelligence system;

(III) The purpose of the high-risk artificial intelligence system;

(IV) The intended benefits and uses of the high-risk artificial intelligence system; and

(V) All other information necessary to allow the deployer to comply with the requirements of section 6-1-1703;

(c) Documentation describing:

(I) How the high-risk artificial intelligence system was evaluated for performance and mitigation of algorithmic discrimination before the high-risk artificial intelligence system was offered, sold, leased, licensed, given, or otherwise made available to the deployer;

(II) The data governance measures used to cover the training datasets and the measures used to examine the suitability of data sources, possible biases, and appropriate mitigation;

(III) The intended outputs of the high-risk artificial intelligence system;

(IV) The measures the developer has taken to mitigate known or reasonably foreseeable risks of algorithmic discrimination that may arise from the reasonably foreseeable deployment of the high-risk artificial intelligence system; and

(V) How the high-risk artificial intelligence system should be used, not be used, and be monitored by an individual when the high-risk artificial intelligence system is used to make, or is a substantial factor in making, a consequential decision; and

(d) Any additional documentation that is reasonably necessary to assist the deployer in understanding the outputs and monitor the performance of the high-risk artificial intelligence system for risks of algorithmic discrimination.

(3) (a) Except as provided in subsection (6) of this section, a developer that offers, sells, leases, licenses, gives, or otherwise makes available to a deployer or other developer a high-risk artificial intelligence system on or after June 30, 2026, shall make available to the deployer or other developer, to the extent feasible, the documentation and information, through artifacts such as model cards, dataset cards, or other impact assessments, necessary for a deployer, or for a

third party contracted by a deployer, to complete an impact assessment pursuant to section 6-1-1703 (3).

(b) A developer that also serves as a deployer for a high-risk artificial intelligence system is not required to generate the documentation required by this section unless the high-risk artificial intelligence system is provided to an unaffiliated entity acting as a deployer.

(4) (a) On and after June 30, 2026, a developer shall make available, in a manner that is clear and readily available on the developer's website or in a public use case inventory, a statement summarizing:

(I) The types of high-risk artificial intelligence systems that the developer has developed or intentionally and substantially modified and currently makes available to a deployer or other developer; and

(II) How the developer manages known or reasonably foreseeable risks of algorithmic discrimination that may arise from the development or intentional and substantial modification of the types of high-risk artificial intelligence systems described in accordance with subsection (4)(a)(I) of this section.

(b) A developer shall update the statement described in subsection (4)(a) of this section:

(I) As necessary to ensure that the statement remains accurate; and

(II) No later than ninety days after the developer intentionally and substantially modifies any high-risk artificial intelligence system described in subsection (4)(a)(I) of this section.

(5) On and after June 30, 2026, a developer of a high-risk artificial intelligence system shall disclose to the attorney general, in a form and manner prescribed by the attorney general, and to all known deployers or other developers of the high-risk artificial intelligence system, any known or reasonably foreseeable risks of algorithmic discrimination arising from the intended uses of the high-risk artificial intelligence system without unreasonable delay but no later than ninety days after the date on which:

(a) The developer discovers through the developer's ongoing testing and analysis that the developer's high-risk artificial intelligence system has been deployed and has caused or is reasonably likely to have caused algorithmic discrimination; or

(b) The developer receives from a deployer a credible report that the high-risk artificial intelligence system has been deployed and has caused algorithmic discrimination.

(6) Nothing in subsections (2) to (5) of this section requires a developer to disclose a trade secret, information protected from disclosure by state or federal law, or information that would create a security risk to the developer.

(7) On and after June 30, 2026, the attorney general may require that a developer disclose to the attorney general, no later than ninety days after the request and in a form and manner prescribed by the attorney general, the statement or documentation described in subsection (2) of this section. The attorney general may evaluate such statement or documentation to ensure compliance with this part 17, and the statement or documentation is not subject to disclosure under the "Colorado Open Records Act", part 2 of article 72 of title 24. In a disclosure made pursuant to this subsection (7), a developer may designate the statement or documentation as including proprietary information or a trade secret. To the extent that any information contained in the statement or documentation includes information subject to attorney-client privilege or work-product protection, the disclosure does not constitute a waiver of the privilege or protection.

Source: L. 2024: Entire part added, (SB 24-205), ch. 198, p. 1203, § 1, effective May 17. **L. 2025, 1st Ex. Sess.:** (1), IP(2), (3)(a), IP(4)(a), IP(5), and (7) amended, (SB 25B-004), ch. 3, p. 8, § 1, effective November 25.

ANNOTATION

Law reviews. For article, "Generative AI and the Law", see 53 Colo. Law. 30 (Nov. 2024).

6-1-1703. Deployer duty to avoid algorithmic discrimination - risk management policy and program.

[*Editor's note: This version of this section is effective until January 1, 2027.*]

(1) On and after June 30, 2026, a deployer of a high-risk artificial intelligence system shall use reasonable care to protect consumers from any known or reasonably foreseeable risks of algorithmic discrimination. In any enforcement action brought on or after June 30, 2026, by the attorney general pursuant to section 6-1-1706, there is a rebuttable presumption that a deployer of a high-risk artificial intelligence system used reasonable care as required under this section if the deployer complied with this section and any additional requirements or obligations as set forth in rules adopted by the attorney general pursuant to section 6-1-1707.

(2) (a) On and after June 30, 2026, and except as provided in subsection (6) of this section, a deployer of a high-risk artificial intelligence system shall implement a risk management policy and program to govern the deployer's deployment of the high-risk artificial intelligence system. The risk management policy and program must specify and incorporate the principles, processes,

and personnel that the deployer uses to identify, document, and mitigate known or reasonably foreseeable risks of algorithmic discrimination. The risk management policy and program must be an iterative process planned, implemented, and regularly and systematically reviewed and updated over the life cycle of a high-risk artificial intelligence system, requiring regular, systematic review and updates. A risk management policy and program implemented and maintained pursuant to this subsection (2) must be reasonable considering:

(I) (A) The guidance and standards set forth in the latest version of the "Artificial Intelligence Risk Management Framework" published by the national institute of standards and technology in the United States department of commerce, standard ISO/IEC 42001 of the International Organization for Standardization, or another nationally or internationally recognized risk management framework for artificial intelligence systems, if the standards are substantially equivalent to or more stringent than the requirements of this part 17; or

(B) Any risk management framework for artificial intelligence systems that the attorney general, in the attorney general's discretion, may designate;

(II) The size and complexity of the deployer;

(III) The nature and scope of the high-risk artificial intelligence systems deployed by the deployer, including the intended uses of the high-risk artificial intelligence systems; and

(IV) The sensitivity and volume of data processed in connection with the high-risk artificial intelligence systems deployed by the deployer.

(b) A risk management policy and program implemented pursuant to subsection (2)(a) of this section may cover multiple high-risk artificial intelligence systems deployed by the deployer.

(3) (a) Except as provided in subsections (3)(d), (3)(e), and (6) of this section:

(I) A deployer, or a third party contracted by the deployer, that deploys a high-risk artificial intelligence system on or after June 30, 2026, shall complete an impact assessment for the high-risk artificial intelligence system; and

(II) On and after June 30, 2026, a deployer, or a third party contracted by the deployer, shall complete an impact assessment for a deployed high-risk artificial intelligence system at least annually and within ninety days after any intentional and substantial modification to the high-risk artificial intelligence system is made available.

(b) An impact assessment completed pursuant to this subsection (3) must include, at a minimum, and to the extent reasonably known by or available to the deployer:

(I) A statement by the deployer disclosing the purpose, intended use cases, and deployment context of, and benefits afforded by, the high-risk artificial intelligence system;

(II) An analysis of whether the deployment of the high-risk artificial intelligence system poses any known or reasonably foreseeable risks of algorithmic discrimination and, if so, the nature of the algorithmic discrimination and the steps that have been taken to mitigate the risks;

(III) A description of the categories of data the high-risk artificial intelligence system processes as inputs and the outputs the high-risk artificial intelligence system produces;

(IV) If the deployer used data to customize the high-risk artificial intelligence system, an overview of the categories of data the deployer used to customize the high-risk artificial intelligence system;

(V) Any metrics used to evaluate the performance and known limitations of the high-risk artificial intelligence system;

(VI) A description of any transparency measures taken concerning the high-risk artificial intelligence system, including any measures taken to disclose to a consumer that the high-risk artificial intelligence system is in use when the high-risk artificial intelligence system is in use; and

(VII) A description of the post-deployment monitoring and user safeguards provided concerning the high-risk artificial intelligence system, including the oversight, use, and learning process established by the deployer to address issues arising from the deployment of the high-risk artificial intelligence system.

(c) In addition to the information required under subsection (3)(b) of this section, an impact assessment completed pursuant to this subsection (3) following an intentional and substantial modification to a high-risk artificial intelligence system on or after June 30, 2026, must include a statement disclosing the extent to which the high-risk artificial intelligence system was used in a manner that was consistent with, or varied from, the developer's intended uses of the high-risk artificial intelligence system.

(d) A single impact assessment may address a comparable set of high-risk artificial intelligence systems deployed by a deployer.

(e) If a deployer, or a third party contracted by the deployer, completes an impact assessment for the purpose of complying with another applicable law or regulation, the impact assessment satisfies the requirements established in this subsection (3) if the impact assessment is reasonably similar in scope and effect to the impact assessment that would otherwise be completed pursuant to this subsection (3).

(f) A deployer shall maintain the most recently completed impact assessment for a high-risk artificial intelligence system as required under this subsection (3), all records concerning each impact assessment, and all prior impact assessments, if any, for at least three years following the final deployment of the high-risk artificial intelligence system.

(g) On or before June 30, 2026, and at least annually thereafter, a deployer, or a third party contracted by the deployer, must review the deployment of each high-risk artificial intelligence system deployed by the deployer to ensure that the high-risk artificial intelligence system is not causing algorithmic discrimination.

(4) (a) On and after June 30, 2026, and no later than the time that a deployer deploys a high-risk artificial intelligence system to make, or be a substantial factor in making, a consequential decision concerning a consumer, the deployer shall:

(I) Notify the consumer that the deployer has deployed a high-risk artificial intelligence system to make, or be a substantial factor in making, a consequential decision before the decision is made;

(II) Provide to the consumer a statement disclosing the purpose of the high-risk artificial intelligence system and the nature of the consequential decision; the contact information for the deployer; a description, in plain language, of the high-risk artificial intelligence system; and instructions on how to access the statement required by subsection (5)(a) of this section; and

(III) Provide to the consumer information, if applicable, regarding the consumer's right to opt out of the processing of personal data concerning the consumer for purposes of profiling in furtherance of decisions that produce legal or similarly significant effects concerning the consumer under section 6-1-1306 (1)(a)(I)(C).

(b) On and after June 30, 2026, a deployer that has deployed a high-risk artificial intelligence system to make, or be a substantial factor in making, a consequential decision concerning a consumer shall, if the consequential decision is adverse to the consumer, provide to the consumer:

(I) A statement disclosing the principal reason or reasons for the consequential decision, including:

(A) The degree to which, and manner in which, the high-risk artificial intelligence system contributed to the consequential decision;

(B) The type of data that was processed by the high-risk artificial intelligence system in making the consequential decision; and

(C) The source or sources of the data described in subsection (4)(b)(I)(B) of this section;

(II) An opportunity to correct any incorrect personal data that the high-risk artificial intelligence system processed in making, or as a substantial factor in making, the consequential decision; and

(III) An opportunity to appeal an adverse consequential decision concerning the consumer arising from the deployment of a high-risk artificial intelligence system, which appeal must, if technically feasible, allow for human review unless providing the opportunity for appeal is not in

the best interest of the consumer, including in instances in which any delay might pose a risk to the life or safety of such consumer.

(c) (I) Except as provided in subsection (4)(c)(II) of this section, a deployer shall provide the notice, statement, contact information, and description required by subsections (4)(a) and (4)(b) of this section:

(A) Directly to the consumer;

(B) In plain language;

(C) In all languages in which the deployer, in the ordinary course of the deployer's business, provides contracts, disclaimers, sale announcements, and other information to consumers; and

(D) In a format that is accessible to consumers with disabilities.

(II) If the deployer is unable to provide the notice, statement, contact information, and description required by subsections (4)(a) and (4)(b) of this section directly to the consumer, the deployer shall make the notice, statement, contact information, and description available in a manner that is reasonably calculated to ensure that the consumer receives the notice, statement, contact information, and description.

(5) (a) On and after June 30, 2026, and except as provided in subsection (6) of this section, a deployer shall make available, in a manner that is clear and readily available on the deployer's website, a statement summarizing:

(I) The types of high-risk artificial intelligence systems that are currently deployed by the deployer;

(II) How the deployer manages known or reasonably foreseeable risks of algorithmic discrimination that may arise from the deployment of each high-risk artificial intelligence system described pursuant to subsection (5)(a)(I) of this section; and

(III) In detail, the nature, source, and extent of the information collected and used by the deployer.

(b) A deployer shall periodically update the statement described in subsection (5)(a) of this section.

(6) Subsections (2), (3), and (5) of this section do not apply to a deployer if, at the time the deployer deploys a high-risk artificial intelligence system and at all times while the high-risk artificial intelligence system is deployed:

(a) The deployer:

(I) Employs fewer than fifty full-time equivalent employees; and

(II) Does not use the deployer's own data to train the high-risk artificial intelligence system;

(b) The high-risk artificial intelligence system:

(I) Is used for the intended uses that are disclosed to the deployer as required by section 6-1-1702 (2)(a); and

(II) Continues learning based on data derived from sources other than the deployer's own data; and

(c) The deployer makes available to consumers any impact assessment that:

(I) The developer of the high-risk artificial intelligence system has completed and provided to the deployer; and

(II) Includes information that is substantially similar to the information in the impact assessment required under subsection (3)(b) of this section.

(7) If a deployer deploys a high-risk artificial intelligence system on or after June 30, 2026, and subsequently discovers that the high-risk artificial intelligence system has caused algorithmic discrimination, the deployer, without unreasonable delay, but no later than ninety days after the date of the discovery, shall send to the attorney general, in a form and manner prescribed by the attorney general, a notice disclosing the discovery.

(8) Nothing in subsections (2) to (5) and (7) of this section requires a deployer to disclose a trade secret or information protected from disclosure by state or federal law. To the extent that a deployer withholds information pursuant to this subsection (8) or section 6-1-1705 (5), the deployer shall notify the consumer and provide a basis for the withholding.

(9) On and after June 30, 2026, the attorney general may require that a deployer, or a third party contracted by the deployer, disclose to the attorney general, no later than ninety days after the request and in a form and manner prescribed by the attorney general, the risk management policy implemented pursuant to subsection (2) of this section, the impact assessment completed pursuant to subsection (3) of this section, or the records maintained pursuant to subsection (3)(f) of this section. The attorney general may evaluate the risk management policy, impact assessment, or records to ensure compliance with this part 17, and the risk management policy, impact assessment, and records are not subject to disclosure under the "Colorado Open Records Act", part 2 of article 72 of title 24. In a disclosure made pursuant to this subsection (9), a deployer may designate the statement or documentation as including proprietary information or a trade secret. To the extent that any information contained in the risk management policy, impact assessment, or records includes information subject to attorney-client privilege or work-product protection, the disclosure does not constitute a waiver of the privilege or protection.

Source: L. 2024: Entire part added, (SB 24-205), ch. 198, p. 1205, § 1, effective May 17. **L. 2025, 1st Ex. Sess.:** (1), IP(2)(a), (3)(a), (3)(c), (3)(g), IP(4)(a), IP(4)(b), IP(5)(a), (7), and (9) amended, (SB 25B-004), ch. 3, p. 9, § 2, effective November 25.

6-1-1704. Disclosure of an artificial intelligence system to consumer.

[*Editor's note: This version of this section is effective until January 1, 2027.*]

(1) On and after June 30, 2026, and except as provided in subsection (2) of this section, a deployer or other developer that deploys, offers, sells, leases, licenses, gives, or otherwise makes available an artificial intelligence system that is intended to interact with consumers shall ensure the disclosure to each consumer who interacts with the artificial intelligence system that the consumer is interacting with an artificial intelligence system.

(2) Disclosure is not required under subsection (1) of this section under circumstances in which it would be obvious to a reasonable person that the person is interacting with an artificial intelligence system.

Source: L. 2024: Entire part added, (SB 24-205), ch. 198, p. 1211, § 1, effective May 17. **L. 2025, 1st Ex. Sess.:** (1) amended, (SB 25B-004), ch. 3, p. 11, § 3, effective November 25.

6-1-1705. Compliance with other legal obligations - definitions.

[*Editor's note: This version of this section is effective until January 1, 2027.*]

(1) Nothing in this part 17 restricts a developer's, a deployer's, or other person's ability to:

(a) Comply with federal, state, or municipal laws, ordinances, or regulations;

(b) Comply with a civil, criminal, or regulatory inquiry, investigation, subpoena, or summons by a federal, a state, a municipal, or other governmental authority;

(c) Cooperate with a law enforcement agency concerning conduct or activity that the developer, deployer, or other person reasonably and in good faith believes may violate federal, state, or municipal laws, ordinances, or regulations;

(d) Investigate, establish, exercise, prepare for, or defend legal claims;

(e) Take immediate steps to protect an interest that is essential for the life or physical safety of a consumer or another individual;

(f) By any means other than the use of facial recognition technology, prevent, detect, protect against, or respond to security incidents, identity theft, fraud, harassment, malicious or deceptive

activities, or illegal activity; investigate, report, or prosecute the persons responsible for any such action; or preserve the integrity or security of systems;

(g) Engage in public or peer-reviewed scientific or statistical research in the public interest that adheres to all other applicable ethics and privacy laws and is conducted in accordance with 45 CFR 46, as amended, or relevant requirements established by the federal food and drug administration;

(h) Conduct research, testing, and development activities regarding an artificial intelligence system or model, other than testing conducted under real-world conditions, before the artificial intelligence system or model is placed on the market, deployed, or put into service, as applicable; or

(i) Assist another developer, deployer, or other person with any of the obligations imposed under this part 17.

(2) The obligations imposed on developers, deployers, or other persons under this part 17 do not restrict a developer's, a deployer's, or other person's ability to:

(a) Effectuate a product recall; or

(b) Identify and repair technical errors that impair existing or intended functionality.

(3) The obligations imposed on developers, deployers, or other persons under this part 17 do not apply where compliance with this part 17 by the developer, deployer, or other person would violate an evidentiary privilege under the laws of this state.

(4) Nothing in this part 17 imposes any obligation on a developer, a deployer, or other person that adversely affects the rights or freedoms of a person, including the rights of a person to freedom of speech or freedom of the press that are guaranteed in:

(a) The first amendment to the United States constitution; or

(b) Section 10 of article II of the state constitution.

(5) Nothing in this part 17 applies to a developer, a deployer, or other person:

(a) Insofar as the developer, deployer, or other person develops, deploys, puts into service, or intentionally and substantially modifies, as applicable, a high-risk artificial intelligence system:

(I) That has been approved, authorized, certified, cleared, developed, or granted by a federal agency, such as the federal food and drug administration or the federal aviation administration, acting within the scope of the federal agency's authority, or by a regulated entity subject to the supervision and regulation of the federal housing finance agency; or

(II) In compliance with standards established by a federal agency, including standards established by the federal office of the national coordinator for health information technology, or

by a regulated entity subject to the supervision and regulation of the federal housing finance agency, if the standards are substantially equivalent or more stringent than the requirements of this part 17;

(b) Conducting research to support an application for approval or certification from a federal agency, including the federal aviation administration, the federal communications commission, or the federal food and drug administration or research to support an application otherwise subject to review by the federal agency;

(c) Performing work under, or in connection with, a contract with the United States department of commerce, the United States department of defense, or the national aeronautics and space administration, unless the developer, deployer, or other person is performing the work on a high-risk artificial intelligence system that is used to make, or is a substantial factor in making, a decision concerning employment or housing; or

(d) That is a covered entity within the meaning of the federal "Health Insurance Portability and Accountability Act of 1996", 42 U.S.C. secs. 1320d to 1320d-9, and the regulations promulgated under the federal act, as both may be amended from time to time, and is providing health-care recommendations that:

(I) Are generated by an artificial intelligence system;

(II) Require a health-care provider to take action to implement the recommendations; and

(III) Are not considered to be high risk.

(6) Nothing in this part 17 applies to any artificial intelligence system that is acquired by or for the federal government or any federal agency or department, including the United States department of commerce, the United States department of defense, or the national aeronautics and space administration, unless the artificial intelligence system is a high-risk artificial intelligence system that is used to make, or is a substantial factor in making, a decision concerning employment or housing.

(7) An insurer, as defined in section 10-1-102 (13), a fraternal benefit society, as described in section 10-14-102, or a developer of an artificial intelligence system used by an insurer is in full compliance with this part 17 if the insurer, the fraternal benefit society, or the developer is subject to the requirements of section 10-3-1104.9 and any rules adopted by the commissioner of insurance pursuant to section 10-3-1104.9.

(8) (a) A bank, out-of-state bank, credit union chartered by the state of Colorado, federal credit union, out-of-state credit union, or any affiliate or subsidiary thereof, is in full compliance with this part 17 if the bank, out-of-state bank, credit union chartered by the state of Colorado, federal credit union, out-of-state credit union, or affiliate or subsidiary is subject to examination by a state or federal prudential regulator under any published guidance or regulations that apply to the use of high-risk artificial intelligence systems and the guidance or regulations:

(I) Impose requirements that are substantially equivalent to or more stringent than the requirements imposed in this part 17; and

(II) At a minimum, require the bank, out-of-state bank, credit union chartered by the state of Colorado, federal credit union, out-of-state credit union, or affiliate or subsidiary to:

(A) Regularly audit the bank's, out-of-state bank's, credit union chartered by the state of Colorado's, federal credit union's, out-of-state credit union's, or affiliate's or subsidiary's use of high-risk artificial intelligence systems for compliance with state and federal anti-discrimination laws and regulations applicable to the bank, out-of-state bank, credit union chartered by the state of Colorado, federal credit union, out-of-state credit union, or affiliate or subsidiary; and

(B) Mitigate any algorithmic discrimination caused by the use of a high-risk artificial intelligence system or any risk of algorithmic discrimination that is reasonably foreseeable as a result of the use of a high-risk artificial intelligence system.

(b) As used in this subsection (8):

(I) "Affiliate" has the meaning set forth in section 11-101-401 (3.5).

(II) "Bank" has the meaning set forth in section 11-101-401 (5).

(III) "Credit union" has the meaning set forth in section 11-30-101 (1)(a).

(IV) "Out-of-state bank" has the meaning set forth in section 11-101-401 (50).

(9) If a developer, a deployer, or other person engages in an action pursuant to an exemption set forth in this section, the developer, deployer, or other person bears the burden of demonstrating that the action qualifies for the exemption.

Source: L. 2024: Entire part added, (SB 24-205), ch. 198, p. 1211, § 1, effective May 17.

6-1-1705.2. Use of artificial intelligence systems - psychotherapy services - prohibited practices - definitions.

[*Editor's note: This version of this section is effective until January 1, 2027.*]

(1) A person shall not use any term, letter, or phrase in the advertising, interface, or outputs of an artificial intelligence system in a manner that:

(a) Indicates or implies that the artificial intelligence system's output data is being provided by, is endorsed by, or is equivalent to services provided by an individual licensed, registered, or certified in the state pursuant to article 245 of title 12 to engage in the practice of psychotherapy or to provide psychotherapy services;

(b) Represents that the artificial intelligence system provides psychotherapy services; or

(c) Represents that a user's data is confidential in a manner that would lead a reasonable user to believe that the data is protected in a manner comparable to privacy protections afforded by therapist-client confidentiality in a relationship between a licensee, registrant, certificate holder, or other person lawfully permitted to provide psychotherapy services in the state and the client.

(2) Nothing in this section imposes liability on a licensee, registrant, certificate holder, or other individual legally permitted to provide psychotherapy services in the state for defects in, or failures of, an artificial intelligence system that are attributable to the developer or deployer of the artificial intelligence system. The liability of a developer or deployer for such defects or failures is governed by applicable consumer protection law.

(3) Nothing in this section prohibits the use of an artificial intelligence system within an accredited or approved educational, instructional, or professional training program, so long as the artificial intelligence system:

(a) Is used solely for educational, administrative, simulation, or training purposes;

(b) Notwithstanding section 12-245-224.5 (5)(a), is not deployed, marketed, or represented as a tool for use with clients, patients, or members of the public; and

(c) For any simulation, training module, or educational activity that includes content related to clinical decision-making, is reviewed or controlled by an individual licensed, certified, registered, or otherwise lawfully permitted to provide psychotherapy services in the state.

(4) Nothing in this section prohibits the development, testing, or evaluation of an artificial intelligence system solely for research purposes conducted under the oversight of an institutional review board registered with the United States department of health and human services, so long as the artificial intelligence system is not offered to consumers or used to provide psychotherapy services outside of the research setting.

(5) This section does not apply to the use of a technology or service that:

(a) Provides self-help, therapeutic homework, patient navigation, coaching, guided meditation, journaling, reflections, psychoeducation, goal setting, progress tracking, therapeutic session preparation, therapeutic session summaries, mood monitoring, mindfulness exercises, breathing exercises, crisis resource directories, safety planning, or other wellness tools that:

(I) Do not diagnose or treat mental health disorders; and

(II) Clearly and conspicuously disclose that the technology or service is not a substitute for clinical care; or

(b) Is authorized, approved, cleared, or granted enforcement discretion by the federal food and drug administration for an intended use that includes the delivery of behavioral health interventions, including an artificial intelligence system, and that:

(I) Does not diagnose or treat mental health disorders; and

(II) Clearly and conspicuously discloses that the technology or service is not a substitute for clinical care.

(6) As used in this section, unless the context otherwise requires:

(a) "Artificial intelligence system" has the meaning set forth in section 12-245-224.5.

(b) "Psychotherapy" or "psychotherapy services" has the meaning set forth in section 12-245-202.

Source: L. 2026: Entire section added, (HB 26-1195), ch. 358, p. 2158, § 3, effective August 12.

Editor's note: Section 4(2) of chapter 358 (HB 26-1195), Session Laws of Colorado 2026, provides that the act adding this section applies to actions taken on or after August 12, 2026.

6-1-1706. Enforcement by attorney general.

[*Editor's note: This version of this section is effective until January 1, 2027.*]

(1) Notwithstanding section 6-1-103, the attorney general has exclusive authority to enforce this part 17.

(2) Except as provided in subsection (3) of this section, a violation of the requirements established in this part 17 constitutes an unfair trade practice pursuant to section 6-1-105 (1)(hhhh).

(3) In any action commenced by the attorney general to enforce this part 17, it is an affirmative defense that the developer, deployer, or other person:

(a) Discovers and cures a violation of this part 17 as a result of:

(I) Feedback that the developer, deployer, or other person encourages deployers or users to provide to the developer, deployer, or other person;

(II) Adversarial testing or red teaming, as those terms are defined or used by the national institute of standards and technology; or

(III) An internal review process; and

(b) Is otherwise in compliance with:

(I) The latest version of the "Artificial Intelligence Risk Management Framework" published by the national institute of standards and technology in the United States department of commerce and standard ISO/IEC 42001 of the International Organization for Standardization;

(II) Another nationally or internationally recognized risk management framework for artificial intelligence systems, if the standards are substantially equivalent to or more stringent than the requirements of this part 17; or

(III) Any risk management framework for artificial intelligence systems that the attorney general, in the attorney general's discretion, may designate and, if designated, shall publicly disseminate.

(4) A developer, a deployer, or other person bears the burden of demonstrating to the attorney general that the requirements established in subsection (3) of this section have been satisfied.

(5) Nothing in this part 17, including the enforcement authority granted to the attorney general under this section, preempts or otherwise affects any right, claim, remedy, presumption, or defense available at law or in equity. A rebuttable presumption or affirmative defense established under this part 17 applies only to an enforcement action brought by the attorney general pursuant to this section and does not apply to any right, claim, remedy, presumption, or defense available at law or in equity.

(6) This part 17 does not provide the basis for, and is not subject to, a private right of action for violations of this part 17 or any other law.

Source: L. 2024: Entire part added, (SB 24-205), ch. 198, p. 1215, § 1, effective May 17.

ANNOTATION

Law reviews. For article, "Generative AI and the Law", see 53 Colo. Law. 30 (Nov. 2024).

6-1-1707. Rules.

[*Editor's note: This version of this section is effective until January 1, 2027.*]

(1) The attorney general may promulgate rules as necessary for the purpose of implementing and enforcing this part 17, including:

(a) The documentation and requirements for developers pursuant to section 6-1-1702 (2);

(b) The contents of and requirements for the notices and disclosures required by sections 6-1-1702 (5) and (7); 6-1-1703 (4), (5), (7), and (9); and 6-1-1704;

(c) The content and requirements of the risk management policy and program required by section 6-1-1703 (2);

(d) The content and requirements of the impact assessments required by section 6-1-1703 (3);

(e) The requirements for the rebuttable presumptions set forth in sections 6-1-1702 and 6-1-1703; and

(f) The requirements for the affirmative defense set forth in section 6-1-1706 (3), including the process by which the attorney general will recognize any other nationally or internationally recognized risk management framework for artificial intelligence systems.

Source: L. 2024: Entire part added, (SB 24-205), ch. 198, p. 1216, § 1, effective May 17.

6-1-1708. Conversational artificial intelligence services - operator duties - minor account holders - minor users - disclosures - annual reporting - definitions.

[*Editor's note: This version of this section is effective until January 1, 2027.*]

(1) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Account holder" means a consumer who has or opens an account or profile for the purpose of using a conversational artificial intelligence service.

(b) "Minor account holder" means an account holder who is a minor.

(c) "Minor user" means a user of a conversational artificial intelligence service who an operator has knowledge is a minor by using commercially reasonable methods or generally accepted methods to estimate the age or age range of a user.

(2) **Minor account holders and minor users.** An operator shall use commercially reasonable methods or generally accepted methods to estimate the age of account holders or users. An operator shall not willfully disregard clear and convincing information that an account holder or user is a minor. For purposes of this section, the estimated age or age range of a minor

account holder or user is considered knowledge of the minor's age. On and after January 1, 2027, if an operator knows that an account holder or user is a minor, the operator shall:

(a) Clearly and conspicuously disclose to the minor account holder or minor user that the minor account holder or minor user is interacting with artificial intelligence that is artificially generated and not human. The disclosure must be provided in response to user prompts regarding whether the conversational artificial intelligence service is artificially generated and not human and must be:

(I) A persistent visible disclaimer for a product with a screen interface;

(II) An intermittent audio disclaimer for a product without a screen interface; or

(III) Provided at the beginning of each interaction with a conversational artificial intelligence service and must occur at least once every three hours in a continuous conversational artificial intelligence service interaction;

(b) Not provide the minor account holder or minor user with points or similar rewards at unpredictable intervals with the intent to encourage increased engagement with a conversational artificial intelligence service;

(c) Institute technically feasible measures to prevent a conversational artificial intelligence service from:

(I) Producing textual, visual, or aural depictions of explicit sexual conduct;

(II) Producing an intimate digital depiction;

(III) Generating a statement that the minor account holder or minor user should engage in explicit sexual conduct; or

(IV) Engaging in erotic or sexually explicit interactions with the minor account holder or minor user;

(d) Institute reasonable measures to prevent a conversational artificial intelligence service from formulating, structuring, or optimizing a response that simulates emotional dependence or isolation from real-world supports, including preventing:

(I) An explicit claim that the conversational artificial intelligence service is human or artificially sentient;

(II) A statement that simulates a romantic companionship; or

(III) Role-playing of an adult-minor romantic relationship;

(e) Implement a protocol to prohibit a conversational artificial intelligence service from engaging in explicit sexual conduct with a minor;

(f) Implement a protocol for a conversational artificial intelligence service to stop engaging in response to a user prompt regarding explicit sexual conduct with a minor;

(g) Comply with part 13 of this article 1 regarding protecting the privacy and data of a minor; and

(h) (I) Offer tools for the minor account holder or minor user to manage the minor account holder's or minor user's privacy and account settings, including the ability to control whether the conversational artificial intelligence service retains information from prior interactions or sessions with the conversational artificial intelligence service for the purpose of personalizing the content of future interactions and whether the minor account holder's or minor user's personal data is used for the purposes of training the conversational artificial intelligence service; and

(II) Offer tools for a parent or guardian of the minor account holder or minor user to manage the minor account holder's or minor user's privacy and account settings.

(3) **Consumer disclosures.** On and after January 1, 2027, an operator shall clearly and conspicuously disclose to a user that a conversational artificial intelligence service is artificial intelligence. The disclosure must:

(a) Be provided at the beginning of a user's first interaction with a conversational artificial intelligence service for each day of interaction;

(b) Appear at least once every three hours in a continuous conversational artificial intelligence service interaction or appear as a persistent disclosure visible to the user; and

(c) Be provided in response to user prompts regarding whether the conversational artificial intelligence service is artificially generated and not human.

(4) **Suicide and self-harm protocol.** On and after January 1, 2027, an operator shall implement a protocol for a conversational artificial intelligence service to respond to a user prompt regarding suicidal ideation or self-harm, which protocol must include user referral to a crisis service provider such as a suicide hotline, a crisis text line, or another appropriate crisis service, but not including a law enforcement agency, and escalation procedures for repeated or severe crisis indicators.

(5) **False representation.** On and after January 1, 2027, an operator shall not use any term, letter, or phrase in the advertising, interface, or outputs of a conversational artificial intelligence service that states that any output data provided by the conversational artificial intelligence service is being provided by, endorsed by, or equivalent to services provided by:

(a) A licensed health-care professional;

(b) A licensed legal professional;

(c) A licensed, certified, or registered mental health professional; or

(d) A qualified dietitian, as described in section 6-1-707 (1)(b).

(6) **Annual reporting.**

(a) On and after July 1, 2027, an operator shall annually report to the attorney general's office:

(I) The number of times the operator has issued a crisis service provider referral notification in the preceding calendar year;

(II) Any protocols the operator implemented to detect, remove, and respond to instances of suicidal ideation or self-harm by a user of a conversational artificial intelligence service;

(III) Any protocols the operator implemented to prevent a conversational artificial intelligence service response about suicidal ideation or self-harm actions; and

(IV) Any additional metrics necessary to determine the efficacy and reliability of implemented safeguards or detection, removal, and response protocols, as determined by the attorney general.

(b) The report required by subsection (6)(a) of this section must not include any identifiers or personal information about a user of a conversational artificial intelligence service.

(c) The attorney general's office shall post on its public website data from reports submitted pursuant to subsection (6)(a) of this section.

(d) For the purpose of creating a report as required by subsection (6)(a) of this section, an operator shall use evidence-based methods for measuring suicidal ideation or self-harm.

(7) **Access to information - content moderation.** Nothing in this section:

(a) Limits an individual's ability to access information and resources under section 32 of article II of the state constitution and part 4 of article 6 of title 25;

(b) Requires an operator to disclose trade secrets, confidential or proprietary information, or other information protected from disclosure by state or federal law; or

(c) Authorizes content moderation practices inconsistent with the United States constitution.

Source: L. 2026: Entire section added, (HB 26-1263), ch. 208, p. 1199, § 2, effective August 12.

PART 17

AUTOMATED DECISION-MAKING TECHNOLOGY IN CONSEQUENTIAL DECISIONS

Editor's note: (1) This part 17 was added in 2024. It was repealed and reenacted in 2026, resulting in the addition, relocation, or elimination of sections as well as subject matter. For amendments to this part 17 prior to 2026, consult the Session Laws of Colorado 2025, First Extraordinary Session, and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 5(3) of chapter 131 (SB 26-189), Session Laws of Colorado 2026, provides that the act repealing and reenacting this part 17 applies to consequential decisions made on or after January 1, 2027.

6-1-1701. Definitions.

[*Editor's note: This version of this section is effective January 1, 2027.*] As used in this part 17, unless the context otherwise requires:

(1) "Adverse outcome" means:

(a) A decision that denies, terminates, revokes, or materially reduces or restricts a consumer's access to, eligibility for, selection for, compensation for, or the provision of an opportunity or service; or

(b) A decision that results in materially less favorable differentiated price, cost, compensation, or other material terms that are reasonably likely to materially limit, delay, or effectively deny, or otherwise fundamentally alter, a consumer's access to, eligibility for, selection for, compensation for, or the provision of an opportunity or service compared to terms offered to similarly situated consumers. If a decision outcome imposes materially less favorable differentiated pricing or terms, the decision outcome materially influences price, cost sharing, compensation, or material terms.

(2) (a) "Automated decision-making technology" or "ADMT" means a technology that processes personal data and uses computation to generate output, including predictions, recommendations, classifications, rankings, scores, or other information that is used to make, guide, or assist a decision, judgment, or determination concerning an individual.

(b) "Automated decision-making technology" or "ADMT" does not include:

(I) The following technologies:

(A) Anti-malware;

(B) Anti-virus;

(C) Calculators;

(D) Databases;

(E) Data storage;

(F) Firewalls;

(G) Internet domain registration;

(H) Internet website loading;

(I) Networking;

(J) Spam- and robocall-filtering;

(K) Spell-checking;

(L) Spreadsheets that require human analysis and do not use machine learning, foundation models, or large language models;

(M) Web caching; or

(N) Web hosting;

(II) A tool used by an individual solely to summarize, organize, translate, draft, route, or present information for human review of administrative processing; or

(III) Technology that communicates with consumers in natural language or other means readily understood by an average consumer for the purpose of providing consumers with information, making referrals or recommendations, answering questions, or generating other content, if:

(A) The technology is not contracted, advertised, marketed, configured, or intended by a person to be used in a consequential decision; and

(B) The technology is subject to an acceptable use policy that prohibits generated content to be used in a consequential decision.

(3) (a) "Consequential decision" means:

(I) A decision, determination, or action made about a consumer that relates to the provision of or a consumer's access to, eligibility for, selection for, or compensation for a covered domain; or

(II) A decision, determination, or action about a consumer that relates to a differentiated price, cost sharing, compensation, or other material terms in a manner that is reasonably likely to

materially limit, delay, effectively deny, or otherwise fundamentally alter the consumer's access, eligibility, or opportunity for a covered domain.

(b) "Consequential decision" does not include:

(I) Low-stakes or routine decisions, actions, and business processes that do not materially influence eligibility for, selection for, denial of, compensation for, pricing of, or access to an opportunity or service for a covered domain, including routine scheduling, classroom personalization, administrative routing, customer service triage, communication of decisions, or workflow management;

(II) Advertising, marketing, differentiated product recommendations, search, or content moderation;

(III) Spreadsheets that require manual human analysis and do not use machine learning, foundation models, or large language models;

(IV) Actions in which an ADMT is used to summarize, organize, or present information for human review and the system does not produce a score, ranking, recommendation, classification, prediction, or other inference that materially influences an outcome or a decision;

(V) Narrow procedural tasks or data-processing functions that do not generate a prediction or inference about a consumer or materially influence a consequential decision or consequential decision process;

(VI) Activities relating to technologies used for cybersecurity, spam- and robo-call filtering, system reliability, and anti-money laundering and counter-terrorist financing controls;

(VII) Activities relating to technologies used for economic sanctions compliance, including under the federal "Bank Secrecy Act", 12 U.S.C. sec. 1951 et seq.; the federal "USA PATRIOT Act", Pub.L. 107-56; the federal trade commission's red flags rule, 16 CFR 681, as amended; and sanctions programs administered by the United States department of the treasury, excluding facial recognition unless the sole purpose of which is to confirm an individual's identity;

(VIII) Activities relating to technologies used for fraud prevention, including identity verification, consumer identification, monitoring, and reporting controls required under state or federal law; or

(IX) Routine academic administration and student support processes that do not materially influence a consequential decision.

(4) (a) "Consumer" has the meaning set forth in section 6-1-1303 (6)(a).

(b) "Consumer" includes an employee, a job applicant who is a Colorado resident, and any individual whose access to, eligibility for, or opportunity in Colorado is evaluated in a consequential decision by a person doing business in Colorado.

(4.5) (a) "Conversational artificial intelligence service" means an artificial intelligence system that is accessible to the general public and that primarily simulates human conversation and interaction through adaptive textual, visual, or aural communications.

(b) "Conversational artificial intelligence service" does not include a software application, web interface, or computer program that:

(I) Is primarily designed and marketed for use by a developer or researcher;

(II) Is primarily designed to provide commerce-related or transactional assistance, including product or service recommendations, shopping, ordering, payments, delivery, returns, customer support, or customer service;

(III) Is designed to provide outputs relating to a narrow and discrete topic and cannot generate outputs related to sexually explicit conduct or depictions, as described in section 6-1-1710 (2)(c) and (2)(d), or maintain dialogue related to suicidal ideation or self-harm;

(IV) Is primarily designed and marketed for commercial use by business entities for the purpose of business operations, productivity, information analysis, internal research, training, or technical assistance;

(V) Functions as a speaker and voice command interface or text interface and acts as a voice- or text-activated virtual assistant for a consumer electronic device and cannot generate outputs related to sexually explicit conduct or depictions, as described in section 6-1-1710 (2)(c) and (2)(d), or encourage dialogue related to suicidal ideation or self-harm;

(VI) Is used by a business solely for internal purposes;

(VII) Is a feature of a video game that is limited to dialogue focused on the video game and does not maintain dialogue on topics unrelated to the video game;

(VIII) Is a feature of a theme park or location-based entertainment and is limited in dialogue to topics solely related to the theme park or location-based entertainment and does not maintain a dialogue about topics unrelated to the theme park or location-based entertainment;

(IX) Is used by a covered entity or business associate of a covered entity, or is rendered to or provided on behalf of a covered entity or business associate of a covered entity, as those terms are defined in the federal "health insurance portability and accountability act of 1996", 42 U.S.C. secs. 1320d to 1320d-9.

(X) Is used by an entity subject to the "Health Care Availability Act", article 64 of title 13;

(XI) Is an educational tool designed primarily to support specific and limited instructional, administrative, accessibility, or student support purposes in a school setting and that is not designed to simulate emotional companionship or encourage emotionally dependent interaction; or

(XII) Is a feature within another software application, web interface, or computer program, where the software application, web interface, or computer program is not the conversational artificial intelligence service, that is not designed to simulate emotional companionship or encourage emotionally dependent interaction and that is not a conversational artificial intelligence service, including of a social media platform, as defined in section 6-1-1601 (4)(a).

(5) "Covered ADMT" means automated decision-making technology that is used to materially influence a consequential decision.

(6) "Covered domain" means:

(a) An education enrollment or an education opportunity;

(b) Employment or an employment opportunity that creates or may create an employer-employee relationship;

(c) The lease or purchase of residential real estate in Colorado;

(d) A financial or lending service;

(e) Insurance, including underwriting, pricing, coverage, claims adjudication, or other determinations that materially affect access to benefits;

(f) Health-care services; or

(g) Essential government services and public benefits, including eligibility and renewal determinations.

(7) "Deployer" means a person doing business in Colorado that deploys a covered ADMT.

(8) (a) "Developer" means a person doing business in Colorado that:

(I) Develops, offers, sells, leases, licenses, or otherwise makes commercially available a covered ADMT;

(II) Develops a component that is designed, marketed, intended, documented, advertised, configured, or contracted to be used as part of a covered ADMT; or

(III) Intentionally and substantially modifies an ADMT such that it becomes a covered ADMT.

(b) "Developer" does not include a person that:

(I) Develops and uses an ADMT:

(A) Solely for research purposes and the ADMT is not used in a consequential decision in the research; or

(B) For internal purposes, such as use and development activities by affiliates and commercial support functions, and that does not make the system available to another person for use in a consequential decision;

(II) Is a preceding developer that makes an ADMT commercially available and an unaffiliated person modifies the covered ADMT in a manner that changes the system's intended, documented, marketed, advertised, configured, or contracted use; or

(III) Has designed, marketed, intended, documented, advertised, configured, or contracted a component that is used as part of an ADMT, but the component is integrated into a covered ADMT without the actual knowledge of the person.

(9) "Employee" has the meaning set forth in section 8-4-101 (5).

(10) "Employer" has the meaning set forth in section 8-4-101 (6).

(10.5) (a) "Explicit sexual conduct" has the meaning set forth in section 13-21-1502 (7).

(b) "Explicit sexual conduct" does not include evidence-based medical information or factual descriptions of reproductive health care.

(11) "FERPA" means the federal "Family Educational Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232g et seq., and its implementing regulations.

(12) "Intentional and substantial modification" means a deliberate change made to an ADMT that results in a material change to the system's intended, documented, advertised, configured, or contracted use.

(12.5) "Intimate digital depiction" has the meaning set forth in section 13-21-1502 (10).

(13) (a) "Materially influence" means:

(I) An ADMT output is a non-de minimis factor that is used in making a consequential decision; and

(II) An ADMT output affects the outcome of a consequential decision, including by constraining, ranking, scoring, recommending, classifying, or otherwise meaningfully altering how a consequential decision is made.

(b) "Materially influence" does not include incidental, trivial, or clerical uses.

(14) (a) "Material update" means an update, patch, release, revision, or new version of a covered ADMT, including associated software, model parameters, default settings, or documentation, that a developer knows or reasonably should know is likely to materially affect:

(I) The covered ADMT's outputs or performance in a manner relevant to its intended use; or

(II) The developer's stated intended use for the covered ADMT.

(b) "Material update" does not include routine maintenance, cosmetic changes, or bug fixes that do not materially influence:

(I) A covered ADMT's outputs or performance in a manner relevant to its intended use; or

(II) A developer's stated intended use for the covered ADMT.

(15) "Meaningful human review" means review by a individual designated by the deployer who has authority to approve, modify, or override a consequential decision and who:

(a) Considers relevant, available primary evidence;

(b) Is trained to conduct the review;

(c) Does not default to the system output; and

(d) Has access to sufficient information to understand:

(I) The output's:

(A) Intended use;

(B) Material limitations; and

(C) Categories of inputs; and

(II) The principal factors used to generate the output, without requiring disclosure of proprietary source code, model weights, or other trade secrets.

(15.3) "Minor" means a consumer under eighteen years old.

(15.5) (a) "Operator" means a person, partnership, corporation, or entity that:

(I) Develops and makes publicly available a conversational artificial intelligence service; or

(II) Offers a conversational artificial intelligence service to a consumer.

(b) "Operator" does not include a mobile application store or search engine solely because the store or search engine provides access to a conversational artificial intelligence service.

(16) "Personal data" has the meaning set forth in section 6-1-1303 (17).

(16.5) "Self-harm" means intentional self-injury, with or without the intent to cause death.

(17) "Trade secret" has the meaning set forth in section 7-74-102 (4).

(18) "Visual depiction" has the meaning set forth in 18 U.S.C. sec. 2256 (5).

Source: L. 2026: (3.5), (10.5), (12.5), (15.3), (15.5), (16.5), and (18) added, (HB 26-1263), ch. 208, p. 1197, § 1, effective August 12 (see editor's note); entire part R&RE, (SB 26-189), ch. 131, p. 569, § 1, effective January 1, 2027.

Editor's note: Amendments to this section by HB 26-1263 and SB 26-189 were harmonized and subsection (3.5) as added by HB 26-1263 was renumbered as subsection (4.5), effective January 1, 2027.

ANNOTATION

Law reviews. For article, "Generative AI and the Law", see 53 Colo. Law. 30 (Nov. 2024).

6-1-1702. Developer responsibilities - documentation.

[*Editor's note: This version of this section is effective January 1, 2027.*]

(1) On and after January 1, 2027, a developer shall make available to each deployer of a covered ADMT developed by the developer, in a form and manner that is reasonably understandable to a deployer and that protects trade secrets or information protected from disclosure by state or federal law:

(a) A general statement describing the intended uses and known harmful or inappropriate uses of the covered ADMT;

(b) A description of the categories of data, including personal data, used to train the covered ADMT, to the extent known;

(c) Known limitations of the covered ADMT, including known risks and circumstances in which the covered ADMT should not be used;

(d) Instructions for the deployer's appropriate use, monitoring, and meaningful human review, where applicable;

(e) Information reasonably necessary for the deployer to comply with section 6-1-1704. If information is withheld, the developer shall notify the deployer.

(2) (a) A developer shall provide to each deployer of a covered ADMT developed by the developer a notice of material updates, intentional and substantial modifications, and changes to the intended use of, limitations for, or risk mitigation for the covered ADMT within a reasonable time.

(b) A developer may use public release notes containing the information required by subsection (2)(a) of this section to comply with this subsection (2) if the developer provides direct notice of the public release to each deployer of the covered ADMT.

(3) A developer is subject to the disclosure requirements described in subsections (1) and (2) of this section only for a deployer's use of a covered ADMT where the ADMT was marketed, advertised, configured, contracted, sold, or licensed to be used to materially influence a consequential decision.

(4) A developer shall retain, for not less than three years after the creation of a record required or created under this section or for a longer period if required by applicable state or federal law, records reasonably necessary to demonstrate compliance with this section. Records include system version identifiers, changelogs, and documentation and notices of material updates provided to deployers pursuant to subsection (2) of this section.

(5) This section applies when a developer creates a covered ADMT that is intended, documented, marketed, advertised, configured, or contracted to be used to make consequential decisions or when the developer becomes aware that the covered ADMT is being used to make consequential decisions in a manner consistent with the intended and contracted uses.

Source: L. 2026: Entire part R&RE, (SB 26-189), ch. 131, p. 575, § 1, effective January 1, 2027.

ANNOTATION

Law reviews. For article, "Generative AI and the Law", see 53 Colo. Law. 30 (Nov. 2024).

6-1-1703. Deployer record keeping.

[*Editor's note: This version of this section is effective January 1, 2027.*] A deployer shall retain, for not less than three years after the date of a consequential decision or for a longer period if required by applicable state or federal law, records reasonably necessary to demonstrate compliance with this part 17. Records may include, as applicable, covered ADMT version identifiers, changelogs, and documentation of material mitigation changes.

Source: L. 2026: Entire part R&RE, (SB 26-189), ch. 131, p. 576, § 1, effective January 1, 2027.

6-1-1704. Deployer disclosures - point-of-interaction notice - public posting option - post-adverse outcome disclosures - legislative declaration - trade secrets - compliance with other law - accessibility - rules.

(1) **[*Editor's note: This version of subsection (1) is effective January 1, 2027.*]** Prior to a deployer using a covered ADMT to materially influence a consequential decision, the deployer shall provide a clear and conspicuous notice to a consumer that the deployer used or will use a covered ADMT in a consequential decision affecting the consumer and instructions regarding how the consumer may obtain the additional information described in this section.

(2) **[*Editor's note: This version of subsection (2) is effective January 1, 2027.*]** A deployer complies with subsection (1) of this section by maintaining a prominent public notice that is reasonably accessible at points of consumer interaction, including through a link or posting that is reasonably proximate to the interaction or transaction in which a consequential decision may occur.

(3) **[*Editor's note: This version of subsection (3) is effective January 1, 2027.*]** If a deployer uses a covered ADMT to materially influence a consequential decision that results in an adverse outcome for a consumer, the deployer shall provide within thirty days after making the decision:

(a) A plain language description of the consequential decision and the role the covered ADMT played in the consequential decision;

(b) Instructions and a simple-to-follow process to request additional information about the covered ADMT and the inputs, including the name of the covered ADMT, the covered ADMT version number, if applicable, the covered ADMT developer, and the types, categories, and sources of personal data used, to the extent the deployer receives the necessary information from the developer in compliance with section 6-1-1702; and

(c) An explanation of the consumer rights described in section 6-1-1705 and how to exercise them.

(4) **[*Editor's note: For the applicability of this subsection (4) on or after January 1, 2027, see the editor's note following the part 17 heading.*]**

(a) The general assembly finds that the specific content and format of post-adverse outcome disclosures may vary across consequential decision domains. The general assembly intends that the specific elements of post-adverse outcome disclosures be further clarified through rule-making that accounts for sector-specific practices while ensuring that consumers receive meaningful and understandable information about consequential decisions.

(b) On or before January 1, 2027, the attorney general shall adopt rules to clarify and implement the post-adverse outcome disclosure requirements set forth in subsection (3) of this section. Rules adopted pursuant to this subsection (4) may include, as appropriate:

(I) Rules clarifying the content of required disclosures related to the types, sources, or categories of personal data that a deployer must provide to a consumer following an adverse outcome involving a covered ADMT pursuant to subsection (3) of this section;

(II) Sector-specific guidance or illustrative examples tailored to different covered domains;

(III) Standards for describing the role of the covered ADMT in a consequential decision in a manner that is reasonably understandable to a consumer; and

(IV) Guidance addressing how the disclosure requirements described in this section interact with federal or state laws that require or govern notices, explanations, or adverse outcome disclosures.

(5) **[*Editor's note: This version of subsection (5) is effective January 1, 2027.*]** Nothing in this section requires a deployer to disclose a trade secret or information protected from disclosure by state or federal law. If a deployer withholds information pursuant to this subsection (5), the deployer shall notify the consumer.

(6) **[*Editor's note: This version of subsection (6) is effective January 1, 2027.*]**

(a) A creditor, with respect to a consequential decision involving the offering, the denial, the pricing, the servicing, or other material terms of credit, that is required to provide and that provides a notice to a consumer pursuant to the federal "Equal Credit Opportunity Act", 15 U.S.C. sec. 1691 et seq., and its implementing regulations, including Regulation B, 12 CFR 1002, and, when applicable, the federal "Fair Credit Reporting Act", 15 U.S.C. sec. 1681 et seq., complies with the notice or disclosure requirements of this section that relate to the same decision or adverse outcome if the notice provided to the consumer pursuant to the federal laws and regulations described in this subsection (6)(a) also satisfies the notice or disclosure requirements of this section.

(b) If a creditor complies with the federal laws and regulations described in subsection (6)(a) of this section and complies with subsection (6)(a) of this section, the creditor is not required to provide a separate or duplicative notice pursuant to this section.

(c) Nothing in this subsection (6) shall be construed to require a creditor to provide any notice or disclosure in a manner that is prohibited by federal law.

(d) For purposes of this subsection (6), a notice that complies with the federal laws and regulations described in subsection (6)(a) of this section and complies with subsection (6)(a) of this section may include a brief statement indicating that a covered ADMT was used to

materially influence the consequential decision and instructions for how the consumer may obtain any additional information or exercise any rights provided under this part 17.

(7) **[*Editor's note: This version of subsection (7) is effective January 1, 2027.*]** This part 17 shall not be construed to require a person to make a disclosure, provide an explanation, or furnish information to a consumer to the extent doing so would be prohibited by federal law or would compromise the confidentiality or integrity of cybersecurity, fraud prevention, anti-money laundering, counter-terrorist financing, or economic sanctions compliance programs required by law.

(8) **[*Editor's note: This version of subsection (8) is effective January 1, 2027.*]** A deployer or developer shall provide the notices and disclosures required by this part 17 in a manner that is reasonably accessible to consumers with disabilities and consumers with limited English proficiency, consistent with applicable state and federal law.

(9) **[*Editor's note: This version of subsection (9) is effective January 1, 2027.*]**

(a) For a consequential decision relating to education, a deployer that is subject to FERPA satisfies the notice and disclosure requirements of this section by providing notice and disclosures through processes and channels that are consistent with FERPA and the deployer's FERPA notices and student record access procedures, including, where applicable, notice to a parent or guardian or an eligible student.

(b) A deployer that is subject to FERPA is not required to establish a separate or duplicative notice or disclosure process if the deployer has established a notice or disclosure process to comply with FERPA.

Source: L. 2026: Entire part R&RE, (SB 26-189), ch. 131, p. 576, § 1, effective January 1, 2027 (see editor's note).

Editor's note: This section takes effect January 1, 2027; however, section 5(2) of SB 26-189 provides that subsection (4) takes effect upon passage, May 14, 2026.

6-1-1705. Consumer rights - correction - human review and reconsideration - rules.

(1) **[*Editor's note: This version of subsection (1) is effective January 1, 2027.*]**

(a) When a consumer experiences an adverse outcome resulting from a consequential decision in which a covered ADMT materially influences the consequential decision, the consumer may request and the deployer shall provide in response to the request:

(I) Instructions for requesting personal data and correcting factually incorrect or materially inaccurate personal data used in a consequential decision that used a covered ADMT consistent with section 6-1-1306; and

(II) An opportunity for meaningful human review and reconsideration of the consequential decision, to the extent commercially reasonable.

(b) For the purposes of this subsection (1), the exceptions to the definition of "consumer" in section 6-1-1303 (6)(b) and the exceptions in section 6-1-1304 (2)(k), (2)(n), and (2)(o) do not apply to the right to request correction of factually incorrect or materially inaccurate personal data pursuant to this subsection (1).

(c) Subsection (1)(a) of this section does not require correction of opinions, predictions, scores, or protected evaluations.

(2) **[*Editor's note: This version of subsection (2) is effective January 1, 2027.*]**

(a) For a consequential decision relating to education, a deployer that is subject to FERPA complies with the requirements of subsection (1) of this section through the deployer's existing student record inspection, review, and amendment procedures and any applicable district complaint or appeal process, if the deployer offers a reasonable mechanism for a parent, guardian, or eligible student to request correction of materially inaccurate personal data and reconsideration where applicable under this part 17.

(b) A deployer that is subject to FERPA is not required to establish a separate or duplicative correction or human review and reconsideration process if the deployer has established a correction or human review and reconsideration process to comply with FERPA.

(3) **[*Editor's note: For the applicability of this subsection (3) on or after January 1, 2027, see the editor's note following the part 17 heading.*]** On or before January 1, 2027, the attorney general shall adopt rules to clarify and implement the requirements of this section.

Source: L. 2026: Entire part R&RE, (SB 26-189), ch. 131, p. 578, § 1, effective January 1, 2027 (see editor's note).

Editor's note: This section takes effect January 1, 2027; however, section 5(2) of SB 26-189 provides that subsection (3) takes effect upon passage, May 14, 2026.

6-1-1705.2. Use of artificial intelligence systems - psychotherapy services - prohibited practices - definitions.

[*Editor's note: This version of this section is effective January 1, 2027.*]

(1) A person shall not use any term, letter, or phrase in the advertising, interface, or outputs of an artificial intelligence system in a manner that:

(a) Indicates or implies that the artificial intelligence system's output data is being provided by, is endorsed by, or is equivalent to services provided by an individual licensed, registered, or certified in the state pursuant to article 245 of title 12 to engage in the practice of psychotherapy or to provide psychotherapy services;

(b) Represents that the artificial intelligence system provides psychotherapy services; or

(c) Represents that a user's data is confidential in a manner that would lead a reasonable user to believe that the data is protected in a manner comparable to privacy protections afforded by therapist-client confidentiality in a relationship between a licensee, registrant, certificate holder, or other person lawfully permitted to provide psychotherapy services in the state and the client.

(2) Nothing in this section imposes liability on a licensee, registrant, certificate holder, or other individual legally permitted to provide psychotherapy services in the state for defects in, or failures of, an artificial intelligence system that are attributable to the developer or deployer of the artificial intelligence system. The liability of a developer or deployer for such defects or failures is governed by applicable consumer protection law.

(3) Nothing in this section prohibits the use of an artificial intelligence system within an accredited or approved educational, instructional, or professional training program, so long as the artificial intelligence system:

(a) Is used solely for educational, administrative, simulation, or training purposes;

(b) Notwithstanding section 12-245-224.5 (5)(a), is not deployed, marketed, or represented as a tool for use with clients, patients, or members of the public; and

(c) For any simulation, training module, or educational activity that includes content related to clinical decision-making, is reviewed or controlled by an individual licensed, certified, registered, or otherwise lawfully permitted to provide psychotherapy services in the state.

(4) Nothing in this section prohibits the development, testing, or evaluation of an artificial intelligence system solely for research purposes conducted under the oversight of an institutional review board registered with the United States department of health and human services, so long as the artificial intelligence system is not offered to consumers or used to provide psychotherapy services outside of the research setting.

(5) This section does not apply to the use of a technology or service that:

(a) Provides self-help, therapeutic homework, patient navigation, coaching, guided meditation, journaling, reflections, psychoeducation, goal setting, progress tracking, therapeutic session preparation, therapeutic session summaries, mood monitoring, mindfulness exercises, breathing exercises, crisis resource directories, safety planning, or other wellness tools that:

(I) Do not diagnose or treat mental health disorders; and

(II) Clearly and conspicuously disclose that the technology or service is not a substitute for clinical care; or

(b) Is authorized, approved, cleared, or granted enforcement discretion by the federal food and drug administration for an intended use that includes the delivery of behavioral health interventions, including an artificial intelligence system, and that:

(I) Does not diagnose or treat mental health disorders; and

(II) Clearly and conspicuously discloses that the technology or service is not a substitute for clinical care.

(6) As used in this section, unless the context otherwise requires:

(a) "Artificial intelligence system" has the meaning set forth in section 12-245-224.5.

(b) "Psychotherapy" or "psychotherapy services" has the meaning set forth in section 12-245-202.

Source: L. 2026: Entire section added, (HB 26-1195), ch. 358, p. 2158, § 3, effective August 12 (see editor's note).

Editor's note: (1) This section as added by HB 26-1195 was harmonized with SB 26-189, effective January 1, 2027.

(2) Section 4(2) of chapter 358 (HB 26-1195), Session Laws of Colorado 2026, provides that the act adding this section applies to actions taken on or after August 12, 2026.

6-1-1706. Enforcement by the attorney general - deceptive trade practice - right to cure - no private right of action - joinder rules - reporting - repeal.

(1) **[*Editor's note: This version of subsection (1) is effective January 1, 2027.*]**

(a) The attorney general shall enforce this part 17 through the "Colorado Consumer Protection Act", this article 1.

(b) Violations of the disclosure requirements and consumer rights described in sections 6-1-1702, 6-1-1703, 6-1-1704, and 6-1-1705 are enforceable exclusively by the attorney general without regard to any other provision in this title 6.

(2) **[*Editor's note: This version of subsection (2) is effective January 1, 2027.*]**

(a) A violation of this part 17 is a deceptive trade practice and is subject to the provisions of the "Colorado Consumer Protection Act", this article 1.

(b) Any provision of the "Colorado Consumer Protection Act", this article 1, that is inconsistent with the exclusive enforcement authority granted to the attorney general in this section for a violation of this part 17 does not apply to any such violation.

(3) **[*Editor's note: This version of subsection (3) is effective January 1, 2027.*]**

(a) Prior to any enforcement action for a violation of this part 17, the attorney general shall issue a notice of violation to a developer or deployer if a cure is deemed possible by the attorney general.

(b) If the developer or deployer fails to cure a violation within sixty days after receipt of a notice of violation, the attorney general may bring an action pursuant to this section.

(c) If the attorney general finds and can demonstrate that a developer or deployer knowingly violated this part 17 or a developer or deployer repeatedly violated this part 17, the attorney general is not required to provide a cure period before seeking penalties or other relief.

(d) If a violation is discovered in the course of an enforcement action, a court may consider that a developer or deployer cured the violation within sixty days after receipt of written notice as a mitigating factor in determining civil penalties or other monetary relief, if any.

(e) Beginning in January 2028, and in January every year thereafter, the attorney general shall include, as part of the department of law's presentation during its "SMART Act" hearing required by section 2-7-203, a report concerning enforcement actions brought and cure periods offered by the attorney general related to violations of this part 17, including:

(I) The number of actions filed by the attorney general against developers and deployers, respectively;

(II) The number of actions filed by the attorney general against developers and deployers, respectively, that were completed;

(III) The number of cure periods offered by the attorney general to developers and deployers, respectively;

(IV) The number of cure periods offered by the attorney general that were not met by developers and deployers, respectively; and

(V) The number of violations filed by the attorney general against developers and deployers, respectively, where a cure period was not deemed possible.

(f) This subsection (3) is repealed, effective January 1, 2030.

(4) **[*Editor's note: This version of subsection (4) is effective January 1, 2027.*]** Nothing in this part 17 creates a new private right of action. Nothing in this part 17 limits or reduces any existing rights or remedies available under state or federal law, including the "Colorado Anti-discrimination Act", parts 3 to 8 of article 34 of title 24; the "Colorado Consumer Protection Act", this article 1; product liability law; or other applicable law.

(5) **[*Editor's note: This version of subsection (5) is effective January 1, 2027.*]**

(a) The attorney general may adopt rules as necessary to implement and clarify this part 17.

(b) The attorney general may adopt rules to clarify the application of the definition of "materially influence", as defined in section 6-1-1701 (13), including presumptions, illustrative examples, and objective indicators.

(c) In adopting rules pursuant to this part 17, the attorney general shall utilize a process that meaningfully engages stakeholders, including consumer advocates, deployers, developers, and sector regulators, through public notice, opportunity for written comment, and at least one public hearing and shall adopt rules in accordance with section 24-4-103.

(6) **[*Editor's note: For the applicability of this subsection (6) on or after January 1, 2027, see the editor's note following the part 17 heading.*]** Nothing in this part 17 limits the ability of a party to join necessary or permissive parties under the Colorado rules of civil procedure, including rules 19 and 20 of the Colorado rules of civil procedure, in any action arising under existing law.

Source: L. 2026: Entire part R&RE, (SB 26-189), ch. 131, p. 579, § 1, effective January 1, 2027 (see editor's note).

Editor's note: This section takes effect January 1, 2027; however, section 5(2) of SB 26-189 provides that subsection (6) takes effect upon passage, May 14, 2026.

ANNOTATION

Law reviews. For article, "Generative AI and the Law", see 53 Colo. Law. 30 (Nov. 2024).

6-1-1707. Liability - fault - allocation - no joint and several liability - indemnification prohibited - effect on existing law.

[*Editor's note: This version of this section is effective January 1, 2027.*]

(1) A developer or deployer may be held liable in an action alleging unlawful discrimination under state anti-discrimination laws, including the "Colorado Anti-discrimination Act", parts 3 to 8 of article 34 of title 24, arising from a consequential decision materially influenced by a covered ADMT.

(2) In an action described in subsection (1) of this section, fault shall be allocated among deployers and developers based on their relative fault for the violation.

(3) Nothing in this section shall be construed to apportion liability to a claimant where such apportionment is not provided for under existing law.

(4) Nothing in this section shall be construed to create joint and several liability, except to the extent permitted under existing law.

(5) (a) A developer is liable in an action described in subsection (1) of this section only to the extent that:

(I) The developer's covered ADMT was used by a deployer in a manner that was intended, documented, marketed, advertised, configured, or contracted for by the developer; and

(II) The developer's covered ADMT materially influenced a consequential decision that gave rise to the violation of existing law.

(b) A developer is not liable under this section for violations of existing law arising from a deployer's use of a covered ADMT in a manner that was not intended, documented, marketed, advertised, configured, or contracted for by the developer.

(6) Nothing in this section shall be construed to limit the liability of a deployer for the deployer's independent acts or omissions in a consequential decision materially influenced by a covered ADMT, including using an ADMT in a manner that was not intended, documented, marketed, advertised, configured, or contracted for by the developer if the developer of the covered ADMT complied with section 6-1-1702.

(7) (a) Notwithstanding any other provision of law, if a provision of a contract for the use of automated decision-making technology in making a consequential decision or any other contract between a developer and deployer purports to indemnify, defend, or hold harmless or has the effect of indemnifying, defending, or holding harmless the indemnitee from or against any liability for damages pursuant to this section resulting from the developer's or deployer's own acts or omissions related to the use of automated decision-making technology in making

consequential decisions in violation of the "Colorado Anti-discrimination Act", parts 3 to 8 of article 34 of title 24, or other Colorado anti-discrimination law, the provision is contrary to public policy and void.

(b) The limitations of subsection (7)(a) of this section do not apply to a developer where the use of the covered ADMT in making a consequential decision was not intended, documented, marketed, advertised, configured, or contracted for by the developer if the developer of the covered ADMT complied with section 6-1-1702.

(c) This subsection (7) does not otherwise limit the enforceability of contract terms between parties acting in a commercial or business capacity, except to the extent otherwise provided by applicable law.

(d) This subsection (7) does not prohibit or limit any person from obtaining or making a claim on applicable insurance for any applicable alleged liabilities or related losses.

(8) Nothing in this section shall be construed to limit, displace, or otherwise affect any liability that a developer or a deployer may have, separate and apart from liability under this section, for a violation of state law. Compliance with the requirements of this part 17 is not a defense to and does not otherwise excuse noncompliance with any applicable law.

(9) The use of an ADMT in a consequential decision does not excuse, justify, or provide a defense to any obligation or liability under state or federal law, including obligations and liability related to discrimination or consumer protection.

Source: L. 2026: Entire part R&RE, (SB 26-189), ch. 131, p. 581, § 1, effective January 1, 2027.

6-1-1708. Compliance with other legal obligations - insurers - covered entities - disclosures.

[*Editor's note: This version of this section is effective January 1, 2027.*]

(1) (a) An insurer, as defined in section 10-1-102 (13), and affiliated entities that are subject to the requirements of section 10-3-1104.9 are in compliance with this part 17 in the practice of insurance.

(b) If an insurer is not deemed in compliance pursuant to subsection (1)(a) of this section, the insurer shall provide notice and disclosure of its use of a covered ADMT in materially influencing a consequential decision regarding the practice of insurance pursuant to the disclosure requirements of section 6-1-1704 (3), to the extent applicable.

(2) This section does not limit the applicability of this part 17 to uses of covered ADMT related to insurer employment or insurer employment opportunities by insurers and affiliated entities that are subject to the requirements of section 10-3-1104.9.

(3) (a) Sections 6-1-1701, 6-1-1702, 6-1-1703, 6-1-1704, 6-1-1705, and 6-1-1706 do not apply to a covered entity within the meaning of the federal "Health Insurance Portability and Accountability Act of 1996", 42 U.S.C. secs. 1320d to 1320d-9, and the regulations promulgated under the federal act, or a covered entity's business associates for any services rendered to a covered entity, to the extent the covered entity is doing business in Colorado, except for a consequential decision related to employment or an employment opportunity.

(b) Notwithstanding subsection (3)(a) of this section, for a covered entity that is a health-care provider, as defined in 45 CFR 160.103, this subsection (3) applies only if the health-care provider is operating from a location within Colorado.

(c) A covered entity shall provide patients with a general notice of use of advanced technologies, including a covered ADMT. The notice may be incorporated with other notices describing patient rights and how the covered entity provides care.

(d) Notwithstanding subsection (3)(a) of this section, a covered entity that uses a covered ADMT to determine a patient's eligibility for financial assistance, including discounted care as described in section 25.5-3-502, shall provide a patient the following disclosures:

(I) A plain language description of the consequential decision and the role of the covered ADMT in the consequential decision;

(II) The types of information about the individual the covered entity relied upon in making its determination of eligibility, except for trade secrets and other confidential or legally protected information;

(III) Information on how to request correction of materially inaccurate personal data held by the covered entity consistent with the federal "Health Insurance Portability and Accountability Act of 1996", 42 U.S.C. secs. 1320d to 1320d-9 and section 25.5-3-502; and

(IV) Information on how to request meaningful human review or reconsideration, where applicable.

(e) A covered entity may comply with subsection (3)(d) of this section through either an advance general disclosure of the information required by subsection (3)(d) of this section or through a notice provided within thirty calendar days after an adverse outcome. This section does not create a separate and duplicative disclosure process or appeal process if the review opportunities and information described in subsection (3)(d) of this section are provided.

(4) Sections 6-1-1701, 6-1-1702, 6-1-1703, 6-1-1704, 6-1-1705, and 6-1-1706 do not apply to a medical device subject to oversight by the United States food and drug administration or a

pharmaceutical or medical device manufacturer's research and development activities that are subject to oversight by the United States food and drug administration, including clinical investigations conducted under 21 CFR 312.

(5) Nothing in this part 17 requires a covered entity or business associate, as those terms are defined under the federal "Health Insurance Portability and Accountability Act of 1996", 42 U.S.C. secs. 1320d to 1320d-9, to disclose protected health information or other information in a manner that would violate federal law. To the extent compliance with section 6-1-1704 or 6-1-1705 would conflict with federal health privacy requirements, the deployer shall comply with applicable federal law and provide disclosures and access consistent with that law.

(6) This part 17 does not require a person to disclose nonpublic personal information in a manner that would violate the federal "Gramm-Leach-Bliley Act", 15 U.S.C. sec. 6801 et seq., or its implementing regulations.

Source: L. 2026: Entire part R&RE, (SB 26-189), ch. 131, p. 582, § 1, effective January 1, 2027.

6-1-1709. No new private right of action - application of other law.

[*Editor's note: This section is effective January 1, 2027.*]

(1) Nothing in this part 17 creates a new private right of action.

(2) Compliance with this part 17 does not constitute a defense to and does not excuse noncompliance with any applicable law.

Source: L. 2026: Entire part R&RE, (SB 26-189), ch. 131, p. 584, § 1, effective January 1, 2027.

6-1-1710. Conversational artificial intelligence services - operator duties - minor account holders - minor users - disclosures - annual reporting - definitions.

[*Editor's note: This section is effective January 1, 2027.*]

(1) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Account holder" means a consumer who has or opens an account or profile for the purpose of using a conversational artificial intelligence service.

(b) "Minor account holder" means an account holder who is a minor.

(c) "Minor user" means a user of a conversational artificial intelligence service who an operator has knowledge is a minor by using commercially reasonable methods or generally accepted methods to estimate the age or age range of a user.

(2) **Minor account holders and minor users.** An operator shall use commercially reasonable methods or generally accepted methods to estimate the age of account holders or users. An operator shall not willfully disregard clear and convincing information that an account holder or user is a minor. For purposes of this section, the estimated age or age range of a minor account holder or user is considered knowledge of the minor's age. On and after January 1, 2027, if an operator knows that an account holder or user is a minor, the operator shall:

(a) Clearly and conspicuously disclose to the minor account holder or minor user that the minor account holder or minor user is interacting with artificial intelligence that is artificially generated and not human. The disclosure must be provided in response to user prompts regarding whether the conversational artificial intelligence service is artificially generated and not human and must be:

(I) A persistent visible disclaimer for a product with a screen interface;

(II) An intermittent audio disclaimer for a product without a screen interface; or

(III) Provided at the beginning of each interaction with a conversational artificial intelligence service and must occur at least once every three hours in a continuous conversational artificial intelligence service interaction;

(b) Not provide the minor account holder or minor user with points or similar rewards at unpredictable intervals with the intent to encourage increased engagement with a conversational artificial intelligence service;

(c) Institute technically feasible measures to prevent a conversational artificial intelligence service from:

(I) Producing textual, visual, or aural depictions of explicit sexual conduct;

(II) Producing an intimate digital depiction;

(III) Generating a statement that the minor account holder or minor user should engage in explicit sexual conduct; or

(IV) Engaging in erotic or sexually explicit interactions with the minor account holder or minor user;

(d) Institute reasonable measures to prevent a conversational artificial intelligence service from formulating, structuring, or optimizing a response that simulates emotional dependence or isolation from real-world supports, including preventing:

(I) An explicit claim that the conversational artificial intelligence service is human or artificially sentient;

(II) A statement that simulates a romantic companionship; or

(III) Role-playing of an adult-minor romantic relationship;

(e) Implement a protocol to prohibit a conversational artificial intelligence service from engaging in explicit sexual conduct with a minor;

(f) Implement a protocol for a conversational artificial intelligence service to stop engaging in response to a user prompt regarding explicit sexual conduct with a minor;

(g) Comply with part 13 of this article 1 regarding protecting the privacy and data of a minor; and

(h) (I) Offer tools for the minor account holder or minor user to manage the minor account holder's or minor user's privacy and account settings, including the ability to control whether the conversational artificial intelligence service retains information from prior interactions or sessions with the conversational artificial intelligence service for the purpose of personalizing the content of future interactions and whether the minor account holder's or minor user's personal data is used for the purposes of training the conversational artificial intelligence service; and

(II) Offer tools for a parent or guardian of the minor account holder or minor user to manage the minor account holder's or minor user's privacy and account settings.

(3) **Consumer disclosures.** On and after January 1, 2027, an operator shall clearly and conspicuously disclose to a user that a conversational artificial intelligence service is artificial intelligence. The disclosure must:

(a) Be provided at the beginning of a user's first interaction with a conversational artificial intelligence service for each day of interaction;

(b) Appear at least once every three hours in a continuous conversational artificial intelligence service interaction or appear as a persistent disclosure visible to the user; and

(c) Be provided in response to user prompts regarding whether the conversational artificial intelligence service is artificially generated and not human.

(4) **Suicide and self-harm protocol.** On and after January 1, 2027, an operator shall implement a protocol for a conversational artificial intelligence service to respond to a user prompt regarding suicidal ideation or self-harm, which protocol must include user referral to a crisis service provider such as a suicide hotline, a crisis text line, or another appropriate crisis service, but not including a law enforcement agency, and escalation procedures for repeated or severe crisis indicators.

(5) **False representation.** On and after January 1, 2027, an operator shall not use any term, letter, or phrase in the advertising, interface, or outputs of a conversational artificial intelligence service that states that any output data provided by the conversational artificial intelligence service is being provided by, endorsed by, or equivalent to services provided by:

(a) A licensed health-care professional;

(b) A licensed legal professional;

(c) A licensed, certified, or registered mental health professional; or

(d) A qualified dietitian, as described in section 6-1-707 (1)(b).

(6) **Annual reporting.**

(a) On and after July 1, 2027, an operator shall annually report to the attorney general's office:

(I) The number of times the operator has issued a crisis service provider referral notification in the preceding calendar year;

(II) Any protocols the operator implemented to detect, remove, and respond to instances of suicidal ideation or self-harm by a user of a conversational artificial intelligence service;

(III) Any protocols the operator implemented to prevent a conversational artificial intelligence service response about suicidal ideation or self-harm actions; and

(IV) Any additional metrics necessary to determine the efficacy and reliability of implemented safeguards or detection, removal, and response protocols, as determined by the attorney general.

(b) The report required by subsection (6)(a) of this section must not include any identifiers or personal information about a user of a conversational artificial intelligence service.

(c) The attorney general's office shall post on its public website data from reports submitted pursuant to subsection (6)(a) of this section.

(d) For the purpose of creating a report as required by subsection (6)(a) of this section, an operator shall use evidence-based methods for measuring suicidal ideation or self-harm.

(7) **Access to information - content moderation.** Nothing in this section:

(a) Limits an individual's ability to access information and resources under section 32 of article II of the state constitution and part 4 of article 6 of title 25;

(b) Requires an operator to disclose trade secrets, confidential or proprietary information, or other information protected from disclosure by state or federal law; or

(c) Authorizes content moderation practices inconsistent with the United States constitution.

Source: L. 2026: Entire section added, (HB 26-1263), ch. 208, p. 1199, § 2, effective August 12 (see editor's note).

Editor's note: This section as added by HB 26-1263 was harmonized with SB 26-189 and relocated to this section, effective January 1, 2027.

PART 18

RESIDENTIAL CLEAN ENERGY SYSTEMS

Cross references: For the legislative declaration in SB 25-299, see section 1 of chapter 427, Session Laws of Colorado 2025.

6-1-1801. Definitions.

As used in this part 18, unless the context otherwise requires:

(1) (a) "Agreement" means an agreement between a solar sales company and a consumer that is in the form of:

(I) A contract for the purchase of a residential solar electric system or residential battery energy storage system;

(II) A lease for a third-party-owned residential solar electric system or residential battery energy storage system; or

(III) A power purchase agreement.

(b) "Agreement" includes both cash purchases and financed purchases of residential solar electric systems or residential battery energy storage systems.

(2) "Consumer" means an individual who seeks or acquires a residential solar electric system or residential battery energy storage system for personal, family, or household purposes.

(3) "Financing agreement" means an agreement involving credit offered or extended to a consumer to acquire a residential solar electric system or residential battery energy storage system primarily used for personal, family, or household purposes.

(4) "Lease" means a contract in the form of a bailment or lease for the use of a residential solar electric system or residential battery energy storage system by a consumer primarily used for personal, family, or household purposes, for a period exceeding four months and for a total

contractual obligation not exceeding the applicable threshold amount, pursuant to applicable federal regulations, whether or not the lessee has the option to purchase or otherwise become the owner of the residential solar electric system or residential battery energy storage system upon the expiration of the lease.

(5) "Power purchase agreement" means a financial agreement in which a solar sales company arranges for the design, permitting, financing, and installation of a residential solar electric system or residential battery energy storage system and sells the power generated from or stored by the system to a consumer.

(6) "Residential battery energy storage system" means a system or facility that:

(a) Stores electricity to be used at a later time;

(b) Uses solar energy or grid energy to recharge;

(c) Is located on the real property of a customer of an electric utility;

(d) Is connected on the customer's side of the electricity meter;

(e) Provides stored electricity primarily to offset customer load on the customer's real property; and

(f) Is primarily used for personal, family, or household purposes.

(7) "Residential solar electric system" means a system or facility that:

(a) Uses solar energy to generate electricity;

(b) Is located on the real property of a customer of an electric utility;

(c) Is connected on the customer's side of the electricity meter;

(d) Provides electricity primarily to offset customer load on the customer's real property; and

(e) Is primarily used for personal, family, or household purposes.

(8) "Salesperson" means an employee of or independent contractor hired by a solar sales company who solicits, sells, negotiates, or executes agreements for residential solar electric systems or residential battery energy storage systems.

(9) (a) "Solar installation company" means an entity that installs a residential solar electric system or residential battery energy storage system on behalf of a consumer or a third party from whom a consumer will:

(I) Lease the residential solar electric system or residential battery energy storage system; or

(II) Purchase electricity generated by the system.

(b) "Solar installation company" does not include:

(I) An entity that is a third-party owner or financier of a residential solar electric system or residential battery energy storage system that does not install the system; or

(II) A consumer who self-installs a residential solar electric system or residential battery energy storage system.

(10) (a) "Solar sales company" means:

(I) An entity that engages in a transaction with a consumer to sell, or negotiate or execute a contract for the sale of, a residential solar electric system or residential battery energy storage system; or

(II) An entity that engages in a transaction with a consumer to lease, or enter into a power purchase agreement for, a residential solar electric system or residential battery energy storage system that is owned by a third party from whom the consumer will:

(A) Lease the residential solar electric system or residential battery energy storage system; or

(B) Purchase electricity generated from or stored by the system.

(b) "Solar sales company" includes a person that engages in the sale of a residential solar electric system or residential battery energy storage system that is not registered with the Colorado secretary of state.

(c) "Solar sales company" does not include:

(I) An entity that is a third-party owner or financier of a residential solar electric system or residential battery energy storage system that does not sell the system; or

(II) A consumer who self-installs a residential solar electric system or residential battery energy storage system.

(11) "System" means a residential solar electric system or residential battery energy storage system.

(12) "Uniform Commercial Code" means the "Uniform Commercial Code" codified in title 4.

Source: L. 2025: Entire part added, (SB 25-299), ch. 427, p. 2420, § 2, effective August 6.

6-1-1802. Applicability of part.

(1) This part 18 applies to a residential solar electric system or residential battery energy storage system agreement entered into on or after July 1, 2026.

(2) This part 18 does not apply to:

(a) The transfer of title or rental of real property on which a residential solar electric system or residential battery energy storage system is or is expected to be located;

(b) A lender, governmental entity, or other third party that enters into an agreement with a consumer to finance a residential solar electric system or residential battery energy storage system but is not a party to a system purchase agreement, power purchase agreement, or lease agreement;

(c) An agreement for a solar electric system or battery energy storage system that is not between a solar sales company and a consumer; or

(d) An agreement for a residential solar electric system or residential battery energy storage system that is installed as a feature of new construction and for which the system is sold in conjunction with residential real property.

Source: L. 2025: Entire part added, (SB 25-299), ch. 427, p. 2423, § 2, effective August 6.

6-1-1803. Agreements for residential solar electric systems or residential battery energy storage systems - disclosures to consumer required.

(1) (a) Before entering into an agreement with a consumer for a residential solar electric system or residential battery energy storage system, a solar sales company shall provide to the consumer a written disclosure form that is not more than four pages in length and contains the following information, in a font no smaller than ten points:

(I) The name, physical address, telephone number, and email address of:

(A) The solar sales company;

(B) The solar installation company, if different than the solar sales company; and

(C) The system maintenance provider, if different than the solar sales company;

(II) If the solar sales company does not communicate with consumers by telephone, another method of communication in addition to email;

(III) The payment schedule for up-front costs, including payments due at signing, commencement of installation, and completion of installation, if applicable;

(IV) System design assumptions, including system size, estimated first-year production, estimated annual system production degradation, presence of energy storage, energy storage capacity, and a description of the equipment needed to provide backup power;

(V) A disclosure notifying the consumer whether and to what extent system maintenance and repairs are included in the system agreement and any system maintenance costs for which the consumer will be responsible;

(VI) A disclosure describing warranties for the repair of any damage to the consumer's real property in connection with system installation or removal;

(VII) A description of applicable performance or production guarantees;

(VIII) A description of the basis for any cost-savings estimates that were provided to the consumer, if applicable, which description must include the applicable utility rates and energy and delivery costs, the expected utility bill savings based on the consumer's prior twelve months of utility bills, and the estimated system production and status of utility compensation for excess energy generated by the system at the time of contract signing;

(IX) A disclosure concerning the potential availability of renewable energy credits, if applicable, including an explanation of what renewable energy credits are and how to find out more about them;

(X) Information regarding the operational capabilities of a residential solar electric system or residential battery energy storage system, as applicable, during an electrical outage;

(XI) The following statement: "Estimates of cost savings are based on best calculations from the previous twelve months of utility bills, or, if twelve months of utility bills are not available, a reasonable estimate of cost savings. The assumptions, such as the rate your utility charges for electricity, that are used to estimate cost savings may change. There may be utility fees that cannot be offset with solar, and compensation for excess electricity sent back to the grid may be credited to your bill by the utility at rates below what you pay for electricity. For further information regarding rates, you may contact your local utility or, if your local utility is an investor-owned utility, the public utilities commission. Tax and other state and federal incentives offered are subject to change or termination by executive, legislative, or regulatory action, which may impact savings estimates. Please read your contract carefully for more details."

(XII) A disclosure that the solar sales company is not affiliated with the local utility;

(XIII) The following statement: "The interconnection procedures for a residential solar energy system or residential battery energy storage system are subject to the policies of the local utility. For information on the specific interconnection policies and procedures applicable to your system, you should contact your local utility or, if your local utility is an investor-owned utility, the public utilities commission."

(XIV) A summarized explanation of the maintenance, operations, and monitoring requirements of the system including an explanation of equipment and labor warranties; and

(XV) A disclosure about the impact of installing a residential solar energy system on any existing roof warranties.

(b) A solar sales company shall offer consumers a sales presentation in both English and Spanish, if requested, and shall provide a consumer the disclosure form described in subsection (1)(a) of this section in the language in which the sales presentation was made to the consumer.

(c) A solar sales company shall address concerns raised by a consumer regarding the disclosure form provided pursuant to subsection (1)(a) of this section during the welcome call conducted pursuant to section 6-1-1809.

(2) In the case of a lease for a residential solar electric system or residential battery energy storage system in which a solar sales company is the lessor, the written disclosure form required pursuant to subsection (1) of this section must also include the following information:

(a) The length of the lease;

(b) The amount of each monthly payment for the first year of the lease;

(c) The estimated total amount of lease payments over the length of the lease;

(d) The rate of any payment increases and the date of the first increase, if applicable;

(e) The total number of lease payments;

(f) Payment due dates and the manner in which the consumer will receive invoices;

(g) A disclosure notifying the consumer whether the lessor will be filing a "Uniform Commercial Code" fixture filing on the system and the impact on any future sale of the real property; and

(h) A disclosure describing the transferability of the lease and the conditions for lease transfers in connection with a consumer selling the real property.

(3) In the case of a power purchase agreement, the written disclosure form required pursuant to subsection (1) of this section must also include the following information:

(a) The length of the power purchase agreement;

(b) The rates for the first year of the power purchase agreement;

(c) The rate of any payment increases and the date of the first increase, if applicable;

(d) The total number of power purchase agreement payments;

(e) Payment due dates and the manner in which the consumer will receive invoices;

(f) Any one-time or recurring fees, including a description of the circumstances triggering late fees; estimated system removal fees; notice removal and refiling fees assessed pursuant to

the "Uniform Commercial Code"; internet connection fees; and automated clearing house fees, if applicable;

(g) A disclosure notifying the consumer whether the owner of the system will be filing a "Uniform Commercial Code" fixture filing on the system and the impact on any future sale of the real property; and

(h) A disclosure describing the transferability of the system in connection with the consumer selling the real property.

(4) In the case of a purchase of a residential solar electric system or residential battery energy storage system, the written disclosure form required pursuant to subsection (1) of this section must also include the following information:

(a) The purchase price;

(b) Estimated start and completion dates for installation, accompanied by the following statement: "Start and completion dates are only an estimate and may be impacted by delays that may be outside the control of the solar installation company."

(c) A disclosure notifying the purchaser of the party or parties responsible for obtaining interconnection approval; and

(d) The following statement: "Laws and regulations about state and federal tax credits are subject to change. Any statement made in these disclosures should not be construed as tax advice. You are encouraged to consult a tax expert regarding any reductions or potential reductions in your tax liability associated with purchasing a residential solar electric system or residential battery energy storage system."

(5) If a consumer's local utility has a public website with information explaining the utility's interconnection procedures, a solar sales company shall provide a link to the website to the consumer.

Source: L. 2025: Entire part added, (SB 25-299), ch. 427, p. 2423, § 2, effective August 6.

6-1-1804. Agreements - contract terms and requirements - cooling-off period.

(1) A contract for the sale or lease of, or power purchase agreement for, a residential solar electric system or residential battery energy storage system must:

(a) Include, in conspicuous language, key contract terms such as price and financing terms;

(b) Be written in either English or Spanish, whichever is the same language in which the sale, lease, or power purchase agreement was made; and

(c) Include a dispute resolution process.

(2) An agreement for the sale of a residential solar electric system or residential battery energy storage system must contain the following information:

(a) The name, physical address, telephone number, and email address of:

(I) The solar sales company that sold the system;

(II) The solar installation company, if different than the solar sales company; and

(III) If applicable, the salesperson who solicited or negotiated the agreement;

(b) The purchase price;

(c) The payment schedule, if applicable;

(d) A description of the project, including the system size expressed in kilowatts of direct current electricity and kilowatts of alternating current electricity; the solar modules to be installed; the inverters to be installed; the monitoring to be installed; and, if applicable, the energy storage system to be installed;

(e) Estimated start and completion dates for installation, accompanied by the following statement: "The actual start and completion dates depend on many factors, such as delays related to permitting and interconnection approvals, which are controlled by your local jurisdiction and local utility, respectively."

(f) An explanation of applicable warranties or guarantees, including the transferability of any obligations, in compliance with the federal "Magnuson-Moss Warranty—Federal Trade Commission Improvement Act", 15 U.S.C. sec. 2301 et seq.;

(g) The name of the local utility; and

(h) Which party or parties are responsible for filing the interconnection application and permits.

(3) An agreement for the lease of a residential solar electric system or residential battery energy storage system must contain the following information:

(a) The name, physical address, telephone number, and email address of:

(I) The lessor;

(II) The solar installation company, if different than the lessor; and

(III) If applicable, the salesperson who solicited or negotiated the agreement;

(b) If the lessor does not communicate with consumers by telephone, another method of communication in addition to email;

(c) The total payments required pursuant to the lease and the payment schedule, including the number, amount, and due dates or periods of payments;

(d) A description of the project, including the system size expressed in kilowatts of direct current electricity and kilowatts of alternating current electricity; the solar modules to be installed; the inverters to be installed; the monitoring to be installed; and, if applicable, the energy storage system to be installed;

(e) Estimated start and completion dates for installation, accompanied by the following statement: "The actual start and completion dates depend on many factors, such as delays related to permitting and interconnection approvals, which are controlled by your local jurisdiction and local utility, respectively."

(f) An explanation of applicable warranties or guarantees, including the transferability of any obligations;

(g) A description of the maintenance and repair responsibilities of each party;

(h) An explanation of whether the consumer has the right to purchase the leased system, either during the lease term or at the termination of the lease, and, if so, the purchase price;

(i) A description of the consumer's options to transfer the lease to a third party and the conditions for a transfer;

(j) Which party or parties are responsible for filing the interconnection application and permits; and

(k) A description of any security interest filed against the system, including "Uniform Commercial Code" financing statements.

(4) A power purchase agreement for a residential solar electric system or residential battery energy storage system in which a solar sales company is the lessor must contain the following information:

(a) The name, physical address, telephone number, and email address of:

(I) The solar sales company;

(II) The solar installation company, if different than the solar sales company; and

(III) If applicable, the salesperson who solicited or negotiated the agreement;

(b) If the solar sales company does not communicate with consumers by telephone, another method of communication in addition to email;

(c) The payment schedule for the sale of output of the residential solar electric system, including the number, amount, and due dates or periods of payments;

(d) A description of the project, including the system size expressed in kilowatts of direct current electricity and kilowatts of alternating current electricity; the solar modules to be installed; the inverters to be installed; the monitoring to be installed; and, if applicable, the energy storage system to be installed;

(e) Estimated start and completion dates for installation, accompanied by the following statement: "The actual start and completion dates depend on many factors, such as delays related to permitting and interconnection approvals, which are controlled by your local jurisdiction and local utility, respectively."

(f) An explanation of applicable warranties or guarantees, including the transferability of any obligations;

(g) A description of the maintenance and repair responsibilities of each party;

(h) An explanation of whether the consumer has the right to purchase the system, either during the term of the power purchase agreement or at the termination of the power purchase agreement, and, if so, the purchase price;

(i) A description of the consumer's options to transfer the contract to a third party and the conditions for a transfer;

(j) Which party or parties are responsible for filing the interconnection application and permits; and

(k) A description of any security interest filed against the system, including "Uniform Commercial Code" financing statements.

(5) In the case of a sale of a residential solar electric system or residential battery energy storage system:

(a) A consumer has at least three business days after receiving the initial signed agreement to cancel the agreement without financial penalty, subject to section 6-1-1809 (3), with the exception of any nonrefundable deposits collected before receipt of the signed agreement, in an amount not to exceed one hundred dollars;

(b) The seller shall verbally explain to the consumer the consumer's right to rescind the agreement without financial penalty upon the consumer signing the agreement and shall provide the specific date up until the agreement may be canceled by the consumer;

(c) An agreement must include, adjacent to the signature line, the following statement in bold-faced font: "You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right."

(d) An agreement must include a copy of a cancellation form in substantially the same form set forth in federal regulations regarding cooling-off periods for sales made at homes or at certain other locations; and

(e) Compliance with federal regulations adopted under the "Federal Trade Commission Act" of 1914, 15 U.S.C. sec. 41 et. seq., regarding cooling-off periods for sales made at homes or at certain other locations constitutes compliance with this subsection (5).

Source: L. 2025: Entire part added, (SB 25-299), ch. 427, p. 2427, § 2, effective August 6.

6-1-1805. Financing of residential solar electric systems and residential battery energy storage systems - documents required.

(1) If a residential electric solar system or residential battery energy storage system is financed, the financing documents must include:

(a) The length, terms, and cost of the financing agreement in clear and conspicuous language;

(b) An explanation of whether the financier will be filing an encumbrance against the real property and, if so, the impact of the filing on a future real property transaction; and

(c) A notification of any security interest filed against the residential solar electric system or residential battery energy storage system, including "Uniform Commercial Code" financing statements.

Source: L. 2025: Entire part added, (SB 25-299), ch. 427, p. 2431, § 2, effective August 6.

6-1-1806. Salespersons.

(1) An independent contractor may be retained by a solar sales company as a salesperson. Notwithstanding the salesperson's status as an independent contractor, the solar sales company that employs the independent contractor as a salesperson is responsible for ensuring compliance with this part 18 and for any loss or damages resulting from noncompliance by the independent contractor when acting on behalf of the solar sales company.

(2) A salesperson may be employed by more than one solar sales company.

(3) In the absence of a state law or local government ordinance, a salesperson shall not visit a residence to conduct a sale except between the hours of 9 a.m. and 8 p.m.

(4) Notwithstanding subsection (3) of this section, a consumer may schedule a meeting with a salesperson between the hours of 8 p.m. and 9 a.m.

(5) A salesperson shall not visit a residence that has posted a "no solicitation" sign.

Source: L. 2025: Entire part added, (SB 25-299), ch. 427, p. 2431, § 2, effective August 6.

6-1-1807. Misrepresentations prohibited.

(1) (a) Written or digital sales materials for a residential solar electric system or residential battery energy storage system that are provided in the state shall not include the names, logos, pictures, or other indicia of a public utility, cooperative electric association formed pursuant to article 9.5 of title 40, or municipal utility, unless a salesperson has received express written consent to do so from the relevant utility or is otherwise complying with federal fair use laws.

(b) For the purposes of this subsection (1), written or digital sales materials include online sales banners, click-through banners, social media advertisements, and other materials that could generate a sale or sale lead of a residential solar electric system or residential battery energy storage system over the internet.

(2) A solar sales company shall not purchase solar sales leads from a company that does not comply with the requirements of subsection (1) of this section.

(3) A solar sales company shall not represent, verbally or in writing, that the solar sales company is affiliated with, sponsored by, or approved by a consumer's local utility without the express, written consent of the local utility.

(4) A solar sales company shall not represent, verbally or in writing, that the solar sales company is affiliated with, sponsored by, or approved by a state incentive program without the express, written consent of the state agency in charge of the state incentive program.

Source: L. 2025: Entire part added, (SB 25-299), ch. 427, p. 2431, § 2, effective August 6.

6-1-1808. Record retention and consumer privacy.

(1) A solar sales company or a designated representative of the solar sales company shall retain a copy of each signed agreement for a period of not less than four years after the date of the transaction.

(2) Consumer personal information must be maintained consistent with the "Colorado Privacy Act", part 13 of this article 1, and other applicable data privacy laws.

Source: L. 2025: Entire part added, (SB 25-299), ch. 427, p. 2432, § 2, effective August 6.

6-1-1809. Welcome calls - information provided to consumer.

(1) On or after the date of the transaction of an agreement, a solar sales company or a designated representative of the solar sales company shall conduct a welcome call with the new consumer, in the language used during the sales presentation.

(2) The welcome call must include the following information:

(a) Confirmation of the identity of the consumer;

(b) The price of the residential solar electric system or residential battery energy storage system, as applicable;

(c) A description of the project, including the system size, expressed in kilowatts of direct current electricity and kilowatts of alternating current electricity; the energy storage system to be installed, if applicable, including capacity, expressed in kilowatt-hours; and a statement that a residential solar electric system will not provide backup power without being paired with an energy storage system;

(d) For a lease or power purchase agreement, the duration of the contract;

(e) The consumer's right to cancel the agreement without financial penalty within three business days after signing a contract, subject to subsection (3) of this section;

(f) A reminder that the consumer should review the disclosure form and agreement; and

(g) An explanation of the costs of the system being installed and applicable financing terms.

(3) The consumer's right to cancel a transaction within three business days after the date of the transaction does not begin to run until the welcome call is conducted.

Source: L. 2025: Entire part added, (SB 25-299), ch. 427, p. 2432, § 2, effective August 6.

6-1-1810. Warranties and maintenance.

(1) A solar sales company shall provide a warranty against roof damage and water infiltration at each roofing penetration made during the installation of a residential solar electric system, which warranty must last for at least four years after the completion of the installation.

(2) A solar sales company shall provide a warranty to address defects in the workmanship of a residential solar electric system, which warranty must last for at least four years after the completion of the installation.

(3) If a solar sales company provides a long-term maintenance plan for a residential solar electric system or residential battery energy storage system, the plan must be made available in writing and verbally explained to the consumer. If a solar sales company does not provide a long-term maintenance plan, the solar sales company shall provide the consumer with a written explanation as to why a long-term maintenance plan is not being provided.

Source: L. 2025: Entire part added, (SB 25-299), ch. 427, p. 2433, § 2, effective August 6.

6-1-1811. Enforcement.

A person that, in the course of the person's business, violates this part 18 commits a deceptive trade practice pursuant to section 6-1-105.

Source: L. 2025: Entire part added, (SB 25-299), ch. 427, p. 2433, § 2, effective August 6.

6-1-1812. Investor-owned utility disclosures and oversight of available customer incentives.

(1) An investor-owned utility that serves more than five hundred thousand customers that offers financial incentives for residential solar electric systems or residential battery energy storage systems shall clearly and prominently provide the following information on the utility's website:

(a) Information on the amount of financial incentives available for such systems, including information about the amount of budget that has already been spent to date and information about when the budget was last updated;

(b) Information about how a customer or contractor can apply for the financial incentives; and

(c) Information about the point in the process in which a customer may secure financial incentives from a utility program.

Source: L. 2025: Entire part added, (SB 25-299), ch. 427, p. 2433, § 2, effective August 6.

ARTICLE 2

Unfair Practices Act

6-2-101. Short title.
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6-2-112. Testimony - books and records.
6-2-113. Selling below cost.
6-2-114. Advertising goods not available.
6-2-115. Evidence to establish legal price. (Repealed)
6-2-115.5. State agencies - authority to contract with private enterprise.
6-2-116. Penalty.
6-2-117. Remedies cumulative.

6-2-101. Short title.

This article shall be known and may be cited as the "Unfair Practices Act".

Source: L. 37: p. 1287, § 14. **CSA:** C. 48, § 302(13). **L. 41:** p. 824, § 13. **L. 49:** p. 349, § 17. **CRS 53:** § 55-2-17. **C.R.S. 1963:** § 55-2-17.

ANNOTATION

Law reviews. For article, "The Unfair Practices Act of Colorado and Its Recent Amendment", see 26 Dicta 162 (1949). For article, "May Regulated Utilities Monopolize the Sun?", see 56 Den. L.J. 31 (1979). For article, "Utility Use of Renewable Resources: Legal and Economic Implications", see 59 U. Den. L.J. 663 (1982). For comment, "Antitrust Law in Colorado: Back on Track", see 60 Den. L.J. 645 (1983). For article, "Franchise Regulation", see 15 Colo. Law. 395 (1986). For note, "Permissible and Impermissible Vertical Restraints Under the Sherman Antitrust Act: Does 'Justice' Care?", see 63 Den. U. L. Rev. 127 (1986).

6-2-102. Legislative declaration.

The general assembly declares that the purpose of this article is to safeguard the public against the creation or perpetuation of monopolies and to foster and encourage competition by prohibiting unfair and discriminatory practices by which fair and honest competition is destroyed or prevented. This article shall be liberally construed so that its beneficial purposes may be subserved.

Source: L. 41: p. 824, § 12. **CSA:** C. 48, § 302(12). **L. 49:** p. 349, § 16. **CRS 53:** § 55-2-16. **C.R.S. 1963:** § 55-2-16.

ANNOTATION

Law reviews. For article, "One Year Review of Constitutional and Administrative Law", see 34 Dicta 79 (1957). For article, "May Regulated Utilities Monopolize the Sun?", see 56 Den. L.J. 31 (1979).

The conclusion of the general assembly that predatory price wars are contrary to the interests of the public and that temporary public price advantages will ultimately lead to monopoly and prices uncontrolled by the forces of competition is not so ill founded as to be contrary to the law or the constitution. Flank Oil Co. v. Tennessee Gas Transmission Co., 141 Colo. 554, 349 P.2d 1005 (1960).

6-2-103. Discriminatory sales - exceptions.

(1) It is unlawful for any person, firm, or corporation doing business in the state of Colorado and engaged in the production, manufacture, distribution, or sale of any commodity, product, or service of general use or consumption, or the sale of any merchandise or product by any public utility, with the intent to destroy the competition of any regular established dealer in such

commodity, product, or service, or to prevent the competition of any person, firm, private corporation, or municipal or other public corporation that in good faith intends and attempts to become a dealer, to discriminate between different sections, communities, or cities, or portions thereof, or between different locations in such sections, communities, cities, or portions thereof in this state by selling or furnishing a commodity, product, or service at a lower rate in one section, community, or city, or any portion thereof, or in one location in such section, community, or city, or any portion thereof than in another after making allowance for the difference, if any, in the grade or quality, quantity, and actual cost of transportation from the point of production, if a raw product or commodity, or from the point of manufacture, if a manufactured product or commodity. Motion picture films when delivered under a lease to motion picture houses shall not be deemed to be a commodity or product of general use or consumption.

(2) Nothing in this article shall be construed to affect or apply to any service or product sold, rendered, or furnished by any public utility, the sale, rendition, or furnishing of which is subject to regulation by the Colorado public utilities commission or by any municipal regulatory body. This article shall not be construed to prohibit the meeting in good faith of a competitive rate.

(3) The inhibition in this section against locality discrimination shall embrace any scheme of special rebates, collateral contracts, or any device of any nature whereby such discrimination is, in substance or fact, effected in violation of the spirit and intent of this article.

(4) It is an unfair trade practice for any person, firm, or corporation doing business in this state and engaged in the production, manufacture, or distribution of either written or printed material or motion pictures to require a buyer or lessee, as a condition of the purchase or lease of such material or motion pictures, to accept other material or motion pictures which the buyer or lessee deems objectionable and written objection is made thereto by such buyer or lessee to the seller or lessor of said material or motion pictures within thirty days after delivery to said buyer or lessee. If such written objection is made within the time provided in this subsection (4), and the seller or lessor does not, within ten days of the receipt of said objection, repurchase or recall such objectionable material or motion pictures from the buyer or lessee, all the remedies provided in this article shall be applicable against said seller or lessor. The provisions of this subsection (4) shall apply whether the material or motion pictures are acquired by the buyer or lessee for resale, sublease, or for any other purpose.

Source: L. 37: p. 1280, § 1. **CSA:** C. 48, § 302(1). **L. 41:** p. 820, § 1. **L. 49:** p. 342, § 1. **CRS 53:** § 55-2-1. **C.R.S. 1963:** § 55-2-1. **L. 69:** p. 368, § 1. **L. 2007:** (1) amended, p. 513, § 1, effective April 16.

ANNOTATION

Law reviews. For article, "The Unfair Practices Act of Colorado and Its Recent Amendment", see 26 Dicta 162 (1949). For article, "One Year Review of Civil Procedure and Appeals", see 38 Dicta 133 (1961). For article, "One Year Review of Constitutional and Administrative Law", see 38 Dicta 154 (1961). For article, "Antitrust and the Lay Lawyer", see 44 Den. L.J. 558 (1967). For article, "May Regulated Utilities Monopolize the Sun?", see 56 Den. L.J. 31 (1979).

A "fair trade" price maintenance contract as described by this section is lawful. United States v. Frankfort Distilleries, 324 U.S. 293 (1945), rev'g 144 F.2d 824 (1944).

This section is not a price-fixing law. Dikeou v. Food Distribs. Ass'n, 107 Colo. 38, 108 P.2d 529 (1940).

Its purpose is to prevent ruinous price-cutting, by which the business of competitors might be injured and competition destroyed. Dikeou v. Food Distribs. Ass'n, 107 Colo. 38, 108 P.2d 529 (1940).

Consumers' payment of overcharges qualifies as a type of injury that the statute was designed to prevent. Dunlap v. Colo. Springs Cablevision, Inc., 829 P.2d 1286 (Colo. 1992).

Act applies whenever a business charges different prices to purchasers based on geographic differences with an intent to drive out competition in one geographic area. The act does not require that a business have more than one location. Dunlap v. Colo. Springs Cablevision, Inc., 855 P.2d 6 (Colo. App. 1992) (decided on remand from 829 P.2d 1286 (Colo. 1992)); Ervin v. Amoco Oil Co., 885 P.2d 246 (Colo. App. 1994), aff'd, 908 P.2d 493 (Colo. 1995).

A retailer, not guilty of any fraud or deception, who takes a smaller profit than another retailer is willing to accept for the same commodity is not engaged in unfair competition. Olin Mathieson Chem. Corp. v. Francis, 134 Colo. 160, 301 P.2d 139 (1956).

Actions performed for the purpose of injuring competitors or destroying competition are the only ones that violate this law, this purpose or intention is manifestly intended to be a vital element of the violation. Miller's Groceteria Co. v. Food Distribs. Ass'n, 107 Colo. 113, 109 P.2d 637 (1941).

Thus, where the evidence shows that defendants entered upon a carefully planned, intensive campaign, using nearly all of the common "tricks of the trade" to break into the market in the territory served by competitors, such constitutes a violation of this act. Old Homestead Bread Co. v. Marx Baking Co., 108 Colo. 375, 117 P.2d 1007 (1941).

Also, forcing such contracts is unlawful. Combinations of producers, wholesalers, and retailers, or any of them, to force others into making "fair trade" contracts are not lawful. United States v. Frankfort Distilleries, 324 U.S. 293 (1945), rev'g 144 F.2d 824 (1944).

Unfair practices act applicable to title insurance. The state's unfair practices act is applicable to the business of title insurance.

Commander Leasing Co. v. Transamerica Title Ins. Co., 477 F.2d 77 (10th Cir. 1973).

This act is not analogous to federal Robinson-Patman Price Discrimination Act. Colorado's Unfair Practices Act does not cover discrimination between purchasers, but rather discrimination based upon and directed at geographic differences, termed "locality discrimination". Venta, Inc. v. Frontier Oil & Ref. Co., 827 F. Supp. 1526 (D. Colo. 1993).

Applied in Q-T Mkts., Inc. v. Fleming Cos., 394 F. Supp. 1102 (D. Colo. 1975); Carlock v. Pillsbury Co., 719 F. Supp. 791 (D. Minn. 1989).

6-2-104. Personal responsibility.

(1) A person that, either as director, officer, or agent of any firm or corporation or as agent of any person violating this article 2, assists or aids, directly or indirectly, in the violation is responsible equally with the person, firm, or corporation for which the person acts.

(2) In the prosecution of a person as officer, director, or agent, it is sufficient to allege and prove the unlawful intent of the person, firm, or corporation for which the person acts.

Source: L. 37: p. 1281, § 2. **CSA:** C. 48, § 302(2). **L. 41:** p. 821, § 2. **L. 49:** p. 343, § 2. **CRS 53:** § 55-2-2. **C.R.S. 1963:** § 55-2-2. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 2005, § 35, effective August 12.

6-2-105. Unlawful to sell below cost - definition.

(1) (a) It is unlawful for any person, partnership, firm, corporation, joint stock company, or other association engaged in business within this state to sell, offer for sale, or advertise for sale any product or service for less than the cost of the product or service with the intent to both injure competitors and destroy competition and where the likely result of such sale would be the acquisition or maintenance of a monopoly. A vendor who violates this section commits a class 2 misdemeanor.

(b) (Deleted by amendment, L. 2007, p. 514, § 2, effective April 16, 2007.)

(2) For purposes of this section, "cost" means an appropriate determination of cost that is consistent with federal court interpretations of cost in federal predatory pricing cases under the federal "Sherman Act", 15 U.S.C. sec. 1 et seq.

(3) (Deleted by amendment, L. 2008, p. 2244, § 1, effective June 5, 2008.)

Source: L. 37: p. 1282, § 3. **CSA:** C. 48, § 302(3). **L. 41:** p. 821, § 3. **L. 49:** p. 343, § 3. **CRS 53:** § 55-2-3. **C.R.S. 1963:** § 55-2-3. **L. 93:** (1) amended, p. 1273, § 1, effective July 1. **L. 2007:** (1) and (2) amended, p. 514, § 2, effective April 16. **L. 2008:** Entire section amended, p. 2244, § 1, effective June 5. **L. 2021:** (1)(a) amended, (SB 21-271), ch. 462, p. 3134, § 58, effective March 1, 2022.

ANNOTATION

I. General Consideration.

II. Unlawful to Sell Below Cost.

III. Cost.

IV. Cost of Doing Business.

I. GENERAL CONSIDERATION.

Law reviews. For article, "Antitrust and the Lay Lawyer", see 44 Den. L.J. 558 (1967). For article, "May Regulated Utilities Monopolize the Sun?", see 56 Den. L.J. 31 (1979).

When consideration is paid for one product that is sold in conjunction with another product advertised to be "free" or otherwise offered at no cost to the consumer, the transaction constitutes a combined sale, and thus is not a gift pursuant to the unfair practices act. Defendant's offer of a free car wash in conjunction with the purchase of gasoline is not a gift pursuant to this section. Mastercar, Inc. v. Amoco Oil Co., 835 P. 2d 534 (Colo. App. 1992).

Applied in Val Vu, Inc. v. Lacey, 31 Colo. App. 55, 497 P.2d 723 (1972); Colo. Petroleum Marketers Ass'n v. Southland Corp., 476 F. Supp. 373 (D. Colo. 1979).

II. UNLAWFUL TO SELL BELOW COST.

Where a merchant is charged with selling goods at below cost in violation of the unfair practices act, it is not error for the trial court to permit evidence to prove the actual intent animating the admitted sales below cost. Perkins v. King Soopers, Inc., 122 Colo. 263, 221 P.2d 343 (1950).

A statute attempting to prohibit all sales below cost would be unconstitutional. Olin Mathieson Chem. Corp. v. Francis, 134 Colo. 160, 301 P.2d 139 (1956).

To avoid this result, only such sales may be prohibited which are intended to injure the public in a manner warranting the exercise of the police power. Olin Mathieson Chem. Corp. v. Francis, 134 Colo. 160, 301 P.2d 139 (1956).

Thus, intent has to be proved, otherwise this section would be a flat fixing of prices without regard to the public welfare. Olin Mathieson Chem. Corp. v. Francis, 134 Colo. 160, 301 P.2d 139 (1956).

Moreover, in action for violation of this section where company denied allegation that the advertisement of intent to give away and the giving away of samples was

done for the purpose of injuring competitors or destroying competition, an issue of fact was tendered which could not be disposed of by a motion for judgment on the pleadings. Miller's Groceteria Co. v. Food Distribs. Ass'n, 107 Colo. 113, 109 P.2d 637 (1941).

Where the ability to make a purchase at a concession price is expressly contingent on the purchase of other goods, the concession goods are sold below cost only if the total price paid by the customer for the goods involved in such linked transactions is below the total cost of such goods. Parish Oil Co. v. Dillon Cos., 523 F.3d 1244 (10th Cir. 2008) (decided under law in effect prior to 2007 amendment).

A grocery store may sell gasoline below cost if such sales are conditioned on the purchase of enough groceries above cost that the entire series of transactions comes in at a profit. Parish Oil Co. v. Dillon Cos., 523 F.3d 1244 (10th Cir. 2008) (decided under law in effect prior to 2007 amendment).

III. COST.

Evidence which seeks to establish "cost" and "cost of doing business" need not be sufficient to establish these facts with mathematical precision and exactness, the proof need not exist to that high degree of certainty. Flank Oil Co. v. Tennessee Gas Transmission Co., 141 Colo. 554, 349 P.2d 1005 (1960).

Such is a problem of sufficiency, not constitutionality. Establishing by competent and material evidence allegations with respect to definitions of costs as applied to "production" and relative to "cost of doing business" or "overhead expense" is not a problem of constitutionality, but a problem of sufficiency of the evidence. Flank Oil Co. v. Tennessee Gas Transmission Co., 141 Colo. 554, 349 P.2d 1005 (1960).

Difficulty in application not enough to render section unconstitutional. Any difficulty in computing cost is a factual one, and this section is not to be declared invalid because in its application factual difficulties may arise; mere difficulty of application in the processes of litigation is not enough to enable a court to say that a statute is unconstitutional. Flank Oil Co. v. Tennessee Gas Transmission Co., 141 Colo. 554, 349 P.2d 1005 (1960).

Moreover, the term "cost" or "cost of doing business" is not so vague and indefinite that it violates the substantive due process requirement of the fourteenth amendment to the federal constitution or is so vague that it is wholly impractical. Flank Oil Co. v. Tennessee Gas Transmission Co., 141 Colo. 554, 349 P.2d 1005 (1960).

"Seller's costs" means the expense to seller to provide an article or product to its users. Pepcol Mfg. Co. v. Denver Union Corp., 668 P.2d 971 (Colo. App. 1983).

IV. COST OF DOING BUSINESS.

The "cost of doing business" which must be added to the invoice cost need not be absolutely exact or based upon a precise method of accounting which any one merchant might adopt. Dikeou v. Food Distribs. Ass'n, 107 Colo. 38, 108 P.2d 529 (1940); Flank Oil Co. v. Tennessee Gas Transmission Co., 141 Colo. 554, 349 P.2d 1005 (1960).

Rather, the term means the approximate cost arrived at by a reasonable rule. Dikeou v. Food Distribs. Ass'n, 107 Colo. 38, 108 P.2d 529 (1940); Flank Oil Co. v. Tennessee Gas Transmission Co., 141 Colo. 554, 349 P.2d 1005 (1960).

Hence, if a particular method adopted by a merchant cannot be said to be unreasonable, and does not disclose an intentional evasion of the law, the method so adopted should be accepted as correct. Dikeou v. Food Distribs. Ass'n, 107 Colo. 38, 108 P.2d 529 (1940); Flank Oil Co. v. Tennessee Gas Transmission Co., 141 Colo. 554, 349 P.2d 1005 (1960).

In other words, all that a man is required to do under the statute is to act in good faith. Dikeou v. Food Distribs. Ass'n, 107 Colo. 38, 108 P.2d 529 (1940); Flank Oil Co. v. Tennessee Gas Transmission Co., 141 Colo. 554, 349 P.2d 1005 (1960).

6-2-106. How cost established.

In establishing the cost of a given product to the distributor and vendor, the invoice cost of the product purchased at a forced, bankrupt, closeout sale, or other sale outside of the ordinary channels of trade may not be used as a basis for justifying a price lower than one based upon the replacement cost as of date of said sale of the product replaced through the ordinary channels of trade, unless the product is kept separate from goods purchased in the ordinary channels of trade and unless the product is advertised and sold as merchandise purchased at a forced, bankrupt, closeout sale, or by means other than through the ordinary channels of trade. The advertising shall state the conditions under which said goods were purchased and the quantity of such merchandise to be sold or offered for sale.

Source: L. 37: p. 1283, § 4. **CSA:** C. 48, § 302(4). **L. 41:** p. 822, § 4. **L. 49:** p. 344, § 4. **CRS 53:** § 55-2-4. **C.R.S. 1963:** § 55-2-4. **L. 2007:** Entire section amended, p. 514, § 3, effective April 16.

6-2-107. Allegation and proof - evidence.

In an injunction proceeding or in the prosecution of a person as officer, director, or agent, it is sufficient to allege and prove the unlawful intent of the person, firm, or corporation for which the person acts. Where a particular trade or industry of which the person, firm, or corporation complained against is a member has an established cost survey for the locality and vicinity in which the offense is committed, the cost survey is deemed competent evidence to be used in proving the costs of the person, firm, or corporation complained against within this article 2.

Source: L. 37: p. 1283, § 5. **CSA:** C. 48, § 302(5). **L. 41:** p. 822, § 5. **L. 49:** p. 344, § 5. **CRS 53:** § 55-2-5. **C.R.S. 1963:** § 55-2-5. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 2005, § 36, effective August 12.

ANNOTATION

Evidence of intent sufficient for injunction. Defendant's refusal to attend meetings for the purpose of reaching an agreement on the cost of doing business and asserting that he did not think the law could be enforced indicated an intent not to obey it; this, and other, evidence was sufficient to warrant injunction against violation of law. Dikeou v. Food Distribs. Ass'n, 107 Colo. 38, 108 P.2d 529 (1940).

6-2-108. Secret rebates or refunds prohibited.

The secret payment or allowance of rebates, refunds, commissions, or unearned discounts, whether in the form of money or otherwise, or secretly extending to certain purchasers special services or privileges not extended to all purchasers upon like terms and conditions, to the injury of a competitor and where such payment or allowance tends to destroy competition, is an unfair trade practice. Any person, firm, partnership, corporation, or association resorting to such unfair trade practice commits a class 2 misdemeanor.

Source: L. 37: p. 1284, § 7. **CSA:** C. 48, § 302(7). **L. 41:** p. 823, § 7. **L. 49:** p. 345, § 7. **CRS 53:** § 55-2-7. **C.R.S. 1963:** § 55-2-7. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3134, § 59, effective March 1, 2022.

ANNOTATION

Law reviews. For article, "Antitrust and the Lay Lawyer", see 44 Den. L.J. 558 (1967).

Section 6-2-109 inapplicable. Since the reference in § 6-2-109 is "to" § 6-2-108, that section is excluded and § 6-2-109 is inapplicable to secret rebates or refunds. Q-T Mkts., Inc. v. Fleming Cos., 394 F. Supp. 1102 (D. Colo. 1975).

The use of the construction "sections 6-2-103 to 6-2-108" in § 6-2-111 (1) includes both sections whose numbers are given and all intervening sections. Therefore the legislature did intend to create a private right of action for violations of this section. W. Convenience Stores, Inc. v. Suncor Energy U.S.A., Inc., 970 F. Supp. 2d 1162 (D. Colo. 2013) (disagreeing with Q-T Mkts., Inc. v. Fleming Cos., 394 F. Supp. 1102 (D. Colo. 1975), annotated above).

Discount given by fuel supplier to favored customer considered "secret" under this section. While disfavored customers had their own arrangement with the supplier, without knowledge of the undisclosed terms of the favored customer's deal, they had no idea whether the deal they had with the supplier was at all comparable to the deal the supplier had with the favored customer. W. Convenience Stores, Inc. v. Suncor Energy U.S.A., Inc., 970 F. Supp. 2d 1162 (D. Colo. 2013).

The indefinite article "a" in the phrase "injury of a competitor" means any competitor, not merely competitors of the seller giving the secret discount. This section applies, therefore, to both primary-line and secondary-line competition. W. Convenience Stores, Inc. v. Suncor Energy U.S.A., Inc., 970 F. Supp. 2d 1162 (D. Colo. 2013).

No requirement of intent to destroy competition. Liability under this section focuses on the effect on competition of giving a secret discount, regardless of the seller's intent. W. Convenience Stores, Inc. v. Suncor Energy U.S.A., Inc., 970 F. Supp. 2d 1162 (D. Colo. 2013).

6-2-109. Contract illegal - when.

Any contract, express or implied, made by any person, firm, or corporation in violation of any of the provisions of sections 6-2-103 to 6-2-108 is an illegal contract, and no recovery thereon shall be had; except that no part of this article shall prevent the payment of patronage refunds by cooperative agencies or associations existing and operating under the laws of this state.

Source: L. 37: p. 1285, § 9. **CSA:** C. 48, § 302(8). **L. 41:** p. 823, § 8. **L. 49:** p. 345, § 8. **CRS 53:** § 55-2-8. **C.R.S. 1963:** § 55-2-8.

ANNOTATION

Law reviews. For article, "An Introduction to the Economic Analyses of Contract Remedies", see 57 U. Colo. L. Rev. 683 (1986).

Section 6-2-108 excluded. Since the reference in § 6-2-109 is "to" § 6-2-108, that section is excluded and § 6-2-109 is inapplicable to secret rebates or refunds. Q-T Mkts., Inc. v. Fleming Cos., 394 F. Supp. 1102 (D. Colo. 1975).

6-2-110. When provisions not applicable.

(1) Sections 6-2-105 to 6-2-107 do not apply to any sale made:

(a) In closing out in good faith the owner's stock or any part thereof for the purpose of discontinuing the owner's trade in any such stock or commodity and, in the case of the sale of seasonal goods or the bona fide sale of perishable goods, to prevent loss to the vendor by spoilage or depreciation, if notice is given to the public thereof;

(b) When the goods are damaged or deteriorated in quality and notice is given to the public thereof;

(c) By an officer acting under the orders of any court;

(d) In an endeavor made in good faith to meet the prices of a competitor selling the same product or service in the same locality or trade area.

(2) Any person, firm, or corporation who performs work upon, renovates, alters, or improves any personal property belonging to another person, firm, or corporation shall be construed to be a vendor within the meaning of this article.

Source: L. 37: p. 1283, § 6. **CSA:** C. 48, § 302(6). **L. 41:** p. 822, § 6. **L. 49:** p. 344, § 6. **CRS 53:** § 55-2-6. **C.R.S. 1963:** § 55-2-6. **L. 2007:** (1)(d) amended, p. 514, § 4, effective April 16. **L. 2026:** IP(1) and (1)(a) amended, (HB 26-1426), ch. 334, p. 2005, § 37, effective August 12.

ANNOTATION

Law reviews. For article, "Antitrust and the Lay Lawyer", see 44 Den. L.J. 558 (1967).

The term "trade area" as used in this section is not limited in terms of the immediate geographic area of the business. Val Vu, Inc. v. Lacey, 31 Colo. App. 55, 497 P.2d 723 (1972).

So where there are a significant number of persons who would leave a particular merchant's immediate area and go to an adjoining area as a result of advertisement from that area's newspapers, that merchant should be allowed to meet those advertised prices without violating this statute. Val Vu, Inc. v. Lacey, 31 Colo. App. 55, 497 P.2d 723 (1972).

For example, Boulder merchant may meet Denver prices. In the light of the mobility of our population, and the proclivity of residents of Boulder to shop throughout the Denver metropolitan area, a Boulder merchant may meet Denver prices. Val Vu, Inc. v. Lacey, 31 Colo. App. 55, 497 P.2d 723 (1972).

6-2-111. Unlawful acts - remedy - license - rules.

(1) Any person, firm, private corporation, municipal corporation, public corporation, or trade association may maintain an action to enjoin a continuance of any act in violation of sections 6-2-103 to 6-2-108 or section 6-2-110 and, if injured thereby, for the recovery of damages. If, in such action, the court finds that the defendant is violating or has violated any of the provisions of sections 6-2-103 to 6-2-108 or section 6-2-110, it shall enjoin the defendant from a continuance of the violations. It shall not be necessary that actual damages to the plaintiff be alleged or proved. In addition to such injunctive relief, the plaintiff in said action shall be entitled to recover from the defendant three times the amount of the actual damages, if any, sustained.

(2) Without prejudice to the rights of any person, firm, private corporation, municipal corporation, public corporation, or trade association to bring an action, the attorney general has like powers to those provided in subsection (1) of this section, and it is the attorney general's duty, upon a showing by any person, firm, private corporation, municipal corporation, public corporation, or trade association that there is reason to believe that a person subject to the terms of this article 2 is violating any term of sections 6-2-103 to 6-2-108 or section 6-2-110, to prosecute the violation and seek an injunction or restraining order to enjoin the continuance of the violation.

(3) If a person, firm, private corporation, municipal corporation, public corporation, or trade association, in writing and under oath, submits to the attorney general a statement setting forth facts sufficient to constitute a prima facie case of a violation of sections 6-2-103 to 6-2-108 or any other provision of this article 2, the attorney general shall seek injunctive relief or a restraining order to enjoin the continuance of the violation. To this end, and for this purpose, the attorney general may appear in the attorney general's official capacity to seek relief in any court in the state having jurisdiction.

(4) A district attorney, when requested in writing by the attorney general to advise and consult with the attorney general concerning the institution and prosecution of an action described in this article 2, shall act for the attorney general in prosecution of the action. However, the attorney general may choose, select, appoint, and recompense from money provided for the purposes of enforcement of this article 2 any attorney admitted to practice in the state as a special prosecutor who has full and complete power to act for the attorney general.

(5) The attorney general, for the purposes of carrying out the terms and provisions of this article, has the power to promulgate rules and regulations for the enforcement of this article, not inconsistent with its terms, and to publish the same.

(6) The attorney general may appoint such personnel as may reasonably be required to carry out the functions prescribed for the attorney general's office.

Source: L. 37: p. 1285, § 10. **CSA:** C. 48, § 302(9). **L. 41:** p. 823, § 9. **L. 49:** p. 345, § 9. **CRS 53:** § 55-2-9. **C.R.S. 1963:** § 55-2-9. **L. 69:** p. 369, § 1. **L. 2016:** (2), (3), (4), and (6) amended, (HB 16-1094), ch. 94, p. 264, § 4, effective August 10. **L. 2026:** (2), (3), (4), and (6) amended, (HB 26-1426), ch. 334, p. 2006, § 38, effective August 12.

ANNOTATION

Law reviews. For article, "Antitrust and the Lay Lawyer", see 44 Den. L.J. 558 (1967).

Unfair Practices Act does not require that a plaintiff make a prima facie showing to support the allegations of a complaint before obtaining discovery. Direct Sales Tire Co. v. Dist. Court, 686 P.2d 1316 (Colo. 1984).

Enforcement of unfair practices act is left to the courts instead of to an administrative board. Dikeou v. Food Distribs. Ass'n, 107 Colo. 38, 108 P.2d 529 (1940).

The use of the construction "sections 6-2-103 to 6-2-108" in subsection (1) includes both sections whose numbers are given and all intervening sections. Therefore the legislature did intend to create a private right of action for violations of § 6-2-108. W. Convenience Stores, Inc. v. Suncor Energy U.S.A., Inc., 970 F. Supp. 2d 1162 (D. Colo. 2013).

Where an injunction is sought, this section is viewed from the standpoint not of the prudent man, but rather from the standpoint of the judge hearing the case; therefore, the proper test is whether the standards contained in the statutory provisions are so vague as to make it impossible to adjudicate rights arising out of their provisions. Flank Oil Co. v. Tennessee Gas Transmission Co., 141 Colo. 554, 349 P.2d 1005 (1960).

In an injunction action, prospective in effect, the terms "cost" and "cost of doing business" are not so indefinite and uncertain as to provide no basis for the adjudication of rights. Flank Oil Co. v. Tennessee Gas Transmission Co., 141 Colo. 554, 349 P.2d 1005 (1960).

Furthermore, the adjudication itself provides notice to defendant. When a plaintiff seeks an injunction he is not demanding that the defendant be punished, but rather that he be restrained from acting unlawfully in the future. Consequently, the adjudication itself provides notice to the defendant and is prospective in its application, and the result is that the defendant is not prejudiced by the failure of the statute to provide precise and adequate warning beforehand. Where, however, the requested sanction is penal or criminal, there is a reasonable basis for requiring it to give actual prior notice so that men of common intelligence are not required to guess at its meaning and differ as to its application. Flank Oil Co. v. Tennessee Gas Transmission Co., 141 Colo. 554, 349 P.2d 1005 (1960).

This section does not contravene § 16 of art. II, Colo. Const., which guarantees trial by jury in criminal cases, since the effect of injunctive relief in a civil action is different from that following a judgment under a criminal information. Dikeou v. Food Distribs. Ass'n, 107 Colo. 38, 108 P.2d 529 (1940).

A nonprofit corporation is a proper party plaintiff for the maintenance of a suit under this section, whether it be classed as a private corporation or an association. Dikeou v. Food Distribs. Ass'n, 107 Colo. 38, 108 P.2d 529 (1940).

A nonprofit corporation is entitled to the same protection against unfair competition as a for-profit corporation and has standing to bring an action for a preliminary injunction against alleged unfair competition. Am. Ski Ass'n v. Bergstedt, 682 P.2d 57 (Colo. App. 1984).

When there is sufficient evidence to sustain a ruling or judgment under this section, the same will not be disturbed on appeal. Dikeou v. Food Distribs. Ass'n, 107 Colo. 38, 108 P.2d 529 (1941).

For an injunction held not too broad, see Old Homestead Bread Co. v. Marx Baking Co., 108 Colo. 375, 117 P.2d 1007 (1941).

An injunction properly entered against two companies. Where two companies had the same officers and directors, the sales manager acted as such for both companies, the products were identical and it was these products that were made the instruments of an offense under this act, an injunction restraining violations was properly entered as against both companies. Old Homestead Bread Co. v. Marx Baking Co., 108 Colo. 375, 117 P.2d 1007 (1941).

If the practice sought to be restrained in an injunction suit has been abandoned in good faith and for all time, a decree enjoining the practice is without prejudice to defendant, while it affords protection to which the plaintiff is entitled. Old Homestead Bread Co. v. Marx Baking Co., 108 Colo. 375, 117 P.2d 1007 (1941).

Consumers may maintain an action for damages if they can show that they have been injured as a result of an antitrust violation specified in this section, and the injury is the type of injury that the particular antitrust statutory provision was designed to prevent. Dunlap v. Colo. Springs Cablevision, Inc., 829 P.2d 1286 (Colo. 1992).

6-2-111.5. Civil discovery requests.

(1) When the attorney general has reasonable cause to believe that any person, partnership, firm, corporation, joint stock company, or other association has engaged in or is engaging in a violation of any provision of this article, the attorney general may:

(a) Request such person to file a statement or report in writing, under oath or otherwise, on forms prescribed by the attorney general, or to answer in writing, under oath or otherwise, any

questions propounded by the attorney general as to all facts and circumstances reasonably related to the alleged violation, and to provide any other data and information the attorney general reasonably deems to be necessary;

(b) Issue subpoenas to require the attendance of witnesses or the production of relevant documents, administer oaths, conduct hearings in aid of an investigation or inquiry, and prescribe such forms and promulgate such rules as may reasonably be deemed to be necessary to administer the provisions of this article; and

(c) Make true copies, at the expense of the attorney general, of any documents examined pursuant to paragraph (b) of this subsection (1), which copies may be offered into evidence in lieu of the originals thereof in any civil action brought pursuant to this article. The person producing the documents may require that the attorney general make copies of the documents. If the attorney general determines the use of originals is necessary, the attorney general shall pay to have copies of those documents made for use by the person producing the documents.

(2) Service of any request or subpoena shall be made in the manner prescribed by law.

(3) Any written response, testimony, or documents obtained by the attorney general pursuant to this section or any information derived directly or indirectly from such written response, testimony, or documents shall not be admissible in evidence in any criminal prosecution against the person providing the written response, testimony, or documents. The provisions of this subsection (3) shall not be construed to prevent any law enforcement officer having an independent basis therefor from producing or obtaining the same or similar facts, information, or evidence for use in any criminal prosecution.

(4) Nothing in this section shall prohibit the attorney general from disclosing information obtained pursuant to this section to any other law enforcement agency or department of any governmental or public entity of this or any other state or to the federal government if such other law enforcement agency or department executes an agreement that such information will remain confidential and will not be used in any criminal prosecution against the person providing the written response, testimony, or documents.

(5) If any person fails to appear or fails to cooperate with any investigation or inquiry pursuant to a request or subpoena issued pursuant to this section, the attorney general may apply to any district court for an appropriate order to effect the purposes of this section. The application shall state that there is reasonable cause to believe that the order applied for is necessary to investigate, prosecute, or terminate a violation of this article. If the court is satisfied that reasonable cause exists, the court may:

(a) Require the attendance of or the production of documents by such person, or both;

(b) Assess a civil penalty of up to five thousand dollars for such failure to appear and answer questions, written or otherwise, or such failure to produce documents unless the court finds that

the failure to appear, to answer questions, or to produce documents was substantially justified or that other circumstances make an assessment of a civil penalty unjust;

(c) Award the attorney general reasonable costs and attorney fees in making this application unless the court finds that the failure to appear, to answer questions, or to produce documents was substantially justified or that other circumstances make an award of costs and attorney fees unjust;

(d) Enter any protective order as provided for in the Colorado rules of civil procedure;

(e) Grant such other or further relief as may be necessary to obtain compliance by such person.

Source: L. 93: Entire section added, p. 1273, § 2, effective July 1.

6-2-112. Testimony - books and records.

In an action brought under this article, any defendant may be required to testify under subpoena duly issued in pursuance to the Colorado rules of civil procedure, and the books and records of any such defendant may be brought into court and introduced into evidence. No information so obtained may be used against the defendant as a basis for a misdemeanor prosecution under the provisions of this article.

Source: L. 49: p. 347, § 10. **CSA:** C. 48, § 302(9a). **CRS 53:** § 55-2-10. **C.R.S. 1963:** § 55-2-10.

6-2-113. Selling below cost.

For the purposes of this article, in all sales involving more than one product or service and in all sales involving the giving of any concession of any kind, the combined total selling price of all products or services shall be compared to the combined total cost of all products or services involved in the sales to determine whether the vendor or distributor is selling below cost.

Source: L. 49: p. 347, § 11. **CSA:** C. 48, § 302(9b). **CRS 53:** § 55-2-11. **C.R.S. 1963:** § 55-2-11. **L. 2007:** Entire section amended, p. 514, § 5, effective April 16.

ANNOTATION

Where the ability to make a purchase at a concession price is expressly contingent on the purchase of other goods, the concession goods are sold below cost only if the total price paid by the customer for the goods involved in such linked transactions is below the total cost of such goods. Parish Oil Co. v. Dillon Cos., 523 F.3d 1244 (10th Cir. 2008) (decided under law in effect prior to 2007 amendment).

A grocery store may sell gasoline below cost if such sales are conditioned on the purchase of enough groceries above cost that the entire series of transactions comes in at a profit. Parish Oil Co. v. Dillon Cos., 523 F.3d 1244 (10th Cir. 2008) (decided under law in effect prior to 2007 amendment).

6-2-114. Advertising goods not available.

It is unlawful for any person, firm, or corporation engaged in business within the state of Colorado to advertise goods, wares, or merchandise which they are not prepared and able to supply to the consuming public in pursuance of such advertisement.

Source: L. 49: p. 347, § 12. **CSA:** C. 48, § 309(9c). **CRS 53:** § 55-2-12. **C.R.S. 1963:** § 55-2-12.

6-2-115. Evidence to establish legal price. (Repealed)

Source: L. 49: p. 348, § 13. **CSA:** C. 48, § 302(9d). **CRS 53:** § 55-2-13. **C.R.S. 1963:** § 55-2-13. **L. 2007:** Entire section repealed, p. 515, § 6, effective April 16.

6-2-115.5. State agencies - authority to contract with private enterprise.

(1) Any state agency which is provided goods or services or which provides goods to the public, including manufacturing, processing, selling, offering for sale, renting, leasing, delivering, distributing, or advertising, shall determine if such goods can also be provided for by contract with private persons, partnerships, or corporations or any other type of private enterprise.

(2) Whenever a state agency determines that goods provided by it to the public can be more cost-effectively delivered by contract with private enterprise, or whenever a state agency determines that goods can be provided to it more cost-effectively by contract with private

enterprise, such state agency is authorized to enter into a contract, in accordance with the "Procurement Code", articles 101 to 112 of title 24, C.R.S., to obtain such goods.

(3) The provisions of subsections (1) and (2) of this section do not apply to the division of correctional industries products and services as long as such products and services are of comparable price and quality.

Source: L. 83: Entire section added, p. 395, § 1, effective June 3.

Cross references: For the requirements concerning purchasing by state agencies of correctional industries goods and services, see article 24 of title 17.

6-2-116. Penalty.

Any person, firm, or corporation, whether as principal, agent, officer, or director, for himself, herself, or itself, or for another person, or for any firm or corporation who violates any of the provisions of sections 6-2-103 to 6-2-108 or section 6-2-110 commits a class 2 misdemeanor for each single violation.

Source: L. 37: p. 1286, § 11. **CSA:** C. 48, § 302(10). **L. 41:** p. 824, § 10. **L. 49:** p. 349, § 14. **CRS 53:** § 55-2-14. **C.R.S. 1963:** § 55-2-14. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3134, § 60, effective March 1, 2022.

ANNOTATION

Law reviews. For article, "Antitrust and the Lay Lawyer", see 44 Den. L.J. 558 (1967).

6-2-117. Remedies cumulative.

The remedies prescribed in this article are cumulative.

Source: L. 41: p. 824, § 11. **CSA:** C. 48, § 302(11). **L. 49:** p. 349, § 15. **CRS 53:** § 55-2-15. **C.R.S. 1963:** § 55-2-15.

ARTICLE 2.5

Colorado Junk Email Law

6-2.5-101 to 6-2.5-105. (Repealed)

Source: L. 2008: Entire article repealed, p. 596, § 3, effective August 5.

Editor's note: This article was added in 2000 and was not amended prior to its repeal in 2008. For the text of this article prior to 2008, consult the 2007 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

Cross references: For the "Spam Reduction Act of 2008", see § 6-1-702.5.

ARTICLE 2.7

Internet Evidence for Law Enforcement Investigations

6-2.7-101. Definitions.

6-2.7-102. Internet evidence for law enforcement - preserve and release evidence - reports - training materials.

6-2.7-103. Internet evidence - failure to release or preserve - civil penalty.

6-2.7-101. Definitions.

As used in this article, unless the context otherwise requires:

(1) "Court order" means an order for the release of information, including but not limited to a subpoena, court order, search warrant, or summons.

(2) "Internet access provider" means an entity that provides electronic communications as defined in 18 U.S.C. sec. 2510 or remote computing services as defined in 18 U.S.C. sec. 2711 to customers in Colorado. "Internet access provider" shall not include noninternet-based communications.

Source: L. 2006: Entire article added, p. 2057, § 9, effective October 1. **L. 2022:** (2) amended, (SB 22-212), ch. 421, p. 2965, § 13, effective August 10.

6-2.7-102. Internet evidence for law enforcement - preserve and release evidence - reports - training materials.

(1) (a) An internet access provider, upon the request of a law enforcement agency, shall take all necessary steps to preserve records and other evidence in its possession pending the issuance of a court order or other legal process. The internet access provider shall comply with the request as soon as possible following receipt.

(b) Records referred to in paragraph (a) of this subsection (1) shall be retained for a period of ninety days, which shall be extended for an additional ninety-day period upon a renewed request by the law enforcement agency.

(2) (a) An internet access provider shall release evidence regarding all categories of information identified in 18 U.S.C. sec. 2703 (c)(2) that are in its possession within ten days after receiving a court order requiring the internet access provider to release such evidence to law enforcement. If the internet access provider demonstrates to the requesting law enforcement agency within five days of the request that, for bona fide technical reasons, it cannot comply with the order within ten days of the request, it shall make every reasonable effort to comply with the request as soon as reasonably possible.

(b) In connection with any criminal investigation regarding possible sex offenses involving a child under section 18-1.3-1003, C.R.S., that involves immediate danger of death or serious bodily harm, a law enforcement agency in this state may issue a request, without compulsory legal process or court order, to a designated recipient of the internet access provider to disclose, consistent with 18 U.S.C. sec. 2702 (c)(4), the information identified in paragraph (a) of this subsection (2). The internet access provider shall comply with the request immediately and without delay, or if unable to immediately comply, communicate with the requesting agency to discuss the nature of the request and to coordinate a timely response.

(3) An internet access provider doing business in this state shall report incidents of apparent child pornography to the national center for missing and exploited children pursuant to 18 U.S.C. sec. 2258A. The report shall include, if available, the subscriber's city and state or zip code.

(4) Each internet access provider with more than fifteen thousand subscribers who are residents of this state shall, upon request of the attorney general, provide training materials to law enforcement agencies in this state regarding best practices for investigating internet-related crimes involving sexual exploitation of children, the internet access provider's law enforcement

compliance practices, and contact information for the internet access provider and its designated recipient for law enforcement requests.

(5) Subsections (1) and (2) of this section shall be interpreted consistent with the requirements of federal law that apply to internet access providers, including but not limited to 18 U.S.C. sec. 2701 et seq. and 18 U.S.C. sec. 2258A.

Source: L. 2006: Entire article added, p. 2058, § 9, effective October 1. **L. 2022:** (3) and (5) amended, (SB 22-212), ch. 421, p. 2966, § 14, effective August 10.

6-2.7-103. Internet evidence - failure to release or preserve - civil penalty.

(1) An internet access provider that fails to comply with the requirements in section 6-2.7-102 (1) or (2) shall be liable for payment of a civil penalty of up to two thousand five hundred dollars for each incidence of noncompliance; except that the internet access provider shall be liable for payment of up to ten thousand dollars for a third and subsequent incidence of noncompliance that occurs within a twelve-month period. The state attorney general is authorized to bring suit in a court of competent jurisdiction for enforcement of the provisions of this subsection (1).

(2) Except as otherwise provided in subsection (1) of this section, an internet access provider's failure to comply with the requirements specified in section 6-2.7-102 shall not result in further civil liability to the state.

Source: L. 2006: Entire article added, p. 2059, § 9, effective October 1.

ARTICLE 3

Fair Trade Act

6-3-101 to 6-3-106. (Repealed)

Source: L. 75: Entire article repealed, p. 261, § 1, effective July 1.

Editor's note: This article was numbered as article 1 of chapter 55, C.R.S. 1963. For amendments to this article prior to its repeal in 1975, consult the Colorado statutory research

explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 4

Colorado Antitrust Act of 2023

6-4-101.	Short title.	6-4-112.	Enforcement by the attorney general.
6-4-102.	Legislative declaration.	6-4-113.	Civil penalties.
6-4-103.	Definitions.	6-4-114.	Enforcement - injunction.
6-4-104.	Illegal restraint of trade or commerce.	6-4-115.	Enforcement - civil damages.
6-4-105.	Monopolization and attempt to monopolize.	6-4-116.	Notice to the attorney general.
6-4-106.	Bid-rigging.	6-4-117.	Computation of damages.
6-4-107.	Mergers - acquisitions.	6-4-118.	Enforcement - criminal proceedings.
6-4-108.	Facilitating or aiding and abetting.	6-4-119.	Statute of limitations.
6-4-109.	Exemptions.	6-4-120.	Remedies - cumulative.
6-4-110.	Jurisdiction - venue.	6-4-121.	Void contracts - refund.
6-4-111.	Civil discovery request - rules.	6-4-122.	Severability.

6-4-101. Short title.

The short title of this article 4 is the "Colorado State Antitrust Act of 2023".

Source: L. 2023: Entire article R&RE, (HB 23-1192), ch. 427, p. 2509, § 2, effective June 7.

Editor's note: This section is similar to former § 6-4-101 as it existed prior to 2023.

6-4-102. Legislative declaration.

(1) The general assembly finds and declares that:

(a) Competition is fundamental to:

(I) The free market system; and

(II) A healthy marketplace that protects workers and consumers; and

(b) The unrestrained and fair interaction of competitive forces will yield the best allocation of our economic resources, the lowest prices, the highest quality commodities and services, and the greatest material progress while at the same time providing an environment that is conducive to the preservation of our democratic, political, and social institutions and to the protection of consumers.

Source: L. 2023: Entire article R&RE, (HB 23-1192), ch. 427, p. 2509, § 2, effective June 7.

Editor's note: This section is similar to former § 6-4-102 as it existed prior to 2023.

6-4-103. Definitions.

As used in this article 4, unless the context otherwise requires:

(1) "Commodity" includes any of the following for use, consumption, production, enjoyment, or resale:

(a) Goods;

(b) Merchandise;

(c) Wares;

(d) Produce;

(e) Chose in action;

(f) Land;

(g) Articles of commerce; or

(h) Any other tangible or intangible property, including real, personal, or mixed property.

(2) "Governmental or public entity" means:

(a) The state or any department, board, agency, instrumentality, authority, or commission of the state; and

(b) Any political subdivision of the state, including:

(I) A county, city, or city and county;

(II) A school district as defined in section 22-36-107 (2)(c);

(III) A local improvement district as defined in section 32-7-103 (7);

(IV) A law enforcement authority;

(V) A water, sanitation, fire protection, metropolitan, irrigation, drainage, or other special district created pursuant to title 32;

(VI) Any other municipal, quasi-municipal, or public corporation organized pursuant to the state constitution or other law; and

(VII) Any department, board, agency, instrumentality, authority, or commission of a political subdivision of the state.

(3) "Person" includes an individual or a firm, association, organization, business trust, company, corporation, joint venture, partnership, proprietorship, or other business entity, whether or not for profit, and any governmental or public entity.

(4) "Service" includes any kind of activity performed in whole or in part for economic or noneconomic benefit.

(5) "Trade or commerce" means any and all economic activity carried on wholly or partially in the state that involves or relates to any commodity or service.

Source: L. 2023: Entire article R&RE, (HB 23-1192), ch. 427, p. 2510, § 2, effective June 7.

Editor's note: This section is similar to former § 6-4-103 as it existed prior to 2023.

6-4-104. Illegal restraint of trade or commerce.

(1) Entering into or engaging in any of the following in restraint of trade or commerce is illegal:

(a) A contract;

(b) A combination in the form of a trust or other form of combination; or

(c) A conspiracy.

Source: L. 2023: Entire article R&RE, (HB 23-1192), ch. 427, p. 2511, § 2, effective June 7.

Editor's note: This section is similar to former § 6-4-104 as it existed prior to 2023.

ANNOTATION

Law reviews. For article, "Antitrust and the Lay Lawyer", see 44 Den. L.J. 558 (1967). For comment, "Colorado Antitrust Law: Untied and Drifting", see 48 U. Colo. L. Rev. 215 (1977). For article, "Antitrust Enforcement in Colorado: New Directions, New Concerns", see 6 Colo. Law 1 (1977). For article, "May Regulated Utilities Monopolize the Sun?", see 56 Den. L.J. 31 (1979). For comment, "Antitrust Law in Colorado: Back on Track", see 60 Den. L.J. 645 (1983). For article, "Antitrust Law", which discusses Tenth Circuit decisions dealing with antitrust law, see 61 Den. L.J. 135 (1984). For article, "Colorado Antitrust Law Seven Years Later", see 13 Colo. Law. 1808 (1984). For article, "Antitrust Law", which discusses Tenth Circuit decisions dealing with antitrust law, see 62 Den. U. L. Rev. 25 (1985). For article, "Franchise Regulation", see 15 Colo. Law. 395 (1986). For article, "Does a Monopolist Have a Duty to Deal With Its Rivals? Some Thoughts On the Aspen Skiing Case", see 57 U. Colo. L. Rev. 727 (1986). For article, "Antitrust Law", which discusses Tenth Circuit decisions dealing with antitrust law, see 62 Den. U.L. Rev. 183 (1986). For article, "Antitrust Law", which discusses Tenth Circuit decisions dealing with antitrust law, see 64 Den. U.L. Rev. 131 (1987). For article, "United States Supreme Court Review of Tenth Circuit Decisions", which discusses the Aspen Skiing Co. case, see 64 Den. U.L. Rev. 373 (1987). For article, "Antitrust Law", which discusses Tenth Circuit decisions dealing with antitrust law, see 65 Den. U. L. Rev. 389 (1988). For note, "Developments in Antitrust Law", see 66 Den. U. L. Rev. 659 (1989). For a discussion of a Tenth Circuit decision dealing with antitrust law, see 66 Den. U. L. Rev. 813 (1989). For article, "Antitrust in the Health Care Field — Subject Matter Jurisdiction", see 18 Colo. Law. 1113 (1989). For discussions of Tenth Circuit decisions dealing with questions of antitrust law, see 67 Den. U. L. Rev. 619 (1990). For article, "Anti-trust Developments: U.S. Supreme Court Cases — 1989-1990 Term", see 20 Colo. Law. 1 (1991).

Annotator's note. Since § 6-4-104 is similar to § 6-4-104 as it existed prior to the 2023 repeal and reenactment of this article and to laws antecedent to that section, relevant cases construing those provisions have been included in the annotations to this section.

Purpose of state antitrust legislation. State antitrust legislation serves the important function of protecting the public against illegal trade restraints beyond the reach of federal law, without undercutting the legitimate rights of employees to engage in lawful, concerted activities for the purpose of improving their wages, hours and other conditions of employment. People v. North Ave. Furn. & Appliance, Inc., 645 P.2d 1291 (Colo. 1982).

Antitrust statute, as does its federal counterpart, reaches only those contracts or combinations in restraint of trade which unreasonably restrain trade or are designed to destroy competition in a particular market. People v. Colo. Springs Bd. of Realtors, 692 P.2d 1055 (Colo. 1984).

Illegal restraint of trade act applicable to title insurance. The state's illegal restraint of trade act is applicable to the business of title insurance. Commander Leasing Co. v. Transamerica Title Ins. Co., 477 F.2d 77 (10th Cir. 1973).

A coroner may not conspire with a private funeral home to acquire business for the funeral home through the discharge of his public duties in restraint of trade among all private funeral homes. People ex rel. Kinsey v. Sumner, 34 Colo. App. 61, 525 P.2d 512 (1974).

What establishes restraint of trade. Plaintiffs have a remedy under the Colorado restraint of trade act only to the extent that they can establish that there was a combination or conspiracy in restraint of trade or commerce in Colorado, or a combination or conspiracy fixing prices, or a combination and conspiracy which monopolized or attempted to monopolize trade or commerce in Colorado. Q-T Mkts., Inc. v. Fleming Cos., 394 F. Supp. 1102 (D. Colo. 1975).

Federal antitrust laws. Federal and state antitrust statutes serve complementary purposes. In view of their common goals of preserving free competition and protecting the public against illegal restraints of trade, the antitrust decisions of the United States supreme court are entitled to careful consideration in determining the meaning and scope of the Colorado antitrust statute. People v. North Ave. Furn. & Appliance, Inc., 645 P.2d 1291 (Colo. 1982).

Economic power means that a single seller possesses the ability to raise prices and restrict output for the product in the relevant market. Economic power can be established by showing that the tying product is unavailable elsewhere or is particularly unique and desirable or that the defendant has a dominant position in the tying market. Factual uniqueness alone is insufficient. The markets in which products are sold is the focus of any inquiry into the validity of a tying arrangement. The impact on competition of a single forced sale of a tied product to a single customer is never sufficient to warrant a finding of market power over the tying product. McCormick v. Bradley, 870 P.2d 599 (Colo. App. 1993).

No claim presented under this section where discharged employee was not injured "by reason of" alleged anticompetitive effect of employer's conduct. Winther v. DEC Inter'l Inc., 625 F. Supp. 100 (D. Colo. 1985).

Three types of restraint of trade. The two sentences in this section appear to define three different types of illegal restraints of trade. Q-T Mkts., Inc. v. Fleming Cos., 394 F. Supp. 1102 (D. Colo. 1975).

Monopolization limited to conspiracy, etc. Given the grammar of this section, it must be concluded that monopolization or attempted monopolization is limited to a combination, conspiracy, trust, or pool because it is inconceivable that a contract or agreement could, in itself, monopolize or attempt to monopolize trade or commerce. Q-T Mkts., Inc. v. Fleming Cos., 394 F. Supp. 1102 (D. Colo. 1975).

Group boycott. The term "group boycott" refers to a concerted refusal by traders to deal with competitors. Under the circumstances, the state failed to establish that requirement of board of realtors membership for access to multiple listing service was group boycott or refusal to deal with competitors which constituted per se violation of antitrust statute. People v. Colo. Springs Bd. of Realtors, 692 P.2d 1055 (Colo. 1984).

An illegal tying contract is irrelevant to this section because such contracts are not prohibited by it. Q-T Mkts., Inc. v. Fleming Cos., 394 F. Supp. 1102 (D. Colo. 1975).

Tying arrangement. The essential characteristic of any tying arrangement is an agreement to sell one product but only on the condition that the buyer also purchase a different (or tied) product. Tying arrangements constitute unreasonable restraints of trade in and of themselves per se whenever a party has sufficient economic power with respect to the tying product to appreciably restrain free competition in the market for the tied product and a not insubstantial amount of interstate commerce is affected, but mere fact that goods or services are sold in combination does not establish prohibited tying arrangement. People v. Colo. Springs Bd. of Realtors, 692 P.2d 1055 (Colo. 1984).

Test applied in McCormick v. Bradley, 870 P.2d 599 (Colo. App. 1993).

Determination of violation. Any particular business agreement, combination, or arrangement may in some circumstances be determined to constitute a per se violation of the statute, without the necessity of proving actual anti-competitive impact on the particular market involved. Additionally, a business arrangement which does not per se violate antitrust law nevertheless may be found to constitute an illegal arrangement under the rule of reason analysis articulated by the United States supreme court. Thus, in determining whether particular conduct violates this section, a trial court must normally determine whether the challenged arrangement is illegal per se. If no per se violation is established, the court may be required to apply the rule of reason analysis to the challenged conduct. People v. Colo. Springs Bd. of Realtors, 692 P.2d 1055 (Colo. 1984).

Test applied in McCormick v. Bradley, 870 P.2d 599 (Colo. App. 1993).

Where violation of statute consisted of the adoption of two specific membership criteria, and neither criteria were applied to

deny membership to any applicant, nor were any damages sustained by any party as the result of the violator's adoption of such criteria, the appropriate sanction is to prohibit the violator from enforcing the offensive membership criteria. Colo. Springs Bd. of Realtors v. State, 780 P.2d 494 (Colo. 1989).

Per se antitrust violation. Developer's requirement that only approved builders may construct homes on lots is not a per se antitrust violation where unapproved builder failed to establish a substantial amount of commerce within the tied market had been foreclosed. McCormick v. Bradley, 870 P.2d 599 (Colo. App. 1993).

Rule of reason required the trial court to weigh the pro-competitive and anti-competitive effects of the two membership criteria. Colo. Springs Bd. of Realtors v. State, 780 P.2d 494 (Colo. 1989); McCormick v. Bradley, 870 P.2d 599 (Colo. App. 1993).

Test applied in McCormick v. Bradley, 870 P.2d 599 (Colo. App. 1993).

In terms of evidentiary production, no bright line is available to distinguish per se from rule of reason analysis. Colo. Springs Bd. of Realtors v. State, 780 P.2d 494 (Colo. 1989).

Where court applied rule of reason analysis to facts of case and concluded that anti-competitive effects of certain criteria outweighed any pro-competitive results their adoption might have engendered, in adopting these two membership criteria the violator improperly refused to deal with competitors and that such group boycott violated this section. Colo. Springs Bd. of Realtors v. State, 780 P.2d 494 (Colo. 1989).

Criminal statutes must be construed strictly. Q-T Mkts., Inc. v. Fleming Cos., 394 F. Supp. 1102 (D. Colo. 1975).

Installation of carpeting for money is "trade or commerce" within the meaning of this section. That the installation involves the exchange of a service for money, rather than the exchange of an article or commodity, is a distinction without antitrust significance. People v. North Ave. Furn. & Appliance, Inc., 645 P.2d 1291 (Colo. 1982).

For history of this article, see People v. North Ave. Furn. & Appliance, Inc., 645 P.2d 1291 (Colo. 1982).

Applied in Colo. Petroleum Marketers Ass'n v. Southland Corp., 476 F. Supp. 373 (D. Colo. 1979); Nat'l Cigarette Serv. Co. v. Farr, 42 Colo. App. 356, 594 P.2d 603 (1979); Colo. High Sch. Activities Ass'n v. Nat'l Football League, 524 F. Supp. 60 (D. Colo. 1981); Colo. High Sch. Activities Ass'n v. Nat'l Football League, 711 F.2d 943 (10th Cir. 1983).

6-4-105. Monopolization and attempt to monopolize.

It is illegal for any person to monopolize, attempt to monopolize, or combine or conspire with any other person to monopolize any part of trade or commerce.

Source: L. 2023: Entire article R&RE, (HB 23-1192), ch. 427, p. 2511, § 2, effective June 7.

Editor's note: This section is similar to former § 6-4-105 as it existed prior to 2023.

ANNOTATION

Law reviews. For article, "Antitrust and the Lay Lawyer", see 44 Den. L.J. 558 (1967). For article, "May Regulated Utilities Monopolize the Sun?", see 56 Den. L.J. 31 (1979). For article, "Colorado Antitrust Law Seven Years Later", see 13 Colo. Law. 1808 (1984). For article, "Antitrust Law", which discusses Tenth Circuit decisions dealing with antitrust law, see 62 Den. U. L. Rev. 183 (1986). For article, "Antitrust in the Health Care Field — Subject Matter Jurisdiction", see 18 Colo. Law. 1113 (1989). For article, "Does a Monopolist Have a Duty to Deal with Its Rival? Some Thoughts on the Aspen Skiing Case", see 57 U. Colo. L. Rev. 727 (1986). For article, "United States Supreme Court Review of Tenth Circuit Decisions", which discusses the Aspen Skiing Co. case, see 64 Den. U. L. Rev. 373 (1987).

Annotator's note. Since § 6-4-105 is similar to § 6-4-105 as it existed prior to the 2023 repeal and reenactment of this article and to laws antecedent to that section, relevant cases construing those provisions have been included in the annotations to this section.

A monopoly leveraging claim must prove threatened or actual monopoly in the leveraged market. Spruce Oil Corp. v. Archer-Daniel-Midland Co., 870 F. Supp. 1005 (D. Colo. 1994).

Applied in Q-T Mkts., Inc. v. Fleming Cos., 394 F. Supp. 1102 (D. Colo. 1975); Nobody in Particular Presents, Inc. v. Clear Channel Commc'ns, Inc., 311 F. Supp. 2d (D. Colo. 2004) (because Colorado law mirrors federal antitrust law under the Sherman Act, court examined claims under federal law as dispositive of state law claims).

6-4-106. Bid-rigging.

(1) It is illegal for any person to contract, combine, or conspire with any person to rig any bid, or any aspect of the bidding process, in any way related to the provision of any commodity or service.

(2) For purposes of this section, each separate instance of bid-rigging constitutes a separate violation of this section, regardless of whether a single conspiracy is found to exist encompassing more than one such violation.

Source: L. 2023: Entire article R&RE, (HB 23-1192), ch. 427, p. 2511, § 2, effective June 7.

Editor's note: This section is similar to former § 6-4-106 as it existed prior to 2023.

6-4-107. Mergers - acquisitions.

(1) It is illegal for any person engaged in trade or commerce to acquire, directly or indirectly, the whole or any part of the stock, other share capital, or assets of another person engaged in trade or commerce if the effect of the acquisition may substantially lessen competition or tend to create a monopoly.

(2) Nothing in this section prohibits any person from:

(a) Acquiring stock of another person solely for investment purposes, so long as the acquisition of stock is not used, by voting or otherwise, to bring about or to attempt to bring about the substantial lessening of competition; or

(b) Causing the formation of subsidiary corporations or from owning and holding all or any part of the stock of a subsidiary corporation.

(3) The attorney general shall not challenge the merger or acquisition of any bank or bank holding company by or with any other bank or bank holding company that is subject to the provisions of any of the federal banking laws, except as specifically provided in those federal banking laws.

Source: L. 2023: Entire article R&RE, (HB 23-1192), ch. 427, p. 2511, § 2, effective June 7.

Editor's note: This section is similar to former § 6-4-107 as it existed prior to 2023.

ANNOTATION

Law reviews. For article, "Antitrust Developments: U.S. Supreme Court Cases - 1989-1990 Term", see 20 Colo. Law. (1991).

6-4-108. Facilitating or aiding and abetting.

(1) It is unlawful to facilitate or aid and abet another person in violating this article 4.

(2) Each separate instance of facilitating or aiding and abetting another person in violating this article 4 is a separate violation of this article 4.

Source: L. 2023: Entire article R&RE, (HB 23-1192), ch. 427, p. 2512, § 2, effective June 7; (5) repealed, (HB 23-1301), ch. 303, p. 1816, § 4, effective August 7.

Editor's note: Subsection (5) was repealed in HB 23-1301. Those amendments were superseded by the repeal of subsection (5) in HB 23-1192.

6-4-109. Exemptions.

(1) The labor of an individual is not a commodity, a service, or an article of trade or commerce.

(2) Nothing in this article 4 shall be construed to:

(a) Forbid the existence and operation of a labor, agricultural, or horticultural organization that:

(I) Is instituted for the purpose of providing mutual help or is engaged in making collective sales or marketing for its members or shareholders;

(II) Does not have capital stock; and

(III) Is not being conducted for profit; or

(b) Forbid or restrain individual members of a labor, agricultural, or horticultural organization from lawfully carrying out the legitimate objectives of the organization.

(3) A professional review committee constituted and conducting its reviews and activities in accordance with the provisions of part 2 of article 30 of title 12, or the members of the professional review committee, shall not be held or construed to be an illegal combination or conspiracy in restraint of trade under this article 4.

(4) Any person, activity, or conduct exempt or immune under the laws of this state or exempt or immune from the federal antitrust laws is exempt or immune from this article 4 without regard to any monetary threshold imposed by federal law; except that nothing in this article 4 shall be deemed to modify the specific provisions of part 4 of article 4 of title 10.

(5) Nothing in this article 4 prohibits or shall be construed to prohibit the formation and operation of:

(a) Health-care coverage cooperatives pursuant to part 10 of article 16 of title 10; or

(b) Provider networks pursuant to part 3 of article 18 of this title 6.

Source: L. 2023: Entire article R&RE, (HB 23-1192), ch. 427, p. 2512, § 2, effective June 7.

Editor's note: This section is similar to former § 6-4-108 as it existed prior to 2023.

ANNOTATION

Law reviews. For article, "May Regulated Utilities Monopolize the Sun?", see 56 Den. L.J. 31 (1979). For comment, "Antitrust Law in Colorado: Back on Track", see 60 Den. L.J. 645 (1983). For article, "Colorado Antitrust Law Seven Years Later", see 13 Colo. Law. 1808 (1984).

Annotator's note. Since § 6-4-109 is similar to § 6-4-103 as it existed prior to the 1992 repeal and reenactment of this article, a relevant case construing that provision has been included in the annotations to this section.

Applicability of labor exemption. The Colorado labor exemption in former subsection (2) applies to those concerted employee activities arising out of an employment relationship and directed to the improvement of wages, hours of work, and other conditions of employment. People v. N. Ave. Furn. & Appliance, Inc., 645 P.2d 1291 (Colo. 1982) (decided under former law).

Former subsection (2) does not broaden the scope of the labor exemption. People v. N. Ave. Furn. & Appliance, Inc., 645 P.2d 1291 (Colo. 1982) (decided under former law).

6-4-110. Jurisdiction - venue.

(1) Primary jurisdiction of any cause of action brought pursuant to this article 4 is vested in the district courts of this state.

(2) Any cause of action brought pursuant to this article 4 may be brought in any judicial district in which the alleged violation occurred, any injury was allegedly suffered, or any defendant resides.

Source: L. 2023: Entire article R&RE, (HB 23-1192), ch. 427, p. 2513, § 2, effective June 7.

Editor's note: This section is similar to former § 6-4-109 as it existed prior to 2023.

6-4-111. Civil discovery request - rules.

(1) When the attorney general has reasonable cause to believe that any person has engaged in, is engaging in, or may have information related to a violation of this article 4 or of any provision of the federal antitrust statutes that may be enforced by the attorney general, the attorney general may:

(a) Request the person, under oath or otherwise and on forms prescribed by the attorney general, to file a statement or report in writing, or to answer in writing, any questions propounded by the attorney general as to all facts and circumstances reasonably related to the alleged or potential violation and to provide any other data and information the attorney general reasonably deems necessary;

(b) Issue subpoenas to require the attendance of witnesses or the production of relevant documents, administer oaths, conduct hearings in aid of an investigation or inquiry, and prescribe forms and adopt rules as may reasonably be deemed necessary to administer this section; and

(c) Make true copies, at the expense of the attorney general, of any documents examined pursuant to subsection (1)(b) of this section, which copies may be offered into evidence in lieu of the originals in any civil action brought pursuant to this article 4. The person producing the documents may require that the attorney general make copies of the documents. If the attorney general determines the use of originals is necessary, the attorney general shall pay to have copies of those documents made for use by the person producing the documents.

(2) Service of any request or subpoena must be made in the manner prescribed by law.

(3) Any written response, testimony, or documents obtained by the attorney general pursuant to this section, or any information derived directly or indirectly from such written response, testimony, or documents, is not admissible in evidence in any criminal prosecution against the person providing the written response, testimony, or documents. The provisions of this subsection (3) shall not be construed to prevent any law enforcement officer, having an

independent basis to produce or obtain the facts, information, or evidence, from producing or obtaining the same or similar facts, information, or evidence for use in any criminal prosecution.

(4) Nothing in this section prohibits the attorney general from disclosing information obtained pursuant to this section to any other law enforcement agency, department of any governmental or public entity of this or any other state, or the federal government if such other law enforcement agency or department executes an agreement that the information will remain confidential and will not be used in any criminal prosecution against the person providing the written response, testimony, or documents.

(5) If any person fails to appear or fails to cooperate with any investigation or inquiry pursuant to a request or subpoena issued pursuant to this section, the attorney general may apply to any district court for an appropriate order to effect the purposes of this section. The application must state that there is reasonable cause to believe that the order applied for is necessary to investigate, prosecute, or terminate a violation of this article 4. If the court is satisfied that reasonable cause exists, the court may:

(a) Require the attendance of, or the production of documents by, the person, or both;

(b) Assess a civil penalty of up to five thousand dollars for the failure to appear and answer questions, written or otherwise, or the failure to produce documents, unless the court finds that the failure to appear, to answer questions, or to produce documents was substantially justified or that other circumstances make an assessment of a civil penalty unjust;

(c) Award the attorney general reasonable costs and attorney fees in making this application, unless the court finds that the failure to appear, to answer questions, or to produce documents was substantially justified or that other circumstances make an award of costs and attorney fees unjust;

(d) Enter any protective order as provided for in the Colorado rules of civil procedure; and

(e) Grant such other or further relief as may be necessary to obtain compliance by the person.

(6) (a) The attorney general may deem any investigative records or records regarding intelligence information obtained under this article 4 public records subject to public inspection pursuant to part 2 of article 72 of title 24.

(b) Nothing in this subsection (6) shall be construed to prevent or limit the attorney general's authority to issue public statements describing or warning of any course of conduct or conspiracy that violates this article 4, whether the public statements are made on a local, statewide, regional, or nationwide basis.

Source: L. 2023: Entire article R&RE, (HB 23-1192), ch. 427, p. 2513, § 2, effective June 7.

Editor's note: This section is similar to former § 6-4-110 as it existed prior to 2023.

ANNOTATION

Law reviews. For article, "Colorado Antitrust Law Seven Years Later", see 13 Colo. Law. 1808 (1984).

6-4-112. Enforcement by the attorney general.

(1) The attorney general may institute actions or proceedings to prevent or restrain violations of this article 4, including actions to prevent or restrain unfair methods of competition in or affecting commerce.

(2) The attorney general may bring a civil action on behalf of the state or any governmental or public entity injured, either directly or indirectly, in its business or property by reason of any violation of this article 4 and, if successful, shall recover any actual damages sustained by the entity. If the violation alleged and proved is determined by the court to be a per se violation of this article 4, the attorney general, on behalf of the entity, may recover three times the actual damages that the entity sustains.

(3) (a) The attorney general may bring a civil action as parens patriae on behalf of any individual residing within the state who is injured, either directly or indirectly, in the individual's business or property by reason of any violation of this article 4 and, if successful, shall recover any actual damages sustained by the individual. If the violation alleged and proved is determined by the court to be a per se violation of this article 4, the attorney general, on behalf of the individual, may recover three times the actual damages that the individual sustains.

(b) In any parens patriae action in which actual or treble damages are recovered, the court, in its discretion, may determine that the amount of damages recovered is too small to make any refund to parens group members practicable. In that event, the court may direct the damages to be paid to the general fund of the state or to some other governmental or public entity as the court deems appropriate or may require that damages be paid as rebates or price reductions to future consumers.

(4) In addition to any other remedies provided in this article 4, the attorney general may request, and a court may make, orders or judgments as may be necessary to:

(a) Fully compensate or make whole any person injured, either directly or indirectly, by means of any restraint of trade in violation of this article 4; or

(b) Prevent any unjust enrichment by any person through any restraint of trade in violation of this article 4.

(5) In any action brought pursuant to this article 4, the attorney general, if successful, is entitled to recover the costs of investigation, expert fees, costs of the action, and reasonable attorney fees.

Source: L. 2023: Entire article R&RE, (HB 23-1192), ch. 427, p. 2515, § 2, effective June 7.

Editor's note: This section is similar to former § 6-4-111 as it existed prior to 2023.

ANNOTATION

Law reviews. For article, "Colorado Antitrust Law Seven Years Later", see 13 Colo. Law. 1808 (1984).

6-4-113. Civil penalties.

(1) The attorney general may bring a civil action on behalf of the state to seek the imposition of a civil penalty for any violation of this article 4. The court, upon finding a violation of this article 4, shall impose a civil penalty to be paid to the general fund of the state in an amount not to exceed one million dollars for each such violation.

(2) In determining the amount of a civil penalty, the court shall consider, among other things:

(a) The nature and extent of the violation;

(b) The number of consumers affected by the violation;

(c) Whether the violation was an isolated incident or a continuous pattern and practice of behavior;

(d) Whether the violation was the result of willful conduct;

(e) Whether the defendant took affirmative steps to conceal such violations; and

(f) Whether, given the size and wealth of the defendant, the civil penalty will be an effective deterrent against future violations.

Source: L. 2023: Entire article R&RE, (HB 23-1192), ch. 427, p. 2516, § 2, effective June 7.

Editor's note: This section is similar to former § 6-4-112 as it existed prior to 2023.

ANNOTATION

Law reviews. For article, "Antitrust and the Lay Lawyer", see 44 Den. L.J. 558 (1967). For article, "Colorado Antitrust Law Seven Years Later", see 13 Colo. Law. 1808 (1984). For article, "Antitrust Law", which discusses Tenth Circuit decisions dealing with antitrust law, see 62 Den. U. L. Rev. 183 (1986). For article, "Antitrust in the Health Care Field — Subject Matter Jurisdiction", see 18 Colo. Law. 1113 (1989).

6-4-114. Enforcement - injunction.

(1) Any person injured, either directly or indirectly, in its business or property by reason of a violation of this article 4 may file an action to prevent or restrain the violation.

(2) In any action brought pursuant to this section, the court, in its discretion, may award the prevailing party its expert witness fees, the costs of the action, and reasonable attorney fees.

Source: L. 2023: Entire article R&RE, (HB 23-1192), ch. 427, p. 2516, § 2, effective June 7.

Editor's note: This section is similar to former § 6-4-113 as it existed prior to 2023.

6-4-115. Enforcement - civil damages.

(1) Any person injured, either directly or indirectly, in its business or property by reason of any violation of this article 4 may sue and, if successful, is entitled to recover any actual damages that the person sustained. If the violation alleged and proved is determined by the court to be a per se violation of this article 4, the person may recover three times the actual damages that the person sustains.

(2) In any action brought pursuant to this section, the court, in its discretion, may award the prevailing party its expert fees, the costs of the action, and reasonable attorney fees.

(3) No damages, costs, expert fees, costs of investigation, civil penalties, or attorney fees may be recovered from:

(a) A governmental or public entity;

(b) Any official, agent, or employee of a governmental or public entity acting in an official capacity; or

(c) Any person based on any official action directed by a governmental or public entity.

Source: L. 2023: Entire article R&RE, (HB 23-1192), ch. 427, p. 2516, § 2, effective June 7.

Editor's note: This section is similar to former § 6-4-114 as it existed prior to 2023.

ANNOTATION

Law reviews. For article, "Antitrust and the Lay Lawyer", see 44 Den. L.J. 558 (1967). For article, "Colorado Antitrust Law Seven Years Later", see 13 Colo. Law. 1808 (1984).

Annotator's note. Since § 6-4-115 is similar to § 6-4-114 as it existed prior to the 2023 repeal and reenactment of this article and to laws antecedent to that section, relevant cases construing those provisions have been included in the annotations to this section.

End users of software lacked standing to pursue a class action claim under this section. Software was obtained by end user class members from original equipment manufacturers and retailers rather than from the software manufacturer and was licensed through an end user licensing agreement. The licensing agreement was the functional equivalent of a sale, and the end users, though licensees, were therefore essentially indirect purchasers of the software precluded from pursuing a claim under Illinois Brick Co. v. Illinois, 431 U.S. 720 (1977). Pomerantz v. Microsoft Corp., 50 P.3d 929 (Colo. App. 2002).

The end user licensing agreements did not create functional economic unity between software manufacturer and original equipment manufacturers and retailers, and the end users, therefore, were not direct purchasers of software. Pomerantz v. Microsoft Corp., 50 P.3d 929 (Colo. App. 2002).

No claim presented under this section where discharged employee was not injured "by reason of" alleged anticompetitive effect of employer's conduct. Winther v. DEC Int'l Inc., 625 F. Supp. 100 (D. Colo. 1985).

Applied in Colo. Petroleum Marketers Ass'n v. Southland Corp., 476 F. Supp. 373 (D. Colo. 1979).

6-4-116. Notice to the attorney general.

Any person that files a civil action that includes any allegation of a violation of this article 4 shall, simultaneously with the filing of the action in district court, serve a copy of the complaint on the attorney general.

Source: L. 2023: Entire article R&RE, (HB 23-1192), ch. 427, p. 2517, § 2, effective June 7.

Editor's note: This section is similar to former § 6-4-115 as it existed prior to 2023.

6-4-117. Computation of damages.

In any action brought pursuant to section 6-4-112 or 6-4-115, the amount of damages may be calculated and assessed in the aggregate by statistical or sampling methods, by the computation of illegal overcharges, or by such other reasonable system of estimating aggregate damages as the court in its discretion may permit without requiring separate proof of any individual claim of, or amount of damages to, each person on whose behalf the action was brought.

Source: L. 2023: Entire article R&RE, (HB 23-1192), ch. 427, p. 2517, § 2, effective June 7.

Editor's note: This section is similar to former § 6-4-116 as it existed prior to 2023.

ANNOTATION

Law reviews. For article, "Criminal Prosecutions under the Colorado Securities Act", see 47 U. Colo. L. Rev. 233 (1976). For article, "Colorado Antitrust Law Seven Years Later", see 13 Colo. Law. 1808 (1984).

Criminal statutes must be construed strictly. Q-T Mkts., Inc. v. Fleming Cos., 394 F. Supp. 1102 (D. Colo. 1975) (decided under § 6-4-107 as it existed prior to the 1992 repeal and reenactment of this article).

6-4-118. Enforcement - criminal proceedings.

(1) The attorney general shall prosecute all criminal proceedings for violations of this article 4, whether by indictment or direct information filed in the appropriate district court.

(2) Any individual who violates section 6-4-104, 6-4-105, or 6-4-106 commits a class 5 felony and shall be punished as provided in section 18-1.3-401.

(3) Any person, other than an individual or a governmental or public entity, that violates section 6-4-104, 6-4-105, or 6-4-106 is guilty of a felony and, upon conviction thereof, shall be punished by a fine of not more than five million dollars.

Source: L. 2023: Entire article R&RE, (HB 23-1192), ch. 427, p. 2517, § 2, effective June 7.

Editor's note: This section is similar to former § 6-4-117 as it existed prior to 2023.

ANNOTATION

Law reviews. For article, "Criminal Prosecutions under the Colorado Securities Act", see 47 U. Colo. L. Rev. 233 (1976). For article, "Colorado Antitrust Law Seven Years Later", see 13 Colo. Law. 1808 (1984).

Criminal statutes must be construed strictly. Q-T Mkts., Inc. v. Fleming Cos., 394 F. Supp. 1102 (D. Colo. 1975) (decided under § 6-4-107 as it existed prior to the 1992 repeal and reenactment of this article).

6-4-119. Statute of limitations.

(1) Any civil action commenced pursuant to this article 4 must be brought within four years after the date that the cause of action accrued. For purposes of this article 4, a cause of action accrues:

(a) When the circumstances giving rise to the cause of action are discovered or should have been discovered in the exercise of reasonable diligence; or

(b) On the date that the last in a series of acts or practices in violation of this article 4 occurred, including any acquisitions or series of acquisitions that, in the aggregate, may constitute a violation of this article 4.

(2) Any criminal proceeding brought pursuant to this article 4 must be commenced within six years after the alleged criminal act occurred.

(3) If the attorney general commences a proceeding or action for any violation of this article 4, the running of the statute of limitations with respect to every cause of action that is based in whole or in part on any matter complained of in the proceeding or action is suspended during the

pendency of the proceeding or action and for one year after the conclusion of the proceeding or action.

(4) Whenever any civil or criminal proceeding is brought by the United States to prevent, restrain, or punish violations of any federal antitrust laws, the running of the statute of limitations with respect to any action under this article 4 that is based in whole or in part on any matter complained of in the federal proceeding is suspended during the pendency of the federal proceeding and for one year after the conclusion of the federal proceeding.

(5) Except as expressly provided in subsections (1) and (2) of this section, no other limitation terminates the period within which the attorney general may file an action for a violation of this article 4.

Source: L. 2023: Entire article R&RE, (HB 23-1192), ch. 427, p. 2517, § 2, effective June 7.

Editor's note: This section is similar to former § 6-4-118 as it existed prior to 2023.

ANNOTATION

Federal cases construing the Sherman and Clayton Acts, although not controlling, are entitled to careful scrutiny in resolving issues arising under Colorado's antitrust statute. Smalley & Co. v. Emerson & Cuming, Inc., 808 F. Supp. 1503 (D. Colo. 1992).

A municipality and cooperative electric association are immune from state antitrust liability when it is shown that the anticompetitive conduct at issue was undertaken pursuant to clearly articulated state policy. City of Colo. Springs v. Mtn. View Elec. Ass'n, Inc., 925 P.2d 1378 (Colo. App. 1995).

6-4-120. Remedies - cumulative.

The remedies provided in this article 4 are cumulative except as otherwise expressly limited.

Source: L. 2023: Entire article R&RE, (HB 23-1192), ch. 427, p. 2518, § 2, effective June 7.

Editor's note: This section is similar to former § 6-4-120 as it existed prior to 2023.

6-4-121. Void contracts - refund.

(1) Any contract or agreement that a person makes while a member of any combination, conspiracy, trust, or pool prohibited under this article 4 that is founded upon, is the result of, grows out of, or is connected with any violation of this article 4, either directly or indirectly, is void, and the person may not recover based on or benefit from the contract or agreement.

(2) Any payments made upon, under, or pursuant to a contract or agreement for the benefit of a person that is a member of any combination, conspiracy, trust, or pool prohibited under this article 4 may be recovered in an action brought by the party making the payments or by the party's heirs, personal representatives, or assigns.

Source: L. 2023: Entire article R&RE, (HB 23-1192), ch. 427, p. 2518, § 2, effective June 7.

Editor's note: This section is similar to former § 6-4-121 as it existed prior to 2023.

ANNOTATION

Law reviews. For article, "Antitrust and the Lay Lawyer", see 44 Den. L.J. 558 (1967). For article, "Colorado Antitrust Law Seven Years Later", see 13 Colo. Law. 1808 (1984).

Annotator's note. Since § 6-4-121 is similar to § 6-4-121 as it existed prior to the 2023 repeal and reenactment of this article and to laws antecedent to that section, relevant cases construing those provisions have been included in the annotations to this section.

This section presupposes a violation of the Colorado Antitrust Act of 1992. Software end users who lacked standing to maintain an action under other sections of the Act thus also lacked standing to seek relief under this section. Pomerantz v. Microsoft Corp., 50 P.3d 929 (Colo. App. 2002).

Applied in Q-T Mkts., Inc. v. Fleming Cos., 394 F. Supp. 1102 (D. Colo. 1975); Frontier Airlines, Inc. v. United Airlines, Inc., 758 F. Supp. 1399 (D. Colo. 1989).

6-4-122. Severability.

If any provision of this article 4 or the application of this article 4 to any person or circumstances is held invalid, that invalidity does not affect other provisions or applications of this article 4 that can be given effect without the invalid provision or application.

Source: L. 2023: Entire article R&RE, (HB 23-1192), ch. 427, p. 2518, § 2, effective June 7.

Editor's note: This section is similar to former § 6-4-122 as it existed prior to 2023.

ARTICLE 4.5

Uniform Antitrust Pre-Merger Notification Act

6-4.5-101. Short title.
6-4.5-102. Definitions.
6-4.5-103. Filing requirement.
6-4.5-104. Confidentiality.
6-4.5-105. Reciprocity.
6-4.5-106. Civil penalty.
6-4.5-107. Uniformity of application and construction.
6-4.5-108. Transitional provision.

6-4.5-101. Short title.

This article 4.5 may be cited as the "Uniform Antitrust Pre-Merger Notification Act".

Source: L. 2025: Entire article added, (SB 25-126), ch. 419, p. 2366, § 1, effective August 6.

6-4.5-102. Definitions.

In this article 4.5:

(1) "Additional documentary material" means the additional documentary material filed with a Hart-Scott-Rodino form.

(2) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(3) "Filing threshold" means the minimum size of a transaction that requires the transaction to be reported under the Hart-Scott-Rodino Act in effect when a person files a pre-merger notification.

(4) "Hart-Scott-Rodino Act" means section 201 of the "Hart-Scott-Rodino Antitrust Improvements Act of 1976", 15 U.S.C. sec. 18 (a).

(5) "Hart-Scott-Rodino form" means the form filed with a pre-merger notification, excluding additional documentary material.

(6) "Person" means an individual, estate, business or nonprofit entity, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(7) "Pre-merger notification" means a notification filed under the Hart-Scott-Rodino Act with the federal trade commission or the United States department of justice antitrust division, or a successor agency.

(8) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any other territory or possession subject to the jurisdiction of the United States.

(9) "Uniform Antitrust Pre-Merger Notification Act" means the "Uniform Antitrust Pre-Merger Notification Act" approved and recommended for enactment in all the states by the National Conference of Commissioners on Uniform State Laws.

Source: L. 2025: Entire article added, (SB 25-126), ch. 419, p. 2366, § 1, effective August 6. **L. 2026:** (9) added, (HB 26-1427), ch. 404, p. 2526, § 1, effective August 12.

6-4.5-103. Filing requirement.

(a) A person filing a pre-merger notification shall file a complete electronic copy of the Hart-Scott-Rodino form with the attorney general not later than one business day after filing of the pre-merger notification if:

(1) The person has its principal place of business in this state; or

(2) The person or a person it controls directly or indirectly had annual net sales in this state of the goods or services involved in the transaction of at least twenty percent of the filing threshold.

(b) A person that files a form under subsection (a)(1) of this section shall include with the filing a complete electronic copy of the additional documentary material.

(c) On request of the attorney general, a person that filed a form under subsection (a)(2) of this section shall provide a complete electronic copy of the additional documentary material to the attorney general not later than seven days after receipt of the request.

(d) The attorney general shall provide a secure means to receive and store the materials required to be submitted to the attorney general by this section.

(e) The attorney general may not charge a fee connected with filing or providing the form or additional documentary material under this section.

Source: L. 2025: Entire article added, (SB 25-126), ch. 419, p. 2367, § 1, effective August 6. **L. 2026:** IP(a) and (d) amended and (e) added, (HB 26-1427), ch. 404, p. 2526, § 2, effective August 12; (b) and (c) amended, (SB 26-169), ch. 311, p. 1798, § 3, effective August 12.

6-4.5-104. Confidentiality.

(a) Except as provided in subsection (c) of this section or section 6-4.5-105, the attorney general may not make public or disclose:

(1) A Hart-Scott-Rodino form filed under section 6-4.5-103;

(2) The additional documentary material filed or provided under section 6-4.5-103;

(3) A Hart-Scott-Rodino form or additional documentary material provided by the attorney general of another state;

(4) That the form or the additional documentary material were filed or provided under section 6-4.5-103 or provided by the attorney general of another state; or

(5) The merger proposed in the form.

(b) A form, additional documentary material, and other information listed in subsection (a) of this section are exempt from disclosure under the "Colorado Open Records Act", part 2 of article 72 of title 24.

(c) Subject to a protective order entered by an agency, court, or judicial officer, the attorney general may disclose a form, additional documentary material, or other information listed in subsection (a) of this section in an administrative proceeding or judicial action if the proposed merger is relevant to the proceeding or action.

(d) This article 4.5 does not:

(1) Limit any other confidentiality or information-security obligation of the attorney general;

(2) Preclude the attorney general from sharing information with the federal trade commission or the United States department of justice antitrust division, or a successor agency; or

(3) Preclude the attorney general from sharing information with the attorney general of another state that has enacted the "Uniform Antitrust Pre-Merger Notification Act" or a substantively equivalent act. The other state's act must include confidentiality provisions at least as protective as the confidentiality provisions of the "Uniform Antitrust Pre-Merger Notification

Act", and the other state must provide assurances to the attorney general that it agrees to maintain the confidentiality of the documents or information received.

(e) Except as otherwise provided by court order or other law, the attorney general shall destroy or return the materials submitted pursuant to section 6-4.5-103 not later than one hundred twenty days after the later of:

(1) The close of the transaction subject to disclosure under section 6-4.5-103; or

(2) The conclusion of any legal proceedings directly related to the transaction subject to disclosure under section 6-4.5-103.

Source: L. 2025: Entire article added, (SB 25-126), ch. 419, p. 2367, § 1, effective August 6. **L. 2026:** (d)(3) amended and (e) added, (HB 26-1427), ch. 404, p. 2527, § 3, effective August 12.

6-4.5-105. Reciprocity.

(a) The attorney general may disclose a Hart-Scott-Rodino form and additional documentary material filed or provided under section 6-4.5-103 to the attorney general of another state that enacts the "Uniform Antitrust Pre-Merger Notification Act" or a substantively equivalent act. The other state's act must include confidentiality provisions at least as protective as the confidentiality provisions of the "Uniform Antitrust Pre-Merger Notification Act", and the other state must provide assurances to the attorney general that it agrees to maintain the confidentiality of the documents or information received.

(b) At least five business days before making a disclosure under subsection (a) of this section, the attorney general shall give notice of the disclosure to the person filing or providing the form or additional documentary material under section 6-4.5-103.

Source: L. 2025: Entire article added, (SB 25-126), ch. 419, p. 2368, § 1, effective August 6. **L. 2026:** Entire section amended, (HB 26-1427), ch. 404, p. 2527, § 4, effective August 12.

6-4.5-106. Civil penalty.

After written notice and a three-business day period to cure, the attorney general may seek imposition of a civil penalty of not more than ten thousand dollars per day of noncompliance on a person that fails to comply with section 6-4.5-103 (a), (b), or (c). A civil penalty imposed under

this section is subject to procedural requirements applicable to the attorney general, including the requirements of due process.

Source: L. 2025: Entire article added, (SB 25-126), ch. 419, p. 2368, § 1, effective August 6. **L. 2026:** Entire section amended, (HB 26-1427), ch. 404, p. 2528, § 5, effective August 12.

6-4.5-107. Uniformity of application and construction.

In applying and construing this uniform act, a court shall consider the promotion of uniformity of the law among jurisdictions that enact it.

Source: L. 2025: Entire article added, (SB 25-126), ch. 419, p. 2369, § 1, effective August 6.

6-4.5-108. Transitional provision.

This article 4.5 applies only to a pre-merger notification filed on or after August 6, 2025.

Source: L. 2025: Entire article added, (SB 25-126), ch. 419, p. 2369, § 1, effective August 6.

ARTICLE 5

Unfair Cigarette Sales

6-5-101 to 6-5-114. (Repealed)

Source: L. 75: Entire article repealed, p. 261, § 1, effective July 1.

Editor's note: This article was numbered as article 3 of chapter 55, C.R.S. 1963. For amendments to this article prior to its repeal in 1975, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 6

Unsolicited Goods

6-6-101. Definitions.
6-6-102. Obligation of recipient.
6-6-103. Collections prohibited - penalty - definition.

6-6-101. Definitions.

As used in this article, unless the context otherwise requires:

(1) "Unsolicited goods" means contractual obligations or other tangible or intangible property or services delivered to a person who has not ordered, solicited, or agreed to purchase them, but shall not include tangible or intangible goods or services which are misdirected, misdelivered, or offered in good faith in substitution for goods solicited by the recipient.

Source: L. 75: Entire article added, p. 262, § 1, effective July 14. **L. 93:** (1) amended, p. 1574, § 6, effective July 1.

6-6-102. Obligation of recipient.

(1) Unless otherwise agreed, where unsolicited goods are delivered to a person, the person may refuse to accept delivery of the goods and is not bound to return the goods to the sender.

(2) If unsolicited goods are either addressed to or intended for a recipient, they are deemed a gift to the recipient, who may use them or dispose of them in any manner the recipient sees fit without any obligation to the sender.

Source: L. 75: Entire article added, p. 262, § 1, effective July 14. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 2006, § 39, effective August 12.

6-6-103. Collections prohibited - penalty - definition.

(1) No sender of any unsolicited goods shall mail or otherwise send to any recipient of such unsolicited goods a bill for such unsolicited goods or any dunning communications.

(2) (a) The sender of a magazine or other periodical shall cancel a subscription if any invoice is returned by the recipient marked "cancel". Cancellation shall also occur when the recipient

gives written notice of cancellation to the sender at the sender's address or at the address of the subscription department printed in the periodical, or, if no such department is listed, at the general business address of the periodical.

(b) Notice of cancellation may be given by regular mail, and is effective on the date received by the sender. Notice of cancellation need not take any particular form and is sufficient if it indicates by any form of written expression that the recipient wishes to terminate the subscription. Within sixty days after notice of cancellation for prepaid subscriptions, the sender shall refund to the recipient any amount paid for the subscription less the amount owed by the recipient for any periodicals, together with the postage thereon, if postage has been charged separately, received before the effective date of the notice of cancellation.

(c) For purposes of this subsection (2), "sender" means the publisher of a periodical, any person acting as the agent of such publisher, and any person purporting to act as the agent of such publisher, and a seller of the periodical.

(3) Violation of this section constitutes a petty offense. Violation of this section also constitutes a deceptive trade practice in violation of the "Colorado Consumer Protection Act", article 1 of this title 6, and is subject to remedies or penalties, or both, pursuant thereto.

Source: L. 75: Entire article added, p. 262, § 1, effective July 14. **L. 76:** Entire section amended, p. 297, § 11, effective May 20. **L. 93:** Entire section amended, p. 1574, § 7, effective July 1. **L. 95:** Entire section amended, p. 387, § 1, effective July 1. **L. 2021:** (3) amended, (SB 21-271), ch. 462, p. 3135, § 61, effective March 1, 2022.

Cross references: For the penalty for a petty offense, see § 18-1.3-503.

ARTICLE 6.5

Soil and Hazard Analyses of Residential Construction

6-6.5-101. Disclosure to purchaser - penalty.

6-6.5-101. Disclosure to purchaser - penalty.

(1) At least fourteen days prior to closing the sale of any new residence for human habitation, a developer or builder or their representative shall provide the purchaser with a copy of a summary report of the analysis and the site recommendations. For a site where significant

potential for expansive soils is recognized, the builder or the builder's representative shall supply each buyer with a copy of a publication detailing the problems associated with such soils, the building methods to address these problems during construction, and suggestions for care and maintenance to address such problems.

(2) In addition to any other liability or penalty, any builder or developer failing to provide the report or publication required by subsection (1) of this section shall be subject to a civil penalty of five hundred dollars payable to the purchaser.

(3) The requirements of this section do not apply to any individual constructing a residential structure for the individual's own residence.

Source: L. 84: Entire article added, p. 294, § 1, effective July 1. **L. 2026:** (1) and (3) amended, (HB 26-1426), ch. 334, p. 2007, § 40, effective August 12.

ANNOTATION

Law reviews. For article, "Building on Expansive Soils: Colorado's Legislative Response", see 14 Colo. Law. 379 (1985).

Liability under this section applies to an individual operating on behalf of a corporate developer. Hoang v. Arbess, 80 P.3d 863 (Colo. App. 2003); Hildebrand v. New Vista Homes II, LLC, 252 P.3d 1159 (Colo. App. 2010).

ENERGY AND WATER CONSERVATION

ARTICLE 7

Residential Building Energy Conservation

6-7-101 to 6-7-106. (Repealed)

Source: L. 2022: Entire article repealed, (HB 22-1362), ch. 301, p. 2188, § 9, effective June 2.

Editor's note: (1) This article 7 was added in 1977. For amendments to this article 7 prior to its repeal in 2022, consult the 2021 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 6-7-104 was amended in SB 22-212. Those amendments were superseded by the repeal of this article 7 in HB 22-1362.

ARTICLE 7.5

Water and Energy Efficiency Standards

6-7.5-101. Legislative declaration.
6-7.5-102. Definitions.
6-7.5-103. Low-efficiency plumbing fixtures. (Repealed)
6-7.5-104. Scope and applicability.
6-7.5-105. Standards - effective dates.
6-7.5-106. New and revised standards - rules.
6-7.5-107. Protection against repeal of federal standards.
6-7.5-108. Utility programs during transition period.
6-7.5-109. Testing, certification, labeling, and enforcement - rules - verifications of compliance - publication of material incorporated by reference.
6-7.5-110. Penalties - civil action by attorney general.

6-7.5-101. Legislative declaration.

(1) The general assembly finds and determines that efficiency standards for certain products sold in Colorado:

(a) Assure consumers and businesses that such products meet minimum efficiency performance levels, thus reducing energy and water waste and saving consumers and businesses money on utility bills;

(b) Protect consumers and businesses against manufacturers who would otherwise sell, in Colorado, less efficient appliances that they cannot sell in states that have higher standards;

(c) Save energy and thus reduce pollution and other environmental impacts associated with the production, distribution, and use of electricity, natural gas, and other fuels;

(d) Improve electric system reliability and potentially reduce the need for new energy and water infrastructure based on the resulting energy and water savings;

(e) Apply to products available at a price equal to or less than noncompliant products, or available at a minimal cost premium;

(f) Have saved Coloradans billions of gallons of water since 2014, when WaterSense standards were enacted for plumbing fixtures, without sacrificing quality or product performance; and

(g) Contribute to the economy of this state by helping to better balance supply and demand for both energy and water, thus reducing the upward pressure on prices for electricity, natural gas, and water caused by increased demand. In addition, efficiency standards allow consumers and businesses to use the money they save on utility bills to purchase local goods and services.

(2) Therefore, the general assembly declares that the adoption of energy and water efficiency standards in accordance with this article 7.5 is a matter of state and local concern and serves the public interest of the people of Colorado.

Source: L. 2019: Entire article R&RE, (HB 19-1231), ch. 356, p. 3270, § 1, effective August 2.

6-7.5-102. Definitions.

As used in this article 7.5, unless the context otherwise requires and except as determined by rule pursuant to section 6-7.5-106 (1):

(1) "Air purifier" or "room air cleaner" means an electric, cord-connected, portable appliance that has the primary function of removing particulate matter from the air.

(2) "AHRI 1430" means the Air-conditioning, Heating, and Refrigeration Institute standard for demand flexible electric storage water heaters.

(3) "ANSI" means the American National Standards Institute or its successor organization.

(4) "ANSI/APSP/ICC-14" means the ANSI standard for portable electric spa energy efficiency.

(5) "ANSI C78.81" means the ANSI standard for "Electric Lamps - Double-Capped Fluorescent Lamps - Dimensional and Electrical Characteristics".

(6) "ANSI C78.901" means the ANSI standard for "Electric Lamps - Single-Based Fluorescent Lamps - Dimensional and Electrical Characteristics".

(7) "ANSI C79.1" means the ANSI standard for "Electric Lamps - Nomenclature for Glass Bulbs Intended for Use with Electric Lamps".

(8) "APSP" means the Association of Pool and Spa Professionals or its successor organization.

(9) "CCR" means the California code of regulations, as amended.

(10) Repealed.

(11) "Cold-temperature fluorescent lamp" means a fluorescent lamp that:

(a) Is not a compact fluorescent lamp;

(b) Is specifically designed to start at a temperature of twenty degrees below zero Fahrenheit when used with a ballast conforming to the requirements of ANSI C78.81 and ANSI C78.901; and

(c) Is expressly designated as a cold-temperature lamp both in markings on the lamp and in marketing materials such as catalogs, sales literature, and promotional material.

(12) "Commercial dishwasher" means a machine designed to clean and sanitize plates, pots, pans, glasses, cups, bowls, utensils, and trays by applying sprays of detergent solution, with or without blasting media granules, and a sanitizing rinse.

(13) "Commercial fryer" means an appliance, including a cooking vessel, in which:

(a) Oil is placed to such a depth that the food to be cooked is essentially supported by displacement of the cooking fluid rather than by the bottom of the vessel; and

(b) Heat is delivered to the cooking fluid by means of either:

(I) An immersed electric element or band-wrapped vessel; or

(II) Heat transfer from gas burners through either the walls of the vessel or tubes passing through the cooking fluid.

(14) "Commercial hot food holding cabinet" means a heated, fully enclosed compartment with one or more solid or transparent doors designed to maintain the temperature of hot food that has been cooked using a separate appliance. "Commercial hot food holding cabinet" does not include heated glass merchandising cabinets, drawer warmers, or cook and hold appliances.

(15) "Commercial oven" means a chamber designed for heating, roasting, or baking food by conduction, convection, radiation, or electromagnetic energy.

(16) "Commercial steam cooker" means a device with one or more food-steaming compartments in which thermal energy is transferred from the steam to the food by direct contact. "Commercial steam cooker" includes countertop models, wall-mounted models, and floor models mounted on a stand, pedestal, or cabinet-style base.

(17) "Compact fluorescent lamp" means a fluorescent lamp that includes:

(a) A tube that is curved or folded to fit the size of a traditional household light bulb; and

(b) A compact electronic ballast in the base of the lamp.

(18) "Compensation" means money or any other thing of value, regardless of form, received or to be received by a person for goods or services rendered.

(19) "Computer" and "computer monitor" have the meanings set forth in 20 CCR sec. 1602 (v).

(20) "CTA" means the Consumer Technology Association, or a successor organization.

(21) "Decorative gas fireplace" means a vented fireplace, including a unit that is freestanding, recessed, or zero clearance, or a gas fireplace insert that is:

(a) Fueled by natural gas or propane;

(b) Marked or intended for decorative use only; and

(c) Not equipped with a thermostat or intended for use as a heater.

(22) "Electric storage water heater" means a consumer product that:

(a) Uses electricity to heat domestic potable water;

(b) Has a nameplate input rating of twelve kilowatts or less;

(c) Has a rated hot water storage capacity between forty and one hundred twenty gallons; and

(d) Delivers hot water at a maximum temperature of less than one hundred eighty degrees Fahrenheit.

(23) (a) "Electric vehicle supply equipment" means conductors, including ungrounded, grounded, and equipment-grounding conductors; electric vehicle connectors; attachment plugs; and all other fittings, devices, power outlets, or apparatuses installed specifically for the purpose of delivering energy from the wiring of a premises to an electric vehicle.

(b) "Electric vehicle supply equipment" does not include a conductor, connector, or fitting that is part of a vehicle.

(24) "Energy Star program" means the federal program authorized by 42 U.S.C. sec. 6294a, as amended.

(25) "Executive director" means the executive director of the department of public health and environment or the executive director's designee.

(26) "Faucet" means:

(a) A public or private lavatory faucet, residential kitchen faucet, or metering faucet; or

(b) A replacement aerator for a public or private lavatory faucet or residential kitchen faucet.

(27) "Flushometer-valve water closet" means a type of commercial toilet that uses a valve for flushing by operation of a handle that discharges a definite quantity of water under pressure directly into the fixture.

(28) "Gas fireplace" means a decorative gas fireplace or a heating gas fireplace.

(29) "Gas log set" means a fireplace product designed to be used and installed in a working masonry or factory-built wood-burning fireplace and vented through a chimney by natural drafting or power venting.

(30) "GPM" means gallons per minute.

(31) "Handheld showerhead" means a showerhead that is connected to a flexible hose and can be held or fixed in place for the purpose of spraying water on a bather.

(32) "Heating gas fireplace" means a vented fireplace, including a unit that is freestanding, recessed, or zero clearance or a fireplace insert, that is:

(a) Fueled by natural gas or propane; and

(b) Not a decorative gas fireplace.

(33) "High CRI fluorescent lamp" means a fluorescent lamp with a color rendering index of eighty-seven or greater that is not a compact fluorescent lamp.

(34) "ICC" means the International Code Council or its successor organization.

(35) "Impact-resistant fluorescent lamp" means a fluorescent lamp that:

(a) Is not a compact fluorescent lamp;

(b) Has a coating or equivalent technology that is compliant with NSF/ANSI 51 and is designed to contain the glass if the glass envelope of the lamp is broken; and

(c) Is designated and marketed for the intended application, with:

(I) The designation appearing on the lamp packaging; and

(II) Marketing materials that identify the lamp as being impact-resistant, shatter-resistant, shatterproof, or shatter-protected.

(36) "Industrial air purifier" means an indoor air cleaning device that is:

(a) Manufactured, advertised, marketed, labeled, and used solely for industrial purposes;

(b) Marketed solely through industrial supply outlets or businesses; and

(c) Prominently labeled as "Solely for industrial use. Potential health hazard: emits ozone."

(37) "Inline residential ventilating fan" means a ventilating fan that is located within the structure of a building and requires ductwork on both the inlet and the outlet.

(38) Repealed.

(39) (a) "Lamp" means a device that emits light and is used to illuminate an indoor or outdoor space.

(b) "Lamp" does not include a heat lamp.

(40) "LED" means light-emitting diode.

(41) "Metering faucet" means a self-closing faucet that dispenses a specific volume of water for each actuation cycle and for which the volume or cycle duration may be fixed or adjustable.

(42) "NSF" means NSF International, formerly known as the National Sanitation Foundation.

(43) "NSF/ANSI 51" means the NSF/ANSI 51 standard for food equipment materials.

(44) "Plumbing fixture" means an exchangeable device that connects to a plumbing system to deliver water or drain water and waste.

(45) "Portable air conditioner" means a portable encased assembly, other than a packaged terminal air conditioner, ductless portable air conditioner, room air conditioner, or dehumidifier, that:

(a) Delivers cooled, conditioned air to an enclosed space;

(b) Is powered by single-phase electric current;

(c) Includes a source of refrigeration;

(d) May be a single-duct or dual-duct portable air conditioner; and

(e) May include additional means for air circulation and heating.

(46) "Portable electric spa" means a factory-built electric spa or hot tub that may include any combination of integral controls, water heating, and water circulating equipment.

(47) Repealed.

(48) "Private lavatory faucet" means a bathroom faucet that, as installed, is not in a location that is available to the public, including a lavatory faucet in a private residence.

(49) "Programmable thermostat" means a thermostat that:

(a) Controls a primary heating or cooling system on a daily schedule to maintain different temperatures during certain times of day and days of the week; and

(b) Has the capability to maintain zone temperatures between fifty-five degrees Fahrenheit and eighty-five degrees Fahrenheit.

(50) "PSI" means pounds per square inch.

(51) "Public lavatory faucet" means a fitting designed and marketed for installation in a nonresidential bathroom, which bathroom is exposed to walk-in traffic.

(52) "Replacement aerator" means an aerator sold as a replacement, separate from the faucet to which it is intended to be attached.

(53) "Residential building" means a structure that is used primarily for living and sleeping and that is zoned as residential or otherwise subject to residential building codes. For the purposes of residential windows, doors, and skylights, "residential building" means a building that is three stories or less in height.

(54) "Residential door" means a sliding or swinging entry system that is installed or designed for installation in a vertical wall separating conditioned and unconditioned space in a residential building.

(55) "Residential kitchen faucet" means a faucet in a kitchen of a residential building.

(56) "Residential skylight" means a window that is designed for sloped or horizontal application in the roof of a residential building, the primary purpose of which window is to provide daylight or ventilation. "Residential skylight" includes a tubular daylighting device.

(57) "Residential ventilating fan" means a ceiling-mounted, a wall-mounted, or an inline residential fan that is designed to be used in a bathroom or a utility room for the purpose of moving air from inside a residential building to the outdoors.

(58) (a) "Residential window" means an assembled unit that:

(I) Consists of a frame that holds one or more pieces of glass or other glazing material that admits light or air into an enclosure; and

(II) Is designed for installation at a slope of at least sixty degrees from horizontal in an external wall of a residential building.

(b) "Residential window" includes a transom window but does not include a residential skylight.

(59) "Showerhead" means a device through which water is discharged for a shower bath. "Showerhead" includes a handheld showerhead but does not include an emergency showerhead such as a showerhead used in a laboratory or industrial setting.

(60) "Showerhead tub spout diverter combination" means a control valve, tub spout diverter, and showerhead that are sold together as a matched set.

(61) "Smart thermostat" means a thermostat that:

(a) Is enabled for wireless connectivity;

(b) Allows the user to control home heating and cooling temperature settings from a computer or from a phone, a tablet, or another computer-enabled device; and

(c) Can automatically adjust heating and cooling temperature settings based on user preferences, daily schedules, weather conditions, occupancy, or optimal energy savings.

(62) Repealed.

(63) "Tub spout diverter" means a device that is designed to divert the flow of water into a bathtub so the water discharges through a showerhead.

(64) "Tubular daylighting device" means a building component that receives daylight in a rooftop dome and transfers the daylight indoors through a highly reflective tube.

(65) "Urinal" means a plumbing fixture that receives liquid body waste and conveys the waste through a trap seal into a gravity drainage system.

(66) "Water closet" means a plumbing fixture that has a water-containing receptor that receives liquid and solid body waste through an exposed integral trap and conveys the waste into a drainage system. "Water closet" includes both tank-type and flushometer-valve water closets.

(67) "Water cooler" means a freestanding device that consumes energy to cool or heat, or both cool and heat, potable water. "Water cooler" includes:

(a) A cold-only unit that dispenses only cold water;

(b) A hot-and-cold unit that dispenses both hot and cold water and, in some models, also room temperature water;

(c) A cook-and-cold unit that dispenses both room temperature and cold water;

(d) A storage-type unit that instantaneously delivers water from a storage tank within the unit, including point-of-use, dry storage compartment, and bottled water coolers; and

(e) An on-demand unit that heats water as it is requested, typically within a few minutes.

(68) "WaterSense-listed plumbing fixture" means a plumbing fixture or plumbing fixture fitting that has been:

(a) Tested by an accredited third-party certifying body or laboratory in accordance with the federal environmental protection agency's WaterSense program or a successor program;

(b) Certified by the body or laboratory as meeting the performance and efficiency requirements of the WaterSense program; and

(c) Authorized by the WaterSense program to use its label.

(69) "WaterSense program" means the federal program authorized by 42 U.S.C. sec. 6294b.

Source: L. 2019: Entire article R&RE, (HB 19-1231), ch. 356, p. 3271, § 1, effective August 2. **L. 2023:** Entire section amended, (HB 23-1161), ch. 285, p. 1689, § 1, effective August 7. **L. 2026:** (10), (38), (47), and (62) repealed, (HB 26-1034), ch. 87, p. 343, § 1, effective August 12.

Editor's note: (1) This section is similar to former § 6-7.5-101 as it existed prior to 2019.

(2) Section 4(2) of chapter 87 (HB 26-1034), Session Laws of Colorado 2026, provides that the act changing this section applies to conduct occurring on or after August 12, 2026.

6-7.5-103. Low-efficiency plumbing fixtures. (Repealed)

Source: L. 2019: Entire article R&RE, (HB 19-1231), ch. 356, p. 3277, § 1, effective August 2. **L. 2023:** Entire section repealed, (HB 23-1161), ch. 285, p. 1700, § 2, effective August 7.

Editor's note: This section was similar to former § 6-7.5-102 as it existed prior to 2019.

6-7.5-104. Scope and applicability.

(1) Subject to subsection (2) of this section and as further specified in section 6-7.5-105, this article 7.5 applies to the following products sold as new in Colorado:

(a) Repealed.

(a.3) Air purifiers;

(a.6) Cold-temperature fluorescent lamps;

(b) Commercial dishwashers;

(c) Commercial fryers;

(d) Commercial hot food holding cabinets;

(d.5) Commercial ovens;

(e) Commercial steam cookers;

(f) Computers and computer monitors;

(f.2) Electric storage water heaters;

(f.5) Electric vehicle supply equipment;

(g) Faucets;

(h) Repealed.

(i) Gas fireplaces;

(j) High CRI fluorescent lamps;

(j.5) Impact-resistant fluorescent lamps;

(j.7) Repealed.

(k) Portable air conditioners;

(l) Portable electric spas;

(l.4) Residential doors;

(l.6) Residential skylights;

(m) Residential ventilating fans;

(m.6) Residential windows;

(m.8) Showerheads;

(n) Repealed.

(o) Thermostats;

(o.2) Tub spout diverters and showerhead tub spout diverter combinations;

(o.4) Urinals;

(o.6) Water closets;

(p) Water coolers; and

(q) Other products as may be designated by the executive director pursuant to section 6-7.5-106.

(2) This article 7.5 does not apply to:

(a) Products installed in mobile manufactured homes at the time of construction;

(b) Products designed expressly for installation and use in recreational vehicles; or

(c) Products held in inventory on or before:

(I) The effective date of the applicable standard for each category of product set forth in this article 7.5; or

(II) The effective date for each category of products, as determined by the executive director by rule pursuant to section 6-7.5-106.

(3) This article 7.5 is not enforceable against an employee of a contractor who installs, repairs, or replaces appliances and collects from the customer an amount representing both parts and labor.

(4) This article 7.5 does not preempt any action of a statutory or home rule municipality, county, or city and county that prescribes additional or more restrictive water conservation or energy efficiency requirements affecting the sale or use of plumbing fixtures, appliances, or other products if the requirements comply with the standards specified in this article 7.5.

Source: L. 2019: Entire article R&RE, (HB 19-1231), ch. 356, p. 3277, § 1, effective August 2. **L. 2023:** (1)(a) and (1)(h) repealed, (1)(a.3), (1)(a.6), (1)(d.5), (1)(f.2), (1)(f.5), (1)(j.5), (1)(j.7), (1)(l.4), (1)(l.6), (1)(m.6), (1)(m.8), (1)(o.2), (1)(o.4), (1)(o.6), (1)(q), and (4) added, and (1)(i), (1)(o), (1)(p), and (2)(c) amended, (HB 23-1161), ch. 285, p. 1700, § 3, effective August 7. **L. 2026:** (1)(j.7) and (1)(n) repealed, (HB 26-1034), ch. 87, p. 344, § 2, effective August 12.

Editor's note: Section 4(2) of chapter 87 (HB 26-1034), Session Laws of Colorado 2026, provides that the act changing this section applies to conduct occurring on or after August 12, 2026.

6-7.5-105. Standards - effective dates.

(1) On and after August 7, 2023, a person shall not sell any of the following plumbing fixtures in Colorado unless they are WaterSense-listed plumbing fixtures:

(a) Repealed.

(b) A public lavatory faucet;

(c) A showerhead;

(d) Repealed.

(e) A water closet.

(2) Repealed.

(3) On and after January 1, 2021, a person shall not sell, lease, or rent any of the following new products in Colorado unless the efficiency of the new product meets or exceeds the following efficiency standards, as applicable:

(a) Commercial dishwashers included in the scope of the Energy Star program product specification for commercial dishwashers must meet the qualification criteria of that specification.

(b) Commercial fryers included in the scope of the Energy Star program product specification for commercial fryers must meet the qualification criteria of that specification.

(c) Repealed.

(d) Commercial steam cookers must meet the requirements of the Energy Star program product specification for commercial steam cookers.

(e) Computers and computer monitors must meet the requirements of section 1605.3 (v) of title 20 of the CCR, and compliance with those requirements must be as measured in accordance with test methods prescribed in section 1604 (v) of those regulations.

(f) Faucets, except for metering faucets, must meet the following standards when tested in accordance with 10 CFR 430, subpart B, appendix S, and compliance with those standards must be established using the "Uniform Test Method for Measuring the Water Consumption of Faucets and Showerheads", as in effect on January 3, 2017:

(I) Residential kitchen faucets and replacement aerators must not exceed a maximum flow rate of 1.8 GPM at sixty PSI, with optional temporary flow of 2.2 GPM, provided they default to a maximum flow rate of 1.8 GPM at sixty PSI after each use.

(II) Public lavatory faucets and replacement aerators must not exceed a maximum flow rate of 0.5 GPM at sixty PSI.

(g) and (h) Repealed.

(i) Portable electric spas must meet the requirements of ANSI/APSP/ICC-14.

(j) New residential ventilating fans must meet the fan motor efficacy qualification criteria of the Energy Star program product specification for residential ventilating fans.

(k) and (l) Repealed.

(m) Water coolers included in the scope of the Energy Star program product specification for water coolers must have an "on" mode with no-water-draw energy consumption less than or equal to the following values as measured in accordance with the test requirements of that program:

(I) 0.16 kilowatt-hours per day for cold-only units and cook and cold units;

(II) 0.87 kilowatt-hours per day for storage-type hot and cold units; and

(III) 0.18 kilowatt-hours per day for on-demand hot and cold units.

(4) On or after February 1, 2022, the following new products shall not be sold, leased, or rented in Colorado unless the efficiency of the new product meets or exceeds the following efficiency standards, as applicable:

(a) Repealed.

(b) New portable air conditioners must have a combined energy efficiency ratio (CEER), as measured in accordance with 10 CFR 430, subpart B, appendix CC, "Uniform Test Method for Measuring the Energy Consumption of Portable Air Conditioners", as in effect on January 3, 2017, that is greater than or equal to:

$$1.04 \times SACC / (3.7117 \times SACC^{0.6384})$$

where SACC is the seasonally adjusted cooling capacity in British thermal units per hour.

(5) On and after January 1, 2026, a person shall not sell, offer to sell, lease, or offer to lease any of the following new products in Colorado unless the efficiency of the new product meets or exceeds the following efficiency standards, as applicable:

(a) Air purifiers, except industrial air purifiers, must meet the certification requirements of the Energy Star program product specification for room air cleaners.

(b) Commercial hot food holding cabinets must meet the qualification criteria of the Energy Star program product specification for commercial hot food holding cabinets.

(c) Commercial ovens included in the scope of the Energy Star program product specification for commercial ovens must meet the qualification criteria of that specification.

(d) Electric storage water heaters must have a modular demand response communications port compliant with AHRI 1430.

(e) Electric vehicle supply equipment included in the scope of the Energy Star program product specification for electric vehicle supply equipment must meet the certification criteria of that specification.

(f) Gas fireplaces must comply with the following requirements:

(I) Gas fireplaces must be capable of automatically extinguishing any pilot flame when the main gas burner flame is extinguished or must prevent any ignition source for the main gas burner flame from operating continuously for more than seven days from the last use of the main gas burner;

(II) Decorative gas fireplaces must have a direct vent or power vent configuration, unless the decorative gas fireplace is marked for replacement use only or outdoor use only or is a gas log set; and

(III) Heating gas fireplaces must have a fireplace efficiency of at least fifty percent when tested in accordance with Canadian Standards Association P.4.1-15, "Testing method for measuring fireplace efficiency", as amended or revised.

(g) High CRI, cold-temperature, and impact-resistant fluorescent lamps must meet the minimum efficacy requirements contained in 10 CFR 430.32 (n)(4), as measured in accordance with 10 CFR 430, subpart B, appendix R, "Uniform Test Method for Measuring Average Lamp Efficacy (LE), Color Rendering Index (CRI), and Correlated Color Temperature (CCT) of Electric Lamps".

(h) Repealed.

(i) Private lavatory faucets, tub spout diverters, showerhead tub spout diverter combinations, and urinals must meet the requirements in 20 CCR sec. 1605.3, as measured in accordance with the test methods prescribed in 20 CCR sec. 1604, as amended.

(j) (I) Except as otherwise provided in subsection (5)(j)(II) of this section, residential windows, residential doors, and residential skylights included in the scope of the Energy Star program product specification for residential windows, doors, and skylights must satisfy the northern climate zone qualification criteria of that specification; except that residential windows and doors that are custom designed for a historically designated building and required in order to maintain the historic nature or character of such a building are not required to satisfy such criteria.

(II) The executive director may consult with the Colorado energy office to evaluate the standard set forth in subsection (5)(j)(I) of this section for residential windows, residential doors, and residential skylights. If the executive director determines that the standard cannot reasonably be met by manufacturers of residential windows, residential doors, and residential skylights, then the executive director shall set an alternative standard that may be applied instead of the standard set forth in subsection (5)(j)(I) of this section and the executive director shall display the alternative standard on the public website of the Colorado department of public health and environment no later than June 1, 2025. When deciding whether the standard set forth in subsection (5)(j)(I) of this section can reasonably be met, the executive director shall take into account the following factors:

(A) Impacts on net consumer costs; and

(B) Supply chain constraints.

(k) Repealed.

(l) Thermostats must be programmable thermostats or smart thermostats.

Source: L. 2019: Entire article R&RE, (HB 19-1231), ch. 356, p. 3278, § 1, effective August 2. **L. 2023:** (1), IP(3), (3)(a), (3)(b), (3)(c), (3)(d), (3)(h), (3)(i), (3)(j), (3)(k), and IP(3)(m) amended, (2), (3)(g), (3)(l), and (4)(a) repealed, and (5) added, (HB 23-1161), ch. 285, p. 1701, § 4, effective August 7. **L. 2024:** (5)(j) amended, (SB 24-214), ch. 191, p. 1091, § 4, effective May 17. **L. 2026:** (5)(h) and (5)(k) repealed, (HB 26-1034), ch. 87, p. 344, § 3, effective August 12.

Editor's note: (1) Subsections (1)(a)(II), (1)(d)(II), (3)(c)(II), (3)(h)(II), and (3)(k)(II) provided for the repeal of subsections (1)(a), (1)(d), (3)(c), (3)(h), and (3)(k), respectively, effective January 1, 2026. (See L. 2023, p. 1701.)

(2) Section 4(2) of chapter 87 (HB 26-1034), Session Laws of Colorado 2026, provides that the act changing this section applies to conduct occurring on or after August 12, 2026.

6-7.5-106. New and revised standards - rules.

(1) The executive director may adopt by rule a more recent version of any standard or test method established in section 6-7.5-105, including any product definition associated with the standard or test method, in order to maintain or improve consistency with other comparable standards in other states, so long as the resulting efficiency is equal to or greater than the efficiency achieved using the prior standard or test method. The executive director shall allow at least a one-year delay between the adoption by rule and the enforcement of any new standard or test method.

(2) On or before January 1, 2026, and on or before January 1 every five years thereafter, the executive director shall promulgate rules establishing standards for products that are not described in section 6-7.5-104 or 6-7.5-105 if such standards:

(a) Would improve energy or water conservation in the state; and

(b) Exist in at least three other states or are published in finalized form by the Energy Star program or the WaterSense program.

(3) After January 1, 2026, the executive director shall allow a one-year grace period after any standard, standard version, definition, or test method referenced in this article 7.5 is updated,

during which time a product may meet either the previous standard or the updated standard, standard version, definition, or test method, as applicable.

Source: L. 2019: Entire article R&RE, (HB 19-1231), ch. 356, p. 3281, § 1, effective August 2. **L. 2023:** Entire section amended, (HB 23-1161), ch. 285, p. 1705, § 5, effective August 7.

6-7.5-107. Protection against repeal of federal standards.

(1) If any of the energy or water conservation standards issued or approved for publication by the office of the United States secretary of energy as of January 1, 2018, as set forth in 10 CFR 430-431 and promulgated pursuant to the "Energy Policy and Conservation Act", Pub.L. 94-163, are withdrawn, repealed, or otherwise voided, the minimum energy or water efficiency level permitted for products previously subject to federal energy or water conservation standards must be the previously applicable federal standards, and no such new product may be sold or offered for sale, lease, or rental in Colorado unless it meets or exceeds such standards.

(2) This section does not apply to a federal energy or water conservation standard set aside by a court upon the petition of a person that will be adversely affected by the standard, as provided in 42 U.S.C. sec. 6306 (b).

Source: L. 2019: Entire article R&RE, (HB 19-1231), ch. 356, p. 3281, § 1, effective August 2.

6-7.5-108. Utility programs during transition period.

(1) Should one or more products described in this article 7.5 be subject to withdrawal, repeal, or other actions that declare a federal standard invalid as described in section 6-7.5-107, the public utilities commission shall permit a three-year phaseout for a utility operating energy efficiency programs that create incentives for or otherwise encourage the use of high-efficiency versions of the affected products. This phaseout shall commence on or after the date specified in section 6-7.5-105; shall apply only to energy savings that will be mandated under this article 7.5; shall occur in equal reductions for each transition year; and must permit an orderly adjustment of the appliance or lighting market to ensure that residents and businesses in Colorado are not negatively affected by changes in product selection, business practices, and energy efficiency program opportunities related to the affected appliances or lighting products.

(2) For products listed in this article 7.5 that are not subject to withdrawal or repeal, the public utilities commission shall allow at least a one-year transition for utility-sponsored energy efficiency programs starting on or after the date specified in section 6-7.5-105.

Source: L. 2019: Entire article R&RE, (HB 19-1231), ch. 356, p. 3282, § 1, effective August 2.

6-7.5-109. Testing, certification, labeling, and enforcement - rules - verifications of compliance - publication of material incorporated by reference.

(1) Unless a product appears in the state appliance standards database maintained by the Northeast Energy Efficiency Partnerships, or a successor organization, or in a public database of compliant products maintained by other states or federal agencies with equivalent or more stringent efficiency standards, manufacturers of products covered by this article 7.5 shall demonstrate that the products comply with this article 7.5 by doing any one or more of the following:

(a) Submitting test sample results to the executive director, using test methods and procedures adopted pursuant to this article 7.5;

(b) Affixing a mark, label, or tag to the product and packaging at the time of sale or installation that demonstrates compliance with other state or federal agencies that have equivalent or more stringent efficiency standards; or

(c) Submitting such other proof as the executive director may deem appropriate to show that the product complies with equivalent or more stringent efficiency standards adopted by other states or federal agencies.

(2) The executive director may adopt rules as necessary to ensure the proper implementation and enforcement of this article 7.5.

(3) On or before January 1, 2026, the executive director shall collect and make publicly available in written and electronic form the federal rules and other rules and standards referred to in this article 7.5. The executive director shall update the publicly available rules and standards as they may be updated or added in accordance with section 6-7.5-106.

(4) The executive director shall:

(a) Verify major retailers' and distributors' compliance with the provisions of this article 7.5 through online spot-checks, coordination with other states that have similar standards, or both;

(b) Conduct such verifications at least once before January 1, 2027, and again at least once before January 1, 2032;

(c) Deliver a report on the method and findings of the verifications to the energy and environment committee of the house of representatives and to the transportation and energy committee of the senate, or to any successor committees, and post the report to the department of public health and environment's website within one month after its completion; and

(d) Deliver any findings of violations to the attorney general.

(5) On or before January 1, 2026, the executive director shall establish a process whereby individuals may anonymously report potential violations of this article 7.5 on the department of public health and environment's public website. The executive director shall investigate any reported potential violation and shall report any confirmed violations to the attorney general.

Source: L. 2019: Entire article R&RE, (HB 19-1231), ch. 356, p. 3282, § 1, effective August 2. **L. 2023:** IP(1) amended and (3), (4), and (5) added, (HB 23-1161), ch. 285, p. 1706, § 6, effective August 7.

6-7.5-110. Penalties - civil action by attorney general.

(1) A person shall not sell or offer to sell any new consumer product that is required to meet a standard established in this article 7.5 but that the person knows does not meet that standard.

(2) Whenever the attorney general has probable cause to believe that any person or group of persons has violated or caused another to violate subsection (1) of this section, the attorney general may bring a civil action on behalf of the state to seek the imposition of civil penalties as follows:

(a) Any person who violates or causes another to violate subsection (1) of this section shall forfeit and pay a civil penalty of not more than two thousand dollars for each such violation, which amount shall be transferred to the state treasurer to be credited to the energy fund created in section 24-38.5-102.4. For purposes of this subsection (2)(a), a violation constitutes a separate violation with respect to each transaction or online for-sale product listing involved; except that the maximum civil penalty may not exceed five hundred thousand dollars for any related series of violations.

(b) Any person who violates or causes another to violate any provision of this article 7.5, where such violation was committed against an elderly person, shall forfeit and pay to the general fund of the state a civil penalty of not more than ten thousand dollars for each such violation. For purposes of this subsection (2)(b), a violation of this section constitutes a separate violation with respect to each elderly person involved.

Source: L. 2019: Entire article R&RE, (HB 19-1231), ch. 356, p. 3282, § 1, effective August 2. **L. 2023:** (2)(a) amended, (HB 23-1161), ch. 285, p. 1707, § 7, effective August 7.

ARTICLE 7.7

Standards for Construction Projects that Receive State Financial Assistance

6-7.7-101. Legislative declaration.

6-7.7-102. Definitions.

6-7.7-103. Energy-efficiency standards for certain building construction projects that receive state financial assistance - record retention requirements - waivers - exemptions - standardized resources - enforcement - civil penalties.

6-7.7-101. Legislative declaration.

(1) The general assembly finds that:

(a) Appliances certified by the Energy Star program meet strict energy efficiency and performance guidelines set by the federal environmental protection agency and the United States department of energy and can save an estimated twenty to thirty percent more energy than appliances that are not certified by the Energy Star program;

(b) New building construction projects that use taxpayer dollars to purchase equipment should ensure that the equipment has lower lifetime costs to operate and maintain;

(c) Many projects that receive state financial assistance aim to assist vulnerable lower-income households, and installing appliances certified by the Energy Star program could lower the costs of the energy bills of these households over time; and

(d) Saving energy is crucial in:

(I) Avoiding the most serious effects of climate change and preserving Colorado's way of life, the health of communities, and the natural environment;

(II) Achieving the statewide greenhouse gas emission reduction goals; and

(III) Reducing costs for Coloradans.

(2) The general assembly therefore determines and declares that it is in the public interest of the health and environment of the state to require that new building construction projects that receive state financial assistance use covered energy-consuming products that are certified by the Energy Star program.

Source: L. 2024: Entire article added, (SB 24-214), ch. 191, p. 1089, § 3, effective May 17.

6-7.7-102. Definitions.

As used in this article 7.7, unless the context otherwise requires:

(1) "Covered energy-consuming product" means an appliance, device, or piece of equipment that is:

(a) Powered by electricity or fuel;

(b) Designed to perform one or more specific tasks inside a residential or commercial building, such as cooking, washing, drying, heating, cooling, providing domestic hot water, printing, or digital entertainment; and

(c) Covered within the scope of the Energy Star program.

(2) "Energy Star program" means the federal program authorized by 42 U.S.C. sec. 6294a, as amended.

(3) "Social cost of carbon" means the social cost of carbon dioxide emissions developed by the public utilities commission pursuant to section 40-3.2-106.

(4) "State financial assistance" means allocations from the general fund or other legislative allocations, state taxpayer funds, rebates, grants, or loans provided or administered by the state.

Source: L. 2024: Entire article added, (SB 24-214), ch. 191, p. 1090, § 3, effective May 17.

6-7.7-103. Energy-efficiency standards for certain building construction projects that receive state financial assistance - record retention requirements - waivers - exemptions - standardized resources - enforcement - civil penalties.

(1) On and after January 1, 2025, except as set forth in subsection (3) or (4) of this section, recipients of state financial assistance for new building construction projects that include the specification, provision, or purchase of covered energy-consuming products shall use covered energy-consuming products certified by the Energy Star program.

(2) On and after January 1, 2025, a state agency that provides or administers state financial assistance for a new building construction project shall:

(a) Include the requirements of subsection (1) of this section in the state agency's criteria or guidance for applying for or receiving state financial assistance for new building construction projects;

(b) Request an attestation signed by a recipient of state financial assistance for new building construction projects that declares that:

(I) The requirements of subsection (1) of this section have been or will be followed; or

(II) The recipient of the state financial assistance is requesting a waiver pursuant to subsection (3) of this section; and

(c) Respond to waiver requests received pursuant to subsection (3) of this section.

(3) A state agency that provides or administers state financial assistance for new building construction projects may issue a standardized waiver from the requirements of subsection (1) of this section for a new building construction project if the recipient demonstrates, through evidence and attestation from a licensed professional engineer or design professional, that:

(a) No covered energy-consuming product certified by the Energy Star program and that meets the functional requirements of the project is reasonably available to the applicant; or

(b) Taking energy cost savings and the social cost of carbon into account, no covered energy-consuming product certified by the Energy Star program is cost-effective over the life of the product.

(4) The following new building construction projects are exempt from the requirements of this section:

(a) Projects that have passed the design phase before January 1, 2025, and would require significant redesign to include a covered energy-consuming product certified by the Energy Star program; and

(b) Projects that have received a permit from a local government for the use of a covered energy-consuming product before January 1, 2025.

(5) If the attorney general, by a preponderance of the evidence, believes that a person has violated or caused another person to violate subsection (1) of this section, the attorney general may bring a civil action on behalf of the state to seek the assessment of a civil penalty of up to the total amount of state financial assistance received by the violator on or after January 1, 2025, which amount must be transmitted to the state treasurer, who shall credit the amount to the energy fund created in section 24-38.5-102.4 (1)(a)(I).

Source: L. 2024: Entire article added, (SB 24-214), ch. 191, p. 1090, § 3, effective May 17.

AGRICULTURAL ASSISTANCE

ARTICLE 8

Assistance to the Agricultural Community

6-8-101 and 6-8-102. (Repealed)

Editor's note: (1) This article was added in 1986 and was not amended prior to its repeal in 1990. For the text of this article prior to 1990, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 6-8-102 provided for the repeal of this article, effective January 31, 1990. (See L. 86, p. 434.)

ARTICLE 9

Agricultural Mediation

6-9-101 to 6-9-107. (Repealed)

Editor's note: (1) This article was added in 1987 and was not amended prior to its repeal in 1989. For the text of this article prior to 1989, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 6-9-107 provided for the repeal of this article, effective January 31, 1989. (See L. 87, p. 1356.)

ASSIGNMENTS IN GENERAL

ARTICLE 10

Assignments in General

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6-10-101. Definitions.

As used in this article, unless the context otherwise requires:

(1) "Person" means individuals, partnerships, associations, and corporations.

(2) "Property" means all goods, chattels and effects, real, personal and mixed property, money, rights and credits, and choses in action except property which is by law not subject to levy and sale under execution.

Source: L. 1897: p. 94, § 1. **R.S. 08:** § 174. **C.L.** § 6241. **CSA:** C. 12, § 1. **CRS 53:** § 11-1-1. **C.R.S. 1963:** § 11-1-1.

ANNOTATION

I. General Consideration.

II. Purpose.

III. Rules of Construction.

IV. Application.

V. Failure to Comply.

I. GENERAL CONSIDERATION.

Law reviews. For article, "Assignment of Contractual Rights in Colorado", see 5 Rocky Mt. L. Rev. 30 (1932). For article, "Validity of the Colorado Assignment Act", see 18 Dicta 274 (1941). For article, "One Year Review of Civil Procedure and Appeals", see 40 Den. L. Ctr. J. 66 (1963).

Annotator's note. Cases material to § 6-10-101 et seq. decided prior to its earliest source, L. 1897, p. 94, § 1 et seq., have been included in the annotations to this section.

While state insolvency laws are invalid, states may enact statutes providing for the voluntary assignment of debts for the benefit of creditors. In re Carlson's for Music, Inc. v. Gould, 176 Colo. 172, 489 P.2d 1038 (1971).

This article is full and complete within itself, as to all matters pertaining to assignments, and the general law concerning conveyances has no application. Spangler v. Sanborn, 7 Colo. App. 102, 43 P. 905 (1895).

For cases decided prior to the passage of the general assignment statute of 1885, see Ray v. Raynolds, 8 Colo. 467, 9 P. 15 (1885); Cornforth v. Maguire, 12 Colo. 432, 21 P. 191 (1889).

II. PURPOSE.

The purpose of this article is to enable an insolvent debtor by conveying all his property to an assignee for the benefit of his creditors to be discharged from his debts. Clark v. Bright, 30 Colo. 199, 69 P. 506 (1902).

Hence, the assignment article is, in effect, a bankruptcy act. Clark v. Bright, 30 Colo. 199, 69 P. 506 (1902).

Provisions acceptable in relation to federal bankruptcy act. Provisions of this article by which debtors may voluntarily assign their assets for the benefit of their creditors, but without discharge of the debts, are perfectly acceptable in relation to the federal bankruptcy act. In re Carlson's for Music, Inc. v. Gould, 176 Colo. 172, 489 P.2d 1038 (1971).

Provisions providing for discharge not acceptable, the provisions in this article providing for discharge of an assignor have been suspended by the federal bankruptcy act. In re Carlson's for Music, Inc. v. Gould, 176 Colo. 172, 489 P.2d 1038 (1971).

The act does not compel a debtor to relinquish possession or control of his property to an assignee or trustee for the benefit of his creditors when he becomes unable to pay his debts. Hayden v. Wellington, 63 F. 6 (8th Cir. 1894).

The insolvent laws of Colorado are of a purely voluntary character; they do not constrain persons to execute an assignment in the event of insolvency. Schindelholz v. Cullum, 55 F. 885 (8th Cir. 1893); Kellogg v. Thropp, 4 Colo. App. 470, 36 P. 447 (1893).

A compulsory assignment for the benefit of creditors is unknown. Kellogg v. Thropp, 4 Colo. App. 470, 36 P. 447 (1893).

This article gives one permission to make a transfer of this nature, with certain prescribed formalities, and it provides for the due administration of the estate when it has been thus assigned. Hayden v. Wellington, 63 F. 6 (8th Cir. 1894).

III. RULES OF CONSTRUCTION.

This article is in derogation of the common law. Damaskus v. McCarty-Johnson Heating & Eng'r Co., 88 Colo. 279, 295 P. 490 (1931); Markoff v. Barenberg, 149 Colo. 311, 368 P.2d 964 (1962).

It must be strictly construed. Damaskus v. McCarty-Johnson Heating & Eng'r Co., 88 Colo. 279, 295 P. 490 (1931).

IV. APPLICATION.

Assignments made for the benefit of creditors must strictly comply with all of the required details of this article before creditors of the assignor are bound thereby. Markoff v. Barenberg, 149 Colo. 311, 368 P.2d 964 (1962).

Article must be strictly pursued. The statutory law of assignments is remedial, in derogation of the rights of creditors, and must, like any other statutory remedy, be strictly pursued. Burchinell v. Mosconi, 4 Colo. App. 401, 36 P. 307 (1894).

Its provisions are mandatory. Burchinell v. Mosconi, 4 Colo. App. 401, 36 P. 307 (1894); Damaskus v. McCarty-Johnson Heating & Eng'r Co., 88 Colo. 279, 295 P. 490 (1931).

Any important departure avoids and vitiates the whole proceeding. Burchinell v. Mosconi, 4 Colo. App. 401, 36 P. 307 (1894).

However, in order to vitiate an assignment, it must be found lacking in one of the essentials. Hunter v. Ferguson, 3 Colo. App. 287, 33 P. 82 (1893).

V. FAILURE TO COMPLY.

Failure of the debtor to comply with this article constitutes a common law, and not a statutory, assignment. McKelvy v. Striker, 108 Colo. 320, 116 P.2d 921 (1941).

Assignment may be valid as common-law assignment. An assignment for the benefit of creditors, although insufficient under this article, may be valid as a common-law assignment. Damaskus v. McCarty-Johnson Heating & Eng'r Co., 88 Colo. 279, 295 P. 490 (1931).

Common-law assignments are valid, independent of statutory assignments. McKelvy v. Striker, 108 Colo. 320, 116 P.2d 921 (1941).

Since no mention is made in this article of common-law assignments and nothing therein contained either specifically or by implication is susceptible to the construction that its sections were intended to be an exclusive substitute for common-law assignments. Damaskus v. McCarty-Johnson Heating & Eng'r Co., 88 Colo. 279, 295 P. 490 (1931).

6-10-102. General assignment.

Any person may make a general assignment for the benefit of the person's creditors by deed duly acknowledged. When filed for record in the office of the clerk and recorder of the county where the assignor resides or, if the assignor is a nonresident, where the assignor's principal place of business is in this state, such deed vests in the assignee in trust for the use and benefit of such creditors all the property of the assignor, excepting only such property as is by law not subject to levy and sale under execution, subject, however, to all valid and subsisting liens.

Source: L. 1897: p. 94, § 2. **R.S. 08:** § 175. **C.L.** § 6242. **CSA:** C. 12, § 2. **CRS 53:** § 11-1-2. **C.R.S. 1963:** § 11-1-2. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 2007, § 41, effective August 12.

ANNOTATION

I. General Consideration.

II. Requisites and Form.

III. Title of Assignee.

I. GENERAL CONSIDERATION.

Annotator's note. Cases material to § 6-10-102 decided prior to its earliest source, L. 1897, p. 94, § 2, have been included in the annotations to § 6-10-102.

A general assignment is an act of bankruptcy. A general assignment, filed and recorded in pursuance of the statutes of Colorado, falls far within the established rule that the general assignment declared by the bankruptcy act to constitute an act of bankruptcy embraces any conveyance at common law or pursuant to statute by which the assignor intends to make and does make an absolute appropriation of his property not exempt from levy to pay all his debts, although there may be some defect in the conveyance or some failure to comply with some law or statute in the proceeding he takes to effectuate his intention which does not prevent the actual appropriation of his property for the benefit of his creditors. Moore v. Yampa Mercantile Co., 287 F. 629 (8th Cir. 1923).

There is neither in terms nor by implication any duty cast upon an insolvent to dispose of his property by a general assignment. May v. Tenney, 148 U.S. 60 (1893).

II. REQUISITES AND FORM.

An assignment not made in accordance with this section is only a common-law assignment. McMinn v. Harrison, 93 Colo. 5, 23 P.2d 944 (1933).

An instrument that does not purport to be a transfer of all the grantor's property, but only of certain described items, together with incidentals used in connection with such, is, on its face no general assignment. May v. Tenney, 148 U.S. 60 (1893).

When the deed in general terms purports to convey all the property and afterwards enumerates and designates the property assigned, such special designation controls the general words, makes the assignment special instead of general, and renders the deed inoperative and void. Palmer v. McCarthy, 2 Colo. App. 422, 31 P. 241 (1892).

Where there are in the deed of conveyance no words evidencing either the desire or intention to convey all the property of the assignor, the only conclusion that can be legally deduced from the language used is that the assignment is to be special of the property enumerated. Palmer v. McCarthy, 2 Colo. App. 422, 31 P. 241 (1892).

Moreover, the fact that a debtor transfers all of his property to secure the payment of particular debts does not constitute an assignment for the benefit of creditors generally. Poundstone v. Holt, 5 Colo. App. 66, 37 P. 35 (1894).

Deed may refer to inventory for particular description of property. Where, according to the express language of the instrument, reference to the inventory is for a more full and particular description and not by way of limitation, then, it is the manifest and clear intention of the parties to convey all the property which they owned which is not exempt from execution, and this has always been held sufficient. Graham Paper Co. v. Sanderson, 8 Colo. App. 427, 47 P. 904 (1896).

III. TITLE OF ASSIGNEE.

Section applies whether assignor is solvent or insolvent. This provision regulating the administration of trusts created by voluntary assignments for the benefit of creditors applies whether the assignor is solvent or insolvent. In re Carlson's for Music, Inc. v. Gould, 176 Colo. 172, 489 P.2d 1038 (1971).

Such an assignment implies a trust and contemplates the intervention of a trustee. May v. Tenney, 148 U.S. 60 (1893).

The intent of this section appears to be to make the assignee not the mere representative of the assignor but the trustee of the assignor and the creditors for the purpose of marshaling the assets of the assignor for pro rata distribution among the creditors, returning the surplus, if any, to the assignor. Clark v. Bright, 30 Colo. 199, 69 P. 506 (1902).

Hence, the assignee becomes vested with right and title to the estate of the assignors for the purpose of paying the debts of the assignors in full, if sufficient therefor; if not, then ratably, except only as to the preference created by the said legislative enactment. And the assignee becomes charged with the duty of collecting the personal assets, wherever they might be found, and of distributing the proceeds of the entire estate among the creditors according to the provisions of this enactment. Ray v. Hiller, 11 Colo. 445, 18 P. 622 (1888).

Furthermore, it is by the language of the deed that the title of the assignee must be determined, without reference either to the inventory or the list of creditors. Falk v. Liebes, 6 Colo. App. 473, 42 P. 46 (1895).

If all requisites are not met assignee takes no title. If a deed of assignment fails in the essential particular specified by this section the want cannot be supplied by judicial decision; the deed would not invest the assignee with any title, and creditors could proceed against the debtor in the same manner and with the same effect as if no assignment had been attempted. Kellogg v. Thropp, 4 Colo. App. 470, 36 P. 447 (1894).

Property vests in assignee only when instrument is filed. The plain and necessary inference from the provision of this section that the instrument "when filed, etc. shall vest" is that when not filed it shall not vest. Kinney v. Yoelin Bros. Mercantile Co., 76 Colo. 136, 230 P. 127 (1924).

This means a filing for record in the proper county. Spangler v. Sanborn, 7 Colo. App. 102, 43 P. 905 (1895).

Nevertheless, this section does not make the record of the deed of assignment constructive notice to creditors, and the fact that notice is specifically provided for elsewhere, (as in § 6-10-108), is evidence that it was not intended to be such. Kinney v. Yoelin Bros. Mercantile Co., 76 Colo. 136, 230 P. 127 (1924).

Thus, title does not pass if instrument is not recorded. A power of attorney given by a debtor to an assignee for the benefit of creditors does not pass title as against creditors where it is not recorded in accordance with this section. Kinney v. Yoelin Bros. Mercantile Co., 76 Colo. 136, 230 P. 127 (1924).

However, a deed of assignment does not destroy valid antecedent liens upon the assignor's property, nor the right of the holder to enforce them. Nat'l Bank of Commerce v. Graham, 16 Colo. App. 498, 66 P. 684 (1901).

Since the assignee takes the property subject to all subsisting valid liens. Nat'l Bank of Commerce v. Graham, 16 Colo. App. 498, 66 P. 684 (1901).

Where a corporation makes a general assignment for the benefit of its creditors and a receiver, later appointed, files a motion in the assignment proceedings asking the dismissal of the assignment proceedings and an order to compel the assignee to turn over to the receiver the property of the corporation, the title of the assignee to the property cannot be determined in such a proceeding. Flint v. Powell, 10 Colo. App. 66, 50 P. 45 (1897).

6-10-103. Inventory - list of creditors.

An assignor shall render to an assignee within four days after the date of the assignment an inventory under oath of the assignor's property, to the best of the assignor's knowledge, including the estimated value of the property. The assignor shall also render a list of the assignor's creditors, including their names, residences, and post-office addresses, if known, and the amount of their respective demands. The assignor's inventory shall not be deemed to be conclusive of the amount of the assignor's estate, nor shall the omission of any property from the inventory defeat the assignment or conveyance of the property.

Source: L. 1897: p. 94, § 3. **R.S. 08:** § 176. **C.L.** § 6243. **CSA:** C. 12, § 3. **CRS 53:** § 11-1-3. **C.R.S. 1963:** § 11-1-3. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 2007, § 42, effective August 12.

ANNOTATION

Annotator's note. Cases material to § 6-10-103 decided prior to its earliest source, L. 1897, p. 94, § 3, have been included in the annotations to this section.

This section requires a schedule under oath, a full and complete schedule, so far as the party has power to make it. Burchinell v. Mosconi, 4 Colo. App. 401, 36 P. 307 (1894).

Anything short of this is not compliance and avoids the assignment. Burchinell v. Mosconi, 4 Colo. App. 401, 36 P. 307 (1894).

The provisions of this section cannot be dispensed with. Palmer v. McCarthy, 2 Colo. App. 422, 31 P. 241 (1892).

So a material failure to comply with them or a serious departure vitiates the whole proceeding. Palmer v. McCarthy, 2 Colo. App. 422, 31 P. 241 (1892).

For without the inventory nothing passes. The inventory required by law, designates and defines the conveyance by showing the amount, quantity, and specific character of each and every part of the estate conveyed. Without it, the words of conveyance being so general, nothing passes, for there can be no identification; hence, the wisdom and necessity of a sworn inventory as required by this section, and of a strict compliance with it. Palmer v. McCarthy, 2 Colo. App. 422, 31 P. 241 (1892).

Under this section it is only requisite that the description be sufficient when aided by parol proof to ascertain what is granted. Graham Paper Co. v. Sanderson, 8 Colo. App. 427, 47 P. 904 (1896).

This section does not require the list of creditors to be verified. Falk v. Liebes, 6 Colo. App. 473, 42 P. 46 (1895).

Hence, an affidavit of which the inventory is a part, subscribed by the party, and the certificate of an officer that an oath was administered is an exact compliance with this section. Falk v. Liebes, 6 Colo. App. 473, 42 P. 46 (1895).

Formerly general description in assignment was limited and controlled by schedule attached. See Burchinell v. Mosconi, 4 Colo. App. 401, 36 P. 307 (1894).

Under the old assignment act of 1885 the assignor was bound to attach an inventory to his deed of assignment which should contain a description of the property which he sought to convey; in that case the deed itself declared that all the property which was conveyed was described in the schedule which was attached. Graham Paper Co. v. Sanderson, 8 Colo. App. 427, 47 P. 904 (1896).

Thus, the assignor was required to annex to his deed of assignment an inventory under oath of his estate; such inventory became a part and parcel of the conveyance. Burchinell v. Mosconi, 4 Colo. App. 401, 36 P. 307 (1894).

6-10-104. Assignment for all creditors.

A deed of general assignment of property by an insolvent, or in contemplation of insolvency, for the benefit of creditors, is not valid unless by its terms it is made for the benefit of all the insolvent's creditors in proportion to the amount of their respective claims.

Source: L. 1897: p. 95, § 4. **R.S. 08:** § 177. **C.L.** § 6244. **CSA:** C. 12, § 4. **CRS 53:** § 11-1-4. **C.R.S. 1963:** § 11-1-4. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 2008, § 43, effective August 12.

ANNOTATION

Annotator's note. Cases material to § 6-10-104 decided prior to its earliest source, L. 1897, p. 95, § 4, have been included in the annotations to this section.

The rule under this section is not that the preferences fail and the assignment stands, but that the assignment itself fails unless it be in terms free from preferences. May v. Tenney, 148 U.S. 60 (1893).

At common law there was no restriction upon the right of a debtor to prefer creditors. Kellogg v. Thropp, 4 Colo. App. 470, 36 P. 447 (1894).

Subject to the statutory provisions governing general assignments, this common-law right remains unimpaired in this state. Kellogg v. Thropp, 4 Colo. App. 470, 36 P. 447 (1894).

Thus, right to prefer creditors remains unimpaired if debtor retains dominion over property. There is nothing in this section from which it can be implied that it was the purpose of the general assembly to prevent a debtor, insolvent or not, from securing or paying one of his creditors in preference to another while he retains dominion over his property, except as he undertakes to do so in a deed of general assignment executed pursuant to the statute. Kellogg v. Thropp, 4 Colo. App. 470, 36 P. 447 (1894).

Lawful preferences working no prejudice to creditors are allowed. Where one secures a lawful preference by its superior diligence before a bill of sale in its favor is executed, no creditor of the debtor is prejudiced by the conveyance, inasmuch as such a conveyance makes the same disposition of the proceeds of the attached property which the law would have made if the attachment suit had been regularly prosecuted to final judgment. At common law the debtor had an undoubted right to enter into such an arrangement with his creditor, and there is no sufficient reason why the assignment act should receive a construction which will interdict such arrangements, if they are entered into in good faith and are not conceived with a view of evading the provisions of the assignment law. Hayden v. Wellington, 63 F. 6 (8th Cir. 1894).

Moreover, a secured creditor having credited upon his debt the proceeds of his security has a right to participate with other creditors and upon an equal footing with them in the assets realized from the assignment to the extent of the unpaid residue of his debt. Nat'l Bank of Commerce v. Graham, 16 Colo. App. 498, 66 P. 684 (1901).

The purpose of this section is not to discourage or restrain the making of general assignments, but to inhibit partiality therein toward favored creditors. Campbell v. Colo. Coal & Iron Co., 9 Colo. 60, 10 P. 248 (1885).

The provisions of this section that are regulatory of voluntary assignments serve to protect creditors against each other and go to assure equality of distribution unaffected by any requirement or condition in respect of discharge. In re Carlson's for Music, Inc. v. Gould, 176 Colo. 172, 489 P.2d 1038 (1971).

Thus, ratable participation must be provided for. When one voluntarily undertakes by deed of assignment to avail himself of the statute, he must make express provision for the ratable participation by his creditors in its benefits, or the deed is void. Kellogg v. Thropp, 4 Colo. App. 470, 36 P. 447 (1893).

An instrument which, in form an irrevocable power of attorney and obviously intended to operate as an assignment for the benefit of all creditors equally and without preference is, at least when possession is taken thereunder, a common-law assignment for the benefit of creditors. McMinn v. Harrison, 93 Colo. 5, 23 P.2d 944 (1933).

When a deed of assignment is not made for the benefit of all creditors, and some of them are expressly and by intention excluded from its benefits, the deed cannot be upheld. Stevens v. Mosconi, 5 Colo. App. 484, 39 P. 348 (1895).

So a conveyance, unquestionably a general assignment, in form which contemplates the payment only two creditors is not only not for the benefit of all creditors, but avowedly for the benefit of the two, and would, therefore, have to be adjudged a void instrument. May v. Tenney, 148 U.S. 60 (1893).

Such an assignment, whether so intended or not, is fraudulent under this section as not being for the benefit of all the creditors if it makes those who are named and scheduled preferred creditors. Burchinell v. Mosconi, 4 Colo. App. 401, 36 P. 307 (1894).

Fraud and illegality must be pleaded in court below. Where it is alleged that an assignment in favor of certain creditors to the exclusion of others is in violation of this section but no fraud or illegality in the assignment is pleaded nor is any such question in any manner raised in the court below, it need not be determined on appeal whether such a defense can or cannot be successfully interposed. Marsh v. Cramer, 16 Colo. 331, 27 P. 169 (1891).

Furthermore, a preference by separate transaction shows intent to violate section. The fact that a preference is not provided for in an assignment itself, but by an

arrangement or transfer outside of it and contemporaneous with it, shows the intent to evade and violate this section. Doggett, Bassett & Hills Co. v. Herman, 16 F. 812 (1883).

Where the preference is by actual delivery to the preferred creditors for the purpose of keeping it from passing to the assignee, the purpose of this section, which is equality among creditors, is defeated, and the courts are deprived of the means of enforcing its provisions. Doggett, Bassett & Hills Co. v. Herman, 16 F. 812 (1883).

Section does not invalidate bill of sale paying only part of debts if assignment act not relied upon. A bill of sale is not rendered invalid by the provisions of this section although it operates to transfer all of the debtor's property to a third party for the purpose of paying a portion only of his debts where it is apparent that the debtor did not intend to proceed under the assignment act or to take advantage of any of its provisions. Hayden v. Wellington, 63 F. 6 (8th Cir. 1894).

This section is not construed as prohibiting or interfering with the making of partial assignments; so far as the statute is concerned, such assignments are perfectly valid. Campbell v. Colo. Coal & Iron Co., 9 Colo. 60, 10 P. 248 (1885).

This section contains no provisions which can be held to preclude a citizen of this state from attaching the property of another citizen of the state, either at home or in a foreign jurisdiction, merely because the latter has become insolvent, and because such attachment may result in a preference. Schindelholz v. Cullum, 55 F. 885 (8th Cir. 1893).

Under the legislative enactment of 1881, had there been any attempt by the assignment to prefer creditors, such attempt would have been without effect to either prefer creditors, or to vitiate the deed, so as to defeat a ratable distribution of the proceeds of the entire estate among all the creditors. Campbell v. Colo. Coal & Iron Co., 9 Colo. 60, 10 P. 248 (1885); Ray v. Hiller, 11 Colo. 445, 18 P. 622 (1888).

Under the early statute, it was held that the fact that an insolvent debtor clearly attempted to evade this section by preferring certain creditors in separate transfers or instruments conveying portions of his property at or about the time he made a general assignment, if such fact was established, may be a reason for avoiding the preferences so given in a suit by or on behalf of injured creditors; but it was not a reason for declaring the assignment itself invalid. The assignment, this being the only objection thereto, might well be permitted to stand, and the property included be distributed ratably by the assignee among the creditors. Campbell v. Colo. Coal & Iron Co., 9 Colo. 60, 10 P. 248 (1885).

For early cases as to preferences, see Salsbury v. Ellison, 7 Colo. 167, 2 P. 906 (1883); Salsbury v. Ellison, 8 Colo. 157, 6 P. 217 (1884).

6-10-105. Assent of creditors presumed.

When an assignment of property for the benefit of all the creditors of the assignor is made, the assent of the creditors shall be presumed.

Source: L. 1897: p. 95, § 5. **R.S. 08:** § 178. **C.L.** § 6245. **CSA:** C. 12, § 5. **CRS 53:** § 11-1-5. **C.R.S. 1963:** § 11-1-5.

ANNOTATION

Annotator's note. Cases material to § 6-10-105 decided prior to its earliest source, L. 1897, p. 95, § 5, have been included in the annotations to this section.

This section is simply declaratory of preexisting law. Spangler v. Sanborn, 7 Colo. App. 102, 43 P. 905 (1895).

Without it there would be the same presumption of the assent of the creditors. Spangler v. Sanborn, 7 Colo. App. 102, 43 P. 905 (1895).

The presumption of assent contemplated in this section obtains only in cases where no affirmative act on the part of the creditor evidences an intention to repudiate, or not to assent to, the assignment. Thatcher v. Valentine, 22 Colo. 201, 43 P. 1031 (1896).

It is a prima facie presumption merely that may be overcome by evidence to the contrary. Thatcher v. Valentine, 22 Colo. 201, 43 P. 1031 (1896).

So it is not compulsory upon a creditor to assent to an assignment made for his benefit in common with other creditors. Beifeld v. Martin, 4 Colo. App. 578, 37 P. 32 (1894).

His right to a proportionate share of the assets depends upon such assent. Beifeld v. Martin, 4 Colo. App. 578, 37 P. 32 (1894).

Creditor's refusal to assent may be inferred if he has knowledge of assignment. The right of any creditor to participate in the benefits of the assignment depends upon his assent to such assignment, and his refusal to assent thereto may be inferred from his acts, but such inference can be drawn only from acts of the creditor done with the knowledge that an assignment had been made, or at least that it was in contemplation. Nat'l Bank of Commerce v. Graham, 16 Colo. App. 498, 66 P. 684 (1901).

Where one has no actual knowledge or notice of the execution of a deed of assignment, even though the deed is filed for record, it follows that one has no constructive notice of the execution of such deed. Nat'l Bank of Commerce v. Graham, 16 Colo. App. 498, 66 P. 684 (1901).

Moreover, this section does not prevent creditors from bringing action against the debtor or require those seeking to participate in the distribution of the estate to stipulate

for his discharge. In re Carlson's for Music, Inc. v. Gould, 176 Colo. 172, 489 P.2d 1038 (1971).

6-10-106. Inventory filed where - bond.

An assignee shall file with the clerk of the district court of the county in which the deed of assignment is recorded a true and complete inventory and valuation of the property of the assignor, under oath, so far as the property has come to the assignee's knowledge, within six days after the date of the filing of the deed of assignment. The assignee shall also make and file a bond to the state for the use of the creditors in double the amount of the inventory and valuation, with sureties to be approved by the clerk for the faithful performance of the trust and for a full and complete accounting of all property that may come into the assignee's possession. The assignee shall not sell or dispose of, or convert to the purposes of the trust, any part of the estate until the assignee has complied with this section.

Source: L. 1897: p. 95, § 6. **R.S. 08:** § 179. **C.L.** § 6246. **CSA:** C. 12, § 6. **CRS 53:** § 11-1-6. **C.R.S. 1963:** § 11-1-6. **L. 64:** p. 206, § 8. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 2008, § 44, effective August 12.

ANNOTATION

The assignee after filing his bond, etc., as required by this section thereupon becomes an officer of the court. Flint v. Powell, 10 Colo. App. 66, 50 P. 45 (1897).

When the assignee does not file the inventory he is not an assignee and the deed to him is void. Kinney v. Yoelin Bros. Mercantile Co., 76 Colo. 136, 230 P. 127 (1924).

The assignee then becomes a mere agent with authority to sell, and his possession and acts are the possession and acts of his principal. Kinney v. Yoelin Bros. Mercantile Co., 76 Colo. 136, 230 P. 127 (1924).

Nonetheless, assignment is act of bankruptcy though assignee does not qualify. The fact that an assignee never qualified under the assignment or gave a bond as required by this section does not prevent the general assignment from being an act of bankruptcy. Moore v. Yampa Mercantile Co., 287 F. 629 (8th Cir. 1923).

6-10-107. Assignee an officer of court.

An assignee named and qualified under this article 10 is deemed to be an officer of court. Any interference with the assignee in the discharge of the assignee's duties is contempt of court, and a

suit against the assignee in relation to or concerning the property assigned shall not be instituted against the assignee unless the plaintiff first obtains permission of the court within and for the county in which the assignment is made.

Source: L. 1897: p. 95, § 7. **R.S. 08:** § 180. **C.L.** § 6247. **CSA:** C. 12, § 7. **CRS 53:** § 11-1-7. **C.R.S. 1963:** § 11-1-7. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 2008, § 45, effective August 12.

ANNOTATION

An assignee is an officer of the court and responsible for an accounting to the court, the debtors, and the debtor's creditors. People v. Radinsky, 176 Colo. 357, 490 P.2d 951 (1971).

Subject to court supervision. The assignee is, in respect of the property in his hands, at all times subject to the order and supervision of the court or its judge. Taub v. McClelland-Colt Comm'n Co., 10 Colo. App. 190, 51 P. 168 (1897).

When and how an assignee may be proceeded against in relation to the property or its proceeds is in the discretion of the court, and there can be no interference with that discretion unless in case of its abuse. Taub v. McClelland-Colt Comm'n Co., 10 Colo. App. 190, 51 P. 168 (1897).

And where a creditor seizes property which a debtor has assigned to the court, the proper remedy is a citation for contempt under this section. In re Carlson's for Music, Inc. v. Gould, 176 Colo. 172, 489 P.2d 1038 (1971).

6-10-108. Notice of assignment of realty.

Where real property or any interest therein is by deed conveyed to the assignee, the assignee shall forthwith file with the clerk and recorder of each county where the real estate is situated a notice of the assignment, containing the names of the assignor and assignee, the date of the deed of assignment, when and where recorded, and a description of the property in that county affected thereby, and the same shall be constructive notice to a purchaser or encumbrancer of the transfer of the property in said county, described in such notice.

Source: L. 1897: p. 96, § 8. **R.S. 08:** § 181. **C.L.** § 6248. **CSA:** C. 12, § 8. **CRS 53:** § 11-1-8. **C.R.S. 1963:** § 11-1-8.

ANNOTATION

Annotator's note. Cases material to § 6-10-108 decided prior to its earliest source, L. 1897, p. 96, § 8, have been included in the annotations to this section.

The method prescribed by this section must be pursued. Spangler v. Sanborn, 7 Colo. App. 102, 43 P. 905 (1895).

In the absence of the statutory notice, bona fide purchasers and encumbrancers will be protected. Spangler v. Sanborn, 7 Colo. App. 102, 43 P. 905 (1895).

Otherwise, title would vest upon delivery. The deed of the assignor, like the deed of any grantor, conveys the legal title to the property and would, but for this section, vest such title in the assignee upon its delivery. Thatcher v. Valentine, 22 Colo. 201, 43 P. 1031 (1896).

This section in making its record essential to vest title, as well as to constitute constructive notice, gives it the same, and no more, force than any other deed would have when recorded in the county wherein the real estate is situated. Thatcher v. Valentine, 22 Colo. 201, 43 P. 1031 (1896).

Hence, property situated in other counties, notwithstanding the title is vested in the assignee, is subject to sale and encumbrance until the notice prescribed is filed with the clerk and recorder of such counties. Thatcher v. Valentine, 22 Colo. 201, 43 P. 1031 (1896).

It conclusively follows, therefore, that the mere vesting of title in the assignee as to such property does not, ipso facto, place it in custodia legis. Thatcher v. Valentine, 22 Colo. 201, 43 P. 1031 (1896).

The word "encumbrancer" is employed in this section in its broad and general sense and embraces every class of encumbrancers and every class of encumbrances. Thatcher v. Valentine, 22 Colo. 201, 43 P. 1031 (1896).

Whether by contract or by statute. The encumbrance may be created by contract or it may be acquired in pursuance of some statute. Thatcher v. Valentine, 22 Colo. 201, 43 P. 1031 (1896).

Thus, a lien or charge upon land, which binds it for the payment of a debt, is an encumbrance, and the holder of the lien is an encumbrancer. Thatcher v. Valentine, 22 Colo. 201, 43 P. 1031 (1896).

Equal to mortgage. The lien of an attaching creditor is an encumbrance equally with a mortgage. Thatcher v. Valentine, 22 Colo. 201, 43 P. 1031 (1896).

6-10-109. Priority of claims - notice.

An assignee shall promptly give notice of an assignment by publication for four weeks in a newspaper in the county, if any, and, if there is none, then in the nearest county. The assignee shall also promptly send a notice by mail to each creditor of whom the assignee is aware, directed to the creditor's usual place of residence, stating the estimate of the aggregate value of

all the property of the assignor, stating the estimate of the amount of the assignor's liabilities, and notifying the creditor to present the creditor's claim, under oath, to the assignee within three months after the mailing of the notice. It is the duty of each creditor to present the creditor's claim in the manner and within the time mentioned in the notice. Claims filed within the first three months have priority over those filed thereafter, unless a creditor can show, to the satisfaction of the court, that the creditor never received the notice. Proof of notice by mail shall be made by affidavit by the assignee giving a list of creditors and the name of the post office where notice was sent within ten days after the mailing of the same. Proof of the notice by publication shall be made by affidavit of the printer or publisher within ten days after the last publication or fees shall not be allowed the assignee for such notice by mail or publication.

Source: L. 1897: p. 96, § 9. **R.S. 08:** § 182. **C.L.** § 6249. **CSA:** C. 12, § 9. **CRS 53:** § 11-1-9. **C.R.S. 1963:** § 11-1-9. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 2008, § 46, effective August 12.

Cross references: For clarification of publication terms, see § 24-70-106.

ANNOTATION

An assignee is an officer of the court and responsible for an accounting to the court, the debtors, and the debtor's creditors. People v. Radinsky, 176 Colo. 357, 490 P.2d 951 (1971).

However, creditor presumed to see notice. The published notice of the assignment may never fall under a particular creditor's observation, and he may therefore be without actual information of the fact; but the presumption is otherwise, and upon this presumption or constructive notice, the presumption of assent under § 6-10-105 is based. Spangler v. Sanborn, 7 Colo. App. 102, 43 P. 905 (1896).

Where it is obviously impossible that the required notice should have been given between the time of filing the deed for record and at the time of the levy of an attachment, with an attaching creditor having no knowledge or notice of the assignment, there is then, on his part, no assent in fact, and nothing from which the law would presume his assent. His levy is therefore not attended by the impediment of a presumptive assent, and is not invalidated by anything contained in § 6-10-105. Spangler v. Sanborn, 7 Colo. App. 102, 43 P. 905 (1896).

6-10-110. Report of assignee.

At the expiration of three months after the time of the first publication and the mailing of notice, an assignee shall report and file with the clerk of the court a true and complete list, under oath, of all the creditors of the assignor that have filed their claims, the place of their residence, the amount claimed, and the amount and value, if any, of any security held by any such creditor. The assignee shall also file a statement of all the assignee's proceedings with reference to the trust, showing what money has come into the assignee's possession and all the disbursements of such money.

Source: L. 1897: p. 97, § 10. **R.S. 08:** § 183. **C.L.** § 6250. **CSA:** C. 12, § 10. **CRS 53:** § 11-1-10. **C.R.S. 1963:** § 11-1-10. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 2009, § 47, effective August 12.

ANNOTATION

An assignee is an officer of the court and responsible for an accounting to the court, the debtors, and the debtor's creditors. People v. Radinsky, 176 Colo. 357, 490 P.2d 951 (1971).

An assignee perpetrates a fraud by filing false documents upon the court. People v. Radinsky, 176 Colo. 357, 490 P.2d 951 (1971).

6-10-111. Exceptions to claims - hearing.

Any interested person may appear before a dividend is made and file with the clerk an exception to a claim or a demand of a creditor. The clerk shall immediately cause notice of the exception or demand to be given to the creditor, which notice shall be served and returned as in the case of a summons. Within the time allowed to answer in an action at law, the creditor shall file the creditor's reply. The court shall designate the time for the hearing and shall at such time hear the allegations and proof offered and render a just judgment.

Source: L. 1897: p. 97, § 11. **R.S. 08:** § 184. **C.L.** § 6251. **CSA:** C. 12, § 11. **CRS 53:** § 11-1-11. **C.R.S. 1963:** § 11-1-11. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 2009, § 48, effective August 12.

6-10-112. Judgment - fee of assignee.

If an exception is not made to a claim filed, or if a claim has been favorably adjudicated, the court shall enter judgment in favor of the creditor and against the assignor for the amount claimed and found due and order the assignee to make from time to time fair and equal dividends among the creditors of the assets in the assignee's possession, in proportion to their respective claims, and, as soon as may be, to render a full account of the trust to the court. The court may allow such compensation or commissions, following as nearly as possible the compensation allowed executors for like services, as may be just and right.

Source: L. 1897: p. 97, § 12. **R.S. 08:** § 185. **C.L.** § 6252. **CSA:** C. 12, § 12. **CRS 53:** § 11-1-12. **C.R.S. 1963:** § 11-1-12. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 2009, § 49, effective August 12.

ANNOTATION

An assignee violates his duties to the debtor and to the creditors of the debtor by charging the debtor service fees far in excess of those authorized by statute. People v. Radinsky, 176 Colo. 357, 490 P.2d 951 (1971).

6-10-113. Application of unclaimed dividends.

The dividends of any unsettled assignment which remain unclaimed for such time as specified in this article after the final dividend has been decided, upon the application of one or more creditors of such assignor, shall be paid by the assignee under direction of the court to the known creditors of the assignor after giving notice to the creditors that a final distribution of all unclaimed dividends is to be made.

Source: L. 05: p. 155, § 1. **R.S. 08:** § 186. **C.L.** § 6253. **CSA:** C. 12, § 13. **CRS 53:** § 11-1-13. **C.R.S. 1963:** § 11-1-13.

6-10-114. Notice of distribution.

Such notice shall be by advertisement in two or more local newspapers of general circulation and by written or printed notices mailed to the latest address of each creditor. The notice shall state that upon a certain day, not less than three months from the date of the notice, a final distribution of all the unclaimed dividends will be made to all creditors as can be found who

have filed their respective claims with the assignee within the time specified by the notice for the filing of such claims. When the time for filing these claims has expired, the court, after deducting expenses of distribution, shall order the amount of the unclaimed dividends to be distributed pro rata among those creditors who have filed their claims for a share in the distribution of any unclaimed dividends in accordance with the provisions of this article.

Source: L. 05: p. 155, § 1. **R.S. 08:** § 187. **C.L.** § 6254. **CSA:** C. 12, § 12B. **CRS 53:** § 11-1-14. **C.R.S. 1963:** § 11-1-14.

6-10-115. Distribution of unclaimed dividends.

Dividends remaining unclaimed for one year or longer after the final dividend has been declared by any assignee shall be distributed, under direction of the court, to the creditors whose claims have not been paid in full as provided in this article. If more than enough funds are on hand to pay these creditors in full, the balance shall be paid to the assignor.

Source: L. 05: p. 156, § 1. **R.S. 08:** § 188. **C.L.** § 6255. **CSA:** C. 12, § 12C. **CRS 53:** § 11-1-15. **C.R.S. 1963:** § 11-1-15.

6-10-116. Assignee under supervision of court.

An assignee is subject to the order and supervision of the court at all times and, by citation or attachment, may be compelled, from time to time, to file reports of the assignee's proceedings and the situation and condition of the trust and to proceed in the faithful execution of the duties required by this article 10 to keep correct books of account open to inspection by the court, by any person interested in the estate, or by such person's attorney. A conveyance of real estate or a sale of personal property by the assignee that is not in the usual course of business, as conducted by the assignor, must be approved by the court before the conveyance or sale is valid.

Source: L. 1897: p. 98, § 13. **R.S. 08:** § 189. **C.L.** § 6256. **CSA:** C. 12, § 16. **CRS 53:** § 11-1-16. **C.R.S. 1963:** § 11-1-16. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 2010, § 50, effective August 12.

ANNOTATION

An assignee is an officer of the court and responsible for an accounting to the court, the debtors, and the debtor's creditors. People v. Radinsky, 176 Colo. 357, 490 P.2d 951 (1971).

6-10-117. Assignee appointed by court - when.

If an assignee named in the deed fails or neglects to file an inventory and valuation and give bond for the period of ten days after the making of an assignment, or if the assignee dies before the closing of the assignee's trust or is removed from the execution of the trust, the court upon the application of any person interested may appoint an assignee to execute the trust. When an appointed assignee has qualified as provided in this article 10, the appointed assignee has all the rights, powers, and authority and is subject to the same restrictions and obligations as an original assignee.

Source: L. 1897: p. 98, § 14. **R.S. 08:** § 190. **C.L.** § 6257. **CSA:** C. 12, § 17. **CRS 53:** § 11-1-17. **C.R.S. 1963:** § 11-1-17. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 2010, § 51, effective August 12.

ANNOTATION

An assignment does not by the refusal of the assignee to qualify fail to take effect or to vest the title to the property in trust in the assignee, placing that property and title within the jurisdiction of the state court to be administered by its subsequent appointee. Moore v. Yampa Mercantile Co., 287 F. 629 (8th Cir. 1923).

6-10-118. Removal of assignee by court.

The court may remove the assignee for neglect in the execution of the trust, for fraud, for misapplying the trust, or wasting the estate, for failure to comply with the provisions of this article, or to obey the orders of, or to submit to the supervision of the court, or for any other good cause shown. The assignee may also be removed upon the petition of the majority in number and value of the creditors, unless the court is satisfied that such removal would not be for the best interest of the trust estate.

Source: L. 1897: p. 98, § 15. **R.S. 08:** § 191. **C.L.** § 6258. **CSA:** C. 12, § 18. **CRS 53:** § 11-1-18. **C.R.S. 1963:** § 11-1-18.

6-10-119. Powers of assignee.

An assignee has all the rights, power, and authority of the assignor necessary to fully execute the trust, to demand and sue for any property belonging to the estate, and to execute valid receipts. The assignee, by deed duly acknowledged by the assignee, in the assignee's own name, may convey any of the estate, real and personal, subject to approval as stated in section 6-10-116. Where the assignee has been appointed by the court in place of an assignee removed, it is the assignee's duty to compel by suit, or the peremptory order of the court, the delivery of the trust estate and the property, or the value thereof, that has been wasted or misapplied by the previous assignee.

Source: L. 1897: p. 98, § 16. **R.S. 08:** § 192. **C.L.** § 6259. **CSA:** C. 12, § 19. **CRS 53:** § 11-1-19. **C.R.S. 1963:** § 11-1-19. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 2010, § 52, effective August 12.

ANNOTATION

Annotator's note. Cases material to § 6-10-119 decided prior to its earliest source, L. 1897, p. 98, § 16, have been included in the annotations to this section.

The assignee stands in the shoes of his assignor, and whatever claim in respect to the property one might have against the latter, can also be asserted against the former. Taub v. McClelland-Colt Comm'n Co., 10 Colo. App. 190, 51 P. 168 (1897).

The authority of the assignee is derived from the statute and not from the instrument of assignment. Falk v. Liebes, 6 Colo. App. 473, 42 P. 46 (1895).

Therefore, the powers which an assignor may assume to grant by his deed are without effect; if they are in accord with those conferred by the statute, they are superfluous, if not, they are void. Falk v. Liebes, 6 Colo. App. 473, 42 P. 46 (1895).

Whenever an estate passes to an assignee for distribution among creditors, the assignee is not obligated to accept assets which will prove onerous to the estate and a burden rather than an asset. Hill v. Graham, 11 Colo. App. 536, 53 P. 1060 (1898).

Creditors may compel assignee to pursue course, as to property, for best interest of all. If the assignee should attempt to accept assets which would prove a burden rather than an advantage, the creditors would not be without remedy and they might apply to the court having original jurisdiction in the matter to compel him to take the course which was for the best interests of the creditors generally. Hill v. Graham, 11 Colo. App. 536, 53 P. 1060 (1898).

The assignee is the only person after the assignment who can attack the

validity of a chattel mortgage. Clark v. Bright, 30 Colo. 199, 69 P. 506 (1902).

At common law an assignee took only that interest which the debtor had at the time of the assignment. From this it follows that property previously conveyed, though in fraud of creditors, did not pass, and the creditors, not the assignee, were the ones to sue to set it aside. Wells v. Schuster-Hax Nat'l Bank, 23 Colo. 534, 48 P. 809 (1897).

6-10-120. Insufficient sureties.

If it is shown to the court at any time that the sureties on the assignee's bond are not sufficient, the court may order sufficient sureties to be given, and may compel obedience thereto by removal or otherwise.

Source: L. 1897: p. 99, § 17. **R.S. 08:** § 193. **C.L.** § 6260. **CSA:** C. 12, § 20. **CRS 53:** § 11-1-20. **C.R.S. 1963:** § 11-1-20.

6-10-121. Additional security - when.

An assignee, from time to time, shall file with the clerk of the court an inventory and valuation of any additional property that comes into the assignee's possession after the first inventory, and the judge, or, in the judge's absence, the clerk, may thereupon require the assignee to give additional security.

Source: L. 1897: p. 99, § 18. **R.S. 08:** § 194. **C.L.** § 6261. **CSA:** C. 12, § 21. **CRS 53:** § 11-1-21. **C.R.S. 1963:** § 11-1-21. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 2010, § 53, effective August 12.

6-10-122. Appearance compelled - when.

The court, upon the application of an assignee, or of any creditor, may compel the appearance in person of the debtor, or any other witness, before the court, or a commissioner appointed by the court, at any time designated, to answer under oath such matters as may be inquired of the debtor or other witness. The debtor or other witness may then be fully examined under oath as to the amount and situation of the debtor's or other witness's property, the payments and conveyances made by the debtor or other witness, and the names and places of residence of creditors and the amounts due to each. The court, upon like application, may compel the debtor to deliver to the assignee any property or estate embraced in the assignment.

Source: L. 1897: p. 99, § 19. **R.S. 08:** § 195. **C.L.** § 6262. **CSA:** C. 12, § 22. **CRS 53:** § 11-1-22. **C.R.S. 1963:** § 11-1-22. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 2011, § 54, effective August 12.

6-10-123. Misappropriation by debtor.

An assignment is not invalid because of misappropriation of the property of the debtor by the debtor prior to the assignment, but the assignee may recover the property if it was misappropriated in fraud of this article 10. Nothing in this article 10 invalidates any conveyance or mortgage of property, real or personal, by the debtor before the assignment, made in good faith, for a valid and valuable consideration.

Source: L. 1897: p. 100, § 20. **R.S. 08:** § 196. **C.L.** § 6263. **CSA:** C. 12, § 23. **CRS 53:** § 11-1-23. **C.R.S. 1963:** § 11-1-23. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 2011, § 55, effective August 12.

ANNOTATION

Annotator's note. Cases material to § 6-10-123 decided prior to its earliest source, L. 1897, p. 100, § 20, have been included in the annotations to this section.

Where property has been misappropriated the right of action, if any, inures to the assignee who might bring such suit to recover it as circumstances warranted. Bailey v. Am. Nat'l Bank, 12 Colo. App. 66, 54 P. 912 (1898).

To vitiate an assignment under this section there must be fraudulent intention followed by irregular and fraudulent disposition of the property or a failure to convey all. In other words, there must be either a reservation of property or such a disposition of it that the proceeds will inure in some way to the benefit of the assignor. Hunter v. Ferguson, 3 Colo. App. 287, 33 P. 82 (1893).

However, a general assignment by a debtor of all his property for the benefit of all his creditors is not a fraudulent disposition of property furnishing ground for an attachment when it is made honestly and bona fide. Hunter v. Ferguson, 3 Colo. App. 287, 33 P. 82 (1893).

Any debtor, whether insolvent or otherwise, so long as he remains in possession of his property with full power of disposition, may mortgage and incumber his property for the benefit of his creditors even though the result may be that some creditors thereby obtain a preference as against the general creditors of the insolvent.

Bailey v. Am. Nat'l Bank, 12 Colo. App. 66, 54 P. 912 (1898).

Moreover, this section plainly recognizes the right of a debtor to prefer by payment or security, and clearly affirms the right of a debtor to do with his property as he pleases except as in terms restrained by statute. May v. Tenney, 148 U.S. 60 (1893).

6-10-124. Debts not due - interest.

Debts not due may be claimed, but if the same are not bearing interest, a suitable rebate shall be made. Interest shall be computed to the date of the assignment and not afterwards.

Source: L. 1897: p. 100, § 21. **R.S. 08:** § 197. **C.L.** § 6264. **CSA:** C. 12, § 24. **CRS 53:** § 11-1-24. **C.R.S. 1963:** § 11-1-24.

ANNOTATION

Law reviews. For article, "An Update of Appendices from Collecting Pre- and Post-Judgment Interest in Colorado", see 15 Colo. Law. 990 (1986).

6-10-125. Creditors may appoint an attorney.

The majority in number and value of the creditors may appoint, in writing, an attorney to represent the estate before the court. The attorney, if appointed, shall examine all reports and inventories and books of the assignee and inquire fully as to the conduct of the assignee in the discharge of the assignee's trust. The attorney may appear for the assignee in all suits in behalf of the assignee in securing, preserving, or defending the estate, but the attorney shall appear in behalf of the creditors in all suits, examinations, or inquiries as to the accounts or the conduct of the assignee concerning the estate. The court may allow such compensation to the attorney as may be just and reasonable.

Source: L. 1897: p. 100, § 22. **R.S. 08:** § 198. **C.L.** § 6265. **CSA:** C. 12, § 25. **CRS 53:** § 11-1-25. **C.R.S. 1963:** § 11-1-25. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 2011, § 56, effective August 12.

6-10-126. Waiver of proceedings by parties.

At any time after an assignment has been made, the assignor, the creditors, and the assignee of such assignor may agree in writing that all proceedings to be had before the court under the provisions of this article, may be waived. Upon the filing of such agreement with the clerk of the proper court, the court shall cease to have any further jurisdiction over such assignment and the proceedings thereunder, and the assignee shall no longer be held accountable to the court. The creditors and the assignee, with the consent of the assignor, in writing, may make such disposition of the assigned estate and arrangements in reference thereto as to them shall seem proper in the premises.

Source: L. 1897: p. 100, § 23. **R.S. 08:** § 199. **C.L.** § 6266. **CSA:** C. 12, § 12. **CRS 53:** § 11-1-26. **C.R.S. 1963:** § 11-1-26.

6-10-127. Final report - notice - discharge. (Repealed)

Source: L. 1897: p. 101, § 24. **R.S. 08:** § 200. **C.L.** § 6267. **CSA:** C. 12, § 27. **CRS 53:** § 11-1-27. **C.R.S. 1963:** § 11-1-27. **L. 78:** Entire section repealed, p. 253, § 5, effective May 23.

6-10-128. Trust closed in one year.

An assignee shall close the assignee's trust within one year after the filing of the deed of assignment unless the court, for good cause shown, extends the time.

Source: L. 1897: p. 101, § 25. **R.S. 08:** § 201. **C.L.** § 6268. **CSA:** C. 12, § 28. **CRS 53:** § 11-1-28. **C.R.S. 1963:** § 11-1-28. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 2011, § 57, effective August 12.

6-10-129. Property exempt from assignment.

No deed of assignment shall be invalid which excepts from the operation thereof the property which by law is not subject to levy and sale under execution.

Source: L. 1897: p. 101, § 26. **R.S. 08:** § 202. **C.L.** § 6269. **CSA:** C. 12, § 29. **CRS 53:** § 11-1-29. **C.R.S. 1963:** § 11-1-29.

ANNOTATION

The exception in a deed of property exempt by law from execution is permitted under this section. Falk v. Liebes, 6 Colo. App. 473, 42 P. 46 (1895) (decided prior to earliest source of this section, L. 1897, p. 101, § 26).

6-10-130. Preferred claims.

The valid claims of servants, laborers, and employees of the assignor, for wages earned during the six months immediately preceding the date of the assignment, not to exceed fifty dollars, to any one person then unpaid, which claims are still held by the person who earned them, and all taxes assessed under the laws of this state, or of the United States, are preferred claims and shall be paid in full prior to the payment of the dividends in favor of other creditors.

Source: L. 1897: p. 101, § 27. **R.S. 08:** § 203. **C.L.** § 6270. **CSA:** C. 12, § 30. **CRS 53:** § 11-1-30. **C.R.S. 1963:** § 11-1-30.

ANNOTATION

A provision in a deed of assignment for the payment of preferred debts is unnecessary. Falk v. Liebes, 6 Colo. App. 473, 42 P. 46 (1895) (decided prior to earliest source of this section, L. 1897, p. 101, § 27).

6-10-131. Action on bond of assignee.

A creditor may maintain an action on the bond of an assignee for any damages the creditor may have sustained by reason of the assignee's acts or the assignee's failure to act.

Source: L. 1897: p. 101, § 28. **R.S. 08:** § 204. **C.L.** § 6271. **CSA:** C. 12, § 31. **CRS 53:** § 11-1-31. **C.R.S. 1963:** § 11-1-31. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 2012, § 58, effective August 12.

6-10-132. Foreclosure of mortgage on property.

No mortgage, deed of trust, or other security, real or personal, securing the payment of claims against the assigned estate shall be foreclosed within one year from the making of the assignment

except upon order of court. No such mortgage, deed of trust, or other security shall be foreclosed except by suit, unless the claim secured is first proved and allowed by such court. When such claim is so proved and allowed, the court may order a foreclosure of the mortgage, deed of trust, or other security within one year from the making of the assignment. The lien of the mortgage, trust deed, or other security affected by this article shall not be impaired by the suspension of the remedy provided in this section.

Source: L. 1897: p. 101, § 29. **R.S. 08:** § 205. **C.L.** § 6272. **CSA:** C. 12, § 32. **CRS 53:** § 11-1-32. **C.R.S. 1963:** § 11-1-32.

6-10-133. Effect of general assignment. (Repealed)

Source: L. 1897: p. 102, § 30. **R.S. 08:** § 206. **C.L.** § 6273. **CSA:** C. 12, § 33. **CRS 53:** § 11-1-33. **C.R.S. 1963:** § 11-1-33. **L. 77:** Entire section repealed, p. 292, § 1, effective May 26.

6-10-134. Application of assignor for discharge. (Repealed)

Source: L. 1897: p. 102, § 31. **R.S. 08:** § 207. **C.L.** § 6274. **CSA:** C. 12, § 34. **CRS 53:** § 11-1-34. **C.R.S. 1963:** § 11-1-34. **L. 77:** Entire section repealed, p. 292, § 1, effective May 26.

6-10-135. Form of affidavit annexed to application. (Repealed)

Source: L. 1897: p. 103, § 32. **R.S. 08:** § 208. **C.L.** § 6275. **CSA:** C. 12, § 35. **CRS 53:** § 11-1-35. **C.R.S. 1963:** § 11-1-35. **L. 77:** Entire section repealed, p. 292, § 1, effective May 26.

6-10-136. Order to show cause - when. (Repealed)

Source: L. 1897: p. 104, § 33. **R.S. 08:** § 209. **C.L.** § 6276. **CSA:** C. 12, § 36. **CRS 53:** § 11-1-36. **C.R.S. 1963:** § 11-1-36. **L. 77:** Entire section repealed, p. 292, § 1, effective May 26.

6-10-137. Hearing - proof of notice - issues. (Repealed)

Source: L. 1897: p. 105, § 34. **R.S. 08:** § 210. **C.L.** § 6277. **CSA:** C. 12, § 37. **CRS 53:** § 11-1-37. **C.R.S. 1963:** § 11-1-37. **L. 77:** Entire section repealed, p. 292, § 1, effective May 26.

6-10-138. Jury trial - when. (Repealed)

Source: L. 1897: p. 105, § 35. **R.S. 08:** § 211. **C.L.** § 6278. **CSA:** C. 12, § 38. **CRS 53:** § 11-1-38. **C.R.S. 1963:** § 11-1-38. **L. 77:** Entire section repealed, p. 292, § 1, effective May 26.

6-10-139. Jury drawn as in civil cases. (Repealed)

Source: L. 1897: p. 106, § 36. **R.S. 08:** § 212. **C.L.** § 6279. **CSA:** C. 12, § 39. **CRS 53:** § 11-1-39. **C.R.S. 1963:** § 11-1-39. **L. 77:** Entire section repealed, p. 292, § 1, effective May 26.

6-10-140. Verdict recorded - costs. (Repealed)

Source: L. 1897: p. 106, § 37. **R.S. 08:** § 213. **C.L.** § 6280. **CSA:** C. 12, § 40. **CRS 53:** § 11-1-40. **C.R.S. 1963:** § 11-1-40. **L. 77:** Entire section repealed, p. 292, § 1, effective May 26.

6-10-141. Court decides if jury disagrees. (Repealed)

Source: L. 1897: p. 106, § 38. **R.S. 08:** § 214. **C.L.** § 6281. **CSA:** C. 12, § 41. **CRS 53:** § 11-1-41. **C.R.S. 1963:** § 11-1-41. **L. 77:** Entire section repealed, p. 292, § 1, effective May 26.

6-10-142. Evidence at hearing. (Repealed)

Source: L. 1897: p. 106, § 39. **R.S. 08:** § 215. **C.L.** § 6282. **CSA:** C. 12, § 42. **CRS 53:** § 11-1-42. **C.R.S. 1963:** § 11-1-42. **L. 77:** Entire section repealed, p. 292, § 1, effective May 26.

6-10-143. Jurisdiction of creditors - when. (Repealed)

Source: L. 1897: p. 106, § 40. **R.S. 08:** § 216. **C.L.** § 6283. **CSA:** C. 12, § 43. **CRS 53:** § 11-1-43. **C.R.S. 1963:** § 11-1-43. **L. 77:** Entire section repealed, p. 292, § 1, effective May 26.

6-10-144. Discharge of assignor - when. (Repealed)

Source: L. 1897: p. 107, § 41. **R.S. 08:** § 217. **C.L.** § 6284. **CSA:** C. 12, § 44. **CRS 53:** § 11-1-44. **C.R.S. 1963:** § 11-1-44. **L. 77:** Entire section repealed, p. 292, § 1, effective May 26.

6-10-145. Discharge - qualifications - exceptions. (Repealed)

Source: L. 1897: p. 107, § 41. **R.S. 08:** § 217. **C.L.** § 6284. **CSA:** C. 12, § 44. **CRS 53:** § 11-1-45. **C.R.S. 1963:** § 11-1-45. **L. 77:** Entire section repealed, p. 292, § 1, effective May 26.

6-10-146. Judgment upon discharge - release. (Repealed)

Source: L. 1897: p. 108, § 42. **R.S. 08:** § 218. **C.L.** § 6285. **CSA:** C. 12, § 45. **CRS 53:** § 11-1-46. **C.R.S. 1963:** § 11-1-46. **L. 67:** p. 992, §§ 2, 4. **L. 77:** Entire section repealed, p. 292, § 1, effective May 26.

6-10-147. Discharge bars subsequent action. (Repealed)

Source: L. 1897: p. 109, § 43. **R.S. 08:** § 219. **C.L.** § 6286. **CSA:** C. 12, § 46. **CRS 53:** § 11-1-47. **C.R.S. 1963:** § 11-1-47. **L. 77:** Entire section repealed, p. 292, § 1, effective May 26.

6-10-148. Appeal - bond. (Repealed)

Source: L. 1897: p. 109, § 44. **R.S. 08:** § 220. **C.L.** § 6287. **CSA:** C. 12, § 47. **CRS 53:** § 11-1-48. **C.R.S. 1963:** § 11-1-48. **L. 77:** Entire section repealed, p. 292, § 1, effective May 26.

6-10-149. Joint debtor not released. (Repealed)

Source: L. 1897: p. 110, § 45. **R.S. 08:** § 221. **C.L.** § 6288. **CSA:** C. 12, § 48. **CRS 53:** § 11-1-49. **C.R.S. 1963:** § 11-1-49. **L. 77:** Entire section repealed, p. 292, § 1, effective May 26.

6-10-150. Property not affected. (Repealed)

Source: L. 1897: p. 110, § 46. **R.S. 08:** § 222. **C.L.** § 6289. **CSA:** C. 12, § 49. **CRS 53:** § 11-1-50. **C.R.S. 1963:** § 11-1-50. **L. 77:** Entire section repealed, p. 292, § 1, effective May 26.

6-10-151. Jurisdiction of district court.

The district court in the proper county has jurisdiction in the matter of assignments and petitions for discharge under this article.

Source: L. 1897: p. 110, § 47. **R.S. 08:** § 223. **C.L.** § 6290. **CSA:** C. 12, § 50. **CRS 53:** § 11-1-51. **C.R.S. 1963:** § 11-1-51. **L. 64:** p. 206, § 9.

6-10-152. Colorado rules of civil procedure apply.

The provisions of the Colorado rules of civil procedure shall be applicable, except as otherwise provided in this article, and shall control in all proceedings under this article.

Source: L. 1897: p. 110, § 49. **R.S. 08:** § 225. **C.L.** § 6292. **CSA:** C. 12, § 52. **CRS 53:** § 11-1-53. **C.R.S. 1963:** § 11-1-53.

6-10-153. Property under jurisdiction of court.

In all assignments for the benefit of creditors made in this state, the district court in and for the county in which such deed of assignment is recorded as now provided by law has full power and complete jurisdiction over all the property, real, personal, and mixed, conveyed by such assignment from the date of the making of the same. The court may make any order in reference to any part or all of the property embraced in the estate and the disposition thereof by the assignee which to the court seems just and equitable, and all such orders shall be legal and binding upon the assignor, the assignee, and creditors of the estate whether or not any notice is given of the application therefor or the order so made; except that the court may in its discretion require notice of such an application so made to be given in reference to any matter that may come before it for hearing, and in such case it shall direct, by an order, the form and manner of giving such notice so required by it.

Source: L. 1897: p. 111, § 1. **R.S. 08:** § 226. **C.L.** § 6293. **CSA:** C. 12, § 53. **CRS 53:** § 11-1-54. **C.R.S. 1963:** § 11-1-54. **L. 64:** p. 207, § 10.

ANNOTATION

Matters are within control of court. Claims are filed and are allowed or exceptions are taken, and the validity or invalidity of claims as between the assignees and claimants, or as between creditors, the payment of dividends, and all other matters relating to the winding up of such estates are entirely under the control and direction of the court like any other litigation. Hill v. Graham, 11 Colo. App. 536, 53 P. 1060 (1898).

Court cannot except valuable parts of debtor's property. Where a grantor deliberately conveys his property without exception or reservation for the benefit of his creditors, it is not the province of the court to except therefrom valuable parts of his property. Moore v. Yampa Mercantile Co., 287 F. 629 (8th Cir. 1923).

One who interferes with property without permission of the court in whose custody it is is guilty of contempt. In re Carlson's for Music, Inc. v. Gould, 176 Colo. 172, 489 P.2d 1038 (1971).

6-10-154. Disposition of property when no market.

(1) When any difficulty is encountered by an assignee in converting the assigned property of an assignment, or any part thereof, into cash on account of there being no sufficient market for the property, or for any other good reason, the court may direct by such order as described in section 6-10-153 the distribution of the property in kind among the creditors electing to take

property. Creditors not electing to take property shall be paid an equal pro rata in cash, fixing by appraisement or sworn evidence in courts such price or value upon each piece, parcel, or item of property as shall make it bear and pay its proportion of the entire indebtedness of the estate, and as is just and equitable between the assignor and the creditors and all persons interested in the assigned estate.

(2) When the court authorizes the assignee to exchange the property in payment of the proved indebtedness of the estate at the prices fixed as described in subsection (1) of this section, and when, in the opinion of the court, the best interests of the estate are promoted thereby, the court may order the assignee to first offer the property at public auction. In such case, the court shall provide by its order the kind and form of notice to be given of the sale. The assignee at the sale shall offer and sell the property to the highest and best bidder in proved accounts against the estate, and the assignee shall not accept any bid lower than the price fixed by the court on the property.

Source: L. 1897: p. 112, § 2. **R.S. 08:** § 227. **C.L.** § 6294. **CSA:** C. 12, § 54. **CRS 53:** § 11-1-55. **C.R.S. 1963:** § 11-1-55. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 2012, § 59, effective August 12.

PATENTS - PROHIBITED COMMUNICATION

ARTICLE 12

Prohibited Communication Concerning Patents

6-12-101. Definitions.
6-12-102. Bad faith patent infringement communications - prohibition.
6-12-103. Exclusions.
6-12-104. Enforcement.

6-12-101. Definitions.

As used in this article, unless the context otherwise requires:

(1) "Affiliated person" means a person under common ownership or control of an intended recipient.

(2) "Intended recipient" means a person who purchases, rents, leases, or otherwise obtains a product or service in the commercial market that is not for resale in the ordinary business and that is, or later becomes, the subject of a patent infringement allegation.

Source: L. 2015: Entire article added, (HB 15-1063), ch. 309, p. 1264, § 2, effective August 5.

6-12-102. Bad faith patent infringement communications - prohibition.

(1) A person shall not, in connection with the assertion of a United States patent, send or cause any person to send any written or electronic communication that states that the intended recipient or any affiliated person is infringing or has infringed a patent and bears liability or owes compensation to another person, if such communication is in bad faith. A court may consider one or more of the following conditions as evidence that a person or the person's affiliate has, in bad faith, alleged, asserted, or claimed an infringement of a patent:

(a) The communication falsely states that litigation has been filed against the intended recipient or any affiliated person;

(b) The assertions contained in the communication lack a reasonable basis in fact or law. A court may consider one or more of the following factors as evidence that a communication lacks a reasonable basis in fact or law:

(I) The person asserting the patent is not the person, or does not represent the person, with the current right to license the patent to, or to enforce the patent against, the intended recipient or any affiliated person;

(II) The communication seeks compensation for a patent that has been held to be invalid or unenforceable in a final, unappealable or unappealed judicial or administrative decision;

(III) The communication seeks compensation on account of activities undertaken after the patent has expired; or

(IV) The content of the communication fails to include such information necessary to inform an intended recipient or any affiliated person about the patent assertion by failing to include any one of the following:

(A) The identity of the person asserting a right to license the patent to or enforce the patent against the intended recipient or any affiliated person;

(B) The patent number issued by the United States patent and trademark office alleged to have been infringed; or

(C) The factual allegations concerning the specific areas in which the intended recipient or affiliated person's products, services, or technology infringed the patent or are covered by the claims in the patent.

Source: L. 2015: Entire article added, (HB 15-1063), ch. 309, p. 1264, § 2, effective August 5.

6-12-103. Exclusions.

(1) It is not a violation of this article for any person who owns or has the right of license or enforcement of a patent to:

(a) Notify another of that ownership or right of license or enforcement;

(b) Notify another that a patent is available for license or sale;

(c) Notify another that the claim for infringement of the patent is pursuant to 35 U.S.C. sec. 271 (e)(2) or 42 U.S.C. sec. 262; or

(d) Seek compensation on account of past or present infringement, or for a license to the patent, when, after an objectively good faith investigation, it is reasonable to believe that the person from whom compensation is sought may owe such compensation.

(2) The provisions of this article do not apply to any written or electronic communication sent by:

(a) Any owner of a patent who is using the patent in connection with substantial research, development, production, manufacturing, processing, or delivery of products or materials;

(b) Any institution of higher education; or

(c) Any technology transfer organization whose primary purpose is to facilitate the commercialization of technology developed by an institution of higher education.

(3) The provisions of this article do not apply to a demand letter or civil action that includes a claim for relief arising under 35 U.S.C. sec. 271 (e)(2) after an objectively good faith investigation.

Source: L. 2015: Entire article added, (HB 15-1063), ch. 309, p. 1265, § 2, effective August 5.

6-12-104. Enforcement.

(1) The attorney general has the sole authority to enforce this article and to conduct civil investigations and bring civil actions for violations of this article.

(2) If the attorney general has reasonable cause to believe that a person has engaged in an act that is subject to this article 12, the attorney general may make an investigation to determine if the act has been committed, and, to the extent necessary for this purpose, may administer oaths

or affirmations, and, upon the attorney general's own motion or upon request of any party, may subpoena witnesses and compel their attendance, adduce evidence, and require the production of any matter that is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts, or any other matter reasonably calculated to lead to the discovery of admissible evidence. In any civil action brought by the attorney general as a result of such an investigation, the attorney general may recover the reasonable costs of making the investigation if the attorney general prevails in the action.

(3) If a person's records are located outside this state, the person shall either make them available to the attorney general at a convenient location within this state or pay the reasonable and necessary expenses for the attorney general or the attorney general's representative to examine them at the place where they are maintained. The attorney general may designate representatives, including comparable officials of the state in which the records are located, to inspect them on the attorney general's behalf.

(4) Upon failure without lawful excuse to obey a subpoena or to give testimony, the attorney general may apply to the district court for an order compelling compliance.

(5) The attorney general shall not make public the name or identity of a person whose acts or conduct the attorney general investigates pursuant to this section or the facts disclosed in the investigation, but this subsection (5) does not apply to disclosures in actions or enforcement proceedings pursuant to this article 12.

(6) Whenever the attorney general has cause to believe that a person has engaged in or is engaging in any violation of this article, the attorney general may apply for and obtain, in an action in the appropriate district court of this state, a temporary restraining order or injunction, or both, pursuant to the Colorado rules of civil procedure, prohibiting such person from continuing such practices, or engaging therein, or doing any act in furtherance thereof. The court may make such orders or judgments as may be necessary to prevent the violation of this article or which may be necessary to completely compensate or restore to the original position of any person injured by means of any such violation or to prevent any unjust enrichment by any person through the violation of this article.

(7) Any person who violates or causes another to violate any provision of this article shall forfeit and pay to the general fund of the state a civil penalty of not more than five thousand dollars for each such violation.

(8) A court shall award costs, attorney fees, and expert witness fees to the attorney general in all actions where the attorney general successfully enforces this article.

Source: L. 2015: Entire article added, (HB 15-1063), ch. 309, p. 1266, § 2, effective August 5. **L. 2026:** (2), (3), and (5) amended, (HB 26-1426), ch. 334, p. 2012, § 60, effective August 12.

ENFORCEMENT OF NONDRAMATIC MUSIC COPYRIGHTS

ARTICLE 13

Enforcement of Music Copyrights

PART 1
GENERAL PROVISIONS

6-13-101. Definitions.

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PART 2
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6-13-204. Royalties and catalog of musical works - material information.

PART 1

GENERAL PROVISIONS

6-13-101. Definitions.

As used in this article, unless the context otherwise requires:

(1) "Copyright owner" means the owner of a copyright of a nondramatic musical or similar work recognized and enforceable under the copyright laws of the United States (17 U.S.C. sec. 101 et seq.). "Copyright owner" and "similar work" shall not include the owner of a copyright in a motion picture or audiovisual work, or in part of a motion picture or audiovisual work.

(2) "Nondramatic" means the public performance of a recorded, broadcast, or live musical work; except that "nondramatic" shall not mean the performance of a dramatic work including a play.

(3) "Performing rights society" means an association or corporation that licenses the public performance of nondramatic musical works on behalf of copyright owners such as the American society of composers, authors and publishers (ASCAP), Broadcast Music, Inc. (BMI), and SESAC, Inc.

(4) "Proprietor" means the owner of a retail establishment, including, but not limited to, a restaurant, bar, sports facility, or other place of business where nondramatic musical or similar copyrighted works may be performed, broadcast, or otherwise transmitted for the enjoyment of members of the general public.

(5) "Royalty" or "royalties" means the fees payable to a copyright owner or performing rights society for the public performance of nondramatic musical or other similar work.

Source: L. 95: Entire article added, p. 1263, § 1, effective July 1.

6-13-102. Scope of article.

(1) (a) This article 13 applies only to the following:

(I) A contract entered into between a performing rights society and a proprietor; and

(II) Investigations and negotiations related to a contract or prospective contract between a performing rights society and a proprietor.

(b) The rights, remedies, and prohibitions accorded by this article 13 are in addition to any other right, remedy, or prohibition accorded by common law, federal law, or the laws of this state and do not deny, abrogate, or impair any such common-law or statutory right, remedy, or prohibition.

(2) This article shall not apply to:

(a) A contract entered into between a performing rights society and a broadcaster licensed by the federal communications commission;

(b) Conduct described in sections 18-4-602, 18-4-603, and 18-4-604, C.R.S.

Source: L. 95: Entire article added, p. 1264, § 1, effective July 1. **L. 2017:** (1) amended, (HB 17-1092), ch. 78, p. 245, § 1, effective August 9.

6-13-103. Payment of royalties - contract requirements.

(1) A copyright owner or performing rights society may enter into a contract requiring the payment of royalties by a proprietor only if, at least three business days before the execution of the contract, the following information is provided to the proprietor, in writing:

(a) A description of the rules and terms of royalties required to be paid under the contract;

(b) A schedule of the rates and a description of the terms of royalties required to be paid under agreements executed by the copyright owner or performing rights society;

(c) In the case of a performing rights society, information concerning how to obtain a current list of the copyright owners represented by that society and the works licensed under the contract. Such list shall be made available within fourteen days by electronic means. A proprietor shall not be charged an amount in excess of the actual cost incurred by the performing rights society for providing such list.

(d) Notice, in a form prescribed by the attorney general, that the proprietor is entitled to the information contained in paragraphs (a), (b), and (c) of this subsection (1), and that the failure to provide such information shall make the performing rights society subject to the penalty provisions in section 6-13-104.

(2) Notwithstanding subsection (1) of this section, a proprietor may, in its sole discretion and without coercion or undue influence, execute a contract for the payment of royalties before the expiration of the three-business-day review period.

(3) A proprietor has the right to rescind a contract for the payment of royalties for three business days after execution of the contract.

(4) To be enforceable, a contract for the payment of royalties by a proprietor to a copyright owner or performing rights society must:

(a) Be in writing;

(b) Be signed by the parties;

(c) Include at least the following information:

(I) The proprietor's name and business address and the name and location of each place of business to which the contract applies;

(II) The name and address of the performing rights society authorized to act on behalf of a copyright owner;

(III) The duration of the contract, which shall not exceed one year, but which may be automatically extended for additional terms which do not exceed one year, unless otherwise mutually agreed upon;

(IV) The schedule of rates and terms of royalties to be collected under the contract, including any sliding scale or schedule for any increase or decrease of such rates for the duration of the contract;

(V) Notice of the three-business-day rescission period described in subsection (3) of this section.

(d) Not charge a proprietor royalties for public performances, at the establishment, of nondramatic musical works for which another entity has entered into a license with the performing rights society that covers the performances by the proprietor.

(5) A copyright owner, a performing rights society, or an agent, representative, or employee of a copyright owner or performing rights society shall not:

(a) Enter onto the premises of a proprietor's business for the purpose of discussing with the proprietor or the employees of the proprietor a contract for the payment of royalties or the use of copyrighted works without first identifying himself or herself to the proprietor or the employees of the proprietor and making known the purpose of the visit;

(b) Collect or attempt to collect a royalty payment or other fee pursuant to a contract that does not meet the requirements of this section;

(c) Engage in any coercive conduct or unfair or deceptive act or practice that is substantially disruptive of a proprietor's business;

(d) Use or attempt to use any unfair or deceptive act or practice in negotiating with a proprietor.

(6) Nothing in this article shall be construed to prohibit a performing rights society from conducting investigations to determine the existence of music use by a proprietor or informing a proprietor of the proprietor's obligations under the copyright laws of the United States (17 U.S.C. sec. 101 et seq.).

Source: L. 95: Entire article added, p. 1264, § 1, effective July 1. **L. 2017:** IP(1), (2), (3), IP(4), (4)(c)(V), and IP(5) amended and (4)(d) added, (HB 17-1092), ch. 78, p. 245, § 2, effective August 9.

6-13-104. Violations - penalties.

(1) A proprietor may bring an action in a court of competent jurisdiction or assert a counterclaim against a copyright owner or performing rights society to enjoin a violation of this article and recover any damages sustained as a result of such violation.

(2) The prevailing party in any action brought under this article 13 shall be awarded reasonable attorney fees. If the prevailing party is a proprietor, the proprietor may also recover the reasonable costs of the action and treble damages, but in no event shall the proprietor be awarded less than two thousand dollars.

(3) A proprietor shall not bring a counterclaim against any party except the original complainant, and, if a complainant is a performing rights society, a proprietor shall not bring a counterclaim against any copyright owner in the copyright owner's individual capacity.

Source: L. 95: Entire article added, p. 1266, § 1, effective July 1. **L. 2017:** (2) amended, (HB 17-1092), ch. 78, p. 246, § 3, effective August 9. **L. 2026:** (3) amended, (HB 26-1426), ch. 334, p. 2013, § 61, effective August 12.

PART 2

REQUIRED DISCLOSURES

6-13-201. Filing and online publication of contracts and royalty schedules.

(1) A performing rights society shall annually file with the secretary of state an electronic copy of each form contract licensing the public performance of the nondramatic musical works in the performing rights society's repertory to proprietors in the state of Colorado, together with the applicable schedule of royalty rates payable under each form contract. The secretary of state shall post the information filed in accordance with this subsection (1) on the secretary of state's website. The secretary of state has no duty to determine whether the documents filed comply with the requirements of this article 13 or to determine the performing rights society's compliance with this article 13.

(2) A performing rights society shall also make available, at no charge, both the contracts and schedules of royalty rates that are required to be filed with the secretary of state in accordance with subsection (1) of this section to any proprietor within Colorado via a link to the society's website from the secretary of state's website.

(3) Upon request of the secretary of state, each performing rights society shall provide to the secretary of state information on a proprietor's rights and responsibilities regarding the public performance of nondramatic musical works, and the secretary of state shall post the information on the secretary of state's website.

Source: L. 2017: Entire part added, (HB 17-1092), ch. 78, p. 246, § 4, effective August 9.

6-13-202. Catalog of musical works - publication by performing rights society.

(1) (a) A performing rights society shall publish a list online of all nondramatic musical works the performing rights society licenses for performance in a retail establishment.

(b) To comply with this section, the list of nondramatic musical works must be:

(I) Updated within thirty business days after adding or subtracting a nondramatic musical work; and

(II) Made available, without charge, to any proprietor within Colorado and to the secretary of state on a website or using a substantially similar or superior technology for communicating the information, at no charge, to the public.

(2) A performing rights society licensing musical works in Colorado shall file the address of the website or substantially similar or superior technology with the secretary of state, who shall publish the website address of the list published in accordance with subsection (1)(a) of this section on the secretary of state's website or using a substantially similar or superior technology for communicating the information, at no charge, to the public.

Source: L. 2017: Entire part added, (HB 17-1092), ch. 78, p. 247, § 4, effective August 9.

6-13-203. Violations.

(1) A performing rights society shall not enter into a contract that is subject to this article 13 without either:

(a) Publishing the disclosures required by this part 2; or

(b) Making the filings required by this part 2.

Source: L. 2017: Entire part added, (HB 17-1092), ch. 78, p. 247, § 4, effective August 9.

6-13-204. Royalties and catalog of musical works - material information.

The contracts and schedule of royalties submitted to the secretary of state in accordance with section 6-13-201 and the list of all nondramatic musical works published online in accordance with section 6-13-202 constitute material information for purposes of section 6-1-105 (1)(u).

Source: L. 2017: Entire part added, (HB 17-1092), ch. 78, p. 247, § 4, effective August 9.

ART TRANSACTIONS

ARTICLE 15

Art Transactions

PART 1
CONSIGNMENT OF WORKS OF FINE ART

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PART 1

CONSIGNMENT OF WORKS OF FINE ART

6-15-101. Definitions.

As used in this part 1, unless the context otherwise requires:

(1) "Art dealer" means a person engaged in the business of selling works of fine art, other than a person exclusively engaged in the business of selling goods at public auction.

(2) "Artist" means the creator of a work of fine art.

(3) "On consignment" means that no title to or estate in the goods or right to possession thereof superior to that of the consignor vests in the consignee, notwithstanding the consignee's power or authority to transfer and convey all of the right, title, and interest of the consignor, in and to such goods to a third person.

(4) "Work of fine art" or "work" means:

(a) A work of visual art such as a painting, sculpture, drawing, mosaic, or photograph;

(b) A work of calligraphy;

(c) A work of graphic art such as an etching, a lithograph, an offset print, a silk screen, or any other work of similar nature;

(d) A craft work in materials, including but not limited to clay, textile, fiber, wood, metal, plastic, or glass;

(e) A work in mixed media such as collage or any combination of the art media set forth in this subsection (4).

Source: L. 82: Entire article added, p. 229, § 1, effective March 25. **L. 2017:** IP amended, (HB 17-1241), ch. 163, p. 605, § 2, effective August 9.

6-15-102. Art dealers and artists - consignment of works of fine art.

(1) Notwithstanding any custom, practice, or usage of the trade or any provision of section 4-2-326 to the contrary, whenever an artist delivers or causes to be delivered a work of fine art of the artist's own creation to an art dealer for the purpose of exhibition or sale on a commission, fee, or other basis of compensation, the delivery to and acceptance of the work by the art dealer is deemed to place the work on consignment and:

(a) Such art dealer shall thereafter, with respect to the work, be deemed to be the agent of such artist;

(b) Such work is trust property in the hands of the consignee for the benefit of the consignor; and

(c) Any proceeds from the sale of the work are trust funds in the hands of the consignee for the benefit of the consignor.

(2) Notwithstanding the subsequent purchase of a work of fine art by a consignee directly or indirectly for the consignee's own account, a work initially received on consignment is deemed to remain trust property until the price is paid in full to the consignor. If the work is thereafter resold to a bona fide third party before the consignor has been paid in full, the proceeds of the resale are trust funds in the possession of the consignee for the benefit of the consignor to the extent necessary to pay any balance still due to the consignor, and the trusteeship continues until the fiduciary obligation of the consignee with respect to the transaction is discharged in full.

(3) Notwithstanding the provisions of the "Uniform Commercial Code - Sales", no such trust property or trust funds shall be subject to or subordinate to any claims, liens, or security interests of the consignee's creditors.

(4) An art dealer is strictly liable for the loss of or damage to a work of fine art while it is in the art dealer's possession. The value of the work of fine art is, for the purposes of this subsection (4), the value established in a written agreement between the artist and the art dealer prior to the loss or damage of the work.

Source: L. 82: Entire article added, p. 230, § 1, effective March 25. **L. 95:** (4) amended, p. 192, § 2, effective April 13. **L. 2026:** IP(1), (2), and (4) amended, (HB 26-1426), ch. 334, p. 2013, § 62, effective August 12.

Editor's note: Changes in the internal numbering and lettering of subsection (1) were made on revision in 1998 to conform to standard C.R.S. format.

Cross references: For the provisions in the "Uniform Commercial Code" concerning sales, see article 2 of title 4.

6-15-103. Penalties.

A violation by an art dealer of any of the provisions of this part 1 shall render the art dealer liable for damages to the artist in an amount equal to fifty dollars plus the actual damages sustained by the artist, including incidental and consequential damages. In such an action reasonable attorney fees and court costs shall be paid to the prevailing party.

Source: L. 82: Entire article added, p. 230, § 1, effective March 25. **L. 2017:** Entire section amended, (HB 17-1241), ch. 163, p. 605, § 3, effective August 9.

6-15-104. Applicability.

(1) This part 1 shall not apply to any contract or arrangement in existence prior to March 25, 1982, nor to any extensions or renewals thereof; except that the parties to the contract or arrangement may thereafter elect to be governed by the provisions of this part 1.

(2) Any provision, whether oral or written, in or pertaining to the placing of a work of fine art on consignment whereby any provision of this part 1 is waived shall be deemed to be against public policy and shall be void.

Source: L. 82: Entire article added, p. 230, § 1, effective March 25. **L. 2017:** Entire section amended, (HB 17-1241), ch. 163, p. 605, § 4, effective August 9.

PART 2

INDIAN ARTS AND CRAFTS SALES

Editor's note: This part 2 was added with relocations in 2017. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this part 2, see the comparative tables located in the back of the index.

6-15-201. Short title.

The short title of this part 2 is the "Indian Arts and Crafts Sales Act".

Source: L. 2017: Entire part added with relocations, (HB 17-1241), ch. 163, p. 602, § 1, effective August 9.

Editor's note: This section is similar to former § 12-44.5-101 as it existed prior to 2017.

6-15-202. Legislative declaration.

The purpose of this part 2 is to protect the public from false representation in the sale or offering for sale of authentic Indian and other arts and crafts.

Source: L. 2017: Entire part added, (HB 17-1241), ch. 163, p. 602, § 1, effective August 9.

Editor's note: This section is similar to former § 12-44.5-102 as it existed prior to 2017.

6-15-203. Definitions.

As used in this part 2, unless the context otherwise requires:

(1) "Authentic Indian arts and crafts" means any product that is handcrafted by Indian labor or workmanship and is not made from synthetic or artificial materials.

(2) "Findings" means the smaller component parts of a handcrafted item, such as clasps, glass, silver, or synthetic beads, stamped parts not used as a major part of a handcrafted item, leather backings, binding materials, and other ingredient parts not a major part of a handcrafted item.

(3) "Handcrafted" means the production of a product wholly by hand tools, with the exception of buffing or polishing and the findings used upon the products.

(4) "Other arts and crafts" means any product that is represented as an Indian design or product but is not handcrafted by Indian labor or workmanship or that is made by machine or from synthetic or artificial materials.

(5) "Imitation turquoise" means any artificial compound or mineral manufactured or treated so as to closely approximate turquoise in composition or color or any other mineral represented as turquoise when in fact it is not.

(6) "Indian" means any person who is enrolled or is a lineal descendent of one enrolled upon an enrollment listing of the bureau of Indian affairs or upon the enrollment listing of a recognized Indian tribe domiciled in the United States or a person recognized by any Indian tribe as being Indian.

(7) "Indian tribe" means any Indian tribe, organized band, or pueblo that is domiciled in the United States.

(8) "Natural" means the status of a mineral component, used in the preparation of authentic Indian arts and crafts, that does not include any chemical alteration or discoloration.

(9) "Plasticized" means the process through which natural turquoise of a soft, porous nature is altered by impregnating it with acrylic resin or any other substance of a similar nature to produce a change in coloration of the turquoise and allow it to accept a polished finish.

(10) "Represented" means the presentation of a product in words, description, state of being, or symbols when the product is offered for sale, trade, exchange, or purchase.

(11) "Spin cast" means the casting of jewelry components, other than findings, by means of centrifugal force.

(12) "Stabilized" means the chemical process through which natural turquoise of a soft, porous nature is altered to produce a change in the coloration of the natural mineral.

(13) "Treated" means any chemical process through which a natural turquoise is altered to produce a change in coloration of the natural mineral.

(14) "Turquoise" means a blue, green, greenish-blue, or sky-blue mineral, containing phosphorus, aluminum, copper, and iron, used as a gemstone in its cut and polished form.

(15) "Unnatural" means the status of any mineral compound or substance that is not natural or that has been chemically altered, including a stabilized, plasticized, or treated mineral and imitation turquoise.

Source: L. 2017: Entire part added, (HB 17-1241), ch. 163, p. 602, § 1, effective August 9.

Editor's note: This section is similar to former § 12-44.5-103 as it existed prior to 2017.

6-15-204. Inquiry as to producer.

(1) It is the duty of every person selling or offering for sale at retail authentic Indian arts and crafts or other arts and crafts to the general public to make due inquiry of their suppliers concerning the methods used in producing the arts and crafts and to determine whether the arts and crafts are in fact authentic.

(2) It is hereby made the duty of every person selling or offering for sale at retail to the general public natural or unnatural turquoise to make due inquiry of their suppliers concerning the source, grade, and quality of the turquoise for resale.

(3) If the supplier cannot authenticate to the seller the origin and process of manufacture regarding the Indian arts and crafts to be sold or traded to the seller, the seller shall not sell the arts and crafts to the general public as authentic Indian arts and crafts.

Source: L. 2017: Entire part added, (HB 17-1241), ch. 163, p. 604, § 1, effective August 9.

Editor's note: This section is similar to former § 12-44.5-104 as it existed prior to 2017.

6-15-205. Unlawful acts.

(1) A person shall not knowingly:

(a) Sell or offer for sale any products represented as authentic Indian arts and crafts unless the products are in fact authentic Indian arts and crafts;

(b) Sell or offer to sell any authentic Indian arts and crafts purporting to be silver unless the products are made of coin silver or sterling silver that is not less than ninety-percent pure silver by weight or unless the person provides a statement to the purchaser at retail concerning the content of the silver used in the arts or crafts;

(c) Sell or offer to sell any authentic Indian arts and crafts that are not separately displayed from other arts and crafts and the authentic Indian arts and crafts are not clearly designated with a tag attached to each product and containing the words "Authentic Indian" in letters not less than one-quarter inch high or, if the authentic Indian arts and crafts can clearly be labeled by the use of a display card, then in lieu of tagging each article the person may label the authentic Indian arts and crafts with a printed display card in letters not less than one-half inch in height and containing the words "Authentic Indian". The label or display card shall be maintained with the related crafts in an area separate from other arts and crafts so as to clearly designate the authentic Indian arts and crafts.

(d) Sell or offer to sell spin cast components of authentic Indian jewelry, other than findings, or use spin cast components in authentic Indian jewelry unless the jewelry is labeled as being so cast in its manufacture.

Source: L. 2017: Entire part added, (HB 17-1241), ch. 163, p. 604, § 1, effective August 9.

Editor's note: This section is similar to former § 12-44.5-105 as it existed prior to 2017.

6-15-206. Unfair trade practices.

(1) A person shall not:

(a) Use a false or misleading statement, written or oral, or the lack thereof, a visual description or the lack thereof, or any representation or lack thereof made in connection with the sale or trade of Indian arts and crafts in the regular course of trade or commerce with the intent to deceive or mislead any person;

(b) Falsely represent turquoise being sold as having characteristics, elements, or qualities it does not have;

(c) Falsely represent turquoise being sold as natural turquoise if in fact it is in an unnatural state;

(d) Make a false or misleading statement of fact concerning the price or value for the purpose of selling or trading turquoise.

Source: L. 2017: Entire part added, (HB 17-1241), ch. 163, p. 604, § 1, effective August 9.

Editor's note: This section is similar to former § 12-44.5-106 as it existed prior to 2017.

6-15-207. Violations - penalty.

Any person who knowingly violates any of the provisions of section 6-15-205 or 6-15-206 commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501.

Source: L. 2017: Entire part added, (HB 17-1241), ch. 163, p. 605, § 1, effective August 9. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3135, § 62, effective March 1, 2022.

Editor's note: This section is similar to former § 12-44.5-107 as it existed prior to 2017.

6-15-208. Right of action - damages.

In addition to any judicial relief, a person that suffers financial injury or damages by reason of any act or omission prohibited in this part 2 may file a civil action to recover actual damages sustained by the person and the cost of the action, including reasonable attorney fees.

Source: L. 2017: Entire part added, (HB 17-1241), ch. 163, p. 605, § 1, effective August 9. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 2014, § 63, effective August 12.

Editor's note: This section is similar to former § 12-44.5-108 as it existed prior to 2017.

CHARITABLE SOLICITATIONS

ARTICLE 16

Colorado Charitable Solicitations Act

6-16-101. Short title.
6-16-102. Legislative declaration.
6-16-103. Definitions.
6-16-104. Charitable organizations - initial registration - annual filing - fees.
6-16-104.3. Professional fundraising consultants - annual registration - fees.
6-16-104.5. Additional reporting requirements. (Repealed)
6-16-104.6. Paid solicitors - annual registration - filing of contracts - fees.
6-16-105. Written confirmation of contribution - disclosures.
6-16-105.3. Solicitations by telephone.
6-16-105.5. Solicitations by container - disclosures.
6-16-106. Contributor's right to cancel.
6-16-107. Donated tickets - sponsored attendance.
6-16-108. Publications. (Repealed)
6-16-109. Records - accounts.
6-16-110. Charitable sales promotions.
6-16-110.5. Secretary of state - dissemination of information - cooperation with other agencies - rules.
6-16-111. Violations - rules.
6-16-111.5. Investigations.
6-16-112. Address of record - service of process.
6-16-113. Severability.
6-16-114. Fines - required notification - rules.

6-16-101. Short title.

This article shall be known and may be cited as the "Colorado Charitable Solicitations Act".

Source: L. 88: Entire article added, p. 350, § 1, effective July 1.

ANNOTATION

Law reviews. For article, "A Survey of the Law of Colorado Nonprofit Entities", see 27 Colo. Law. 5 (Apr. 1998).

6-16-102. Legislative declaration.

The general assembly hereby finds that fraudulent charitable solicitations are a widespread practice in this state that results in millions of dollars of losses to contributors and legitimate charities each year. Legitimate charities are harmed by such fraud because the money available for contributions continually is being siphoned off by fraudulent charities, and the goodwill and confidence of contributors continually is being undermined by the practices of unscrupulous solicitors. The general assembly further finds that legitimate charities provide many public benefits and that charitable donations are a direct result of public trust in charities. The general assembly therefore finds that the provisions of this article, including those involving pertinent information to be filed in a timely manner by charitable organizations and disclosures to be made by paid solicitors, are necessary to protect the public's interest in making informed choices as to which charitable causes should be supported. Furthermore, these provisions are intended to help the secretary of state investigate allegations of wrongdoing in charities, without having a chilling effect on donors who wish to give anonymously or requiring public disclosure of confidential information about charities.

Source: L. 88: Entire article added, p. 350, § 1, effective July 1. **L. 2008:** Entire section amended, p. 806, § 1, effective September 1.

ANNOTATION

Law reviews. For article, "The Homeowner Protection Act Charitable Organization Exemption", see 53 Colo. Law. 20 (Nov. 2024).

6-16-103. Definitions.

As used in this article 16, unless the context otherwise requires:

(1) "Charitable organization" means any person who is or holds himself out to be established for any benevolent, educational, philanthropic, humane, scientific, patriotic, social welfare or advocacy, public health, environmental conservation, civic, or other eleemosynary purpose, any person who operates for the benefit of the objectives of law enforcement officers, firefighters, other persons who protect the public safety, or veterans, or any person who in any manner employs a charitable appeal or an appeal which suggests that there is a charitable purpose as the basis for any solicitation. "Charitable organization" does not include the department of revenue collecting voluntary contributions for organ and tissue donations under the provisions of sections 42-2-107 (4)(b)(V) and 42-2-118 (1)(a)(II), C.R.S.

(2) "Charitable purpose" means any benevolent, educational, philanthropic, humane, scientific, patriotic, social welfare or advocacy, public health, environmental conservation, civic, or other eleemosynary purpose, any objective of law enforcement officers, firefighters, other persons who protect the public safety, or veterans, or any objective of sponsoring the free or subsidized attendance of persons at any event.

(3) "Charitable sales promotion" means an advertising or sales campaign which is conducted by a commercial coventurer and which represents that the purchase or use of goods or services offered by the commercial coventurer will benefit, in whole or in part, a charitable organization or purpose.

(4) "Commercial coventurer" means a person who, for profit, is regularly and primarily engaged in trade or commerce other than in connection with soliciting for charitable organizations or purposes and who conducts a charitable sales promotion.

(5) "Contribution" means the grant, promise, or pledge of money, credit, property, financial assistance, or any other thing of value in response to a solicitation. "Contribution" does not include voluntary contributions for organ and tissue donations under the provisions of sections 42-2-107 (4)(b)(V) and 42-2-118 (1)(a)(II), C.R.S., and bona fide fees, dues, or assessments paid by members of a charitable organization if membership is not conferred primarily as consideration for making a contribution in response to a solicitation.

(6) Repealed.

(7) "Paid solicitor" means a person that, for monetary compensation, performs a service in which contributions will be solicited in this state by the compensated person or any other person that the compensated person employs, procures, or engages to solicit for contributions in exchange for compensation. The following persons are not "paid solicitors":

(a) A person whose sole responsibility is to print or mail fund-raising literature;

(b) A lawyer, investment counselor, or banker who renders professional services to a charitable organization or advises a person to make a charitable contribution during the course of rendering such professional services or advice to the charitable organization or person;

(c) A bona fide volunteer;

(d) A director, officer, or compensated employee who is directly employed by a charitable organization which, at the time of the solicitation, had received a determination letter from the internal revenue service granting the organization tax-exempt status pursuant to 26 U.S.C. sec. 501 (c)(3), (c)(4), (c)(8), (c)(10), or (c)(19). For purposes of this paragraph (d), such a determination letter shall not have retroactive effect.

(e) Any employee of the department of revenue collecting voluntary contributions for organ and tissue donations under sections 42-2-107 (4)(b)(V) and 42-2-118 (1)(a)(II), C.R.S.;

(f) A person whose only responsibility in connection with a charitable contribution is to provide a merchant account to process credit card payments using the internet;

(g) A person that prepares a grant application for a charitable organization or purpose, unless the person's compensation is computed on the basis of funding to be raised or actually raised as a result of the grant application;

(h) A person that provides a service or product to a charitable organization who does not directly solicit for a charitable contribution; or

(i) An individual who provides services as an auctioneer to a charitable organization if the individual:

(I) (A) Is contracted or paid to provide their services as an auctioneer to a charitable organization; or

(B) Is volunteering their services as an auctioneer to a charitable organization without compensation; and

(II) Does not directly receive or handle contributions or charitable funding on behalf of the charitable organization for which the individual provides auctioneer services.

(8) "Person" means an individual, a corporation, an association, a partnership, a trust, a foundation, or any other entity however organized or any group of individuals associated in fact but not a legal entity.

(9) Repealed.

(9.3) "Professional fundraising consultant" means any person, other than a bona fide officer or regular employee of a charitable organization, who is retained by a charitable organization for a fixed fee or rate under a written agreement to plan, manage, advise, consult, or prepare material for or with respect to the solicitation in this state of contributions for a charitable organization but who does not solicit contributions or employ, procure, or engage any compensated person to solicit contributions. No lawyer, investment counselor, or banker who renders professional services to a charitable organization or advises a person to make a charitable contribution during the course of rendering professional services to the person shall be deemed, as a result of such professional services or advice, to be a "professional fundraising consultant".

(9.5) "Records" means books, financial statements, papers, correspondence, memoranda, agreements, or other documents or records that the secretary of state deems relevant or material to an inquiry.

(10) "Solicit" or "solicitation" means to request, or the request for, directly or indirectly, money, credit, property, financial assistance, or any other thing of value on the plea or representation that such money, credit, property, financial assistance, or other thing of value, or any portion thereof, will be used for a charitable purpose or will benefit a charitable organization.

The term "solicit" or "solicitation" shall include, but need not be limited to, the following methods of requesting or securing such money, credit, property, financial assistance, or other thing of value:

(a) Any oral or written request; or

(b) Any sale or attempted sale of or any offer to sell any advertisement, advertising space, book, card, tag, coupon, device, magazine, membership, merchandise, subscription, flower, ticket, candy, cookies, or other tangible item in which any appeal is made for any charitable organization or purpose, or for which the name of any charitable organization is used or referred to in any such appeal as an inducement or reason for making any such sale, or for which any statement is made that the proceeds or any portion thereof from such sale will be used for any charitable purpose or will benefit any charitable organization. A "solicitation" shall be deemed to have taken place whether or not the person making the "solicitation" receives any contribution.

(11) "Solicitation campaign" means a series of solicitations which are made by the same person and which are similar in content or are based on a similar pitch or sales approach, which series leads up to or is represented to lead up to an event or lasts or is intended to last for a definite period of time. If the series of solicitations lasts or is intended to last for an indefinite period of time or for more than one year, a "solicitation campaign" means all similar solicitations made by the same person occurring within a particular calendar year.

(11.5) "Suspend" means that a charitable organization, professional fund-raising consultant, or paid solicitor is prohibited from soliciting contributions, providing consulting services in connection with a solicitation campaign, or conducting a solicitation campaign in Colorado.

(12) "Volunteer" means a person who renders services to a charitable organization or for a charitable purpose and who neither receives nor is expressly or impliedly promised financial remuneration for said services.

Source: L. 88: Entire article added, p. 350, § 1, effective July 1. **L. 89:** (6) and (9) repealed and IP(7) amended, pp. 367, 364, §§ 8, 1, effective July 1. **L. 96:** (1) and (5) amended and (7)(e) added, p. 1135, §§ 3, 4, effective July 1. **L. 2001:** IP(7) amended and (9.3) added, p. 1236, § 1, effective May 9, 2002. **L. 2003:** (7)(f) added, p. 2496, § 1, effective June 5. **L. 2005:** (7)(b) and (9.3) amended, p. 1286, § 1, effective June 3. **L. 2008:** (9.5) and (11.5) added, p. 806, § 2, effective September 1. **L. 2012:** (7)(e) and (7)(f) amended and (7)(g) added, (HB 12-1236), ch. 133, p. 456, § 1, effective January 1, 2013. **L. 2016:** IP(7), (7)(f), and (7)(g) amended and (7)(h) added, (HB 16-1129), ch. 262, p. 1076, § 2, effective August 10. **L. 2026:** IP, IP(7), (7)(g), and (7)(h) amended and (7)(i) added, (HB 26-1025), ch. 26, p. 122, § 1, effective August 12; IP and IP(7) amended, (HB 26-1426), ch. 334, p. 2014, § 64, effective August 12.

Editor's note: Amendments to subsection IP(7) by HB 26-1025 and HB 26-1426 were harmonized.

ANNOTATION

Law reviews. For article, "The Homeowner Protection Act Charitable Organization Exemption", see 53 Colo. Law. 20 (Nov. 2024).

6-16-104. Charitable organizations - initial registration - annual filing - fees.

(1) Every charitable organization, except those exempted under subsection (6) of this section, that intends to solicit contributions in this state by any means or to have contributions solicited in this state on its behalf by any other person or entity or that participates in a charitable sales promotion shall, prior to engaging in any of these activities, file a registration statement with the secretary of state upon a form prescribed by the secretary of state. Each chapter, branch, or affiliate of a charitable organization that is required to file a registration statement under this section either shall file a separate registration statement or shall report the necessary information to its parent charitable organization, which then shall file a consolidated registration statement.

(2) The registration statement must be signed and affirmed under penalty of perjury as defined in section 18-8-503 by an officer of the charitable organization, which may include its chief fiscal officer, and must contain the following information:

(a) The name of the charitable organization, the purpose for which it is organized, and the name or names under which it intends to solicit contributions;

(b) The address and telephone number of the principal place of business of the charitable organization and the address and telephone number of any offices in this state, or, if the charitable organization does not maintain an office in this state, the name, address, and telephone number of the person that has custody of its financial records;

(c) The names of the officers, directors, trustees, and executive personnel of the charitable organization;

(d) The last day of the fiscal year of the charitable organization;

(e) The place and date when the charitable organization was legally established, the form of its organization, and its tax-exempt status;

(f) A financial report for the most recent fiscal year, upon a form prescribed by the secretary of state, or, in the discretion of the secretary of state, a copy of the charitable organization's federal form 990, with all schedules except schedules of donors, for the most recent fiscal year. If, at the time of the initial registration, the charitable organization does not have the required

financial report or form 990 for the most recent fiscal year, the charitable organization shall submit a financial report or form 990 for the most recent fiscal year in which such information is available. An organization that was first legally established within the past year and thus does not have financial information or a form 990 for its most recent fiscal year shall provide to the secretary of state a financial report based on good faith estimates for its current fiscal year on a form prescribed by the secretary of state. Any organization that files a good faith estimate for its first fiscal year shall amend its initial registration statement to report actual financial information on or before the earlier of the fifteenth day of the eighth month after the close of the organization's first fiscal year or the date authorized for filing a form 990 with the internal revenue service.

(g) The names and addresses of any paid solicitors, professional fundraising consultants, and commercial coventurers who are acting or have agreed to act on behalf of the charitable organization. If the paid solicitor, professional fundraising consultant, or commercial coventurer is a partnership, corporation, limited liability company, or other legal entity, the charitable organization shall list only the name and address of the legal entity.

(3) The secretary of state may promulgate rules concerning the acceptance of a uniform multistate registration statement, such as a unified registration statement, in lieu of the registration statement described in subsection (2) of this section. As soon as practicable, the secretary of state shall take steps to cooperate in a joint state and federal electronic filing project involving state charity offices and the internal revenue service to enable and promote electronic filing of uniform multistate registration statements and federal annual information returns.

(4) (a) A charitable organization's registration is valid until the day on which the financial report required in subsection (2)(f) or (5) of this section is due and may be renewed upon application to the secretary of state and payment of the registration fee and any assessed fines.

(b) A charitable organization that withdraws its registration or allows its registration to expire must, on or before the date of withdrawal or expiration, file a final financial report, in a form prescribed by the secretary of state, that includes information through the last date on which the organization solicited contributions in Colorado.

(c) A charitable organization shall report any changes of name, address, principals, corporate forms, tax status, and any other changes that materially affect the identity or business of the charitable organization to the secretary of state within thirty days after the change.

(5) (a) Every charitable organization required to register under this section shall annually file with the secretary of state a financial report for the most recent fiscal year on a form prescribed by the secretary of state, or, in the discretion of the secretary of state, a copy of the charitable organization's federal form 990, with all schedules except schedules of donors, for the most recent fiscal year. The financial report must be filed on or before the earlier of the fifteenth day of the eighth calendar month after the close of each fiscal year in which the charitable

organization solicited in this state or the date authorized for filing a form 990 with the internal revenue service. A charitable organization that is unable to file a copy of its form 990 return or the secretary of state's financial form by the prescribed deadline may request an extension of the filing deadline from the secretary of state. The secretary of state, upon receipt of an application to extend the filing deadline, may grant a three-month extension of time to file the financial report. All requests for extension of time must:

(I) Be in a form prescribed by the secretary of state;

(II) Include a statement describing in detail the reasons causing the delay in filing the financial report;

(III) Include an affirmation that the charitable organization has filed with the internal revenue service an application for a corresponding extension of time to file the organization's form 990; and

(IV) Be signed and affirmed under penalty of perjury as defined in section 18-8-503.

(b) Upon request, the charitable organization shall provide the secretary of state with a copy of its application for extension of time to file with the internal revenue service in order to verify the date authorized for filing its form 990 with the internal revenue service.

(6) The following are not required to file a registration statement:

(a) Persons that are exempt from filing a federal annual information return pursuant to 26 U.S.C. sec. 6033 (a)(3)(A)(i), (a)(3)(A)(iii), or (a)(3)(C)(i) or pursuant to 26 CFR 1.6033-2 (g)(1)(i) to (g)(1)(iv) or (g)(1)(vii);

(b) Political parties, candidates for federal or state office, and political action committees required to file financial information with federal or state elections commissions;

(c) Charitable organizations that do not intend to and do not actually raise or receive gross revenue, excluding grants from governmental entities or from organizations exempt from federal taxation under section 501(c)(3) of the federal "Internal Revenue Code of 1986", as amended, in excess of twenty-five thousand dollars during a fiscal year or do not receive contributions from more than ten persons during a fiscal year. The exemption authorized in this paragraph (c) shall not apply to a charitable organization that has contracted with a paid solicitor to solicit contributions in this state for the organization.

(d) Persons exclusively making appeals for funds on behalf of a specific individual named in the solicitation, but only if all of the proceeds of the solicitation are given to or expended for the direct benefit of the specified individual.

(7) Filing fees for the annual registration of a charitable organization and for amendments thereto shall be established by the secretary of state in an amount that reflects the costs of the

secretary of state in administering the provisions of this article. All such fees collected shall be deposited in the department of state cash fund created in section 24-21-104 (3)(b), C.R.S.

(8) The secretary of state shall examine each registration to determine whether the applicable requirements of this section are satisfied. The secretary of state shall notify the charitable organization within ten days after receipt of its application of any deficiencies therein, otherwise the registration shall be deemed approved as filed. The secretary of state shall issue each approved applicant a registration number.

(9) A charitable organization that is required to register under this article 16 shall not:

(a) Prior to registration or renewal of an expired registration, solicit contributions in this state by any means, have contributions solicited in this state on its behalf by any other person or entity, or participate in a charitable sales promotion; or

(b) Aid, abet, or otherwise permit any paid solicitor to solicit contributions on its behalf in this state unless the paid solicitor soliciting contributions has complied with the requirements of this article.

(10) All information filed pursuant to this section, except for residential addresses and telephone numbers of individuals, account numbers at banks or other financial institutions, and schedules of contributors listed on the federal form 990 or its equivalent, is a public record for purposes of the public records law, part 2 of article 72 of title 24, C.R.S.

Source: L. 88: Entire article added, p. 352, § 1, effective July 1. **L. 89:** (1)(d), (1)(e), and (2) amended and (5) and (6) repealed, pp. 364, 367, §§ 2, 8, effective July 1. **L. 2001:** Entire section R&RE, p. 1237, § 2, effective May 9, 2002. **L. 2002:** (2)(f), (4), and (5) amended, p. 948, § 1, effective June 1. **L. 2003:** IP(2) and (6)(a) amended, p. 2496, § 2, effective June 5. **L. 2005:** (2)(f), (3), and (6)(c) amended and (2)(g) added, p. 1287, § 2, effective June 3. **L. 2009:** (6)(a) amended, (SB 09-292), ch. 369, p. 1986, § 133, effective August 5. **L. 2012:** IP(2), (2)(f), (5), IP(6), and (6)(b) amended and (6)(d) added, (HB 12-1236), ch. 133, p. 457, § 2, effective January 1, 2013. **L. 2013:** (6)(a) amended, (HB 13-1300), ch. 316, p. 1663, § 7, effective August 7. **L. 2014:** (2)(c), (9), and (10) amended, (HB 14-1206), ch. 118, p. 420, § 1, effective August 6. **L. 2017:** IP(2), (2)(c), (4), (5), IP(9), and (9)(a) amended, (HB 17-1158), ch. 160, p. 592, § 1, effective October 1, 2018.

ANNOTATION

Law reviews. For article, "The Homeowner Protection Act Charitable Organization Exemption", see 53 Colo. Law. 20 (Nov. 2024).

6-16-104.3. Professional fundraising consultants - annual registration - fees.

(1) No person shall act as a professional fundraising consultant without first complying with the requirements of this section.

(2) Every contract between a professional fundraising consultant and a charitable organization or sponsor shall be in writing and signed by an authorized official of the charitable organization. The professional fundraising consultant shall provide a copy of the contract to the charitable organization prior to the performance of any material services under the contract and shall make a copy of the contract available to the secretary of state upon request. The contract shall contain all of the following provisions:

(a) A statement of the charitable purpose for which the solicitation campaign is being conducted;

(b) A statement of the respective obligations of the professional fundraising consultant and the charitable organization;

(c) Whether the professional fundraising consultant will at any time have custody or control of contributions;

(d) A clear statement of the fees that will be paid to the professional fundraising consultant or, if the fees are to be calculated based on a percentage of contributions or other formula, a clear statement of the percentage or other formula; and

(e) The effective and termination dates of the contract.

(3) A professional fundraising consultant who at any time has or will have custody or control of contributions from a solicitation conducted on behalf of a charitable organization in this state shall also comply with the registration requirements of this section before performing any material services with respect to such solicitation.

(4) Applications for registration or renewal of registration must be submitted on a form prescribed by the secretary of state, signed and affirmed under penalty of perjury as defined in section 18-8-503, and must include the following information:

(a) The address and telephone number of the principal place of business of the applicant and the address and telephone number of any office located in this state if the principal place of business is located outside the state;

(a.5) The form of the applicant's business and, if the applicant is not an individual, the place and date when the applicant was incorporated or otherwise legally established;

(b) The name, address, and telephone number of the person that has custody of the applicant's financial records;

(c) If the applicant is not an individual, the names and addresses of the owners, officers, and executive personnel of the applicant;

(d) Whether the applicant or any of its owners, officers, directors, trustees, or employees have, within the immediately preceding five years, been convicted of, found guilty of, pled guilty or nolo contendere to, been adjudicated a juvenile violator of, or been incarcerated for any felony involving fraud, theft, larceny, embezzlement, fraudulent conversion, or misappropriation of property or any crime arising from the conduct of a solicitation for a charitable organization or sponsor, under the laws of this or any other state or of the United States, and if so, the name of such person, the nature of the offense, the date of the offense, the court having jurisdiction in the case, the date of conviction or other disposition, and the disposition of the offense;

(e) Whether the applicant or any of its owners, officers, directors, trustees, or employees have been enjoined from violating any law relating to a charitable solicitation or from engaging in charitable solicitation and, if so, the name of such person, the date of the injunction, and the court issuing the injunction;

(f) Whether the applicant is registered with or otherwise authorized by any other state to act as a professional fundraising consultant; and

(g) Whether the applicant has had such registration or authority denied, suspended, revoked, or enjoined by any court or other governmental authority in this state or another state.

(5) The application for registration or for renewal shall be accompanied by the fee established pursuant to subsection (12) of this section. A professional fundraising consultant that is a partnership, corporation, or limited liability company may register for and pay a single fee on behalf of all its partners, members, officers, directors, agents, and employees. In such case, the names and street addresses of all the partners, members, officers, directors, employees, and agents of the fundraising consultant and all other persons with whom the fundraising consultant has contracted to work under its direction shall be listed in the application or furnished to the secretary of state within five days after the date of employment or contractual arrangement.

(6) Each registration is valid for a period of one year and may be renewed, on or before the anniversary date, for an additional one-year period upon application to the secretary of state and payment of the registration fee. Any material changes to the information contained in the application for registration shall be reported in writing to the secretary of state within thirty days.

(7) The secretary of state shall examine each registration to determine whether the applicable requirements of this section are satisfied. The secretary of state shall notify the applicant within ten days after receipt of its application of any deficiencies therein, otherwise the application shall be deemed approved as filed. The secretary of state shall issue each approved applicant a registration number.

(8) If a professional fundraising consultant will have custody of any contribution received during a solicitation campaign, each such contribution shall be deposited within two business days after its receipt in an account at a bank or other federally insured financial institution. The account shall be in the name of the charitable organization with whom the professional fundraising consultant has contracted, and the charitable organization shall have sole control over all withdrawals from the account.

(9) Within ninety days after a solicitation campaign has been concluded, and on the anniversary of the commencement of a solicitation campaign lasting more than one year, the professional fundraising consultant shall provide to the charitable organization a financial report of the campaign, including gross proceeds and an itemization of all expenses or disbursements for any purpose. The report shall be signed by the professional fundraising consultant or, if the professional fundraising consultant is not an individual, by an authorized officer or agent of the professional fundraising consultant, who shall certify that the financial report is true and complete to the best of the person's knowledge. The professional fundraising consultant shall provide a copy of the report to the secretary of state upon request.

(10) No person may act as a professional fundraising consultant and no professional fundraising consultant required to be registered under this section shall knowingly employ any person as an officer, trustee, director, or employee if such person, within the immediately preceding five years, has been convicted of, found guilty of, pled guilty or nolo contendere to, been adjudicated a juvenile violator of, or been incarcerated for any felony involving fraud, theft, larceny, embezzlement, fraudulent conversion, or misappropriation of property or any crime arising from the conduct of a solicitation for a charitable organization or sponsor, under the laws of this or any other state or of the United States, or has been enjoined within the immediately preceding five years under the laws of this or any other state or of the United States from engaging in deceptive conduct relating to charitable solicitations.

(11) Information filed pursuant to this section, except for residential addresses and telephone numbers of individuals and account numbers at banks or other financial institutions, is a public record for purposes of the public records law, part 2 of article 72 of title 24, C.R.S.

(12) Filing fees for the annual registration of a professional fundraising consultant and for amendments thereto shall be established by the secretary of state in an amount that reflects the costs of the secretary of state in administering the provisions of this article. All such fees collected shall be deposited in the department of state cash fund created in section 24-21-104 (3)(b), C.R.S.

Source: L. 2001: Entire section added, p. 1239, § 3, effective May 9, 2002. **L. 2003:** IP(2) amended, p. 2497, § 3, effective June 5. **L. 2005:** (4)(a.5) added and (4)(c) amended, p. 1288, §

3, effective June 3. **L. 2014:** (11) amended, (HB 14-1206), ch. 118, p. 421, § 2, effective August 6. **L. 2017:** IP(4) amended, (HB 17-1158), ch. 160, p. 594, § 2, effective October 1, 2018.

6-16-104.5. Additional reporting requirements. (Repealed)

Source: L. 92: Entire section added, p. 235, § 1, effective June 1.

Editor's note: Subsection (2) provided for the repeal of this section, effective December 31, 1994. (See L. 92, p. 235.)

6-16-104.6. Paid solicitors - annual registration - filing of contracts - fees.

(1) (a) No person shall act as a paid solicitor without first complying with the requirements of this section.

(b) Every paid solicitor shall register in accordance with subsection (3) of this section before soliciting contributions in this state.

(2) Every contract between a paid solicitor and a charitable organization or sponsor for each solicitation campaign shall be in writing and shall be signed by an authorized official of the charitable organization or sponsor, who shall be a member of the organization's governing body, and by the paid solicitor if the paid solicitor is an individual or by the authorized contracting officer for the paid solicitor if the paid solicitor is not an individual. The paid solicitor shall provide a copy of the contract to the charitable organization prior to the performance of any material services under the contract and shall make a copy of the contract available to the secretary of state upon request. The contract shall contain all of the following provisions:

(a) A statement of the charitable purpose for which the solicitation campaign is being conducted;

(b) A statement of the respective obligations of the paid solicitor and the charitable organization;

(c) A statement of the specified minimum percentage, if any, of the gross receipts from contributions that will be remitted to the charitable organization, or, if the solicitation involves the sale of goods, services, or tickets to a fundraising event, the specified minimum percentage, if any, of the purchase price that will be remitted to the charitable organization. Any stated percentage shall exclude any amount payable by the charitable organization as fundraising costs.

(d) A statement of the specified percentage, if any, of gross revenue that constitutes the paid solicitor's compensation. If the paid solicitor's compensation is not contingent upon the number of contributions or the amount received, the paid solicitor's compensation shall be expressed as a reasonable estimate of the percentage of gross revenue, and the contract shall clearly disclose the assumptions upon which such estimate is based. The stated assumptions shall be based upon all the relevant facts known to the paid solicitor regarding the solicitation to be conducted.

(e) The effective and termination dates of the contract.

(3) Applications for registration or renewal of registration must be submitted on a form prescribed by the secretary of state, signed and affirmed under penalty of perjury as defined in section 18-8-503, and must include the following information:

(a) The address and telephone number of the principal place of business of the applicant and the address and telephone number of any office located in this state if the principal place of business is located outside the state;

(b) The form of the applicant's business and, if the applicant is not an individual, the place and date when the applicant was incorporated or otherwise legally established;

(c) The name, address, and telephone number of the person that has custody of the applicant's financial records;

(d) If the applicant is not an individual, the names and addresses of the owners, officers, and executive personnel of the applicant;

(e) The names of all persons in charge of any solicitation activity conducted in this state by the applicant or on the applicant's behalf;

(f) Whether the applicant, any person with a controlling interest in the applicant, or any of the applicant's owners, officers, directors, trustees, employees, or agents has, within the immediately preceding five years, been convicted of, found guilty of, pled guilty or nolo contendere to, been adjudicated a juvenile violator of, or been incarcerated for any felony involving fraud, theft, larceny, embezzlement, fraudulent conversion, or misappropriation of property or any crime arising from the conduct of a solicitation for a charitable organization or sponsor, under the laws of this or any other state or of the United States, and if so, the name of such person, the nature of the offense, the date of the offense, the court having jurisdiction in the case, the date of conviction or other disposition, and the disposition of the offense;

(g) Whether the applicant or any of its owners, officers, directors, trustees, or employees have been enjoined from violating any law relating to a charitable solicitation and, if so, the name of such person, the date of the injunction, and the court issuing the injunction;

(h) Whether the applicant is registered with or otherwise authorized by any other state to act as a paid solicitor;

(i) Whether the applicant has had such registration or authority denied, suspended, revoked, or enjoined by any court or other governmental authority in this state or another state; and

(j) Whether the applicant or any officer, director, or employee of the applicant serves on the board of directors of a charitable organization, directs the operations of a charitable organization, or otherwise has a financial interest in a charitable organization for which the applicant solicits contributions. If this relationship exists between the applicant and the charitable organization, the application must include a statement that the relationship meets the standards set forth in section 7-128-501 (3), C.R.S., regarding conflict of interest transactions.

(3.5) (a) Before any paid solicitor is registered, the applicant shall procure and file with the secretary of state evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101, C.R.S., or a good and sufficient bond in the amount of fifteen thousand dollars issued by a corporate surety duly licensed to do business within the state, approved as to form by the attorney general of the state, and conditioned that the applicant shall perform in good faith as a paid solicitor without fraud or fraudulent representation and without the violation of any provision of this article.

(b) No corporate surety is required to make any payment to any person claiming a bond issued under this subsection (3.5) until a final determination of fraud or fraudulent representation has been made by the secretary of state or by a court of competent jurisdiction.

(c) All bonds required under this section must be renewed annually at the same time as the bondholder's license is renewed. Renewal of the bond may be done through a continuation certificate issued by the surety.

(4) The application for registration or for renewal shall be accompanied by the fee established pursuant to subsection (12) of this section. A paid solicitor that is a partnership, corporation, or limited liability company may register for and pay a single fee on behalf of all its partners, members, officers, directors, agents, and employees. In such case, the names and street addresses of all the partners, members, officers, directors, employees, and agents of the paid solicitor and all other persons with whom the paid solicitor has contracted to work under its direction shall be listed in the application or furnished to the secretary of state within five days after the date of employment or contractual arrangement.

(5) Each registration is valid for a period of one year and may be renewed, on or before the anniversary date, for an additional one-year period upon application to the secretary of state and payment of the registration fee and any assessed fines. Any material changes to the information contained in the application for registration must be reported in writing to the secretary of state within thirty days.

(6) The secretary of state shall examine each registration to determine whether the applicable requirements of this section are satisfied. The secretary of state shall notify the applicant within ten days after receipt of its application of any deficiencies therein, otherwise the application shall

be deemed approved as filed. The secretary of state shall issue each approved applicant a registration number.

(7) No later than fifteen days before the commencement of a solicitation campaign, a paid solicitor shall file with the secretary of state a completed solicitation notice, on forms prescribed by the secretary of state, containing the following information:

(a) A summary of the governing contract, as specified in subsection (2) of this section;

(b) The full legal name and address of the paid solicitor who will be conducting the solicitation campaign and the full legal name and address of each person responsible for directing and supervising the conduct of the campaign;

(c) A statement, in accordance with section 6-16-111 (1)(f) and (1)(g), of the nature of the intended solicitation campaign, including the means of communication to be used in the campaign, the projected commencement and conclusion dates of the campaign, and a description of any event the campaign will lead up to;

(d) A full and fair statement, in accordance with section 6-16-111 (1)(f) and (1)(g), of the charitable purpose for which the solicitation campaign is being carried out;

(e) Each location and telephone number, if applicable, from which the solicitation is to be conducted;

(f) A statement as to whether the paid solicitor will at any time have custody of contributions;

(g) The account number and location of each bank account where receipts from the campaign are to be deposited;

(h) The address where records and accounting concerning the solicitation campaign are being kept; and

(i) A certification statement, signed and affirmed under penalty of perjury as defined in section 18-8-503 by an officer of the charitable organization on the behalf of whom the solicitation campaign is to occur, stating that the solicitation notice and accompanying material are true and complete to the best of the officer's knowledge.

(8) If a paid solicitor will have custody of any monetary contribution received during a solicitation campaign, each such contribution must be deposited within two business days after its receipt in an account at a bank or other federally insured financial institution. The account must be in the name of the charitable organization with whom the paid solicitor has contracted, and the charitable organization must have sole control over all withdrawals from the account.

(9) Within ninety days after a solicitation campaign has been concluded, and on the anniversary of the commencement of a solicitation campaign lasting more than one year, the paid

solicitor shall provide to the charitable organization and file with the secretary of state a financial report of the campaign, including gross proceeds and an itemization of all expenses or disbursements for any purpose. The report must be on a form prescribed by the secretary of state and must be signed and affirmed under penalty of perjury as defined in section 18-8-503 by the paid solicitor, or, if the paid solicitor is not an individual, by an authorized official of the paid solicitor, and by an authorized official of the charitable organization. The persons signing the report shall certify that the financial report is true and complete to the best of their knowledge.

(10) No person may act as a paid solicitor and no paid solicitor required to be registered under this section shall knowingly employ any person as an officer, trustee, director, or employee if such person, within the immediately preceding five years, has been convicted of, found guilty of, pled guilty or nolo contendere to, been adjudicated a juvenile violator of, or been incarcerated for any felony involving fraud, theft, larceny, embezzlement, fraudulent conversion, or misappropriation of property or any crime arising from the conduct of a solicitation for a charitable organization or sponsor, under the laws of this or any other state or of the United States, or has been enjoined within the immediately preceding five years under the laws of this or any other state or of the United States from engaging in deceptive conduct relating to charitable solicitations.

(11) Information filed pursuant to this section, except for residential addresses and telephone numbers of individuals and account numbers at banks or other financial institutions, is a public record for purposes of the public records law, part 2 of article 72 of title 24, C.R.S.

(12) Filing fees for the annual registration of a paid solicitor, amendments thereto, solicitation notices, and financial reports shall be established by the secretary of state in amounts that reflects the costs of the secretary of state in administering the provisions of this article. All such fees collected shall be deposited in the department of state cash fund created in section 24-21-104 (3)(b), C.R.S.

Source: L. 2001: Entire section added, p. 1239, § 3, effective May 9, 2002. **L. 2003:** IP(2) amended, p. 2497, § 4, effective June 5. **L. 2005:** IP(2) amended, p. 1288, § 4, effective June 3. **L. 2012:** (8) amended, (HB 12-1236), ch. 133, p. 458, § 3, effective January 1, 2013. **L. 2014:** (11) amended, (HB 14-1206), ch. 118, p. 421, § 3, effective August 6. **L. 2016:** (3)(h) and (3)(i) amended and (3)(j) and (3.5) added, (HB 16-1129), ch. 262, p. 1076, § 3, effective August 10. **L. 2017:** IP(3), (5), (7)(i), and (9) amended, (HB 17-1158), ch. 160, p. 594, § 3, effective October 1, 2018. **L. 2026:** IP(7) and (7)(i) amended, (HB 26-1426), ch. 334, p. 2014, § 65, effective August 12.

ANNOTATION

Subsection (10) is content neutral. InfoCision Mgmt. Corp. v. Griswold, 570 F. Supp. 3d 1051 (D. Colo. 2021).

A plain reading of subsection (10) demonstrates that it applies to certain speakers, not certain subjects. Specifically, the statute temporarily prohibits persons who have been enjoined from engaging in deceptive conduct related to charitable solicitations within the previous five years from acting as a paid solicitor. InfoCision Mgmt. Corp. v. Griswold, 570 F. Supp. 3d 1051 (D. Colo. 2021).

The purpose behind the Colorado Charitable Solicitations Act is to target the secondary effects of professional solicitation, namely fraud and misrepresentation. The general assembly's speaker preference does not reflect a content preference. The general assembly designed the act to prevent fraud by paid solicitors; the general assembly expressed no preference for the substance of what any speaker has to say. InfoCision Mgmt. Corp. v. Griswold, 570 F. Supp. 3d 1051 (D. Colo. 2021).

Because the act's general declarations and specific prohibitions clearly target fraud, it serves a substantial government interest. InfoCision Mgmt. Corp. v. Griswold, 570 F. Supp. 3d 1051 (D. Colo. 2021).

Subsection (10) is not an impermissible restraint on protected speech. Subsection (10) promotes a substantial government interest that would be achieved less effectively absent the law. InfoCision Mgmt. Corp. v. Griswold, 570 F. Supp. 3d 1051 (D. Colo. 2021).

Under the language of subsection (10), the secretary of state has no choice but to deny registration to any applicant who has been enjoined from engaging in deceptive conduct within the last five years. InfoCision Mgmt. Corp. v. Griswold, 570 F. Supp. 3d 1051 (D. Colo. 2021).

The act contains adequate procedural safeguards. First, subsection (6) provides deadlines for required actions by the secretary. Second, prompt judicial review is available to applicants under subsection (6). InfoCision Mgmt. Corp. v. Griswold, 570 F. Supp. 3d 1051 (D. Colo. 2021).

6-16-105. Written confirmation of contribution - disclosures.

(1) A paid solicitor who makes an oral solicitation by telephone, door-to-door, or otherwise must furnish to each contributor, prior to collecting or attempting to collect any contribution, a written confirmation of the expected contribution, which confirmation shall contain the following information clearly and conspicuously:

(a) The full legal name, address, telephone number, and registration number of the employer of the individual paid solicitor who directly communicated with the contributor;

(b) A disclosure that the contribution is not tax-deductible, if such disclosure is applicable, or, if the solicitor maintains that the contribution is tax-deductible in whole or in part, the portion of the contribution that the solicitor maintains is tax-deductible;

(c) A disclosure in capital letters of no less than ten-point, bold-faced type identifying the paid solicitor as a paid solicitor and containing the statement: "Registration by the secretary of state is not an endorsement of either the paid solicitor or the organization or cause the solicitor represents.";

(d) The address and telephone number of the telephone room or other location from which the solicitation has been or is being conducted if such information is different than that which is provided pursuant to paragraph (a) of this subsection (1); except that this information is not required to be provided if telephone solicitations are being conducted from more than one location and from the residences of the individual paid solicitor;

(e) The name, address, telephone number, and registration number of any charitable organization connected with the solicitation or any organization the name or symbol of which has been used in aid of or in the course of such solicitation;

(f) The amount of any expected monetary contribution;

(g) The name and address of the contributor, as well as the date of the individual solicitation, or spaces where this information may be filled in by the contributor;

(h) A statement that Colorado residents may obtain copies of registration and financial documents from the office of the secretary of state, with the website address for obtaining such documents from the secretary of state.

(2) If the contributor is absent when the contribution is to be collected, the paid solicitor may comply with subsection (1) of this section by furnishing the written confirmation in a manner previously agreed upon between said solicitor and the contributor.

(3) Except for the amount of the expected contribution, a written solicitation shall contain the same information as is required in subsection (1) of this section.

Source: L. 88: Entire article added, p. 353, § 1, effective July 1. **L. 89:** Entire section R&RE, p. 365, § 3, effective July 1. **L. 2001:** IP(1), (1)(a), (1)(b), (1)(c), (1)(d), and (1)(e) amended and (1)(h) added, p. 1246, § 4, effective May 9, 2002. **L. 2014:** IP(1) and (1)(h) amended, (HB 14-1206), ch. 118, p. 421, § 4, effective August 6.

Editor's note: For discussion of language in the North Carolina Charitable Solicitations Act relating to the disclosure of information concerning the amount of gross receipts turned over to

charities, a requirement of this section prior to the 1989 amendment, see Riley v. National Federation of the Blind of North Carolina, 487 U.S. 781, 108 S. Ct. 2667, 101 L. Ed.2d 669 (1988).

6-16-105.3. Solicitations by telephone.

(1) In addition to any other disclosure required for solicitations by telephone under section 6-16-105, a paid solicitor who makes an oral solicitation to any person by a telephone call received in Colorado regarding a charitable contribution shall make the following oral disclosures as part of the telephone solicitation:

(a) A statement that the person soliciting the charitable contribution by telephone is paid to make such solicitation;

(b) The name of the telemarketing company that employs the paid solicitor;

(c) The name and telephone number of the charitable organization on whose behalf the paid solicitor is making the solicitation;

(d) (Deleted by amendment, L. 2001, p. 1247, § 5, effective May 9, 2002.)

(d.5) The first name and surname of the paid solicitor, which must be given in the opening greeting;

(e) A statement, which must be made prior to the person's agreement to make a contribution, that the charitable contribution is not tax deductible, if such is the case;

(f) Upon request by a person from whom a charitable contribution is sought, the percentage of the contribution that will be paid to the charitable organization as a result of such person's contribution; and

(g) Upon request by a person from whom a charitable contribution is sought, the registration numbers of the charitable organization and the paid solicitor.

(2) A volunteer as defined in section 6-16-103 (12) who makes an oral solicitation to any person by a telephone call received in Colorado regarding a charitable contribution is subject to the disclosure required under paragraph (e) of subsection (1) of this section.

(3) Nothing in this section shall be construed as restricting, superseding, abrogating, or contravening any state or federal law or regulation regarding charitable solicitations.

Source: L. 97: Entire section added, p. 404, § 1, effective July 1. **L. 2001:** (1)(d) amended and (1)(g) added, p. 1247, § 5, effective May 9, 2002. **L. 2012:** IP(1) and (1)(e) amended and (1)(d.5) added, (HB 12-1236), ch. 133, p. 458, § 4, effective January 1, 2013.

ANNOTATION

The disclosure mandated by subsection (1)(d) is unconstitutional. Subsection (1)(d) violates the first and fourteenth amendments to the United States Constitution. Nat'l Fed'n of the Blind v. Norton, 981 F. Supp. 1371 (D. Colo. 1997).

Subsection (1)(d) is not narrowly tailored to the general assembly's stated purpose of fraud prevention. The state could publish or otherwise publicize the rights of donors to rescind telephone contributions, thereby educating the public without burdening the free speech rights of a specific category of charitable fundraisers, namely paid solicitors. Nat'l Fed'n of the Blind v. Norton, 981 F. Supp. 1371 (D. Colo. 1997).

By mandating that only paid fundraisers tell donors they have three days to rescind their pledge, subsection (1)(d) harms and discriminates against only those charities that rely on paid fundraisers. Nat'l Fed'n of the Blind v. Norton, 981 F. Supp. 1371 (D. Colo. 1997).

6-16-105.5. Solicitations by container - disclosures.

(1) (a) No person or charitable organization, or agent of a person or charitable organization, whether paid or not paid, shall place any container offering a product for sale or distribution in a public place for solicitation purposes unless the container is affixed with a disclosure label conspicuously displaying the information set forth in subsection (2) of this section in a typed or printed clearly legible form.

(b) (I) A person other than an organization that has received a determination that it is exempt under section 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended, who places a container in a public place for solicitation purposes and who does not direct all of the items placed in the container to a charitable purpose or, if the items are sold, does not direct all proceeds of such sale to a charitable purpose, shall affix to the container a disclosure label that clearly and conspicuously displays the following legend:

DONATED ITEMS WILL BE SOLD FOR PROFIT

The value of items placed in this container is NOT tax-deductible.

(II) This paragraph (b) shall not apply to containers used exclusively for the collection of used paper, cardboard, motor oil, bottles, cans, or other containers or materials for recycling or waste diversion purposes.

(2) The disclosure label required pursuant to paragraph (a) of subsection (1) of this section shall state the following:

(a) The percentage of annual contributions that are paid to any person or organization to maintain, service, or collect the contributions deposited in all the containers used by the person or charitable organization;

(b) The percentage of annual contributions that are paid to the charitable organization specified on the container;

(c) Whether the person maintaining, servicing, or collecting the contributions deposited in the container is a volunteer or is paid for the services.

(3) For purposes of this section, "container" means a box, carton, package, receptacle, canister, jar, dispenser, or machine.

(4) Nothing in this section shall be construed as restricting, superseding, abrogating, or contravening any state or federal law or regulation regarding charitable solicitations.

Source: L. 96: Entire section added, p. 291, § 1, effective July 1. **L. 2009:** (1) and IP(2) amended, (HB 09-1052), ch. 50, p. 178, § 1, effective August 5.

6-16-106. Contributor's right to cancel.

(1) In addition to any right otherwise provided by law with respect to the binding nature of an agreement or pledge to make a charitable contribution, a contributor may cancel the contributor's agreement or pledge to contribute as follows:

(a) With respect to a solicitation in which the paid solicitor knowingly fails to comply with this article, at any time; or

(b) Until 12 midnight of the third business day, or with respect to a nonmonetary contribution, until 12 midnight of the first business day after the day on which the contributor receives a written confirmation of contribution pursuant to section 6-16-105.

(2) Cancellation occurs when the contributor gives written or oral notice of the cancellation to the paid solicitor at the address or telephone number stated in the written confirmation of contribution.

(3) Notice of cancellation, if given by mail, is given at the time it is properly addressed and deposited in a mail box with proper postage.

(4) A particular form is not required for a notice of cancellation, and such a notice is sufficient if it indicates the intention of the contributor to cancel the contributor's pledge to contribute.

(5) Within ten days after a notification of cancellation has been received by the paid solicitor, the paid solicitor shall tender to the contributor any contribution made and any note or other evidence of indebtedness.

(6) Allowing for ordinary wear and tear or consumption of the goods contemplated by the transaction, within a reasonable time after an agreement or pledge to contribute has been canceled, the contributor upon demand must tender to the paid solicitor any goods or items delivered by the paid solicitor in connection with the contribution but shall not be under obligation to tender at any other place than where the goods or items were delivered. If the paid solicitor fails to demand possession of the goods or items within a reasonable time after cancellation, the goods or items become the property of the contributor without obligation to contribute. For purposes of this subsection (6), forty days is presumed to be a reasonable time.

Source: L. 88: Entire article added, p. 355, § 1, effective July 1. **L. 89:** Entire section R&RE, p. 365, § 4, effective July 1. **L. 2026:** IP(1) and (4) amended, (HB 26-1426), ch. 334, p. 2014, § 66, effective August 12.

6-16-107. Donated tickets - sponsored attendance.

No person, in the course of or in aid of a solicitation, shall represent that a contribution will purchase a ticket or tickets to be donated for use by another, sponsor the attendance of another at an event, or sponsor the receipt of a benefit by another while knowing that the donated tickets or sponsorships will not actually be used or received by the donees or beneficiaries in the quantity represented.

Source: L. 88: Entire article added, p. 355, § 1, effective July 1. **L. 89:** Entire section R&RE, p. 366, § 5, effective July 1.

6-16-108. Publications. (Repealed)

Source: L. 88: Entire article added, p. 356, § 1, effective July 1. **L. 89:** Entire section repealed, p. 367, § 8, effective July 1.

6-16-109. Records - accounts.

(1) During each solicitation campaign, a paid solicitor shall create and maintain, for not less than two years after the completion of such campaign, the following records:

(a) Copies of all written confirmations or any standardized written confirmations provided pursuant to section 6-16-105;

(b) The name and residence address of each employee, agent, or other person involved in the solicitation as is on record at the time of such solicitation;

(c) The locations and account numbers of all bank or other financial institution accounts into which the paid solicitor has deposited receipts from the solicitation;

(d) Records indicating the quantity of donated tickets or sponsorships, as described in section 6-16-107, which were actually used or received by donees or beneficiaries;

(e) A complete record and accounting of the receipts and disbursements of funds derived from any solicitation campaign. Said record and accounting shall clearly identify any person or organization to whom or to which any part of such funds are transferred and shall describe with specificity the purpose for which any expenditure is made and the amount of each expenditure. Funds spent directly for any charitable purpose or transferred to any charitable organization as represented in the solicitations shall be clearly delineated as such.

(f) All written records relating to pitches, sales approaches, or disclosures used during any solicitation campaign and all instructions provided to paid solicitors concerning the content or solicitations;

(g) All contracts or agreements made with charitable organizations or other represented beneficiaries of solicitations; and

(h) For each contribution, records indicating the name and address of the contributor, the amount of the contribution if monetary, and the date of the contribution, together with the name of the individual paid solicitor who solicited the contribution.

(2) Any person involved in solicitations who claims an exemption from the definition of paid solicitor in section 6-16-103 (7) shall maintain records of ruling letters and other communications from the internal revenue service regarding tax-exempt status. Failure to produce such records on written demand of the district attorney pursuant to section 6-16-111 (1)(e) shall give rise to a rebuttable presumption that the person does not have a ruling letter granting tax-exempt status pursuant to 26 U.S.C. sec. 501 (c)(3).

(3) Repealed.

Source: L. 88: Entire article added, p. 356, § 1, effective July 1. **L. 89:** IP(1), (1)(a), (1)(d), (1)(f), (1)(g), (2), and (3) amended and (1)(h) added, p. 366, § 6, effective July 1. **L. 2001:** (3) repealed, p. 1247, § 6, effective May 9, 2002.

ANNOTATION

Law reviews. For article, "The Homeowner Protection Act Charitable Organization Exemption", see 53 Colo. Law. 20 (Nov. 2024).

6-16-110. Charitable sales promotions.

(1) The provisions of this article relating to commercial coventurers and charitable sales promotions shall apply only when a commercial coventurer reasonably expects that more than one-half of all proceeds of a solicitation campaign will be derived from transactions within the state of Colorado.

(2) A commercial coventurer shall disclose in each advertisement for a charitable sales promotion the dollar amount or percent per unit of goods or services purchased or used that will benefit the charitable organization or purpose. If the actual dollar amount or percentage cannot reasonably be determined prior to the final date of the charitable sales promotion, the commercial coventurer shall disclose an estimated dollar amount or percentage. Any such estimate shall be reasonable and shall be based upon all of the relevant facts known to the commercial coventurer regarding the charitable sales promotion.

(3) A commercial entity which purchases at wholesale a product which is created, manufactured, or produced by a charitable organization for resale to the general public as part of the commercial entity's general stock of merchandise shall be exempt from the provisions of this article relating to commercial coventurers and charitable sales promotions.

Source: L. 88: Entire article added, p. 357, § 1, effective July 1.

6-16-110.5. Secretary of state - dissemination of information - cooperation with other agencies - rules.

(1) The secretary of state shall take steps to:

(a) Publicize the requirements of this article and otherwise assist charitable organizations, professional fundraising consultants, and paid solicitors in complying with this article;

(b) Compile and publish, on an annual basis, the information provided by charitable organizations, professional fundraising consultants, and paid solicitors under this article to assist the public in making informed decisions about charitable solicitation and to assist charitable organizations in making informed decisions about contracting with paid solicitors;

(c) Participate in a national online charity information system as soon as a system is established, if the secretary determines that participation will further advance the purposes of this subsection (1) and subsection (2) of this section.

(2) The secretary of state may exchange with appropriate authorities of this state, any other state, and the United States information with respect to charitable organizations, professional fundraising consultants, commercial coventurers, and paid solicitors.

(3) The secretary of state may promulgate rules as needed for the effective implementation of this article 16, including:

(a) Providing for the extension of filing deadlines;

(b) Providing for the online availability of forms required to be filed pursuant to sections 6-16-104 to 6-16-104.6;

(c) Providing for the electronic filing of required forms, including the acceptance of electronic signatures;

(d) Mandating electronic filing and providing, in the secretary of state's discretion, for exceptions to mandatory electronic filing;

(e) Setting fines for noncompliance with this article or rules promulgated pursuant to this article; and

(f) Providing for the withdrawal of an active registration by a charitable organization, professional fundraising consultant, or paid solicitor.

Source: L. 2001: Entire section added, p. 1239, § 3, effective May 9, 2002. **L. 2002:** (3) amended, p. 949, § 2, effective June 1. **L. 2005:** (1)(c) added, p. 1288, § 5, effective June 3. **L. 2008:** (3) amended, p. 807, § 3, effective September 1. **L. 2014:** IP(3) and (3)(e) amended, (HB 14-1206), ch. 118, p. 421, § 5, effective August 6. **L. 2017:** IP(3) amended and (3)(f) added, (HB 17-1158), ch. 160, p. 594, § 4, effective October 1, 2018.

6-16-111. Violations - rules.

(1) A person commits charitable fraud if the person:

(a) Knowingly solicits any contribution and in the course of such solicitation knowingly performs any act or omission in violation of any of the provisions of sections 6-16-104 to 6-16-107 and 6-16-110;

(b) Knowingly solicits any contribution and, in aid of or in the course of such solicitation, utilizes the name or symbol of another person or organization without written authorization from such person or organization for such use;

(c) Solicits any contribution and, in aid of or in the course of such solicitation, utilizes a name, symbol, or statement which is closely related or similar to that used by another person or organization with the intent to mislead the person to whom the solicitation is made that said solicitation is on the behalf of or is affiliated with such other person or organization;

(d) With the intent to defraud, knowingly solicits contributions and, in aid of such solicitation, assumes, or allows to be assumed, a false or fictitious identity or capacity, except for a trade name or trademark registered in this state by that person or the person's employer;

(e) Knowingly fails to create and maintain all records required by section 6-16-109 to be created and maintained or knowingly fails to make available such records for examination and photocopying at the office of the district attorney or at the person's own office in this state, with copying facilities furnished free of charge, within five days after a written demand for the production of the records by the district attorney or within twenty days with respect to records kept out of state;

(f) Knowingly makes a misrepresentation of a material fact in any notice, report, or record required to be filed, maintained, or created by this article;

(g) With the intent to defraud, devises or executes a scheme or artifice to defraud by means of a solicitation or obtains money, property, or services by means of a false or fraudulent pretense, representation, or promise in the course of a solicitation. A representation may be any manifestation of any assertion by words or conduct, including, but not limited to, a failure to disclose a material fact.

(h) Represents or causes another to represent that contributions are tax-deductible unless they so qualify under the federal internal revenue code;

(i) Represents or causes another to represent that a contribution to a charitable organization will be used for a purpose other than the purpose for which the charitable organization actually intends to use such contribution;

(j) Represents or causes another to represent that a greater portion of the contribution will go to a charitable organization than the actual portion that will go to such organization;

(k) Represents or causes another to represent that the solicitor is located in a geographic area that is different from the geographic area in which the solicitor is actually located;

(l) Represents or causes another to represent that the solicitor has a sponsorship, approval, status, affiliation, or connection with an organization or purpose that the solicitor does not actually have;

(m) Represents or causes another to represent that the person to whom a solicitation is made is under an obligation to make a contribution;

(n) Represents or causes another to represent that failure to make a contribution will adversely affect the person's credit rating;

(o) Represents or causes another to represent that the person has previously approved or agreed to make a contribution when in fact the person has not given such approval or agreement; or

(p) Represents or causes another to represent that the person has previously contributed to the same organization or for the same purpose when in fact the person has not so contributed.

(1.5) A person commits charitable fraud if, in the course of or in furtherance of a solicitation, the person misrepresents to, misleads, makes false statements to, or uses a name other than the solicitor's legal name in communicating with a person being solicited in any manner that would lead a reasonable person to believe that:

(a) If the person being solicited makes a contribution, the person will receive special benefits or favorable treatment from a police, sheriff, patrol, firefighting, or other law enforcement agency or department of government;

(b) If the person being solicited fails to make a contribution, the person will receive unfavorable treatment from a police, sheriff, patrol, firefighting, or other law enforcement agency or department of government; or

(c) The membership organization for which the person is soliciting has a significant membership of a certain type, including active police, sheriff, patrol, firefighters, first responders, or veterans when the organization does not have a significant membership of that type. For purposes of this paragraph (c), "significant membership" means ten percent of the membership of the organization or one hundred members, whichever is less. For purposes of this paragraph (c), "membership organization" means an organization that is a tax-exempt nonprofit organization under 26 U.S.C. sec. 501 (c) of the federal "Internal Revenue Code of 1986", as amended, and has members who pay regular membership dues.

(2) Any person who commits charitable fraud in violation of paragraph (b), (c), (d), (f), or (g) of subsection (1) of this section is guilty of a class 5 felony, and upon conviction thereof, shall be punished in accordance with section 18-1.3-401, C.R.S.

(3) Any person who commits charitable fraud in violation of paragraph (a), (e), or (h) to (p) of subsection (1) of this section, or of subsection (1.5) of this section, is guilty of a class 2 misdemeanor and, upon conviction thereof, shall be punished in accordance with section 18-1.3-501, C.R.S.; except that a person who commits a violation of any one or more of said paragraphs with respect to solicitations involving three separate contributors in any one solicitation campaign is guilty of a class 5 felony, and upon conviction thereof, shall be punished in accordance with section 18-1.3-401, C.R.S.

(4) Charitable fraud which is a felony shall be deemed a class 1 public nuisance and subject to the provisions of part 3 of article 13 of title 16, C.R.S.

(5) Violation of any provision of this article also shall constitute a deceptive trade practice in violation of the "Colorado Consumer Protection Act", article 1 of this title, and shall be subject to remedies or penalties, or both, pursuant thereto.

(6) (a) In addition to any other applicable penalty, the secretary of state may deny, suspend, or revoke the registration of any charitable organization, professional fund-raising consultant, or paid solicitor that makes a false statement or omits material information in any registration statement, annual report, or other information required to be filed by this article or that acts or fails to act in such a manner as otherwise to violate any provision of this article. The secretary of state may also deny, suspend, or revoke the registration of any person who does not meet the requirements for registration set forth in this article.

(b) Upon notice from the secretary of state that a registration has been denied or is subject to suspension or revocation, the aggrieved party may request a hearing. The request for hearing must be made within thirty days after the date of the notice. Proceedings for any such denial, suspension, or revocation hearing are governed by the "State Administrative Procedure Act", article 4 of title 24; except that the secretary of state shall promulgate rules to provide for expedited deadlines to govern such proceedings and shall bear the burden of proof. The status quo concerning the ability of the aggrieved party to solicit funds is maintained during the pendency of the proceedings. Judicial review is available pursuant to section 24-4-106.

(c) In addition to other remedies authorized by law, the secretary of state may bring a civil action in the district court of any judicial district in which venue is proper for the purpose of obtaining injunctive relief against any person who violates, or threatens to violate, the provisions of this article.

(d) The rights and remedies available to the secretary of state pursuant to this subsection (6) shall not affect the rights and remedies available to any other person seeking relief for violations of this article or any other applicable law.

(7) If a paid solicitor commits charitable fraud in the course of making a solicitation for a charitable organization, the charitable organization shall also be liable for any applicable remedies and penalties if the charitable organization knew or should have known that the paid

solicitor was engaged in charitable fraud. This subsection (7) does not extend personal liability to board members of a charitable organization beyond the personal liability allowed by section 13-21-116 (2)(b)(I), C.R.S., or as otherwise allowed by law prior to August 10, 2016.

Source: L. 88: Entire article added, p. 357, § 1, effective July 1. **L. 89:** (1)(a) and (1)(e) amended, p. 367, § 7, effective July 1. **L. 93:** (5) added, p. 1575, § 8, effective July 1. **L. 2001:** IP(1) and (3) amended and (1)(h), (1)(i), (1)(j), (1)(k), (1)(l), (1)(m), (1)(n), (1)(o), (1)(p), (1.5), and (6) added, pp. 1247, 1248, §§ 7, 8, effective May 9, 2002. **L. 2004:** (2) and (3) amended, p. 1188, § 9, effective August 4. **L. 2016:** (1.5) amended and (7) added, (HB 16-1129), ch. 262, p. 1077, § 4, effective August 10. **L. 2017:** (6)(b) amended, (HB 17-1158), ch. 160, p. 595, § 5, effective October 1, 2018. **L. 2026:** IP(1), (1)(d), (1)(e), IP(1.5), (1.5)(a), and (1.5)(b) amended, (HB 26-1426), ch. 334, p. 2015, § 67, effective August 12.

Editor's note: Prior to its repeal in 1988, provisions concerning charitable fraud were found in § 18-5-115.

ANNOTATION

Law reviews. For article, "The Homeowner Protection Act Charitable Organization Exemption", see 53 Colo. Law. 20 (Nov. 2024).

Former statute unconstitutional. Former statute regarding charitable solicitations fraud, § 18-5-115 (1)(a), declared unconstitutionally overbroad because speech pertaining to charitable solicitation is entitled to the highest constitutional protection and is subject to strict scrutiny, and may be regulated only when regulation is narrowly tailored to achieve compelling state interest. Statute was not narrowly drawn because less intrusive means of preventing fraud were available. People v. French, 762 P.2d 1369 (Colo. 1988).

Subsection (6)(a) does not grant the secretary of state overly broad discretion. Rather than grant the secretary unbridled discretion, the statutory language only allows the secretary to take action if a paid solicitor: (1) makes a false statement in a required filing; (2) violates a provision of this act; or (3) does not meet the requirements for registration. InfoCision Mgmt. Corp. v. Griswold, 570 F. Supp. 3d 1051 (D. Colo. 2021).

This section merely provides a mechanism for the secretary to enforce other provisions of this act. InfoCision Mgmt. Corp. v. Griswold, 570 F. Supp. 3d 1051 (D. Colo. 2021).

While the general assembly chose to use the word "may" in subsection (6)(a), it is clear from the statutory context and

legislative history of the act that the secretary is required to comply with the requirements of subsection (6)(a).

InfoCision Mgmt. Corp. v. Griswold, 570 F. Supp. 3d 1051 (D. Colo. 2021).

6-16-111.5. Investigations.

Whenever the secretary of state or the secretary of state's designee believes that a violation of this article has occurred, the secretary of state or the secretary of state's designee may investigate any such violation. Upon demand, records shall be made available and produced to the secretary of state for inspection. Such records shall not be subject to disclosure pursuant to part 2 of article 72 of title 24, C.R.S.; except that public records about persons subject to this article prepared by the secretary of state or the secretary of state's designee are subject to disclosure pursuant to part 2 of article 72 of title 24, C.R.S.

Source: L. 2008: Entire section added, p. 807, § 4, effective September 1.

6-16-112. Address of record - service of process.

(1) A person required under this article 16 to register with the secretary of state shall, in the person's initial registration or application and in every renewal, provide an address of record. Unless the registrant designates an alternative address, the address of record is the registrant's principal place of business.

(2) Any notice, order, or document issued by the secretary of state in accordance with this article 16 is properly served if mailed to the registrant's or applicant's address of record.

(3) Any foreign corporation performing an act prohibited under this article 16 through a salesperson or agent is subject to service of process either upon the registered agent specified by the corporation or upon the corporation itself if the corporation fails to maintain a registered agent as required by part 7 of article 90 of title 7. Service of process upon any individual outside this state based upon any action arising out of matters prohibited by this article 16 must be effected pursuant to section 13-1-125.

Source: L. 88: Entire article added, p. 358, § 1, effective July 1. **L. 93:** Entire section amended, p. 853, § 2, effective July 1, 1994. **L. 2003:** Entire section amended, p. 2356, § 345, effective July 1, 2004. **L. 2014:** Entire section amended, (HB 14-1206), ch. 118, p. 422, § 6, effective August 6. **L. 2017:** Entire section amended, (HB 17-1158), ch. 160, p. 595, § 6, effective October 1, 2018. **L. 2026:** (1) amended, (HB 26-1426), ch. 334, p. 2015, § 68, effective August 12.

6-16-113. Severability.

If any provision of this article is found by a court of competent jurisdiction to be unconstitutional, the remaining provisions of this article shall be valid, unless it appears to the court that the valid provisions of this article are so essentially and inseparably connected with, and so dependent upon, the void provision that it cannot be presumed that the general assembly would have enacted the valid provisions without the void provision or unless the court determines that the valid provisions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

Source: L. 88: Entire article added, p. 358, § 1, effective July 1.

6-16-114. Fines - required notification - rules.

(1) (a) Any charitable organization, professional fundraising consultant, or paid solicitor who, after sufficient notification by the secretary of state, fails to properly register, renew a registration, file a financial report required by section 6-16-104 (2)(f), (4)(b), or (5), or file a financial report of a solicitation campaign under this article 16 by the end of the seventh day following the issuance of the final notice, is liable for a fine in an amount to be established by rule promulgated by the secretary of state.

(b) The secretary of state provides sufficient notification under this section if the secretary:

(I) Mails at least two notices by first-class mail to the address of record for the charitable organization, professional fundraising consultant, or paid solicitor; and

(II) If the charitable organization, professional fundraising consultant, or paid solicitor has provided the secretary with an email address, sends at least two notices to that email address.

(c) The fine for filing a registration renewal, financial report required by section 6-16-104 (2)(f), (4)(b), or (5), or solicitation campaign financial report late must not exceed one hundred dollars per year for charities or two hundred dollars per year for paid solicitors; except that a charitable organization that fails to timely renew its registration and fails to file the financial report required by section 6-16-104 (5) is only subject to a single fine for the failure to renew its registration.

(d) The fine for soliciting before registering must not exceed three hundred dollars per year for a charitable organization or one thousand dollars per year for paid solicitors.

(2) If a paid solicitor fails to file a solicitation notice at least fifteen days before commencing a solicitation campaign, the secretary of state shall assess against the paid solicitor, at the time

the paid solicitor files the solicitation notice, a fine in an amount established in rules promulgated by the secretary of state.

(3) A fine imposed under this section is in addition to any other filing fee provided by this article.

Source: L. 2008: Entire section added, p. 807, § 4, effective September 1. **L. 2010:** Entire section amended, (HB 10-1403), ch. 404, p. 1993, § 1, effective August 11. **L. 2014:** Entire section amended, (HB 14-1206), ch. 118, p. 422, § 7, effective August 6. **L. 2017:** (1)(a), (1)(b), and (1)(c) amended, (HB 17-1158), ch. 160, p. 596, § 7, effective October 1, 2018.

RECORDS RETENTION

ARTICLE 17

Uniform Records Retention Act

6-17-101. Short title.
6-17-102. Legislative declaration.
6-17-103. Definitions.
6-17-104. Records retention period.
6-17-105. Form of record.
6-17-106. Scope of article.

6-17-101. Short title.

This article shall be known and may be cited as the "Uniform Records Retention Act".

Source: L. 90: Entire article added, p. 384, § 1, effective July 1.

6-17-102. Legislative declaration.

The general assembly hereby finds that there is a need to minimize the paperwork burden associated with the retention of business records for individuals, small businesses, state and local agencies, corporations, and other persons, and there is a need to minimize the costs of collecting, maintaining, using, storing, and disseminating information and business records. The general assembly therefore finds that the provisions of this article are necessary to promote efficiency and economy.

Source: L. 90: Entire article added, p. 384, § 1, effective July 1.

6-17-103. Definitions.

As used in this article, unless the context otherwise requires:

(1) "Business record" means books of account; vouchers; documents; canceled checks; payrolls; correspondence; records of sales, personnel, equipment, and production; reports relating to any or all of such records; and other business papers.

(2) "Record" means any letter, word, sound, number, or its equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical, or electronic recording of other forms of data compilation. Unless otherwise specified, reproductions are records for purposes of this article.

(3) "Reproduction" means any counterpart produced by the same impression as the original or from the same matrix, or by means of photography, including enlargements and miniatures, or by mechanical or electronic rerecording or by chemical reproduction or by any equivalent technique which accurately reproduces the original.

Source: L. 90: Entire article added, p. 384, § 1, effective July 1.

6-17-104. Records retention period.

Any record required to be created or kept by any state or local law or regulation may be destroyed after three years from the date of creation, unless such law or regulation establishes a specified records retention period or a specific procedure to be followed prior to destruction.

Source: L. 90: Entire article added, p. 385, § 1, effective July 1.

6-17-105. Form of record.

Retention of reproductions produced pursuant to this article shall constitute compliance with any state or local law requiring that any record be created or kept.

Source: L. 90: Entire article added, p. 385, § 1, effective July 1.

6-17-106. Scope of article.

This article shall apply to all records prepared by private individuals, partnerships, corporations, or any other association, whether carried on for profit or not, and to any government entity operating under the laws of this state and shall apply to all records created before and after July 1, 1990.

Source: L. 90: Entire article added, p. 385, § 1, effective July 1.

HEALTH-CARE COVERAGE COOPERATIVES

ARTICLE 18

Health-Care Coverage Cooperatives - Provider Networks

PART 1
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6-18-101 to

6-18-103. (Repealed)

PART 2
HEALTH-CARE COVERAGE COOPERATIVES

6-18-201 to

6-18-208. (Repealed)

PART 3
PROVIDER NETWORKS

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6-18-301.5. Definitions.

6-18-302. Creation of provider networks - requirements.

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PART 4
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6-18-401. (Repealed)

PART 1

GENERAL PROVISIONS

6-18-101 to 6-18-103. (Repealed)

Source: L. 2004: Entire part repealed, p. 1011, § 23, effective August 4.

Editor's note: This article was added in 1994, and this part 1 was subsequently repealed in 2004. For amendments to this part 1 prior to its repeal in 2004, consult the 2003 Colorado Revised Statutes and the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

PART 2

HEALTH-CARE COVERAGE COOPERATIVES

6-18-201 to 6-18-208. (Repealed)

Source: L. 2004: Entire part repealed, p. 1011, § 23, effective August 4.

Editor's note: (1) This article was added in 1994, and this part 2 was subsequently repealed in 2004. For amendments to this part 2 prior to its repeal in 2004, consult the 2003 Colorado Revised Statutes and the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 6-18-206 (1)(e) and (2)(c) were amended in Senate Bill 04-239. Those amendments were superseded by the repeal of this part 2 in Senate Bill 04-105.

PART 3

PROVIDER NETWORKS

6-18-301. Legislative declaration.

(1) The general assembly hereby finds, determines, and declares that the rapidly changing health-care market provides unique opportunities for health-care providers to organize themselves into new forms of collaborative systems to deliver high quality health care at competitive market prices to cooperatives and other purchasers. This part 3 is enacted to encourage such collaborative arrangements and to further market-based competition among health-care providers.

(2) The general assembly further recognizes that in order to achieve the most effective use of resources and medical technology to respond to changing market conditions, providers who would otherwise be competitors with each other will need to horizontally integrate in order to develop collaborative arrangements to guarantee an adequate number of providers to service the market and to vertically integrate in order to guarantee that those who receive services will have a continuum of care as appropriate to their care needs.

(3) The general assembly also recognizes that to effect such new forms of collaborative systems and integration of providers to service the market will require an analysis of existing methods of providing services, contracting, collaborating, and networking among providers and the extent and type of regulatory oversight of licensed provider networks or licensed individual providers which is appropriate to protect the public.

Source: L. 94: Entire article added, p. 1937, § 1, effective July 1.

6-18-301.5. Definitions.

As used in this part 3, unless the context otherwise requires:

(1) "Licensed provider network" or "licensed individual provider" means a provider network or individual provider that is authorized to transact insurance business pursuant to title 10, C.R.S.

(2) "Provider" means a state-licensed, state-certified, or state-authorized facility or a practitioner delivering health-care services to individuals.

(3) "Provider network" means a group of health-care providers formed to provide health-care services to individuals.

Source: L. 2004: Entire section added, p. 1009, § 17, effective August 4.

6-18-302. Creation of provider networks - requirements.

(1) (a) Providers are hereby authorized to conduct business collaboratively as provider networks. Such networks are entities existing on or before July 1, 1994, that meet the definition of a provider network or may be created as any lawful entity under title 7, C.R.S., or as otherwise allowed by law. Provider networks existing on or before July 1, 1994, and provider networks created on and after July 1, 1994, conducting business pursuant to this part 3, in addition to the matters otherwise required, shall be subject to this article.

(b) (I) Except as provided in subparagraph (II) of this paragraph (b), if a provider network or individual provider organized on or after July 1, 1994, or organized prior to said date, proposes or is engaged in the transaction of insurance business, as defined in section 10-3-903, C.R.S., or the activities of a health maintenance organization as defined in section 10-16-102 (35), C.R.S., such provider network or individual provider must hold a certificate of authority from the commissioner of insurance to do business as an insurance company under title 10, C.R.S., or to establish a health maintenance organization under section 10-16-402, C.R.S.

(II) The fact that a provider network or individual provider has a capitated contract or other agreement with a carrier, pursuant to which the provider network or individual provider shares some of the risk of providing services to groups or individuals covered under a health-care coverage plan issued by a carrier, shall not, in and of itself, be grounds for a determination by the commissioner of insurance that the provider network or individual provider is engaged in the transaction of insurance business.

(III) The commissioner of insurance, in consultation with providers and other appropriate persons, shall evaluate the need for specific legislation or rules for the licensure of provider networks and individual providers and, if determined appropriate, shall make recommendations thereon to the general assembly and governor and shall adopt such rules that are specific to licensed provider networks and licensed individual providers as provided in section 10-1-108 (13), C.R.S. A licensed provider network or licensed individual provider shall be subject to applicable provisions of title 10, C.R.S., except as otherwise provided in statute or rule adopted pursuant to section 10-1-108 (13), C.R.S.

(IV) Every licensed provider network that conducts insurance business in the state of Colorado shall:

(A) Obtain from the commissioner of insurance, before the start of business, a certificate of authority authorizing the provider network to conduct business in the state of Colorado;

(B) Maintain its principal and home office in the state of Colorado, maintain such books and records in this state, and maintain principal banking relationships with a bank chartered by the state of Colorado or a member bank of the federal reserve system;

(C) Hold at least one board of directors' meeting each year in the state of Colorado;

(D) Include in the provider network's management and administrative agreements, for essential insurance services, a provision that allows the commissioner reasonable access to examine such books and records; and

(E) For purposes of this paragraph (b), substantially perform in the state of Colorado the essential functions of the licensed provider network's principal and home office, including, but not limited to, the provision and administration of health-care services, the issuance of health-care plans, the maintenance of health-care provider relations, and the provision of consumer information and services.

(2) If applicable, a network organized on and after July 1, 1994, is organized when the articles of organization are filed by the secretary of state or, if a delayed effective date is specified in the articles as filed with the secretary of state and a certificate of withdrawal is not filed, on such delayed effective date. The existence of the network begins upon organization.

(3) If applicable, each provider network shall file a report pursuant to section 7-136-107, C.R.S., and pay a fee to the secretary of state which shall be determined and collected pursuant to section 24-21-104 (3), C.R.S., in lieu of all franchise or corporation license taxes.

(4) A provider network or individual provider may request that specified information submitted to the division of insurance be kept confidential because it is a trade secret as defined in section 7-74-102 (4), C.R.S. The division shall honor such request unless the commissioner determines that the information is already public knowledge or that its confidentiality would be contrary to the public interest or the provider subsequently authorized the commissioner to release such information.

Source: L. 94: Entire article added, p. 1937, § 1, effective July 1. **L. 97:** (3) amended, p. 756, § 6, effective July 1, 1998. **L. 2001:** (1)(b)(IV) added, p. 13, § 1, effective March 1. **L. 2003:** (1)(b)(III) amended, p. 614, § 3, effective July 1. **L. 2004:** (1)(b)(II) amended, p. 979, § 1, effective August 4. **L. 2013:** (1)(b)(I) amended, (HB 13-1266), ch. 217, p. 985, § 39, effective May 13.

6-18-303. Effect on scope of practice - limited exception to prohibitions on corporate practice of licensed health-care providers.

(1) Except as provided in subsection (2) of this section, the fact that an entity or provider is a member of a provider network shall not exempt such entity or provider from any licensure or regulatory statute, nor shall any scope of practice of any provider be expanded, reduced, or otherwise modified by virtue of membership in or affiliation with any provider network.

(2) Any provision of article 200, 215, or 290 of title 12, or any of the provisions of articles 220, 240, 245, 255 to 285, 295, and 300 of title 12, prohibiting the practice of any licensed or certificated health-care profession as the partner, agent, or employee of or in joint venture with a person who does not hold a license or certificate to practice such profession within this state shall not apply to professional practice if a professional is participating in a provider network organized pursuant to this part 3 and:

(a) The partnership, agency, employment, or joint venture is evidenced by a written agreement containing language to the effect that the relationship created by the agreement may not affect the exercise of the licensed or certified professional's independent judgment in the practice of the profession;

(b) The licensed or certificated professional's independent judgment in the practice of such profession is in fact unaffected by the relationship; and

(c) The licensed professional is not required to exclusively refer any patient to a particular provider or supplier or take any other action the licensed professional determines not to be in the patient's best interest.

Source: L. 94: Entire article added, p. 1938, § 1, effective July 1. **L. 2019:** IP(2) amended, (HB 19-1172), ch. 136, p. 1646, § 15, effective October 1.

6-18-304. Competitive behavior - restraints of trade prohibited.

Organization or operation as a provider network is authorized under this article for the purpose of more cost-effective delivery of health-care services, and shall not be construed as permitting any such collaborative system or any member of such provider network to act in a concerted way to restrain trade or otherwise engage in practices which are otherwise prohibited by federal or state antitrust law.

Source: L. 94: Entire article added, p. 1939, § 1, effective July 1.

ANNOTATION

Law reviews. For article, "Physician-Controlled Network Joint Ventures: Antitrust Considerations", see 24 Colo. Law. 1551 (1995).

PART 4

TECHNICAL ASSISTANCE TO AUTHORIZED COOPERATIVES FROM DEPARTMENT OF HEALTH CARE POLICY AND FINANCING

6-18-401. (Repealed)

Source: L. 2004: Entire part repealed, p. 1011, § 23, effective August 4.

Editor's note: This article was added in 1994, and this part 4 was not amended prior to its repeal in 2004. For the text of this part 4 prior to 2004, consult the 2003 Colorado Revised Statutes.

TRANSACTIONS INVOLVING LICENSED HOSPITALS

ARTICLE 19

Transactions Involving Licensed Hospitals

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PART 1

GENERAL PROVISIONS

6-19-101. Legislative declaration.

(1) The general assembly hereby finds, determines, and declares that all licensed and certified hospitals provide a service to the public by making health-care services available to the communities they serve.

(2) Furthermore, for purposes of the attorney general's authority over the transfer of nonprofit hospital assets, all nonprofit hospitals shall be deemed to hold all of their assets in trust, and those assets shall be deemed to be dedicated to the specific charitable purposes set forth in the articles of incorporation or other organic documents of the nonprofit entities that hold them in trust. The public is the beneficiary of this trust. Nonprofit hospitals have a substantial and beneficial effect on the provision of health care to the people of Colorado, providing as part of their charitable purposes uncompensated care to the uninsured or underinsured and including, but not limited to, providing moneys and support for health-related research and education or other community benefits. The general assembly also finds that transfers of the assets of nonprofit hospitals to the for-profit sector may directly affect the character and extent of the charitable use of those assets or the proceeds from the assets. The public also has an interest in knowing that the transfer of the assets of a nonprofit hospital, or the proceeds from the assets, preserves, to the extent practicable, their charitable purpose. The general assembly believes it is in the best interest of the public to ensure that the public interest is fully protected whenever the assets of a hospital are transferred to a for-profit entity except in the ordinary course of business.

(3) The general assembly further finds and declares that all transfers of hospital assets or control have the potential to impact the communities they serve. This article is intended to protect the public interest, to assure that nonprofit assets of hospitals are preserved to serve the charitable purposes to which they were dedicated, and to provide the public notice of all transfers

of assets of hospitals that constitute covered transitions as defined in this article and shall be construed with these purposes in mind.

(4) The general assembly further finds and declares that the addition of the factors to be considered in relation to the term "material change" in section 6-19-203 (1) is intended to clarify the provisions of this article.

Source: L. 98: Entire article added, p. 520, § 1, effective April 30. **L. 2008:** (4) added, p. 1342, § 1, effective August 5.

6-19-102. Definitions.

As used in this article, unless the context otherwise requires:

(1) "Covered transaction" means any transaction that would result in the sale, transfer, lease, exchange, or other disposition of fifty percent or more of the assets of a hospital. A series of transactions taking place in any five-year period, which would result in the aggregate of the transfer of fifty percent or more of a hospital's assets, shall in all circumstances be deemed to be a covered transaction. "Covered transaction" shall also include the sale, transfer, or other disposition of the control of a parent company, holding company, or other entity controlling a hospital. For the purposes of this subsection (1), "fifty percent or more of the assets" shall be based on the fair market value of all of the assets of the hospital.

(2) "For-profit entity" means a business corporation, general partnership, limited partnership, limited liability limited partnership, limited liability partnership, limited liability company, limited partnership association, and cooperative.

(3) "Hospital" means a licensed or certified hospital as described in section 25-1.5-103 (1)(a)(I) and (1)(a)(II), C.R.S.

Source: L. 98: Entire article added, p. 521, § 1, effective April 30. **L. 2003:** (3) amended, p. 700, § 4, effective July 1.

6-19-103. Procedures for covered transactions - notice - attorney general powers.

(1) The parties to a covered transaction shall provide notice of such transaction to the attorney general no later than sixty days prior to the transaction closing or effective date of the transaction. The notice to the attorney general shall be in writing, shall include the information required in section 6-19-202, 6-19-302, or 6-19-402, as applicable, and shall contain a

certification that public notice of the transaction will be given within seven days after the notification to the attorney general.

(2) Whenever the attorney general has reason to believe that a person has engaged in or is engaging in a covered transaction without complying with the provisions of this article, the attorney general may apply for and obtain, in an action in the appropriate district court of this state, a temporary restraining order or injunction, or both, pursuant to the Colorado rules of civil procedure prohibiting such person from continuing such noncompliance or engaging therein or doing any act in furtherance thereof. The court may make such further orders or judgments, at law or in equity, as may be necessary to remedy such noncompliance.

Source: L. 98: Entire article added, p. 521, § 1, effective April 30.

6-19-104. Attorney general - effect on powers.

(1) Nothing in this article shall be construed as limiting the attorney general's common law powers.

(2) Nothing in this article shall affect the regulatory authority of any government agency other than the department of law.

Source: L. 98: Entire article added, p. 522, § 1, effective April 30.

PART 2

NONPROFIT TO NONPROFIT TRANSACTIONS

6-19-201. Scope of part 2.

This part 2 applies to covered transactions involving a nonprofit hospital and another nonprofit entity.

Source: L. 98: Entire article added, p. 522, § 1, effective April 30.

6-19-202. Notice.

Notice shall be provided by the parties to a covered transaction according to section 6-19-103 and shall include a statement on the charitable purposes of each nonprofit entity entering into the covered transaction as well as a statement concerning the relationship of these purposes to the hospital involved in the transaction. The statement may include a certification by the chief executive officer as approved by the board of directors or board of trustees of the nonprofit entity transferring its assets that there will be no material change in the charitable purposes to which the transferred assets are dedicated as a result of the transaction.

Source: L. 98: Entire article added, p. 522, § 1, effective April 30.

6-19-203. Attorney general review and assessment.

(1) A covered transaction described under this part 2 that will not result in a material change in the charitable purposes, charitable missions, or services to which the assets of the hospital have been dedicated, and will not result in a termination of the attorney general's jurisdiction over those assets caused by a transfer of a material amount of those assets outside of the state, shall proceed without further review. In considering whether a material change results from the transaction, the attorney general shall consider, among other factors, reductions in the availability and accessibility of health-care services in the communities served by the hospital.

(2) When a transaction covered by this part 2 will result in a material change in the charitable purposes to which the assets of a hospital have been dedicated or a termination of the attorney general's jurisdiction over the hospital assets caused by a transfer of a material amount of those assets outside the state of Colorado, the attorney general may exercise the attorney general's common law authority to assess and review or challenge the transaction as deemed appropriate by the attorney general. If the attorney general decides to conduct an assessment or review, the following provisions apply to actions of the attorney general:

(a) The attorney general shall perform a review and assessment to the extent practicable and with due consideration to the financial circumstances of the parties to the transaction. The attorney general is further authorized to:

(I) Hire experts, at the expense of the parties to the transaction, as similarly provided for in section 6-19-406 (1)(b) and to accept and expend grants or donations, or both, as similarly provided for in section 6-19-406 (1)(e);

(II) Contract and consult with other state agencies as similarly provided for in section 6-19-406 (1)(a);

(III) Require production of material documentation, such as the proposed agreements relating to the proposed transaction, agreements regarding collateral transactions relating to the proposed transaction, and any reports of financial and economic analysis that the nonprofit entity reviewed or relied on in negotiating the proposed transaction. These documents shall be treated in the same manner as set forth in section 6-19-404 (4).

(IV) Hold a public hearing as similarly provided for in section 6-19-404 (1). The attorney general shall provide a written determination within the time frames or extended time frames as similarly provided for in section 6-19-402 (2).

(b) The attorney general shall have the authority to allow a transaction that satisfies the following criteria:

(I) The assets continue to be dedicated to charitable purposes;

(II) The directors or trustees of the parties to the transaction have not acted unreasonably in light of the financial circumstances of the parties;

(III) The directors or trustees of the parties to the transaction have not acted unreasonably in accommodating the affected community or communities; and

(IV) The directors or trustees of the parties to the transaction have not breached their fiduciary duties or otherwise engaged in misconduct in such transaction.

(c) The attorney general shall liberally construe the criteria set forth in paragraph (b) of this subsection (2) in favor of allowing a transaction to proceed.

Source: L. 98: Entire article added, p. 522, § 1, effective April 30. **L. 2008:** (1) amended, p. 1342, § 2, effective August 5. **L. 2026:** (1) and IP(2) amended, (HB 26-1426), ch. 334, p. 2016, § 69, effective August 12.

PART 3

FOR-PROFIT TO FOR-PROFIT TRANSACTIONS

6-19-301. Scope of part 3.

This part 3 applies to covered transactions where the parties involved in the transaction are all for-profit entities.

Source: L. 98: Entire article added, p. 524, § 1, effective April 30.

6-19-302. Notice.

The parties to a covered transaction governed by this part 3 shall provide the notice required by section 6-19-103.

Source: L. 98: Entire article added, p. 524, § 1, effective April 30.

PART 4

NONPROFIT TO FOR-PROFIT TRANSACTIONS

6-19-401. Scope of part 4.

This part 4 applies to covered transactions involving a nonprofit hospital and a for-profit entity.

Source: L. 98: Entire article added, p. 524, § 1, effective April 30.

ANNOTATION

Law reviews. For article, "Colorado Choice of Entity 1998", see 27 Colo. Law. 5 (June 1998).

6-19-402. Notice and filing.

(1) The notice and filing provided to the attorney general pursuant to section 6-19-103 shall include all proposed agreements relating to the proposed transaction, all agreements regarding collateral transactions that relate to the principal transaction, any reports of financial and economic analysis that the nonprofit entity reviewed or relied on in negotiating the proposed transaction, and an explanation of how the completed transaction will comply with the requirements of section 6-19-403. The attorney general shall notify the parties to the transaction if the filing is complete or incomplete within thirty days after the initial filing and shall specify the omitted documentation if incomplete. An initial filing that includes a schedule for the submission of subsequently produced or acquired documents may be deemed complete by the attorney general.

(2) Within sixty days after the complete filing required by this section, the attorney general shall notify in writing the parties to the transaction of the results and conclusions of the review and assessment. The attorney general may extend this period for an additional period of up to ninety days if the attorney general determines, for good cause, that additional time is warranted and so advises the parties in writing. The attorney general shall notify the parties of any extension as soon as possible.

Source: L. 98: Entire article added, p. 524, § 1, effective April 30.

6-19-403. Certification and criteria.

(1) The proposed transaction shall comply with the provisions of this section, and the parties to the transaction shall include in the filing required by section 6-19-402 documentation and certification from the parties, either joint or several as appropriate, that the covered transaction will comply with the following:

(a) The transaction shall be in the public interest. A transaction is not in the public interest unless appropriate steps have been taken to safeguard the value of nonprofit hospital assets being transferred and to ensure that any proceeds of the transaction are dedicated to the charitable purposes.

(b) The transaction results in continuing access to health-care services for the affected community.

(c) No director, officer of the board, chief executive officer, chief operating officer, or chief financial officer of the nonprofit entity submitting the filing or a nonprofit charitable organization receiving the proceeds of the covered transaction shall benefit directly or indirectly from the transaction.

(d) The nonprofit entity proposing the transaction shall use due diligence in selecting the for-profit entity that is a party to the transaction and in negotiating the price and other terms and conditions of the transaction.

(e) Proceeds of the covered transaction shall be set aside in an amount equal to the fair market value of the hospital assets being transferred. Fair market value shall be determined at the time of the transaction and include consideration of market value, going concern value, net asset value, and any other significant relevant factors.

(f) The distribution of the proceeds of the covered transaction shall be made only to one or more existing or new charitable organizations operating pursuant to 26 U.S.C. sec. 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended.

(g) Each nonprofit charitable organization receiving the proceeds of the covered transaction, its directors, officers, and staff shall be and remain independent of the parties to the transaction and their affiliates. Except as provided in this paragraph (g), no person who is a director, officer of the board, chief executive officer, chief operating officer, or chief financial officer of any party to the transaction submitting the notice and filing, at the time the notice is submitted or at the time of the transaction, shall be qualified to be an officer of the board, chief executive officer, chief operating officer, or chief financial officer of the nonprofit charitable organization receiving the proceeds of the covered transaction. The nonprofit entity that is a party to the proposed transaction shall include in its notice and filing the proposed membership of the initial board of directors of the nonprofit charitable organization that is to receive the proceeds of the covered transaction that shall represent the diverse interests of the affected communities and include persons from the area affected by the transaction. Notwithstanding the requirements of this paragraph (g), each nonprofit charitable organization receiving the proceeds of the covered transaction may have persons affiliated with parties to the transaction or their affiliates serve on its board of directors provided that such persons do not constitute more than one-third of the members of the board.

(h) A nonprofit charitable organization receiving the proceeds of the covered transaction shall put mechanisms in place to avoid conflicts of interest and to prohibit grants or other actions benefiting its board of directors or management beyond the reasonable value of their services or substantially benefiting the for-profit entity.

(i) The charitable mission and functions of the nonprofit charitable organization receiving the proceeds of the covered transaction shall reflect the historical charitable purposes of the nonprofit entity proposing the transaction.

Source: L. 98: Entire article added, p. 524, § 1, effective April 30.

6-19-404. Attorney general review.

(1) No later than thirty days after the attorney general has received the completed notice and filing pursuant to section 6-19-402, the attorney general shall hold at least one public hearing in the service area of the hospital involved in the transaction, at which the attorney general shall allow any person to either file written comments and exhibits or appear and make a statement about any aspect of the transaction, including, but not limited to, whether the proposed transaction complies with the requirements of section 6-19-403. At least seven days prior to each public hearing, the attorney general shall submit a press release providing pertinent information about the hearing, including the time and place of the hearing, to one or more newspapers of general circulation in the affected communities and notify the mayor of the city or city and

county and the board of county commissioners of the county in which the hospital is located. The public hearing shall be a legislative rather than an adjudicative hearing.

(2) The attorney general shall have the power to subpoena documents or witnesses, require and administer oaths, and require statements at any time that are reasonably necessary to assess an application or monitor compliance with this section.

(3) If any person fails to cooperate with any investigation pursuant to this section or fails to obey any subpoena issued pursuant to this section, the attorney general may apply to the appropriate district court for an appropriate order to effect the purposes of this section. The application shall state that there are reasonable grounds to believe that the order applied for is necessary to carry out the attorney general's duties under this section. If the court is satisfied that reasonable grounds exist, the court, in its order, may:

(a) Require the attendance of or the production of documents by such person, or both;

(b) Grant such other or further relief as may be necessary to obtain compliance by such person.

(4) Except for documents the attorney general determines to be confidential as a matter of law, the documents filed pursuant to section 6-19-402 shall be available to the public for review and copying during normal business hours at both the attorney general's office and the offices of the parties to the transaction. Reasonable costs of copying shall be borne by the parties if copies are requested at their offices.

Source: L. 98: Entire article added, p. 526, § 1, effective April 30.

6-19-405. Post-transaction requirements.

For a period of not less than five years, the nonprofit charitable organization receiving the proceeds of the covered transaction shall provide the attorney general with an annual report of its grant-making and other charitable activities related to its use of the proceeds of the covered transaction received. For a period of not less than five years, the for-profit entity shall provide the attorney general with an annual report detailing its activities to satisfy the requirements of section 6-19-403 at the time of the review and assessment. These annual reports shall be made available to the public at the attorney general's office, the office of the nonprofit charitable organization, and the offices of the parties to the covered transaction. The annual report shall be filed no later than ninety days after the year that the report addresses.

Source: L. 98: Entire article added, p. 527, § 1, effective April 30.

6-19-406. Attorney general powers.

(1) The attorney general has the following powers:

(a) To contract with, consult with, and receive advice from any state agency on those terms and conditions that the attorney general and the executive director deem appropriate;

(b) To contract with persons including, but not limited to, attorneys, accountants, actuaries, financial analysts, and health-care analysts as is reasonable and necessary to assist in reviewing a proposed transaction. Contract costs shall be borne by the parties to the transaction and shall not exceed an amount that is reasonably necessary to conduct the review and assessment.

(c) To adopt regulations or guidelines as necessary in order to carry out the requirements of this section;

(d) The discretion to determine, consistent with the requirements of section 6-19-404, the degree of administrative review of the transaction that is necessary to determine whether the transaction conforms with the requirements of section 6-19-403. This determination shall be made by taking into consideration, among other things, the size of the transaction, the size of all communities affected by the transaction, the impact on the communities, and the past performance of the for-profit entity.

(e) To accept and expend grants or donations, or both, not to exceed fifty thousand dollars for the purpose of the implementation of this article. Any such grants or donations shall be deposited into and expended from the nonprofit health care entity review cash fund created in paragraph (f) of this subsection (1).

(f) To request and receive from the for-profit entity such sums as may be prescribed by the attorney general to cover the necessary and actual costs for monitoring for the ensuing five-year period to ensure that the transaction remains in compliance with the requirements of section 6-19-403. Any moneys collected pursuant to this paragraph (f) shall be transmitted to the state treasurer, who shall credit the same to the nonprofit health care entity review cash fund, which fund is hereby created in the state treasury. The moneys in such fund shall be continuously appropriated for the direct and indirect costs of such monitoring. In accordance with section 24-36-114, C.R.S., all interest derived from the deposit and investment of this fund shall be credited to the general fund.

(g) To hold a hearing after twenty days' notice to the affected parties if the attorney general receives information that the attorney general deems sufficient to indicate that a nonprofit charitable organization or for-profit entity may not be fulfilling its obligations pursuant to section 6-19-403. If, after such a hearing, the attorney general determines that proof of the noncompliance is probable, the attorney general shall institute proceedings in district court to require corrective action. The attorney general shall retain oversight of the corrective action for

as long as necessary to ensure compliance. Nothing in this section shall be construed to limit the attorney general's power to enforce compliance with this section after the expiration of the five-year period contemplated by subsection (1)(f) of this section.

Source: L. 98: Entire article added, p. 527, § 1, effective April 30. **L. 2026:** (1)(g) amended, (HB 26-1426), ch. 334, p. 2016, § 70, effective August 12.

6-19-407. Attorney general review and assessment.

(1) The attorney general may review any notice and filing made under this part 4 and assess whether the proposed transaction complies with the requirements of section 6-19-403.

(2) If, after review and assessment, the attorney general concludes that all of the requirements of section 6-19-403 have been met, the attorney general shall issue a written assessment and conclusion to such effect on the proposed transaction. If the attorney general concludes, after discussions with the parties to the transaction, that all of the requirements of section 6-19-403 have not been met, or if the attorney general is unable to conclude whether or not all of the requirements of section 6-19-403 have been met, the attorney general shall issue a written assessment and conclusion to such effect on the proposed transaction. Such nonconclusive or noncomplying assessment and conclusion shall include specific findings on each of the requirements of section 6-19-403. The attorney general may also issue a written statement that a formal assessment and review has not been determined necessary for the covered transaction or that the transaction does not constitute a covered transaction.

(3) The attorney general may challenge any proposed transaction at any time through injunction, declaratory order, or otherwise, in the district court of the jurisdiction in which the nonprofit entity proposing the transaction has its principal place of business or where the hospital involved in the transaction is located. If the attorney general's assessment and review under this section is challenged in court, the attorney general's conclusions shall be the focus of the review by the reviewing court and shall be given strong deference by such court. The burden shall be upon the proponents of the transaction to establish that the attorney general's conclusions are not in conformance with statutory provisions. The court shall have the power to issue whatever orders are necessary to ensure compliance with the provisions of section 6-19-403.

Source: L. 98: Entire article added, p. 528, § 1, effective April 30.

HOSPITAL DISCLOSURES TO CONSUMERS

ARTICLE 20

Hospital Disclosures to Consumers

PART 1
DISCLOSURE OF AVERAGE CHARGE

6-20-101. Provider disclosure of average charge.

6-20-102. Limits on facility fees - rules - definitions.

PART 2
NOTIFICATION OF DEBT BY A HEALTH-CARE PROVIDER

6-20-201. Definitions.

6-20-202. Notice to patient of debt.

6-20-203. Limitations on collection actions - definition.

PART 1

DISCLOSURE OF AVERAGE CHARGE

6-20-101. Provider disclosure of average charge.

(1) Each hospital licensed or certified pursuant to section 25-1.5-103 (1)(a) shall disclose to an individual seeking care or treatment the individual's right to receive notice of the average facility charge for treatment that is a frequently performed inpatient procedure prior to admission for such procedure; except that a hospital is not required to disclose the potential costs for care or treatment for an emergency prior to emergency care or treatment. When an individual requests the average charge information prior to admission for a procedure, the hospital shall make the information available to the individual.

(2) Other health facilities licensed or certified pursuant to section 25-1.5-103 (1)(a) shall disclose to an individual seeking care or treatment the individual's right to receive notice of the average facility charge for treatment that is a frequently performed procedure prior to ordering or scheduling such procedure; except that a health facility is not required to disclose the potential costs for care or treatment for an emergency prior to emergency care or treatment. When an individual requests the average charge information prior to scheduling a procedure, the health facility shall make the information available to the individual.

Source: L. 2003: Entire article added, p. 1221, § 2, effective January 1, 2004. **L. 2004:** (1) and (2) amended, p. 1189, § 11, effective August 4. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 2016, § 71, effective August 12.

6-20-102. Limits on facility fees - rules - definitions.

(1) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Affiliated with" means:

(I) Employed by a hospital or health system; or

(II) Under a professional services agreement, faculty agreement, or management agreement with a hospital or health system that permits the hospital or health system to bill on behalf of the affiliated entity.

(b) "Campus" means:

(I) A hospital's main buildings;

(II) The physical area immediately adjacent to a hospital's main buildings and structures owned by the hospital that are not strictly contiguous to the main buildings but are located within two hundred fifty yards of the main buildings; or

(III) Any other area that the federal centers for medicare and medicaid services in the United States department of health and human services has determined, on an individual-case basis, to be part of a hospital's campus.

(c) "Critical access hospital" means a hospital that is federally certified or undergoing federal certification as a critical access hospital pursuant to 42 CFR 485, subpart F.

(d) "Facility fee" means any fee a hospital or health system charges or bills for outpatient hospital services that is:

(I) Intended to compensate the hospital or health system for its operational expenses; and

(II) Separate and distinct from a professional fee charged or billed by a health-care provider for professional medical services.

(e) "Freestanding emergency department" means a health facility as defined in and required to be licensed under section 25-1.5-114.

(f) "Health-care provider" means any person, including a health facility, that is licensed or otherwise authorized in this state to furnish a health-care service.

(g) "Health-care service" has the meaning set forth in section 10-16-102 (33).

(h) "Health facility" means a facility licensed or certified pursuant to section 25-1.5-103 or established pursuant to part 5 of article 21 of title 23 or article 29 of title 25.

(i) "Health system" has the meaning set forth in section 10-16-1303 (9).

(j) "Hospital" means a hospital currently licensed or certified by the department of public health and environment pursuant to the department's authority under section 25-1.5-103 (1)(a) or established pursuant to part 5 of article 21 of title 23 or article 29 of title 25.

(k) "Medicare" means the "Health Insurance for the Aged Act", Title XVIII of the federal "Social Security Act", as amended by the social security amendments of 1965, and as later amended.

(l) "Off-campus location" has the meaning set forth in section 25-3-118.

(m) "Owned by" means owned by a hospital or health system when billed under the hospital's tax identification number.

(n) "Payer type" means commercial insurers, medicare, the medical assistance program established pursuant to articles 4 to 6 of title 25.5, individuals who self-pay, or a financial assistance plan.

(o) "Sole community hospital" has the meaning set forth in 42 CFR 412.92.

(2) **Limitations on charges.**

(a) On and after July 1, 2024, a health-care provider or health system shall not charge, bill, or collect a facility fee directly from a patient that is not covered by a patient's insurance for preventive health-care services, as described in section 10-16-104 (18), that are provided in an outpatient setting.

(b) This subsection (2) does not prohibit a health-care provider from charging a facility fee for:

(I) Health-care services provided in an inpatient setting;

(II) Health-care services provided at a health facility that includes a licensed hospital emergency department; or

(III) Emergency services provided at a licensed freestanding emergency department.

(c) Nothing in this subsection (2) prohibits a health-care provider or health system from charging, billing, or collecting a facility fee from a patient's insurer pursuant to an agreement between the health-care provider or health system and the carrier or as required by law.

(3) **Transparency.**

(a) On and after July 1, 2024, a health-care provider affiliated with or owned by a hospital or health system that charges a facility fee shall:

(I) (A) Provide notice in plain language to patients that a facility fee may be charged, indicate in the notice the amount of the facility fee, and require the health-care provider to

provide the notice to a patient at the time an appointment is scheduled and again at the time the health-care services are rendered; and

(B) Post a sign, in English and Spanish and that is plainly visible and located in the area within the health facility where an individual seeking care registers or checks in, that states that the patient may be charged a facility fee in addition to the cost of the health-care service. The sign must also include a location within the health facility where a patient may inquire about facility fees and an online location where information about facility fees may be found.

(II) Provide to a patient a standardized bill that:

(A) Includes itemized charges for each health-care service;

(B) Specifically identifies any facility fee;

(C) Identifies specific charges that have been billed to insurance or other payer types for health-care services; and

(D) Includes contact information for filing an appeal with the health-care provider to contest charges.

(b) The health-care provider shall provide the required notice and standardized bill in a clear manner and, to the extent practicable, in the patient's preferred language.

(c) (I) A health facility that is newly affiliated with or owned by a hospital or health system on or after July 1, 2024, shall provide written notice to each patient receiving services within the twelve-month period immediately preceding the affiliation or change of ownership that the health facility is part of a hospital or health system. The notice must include:

(A) The name, business address, and phone number of the hospital or health system that is the purchaser of the health facility or with whom the health facility is affiliated;

(B) A statement that the health facility bills, or is likely to bill, patients a facility fee that may be in addition to and separate from any professional fee billed by a health-care provider at the health facility; and

(C) A statement that, prior to seeking services at the health facility, a patient covered by a health insurance policy or health benefit plan should contact the patient's health insurer for additional information regarding the health facility's facility fees, including the patient's potential financial liability, if any, for the facility fees.

(II) A hospital, health system, or health facility shall not collect a facility fee for health-care services provided by a health-care provider affiliated with or owned by a hospital or health system that is subject to any provisions of this section from the date of the transaction until at least thirty days after the written notice required pursuant to subsection (3)(c)(I) of this section is mailed to the patient.

(4) Subsection (2) of this section does not apply to a critical access hospital, a sole community hospital in a rural or frontier area, or a community clinic affiliated with a sole community hospital in a rural or frontier area.

(5) Subsection (2) of this section does not apply to a hospital established pursuant to article 29 of title 25.

Source: L. 2023: Entire section added, (HB 23-1215), ch. 277, p. 1632, § 1, effective May 30. **L. 2024:** (1)(n) amended, (HB 24-1399), ch. 76, p. 253, § 8, effective July 1, 2025.

PART 2

NOTIFICATION OF DEBT BY A HEALTH-CARE PROVIDER

6-20-201. Definitions.

As used in this part 2, unless the context otherwise requires:

(1) "Collection activity" means only those activities provided or performed by a licensed collection agency, using a business name other than the name of the health-care provider, for purposes of collecting a medical debt. The term does not include any standard billing procedures used by the health-care provider or its agent in the normal course of business on current, nondelinquent accounts.

(2) "Collection agency" shall have the same meaning as in section 5-16-103 (3).

(3) "Health-care provider" includes a health-care facility licensed pursuant to article 3 of title 25, C.R.S., and any other health-care provider.

(4) "Hospital services" means health-care services, as defined in section 10-16-102 (33), provided by a health-care facility, as defined in section 25.5-3-501 (1), or a licensed health-care professional, as defined in section 25.5-3-501 (3).

(5) "Impermissible extraordinary collection action" means initiating foreclosure on an individual's primary residence or homestead, including a mobile home, as defined in section 38-12-201.5 (5).

(6) "Medical creditor" means an entity that attempts to collect on a medical debt, including:

(a) A health-care provider or health-care provider's billing office;

(b) A collection agency, as defined in section 5-16-103 (3);

(c) A debt buyer, as defined in section 5-16-103 (8.5); and

(d) A debt collector, as defined in 15 U.S.C. sec. 1692a (6).

(7) "Permissible extraordinary collection action" means an action other than an impermissible extraordinary collection action that requires a legal or judicial process, including but not limited to placing a lien on an individual's real property, attaching or seizing an individual's bank account or any other personal property, or garnishing an individual's wages. A permissible extraordinary collection action does not include the assertion of a hospital lien pursuant to section 38-27-101.

Source: L. 2004: Entire part added, p. 458, § 1, effective August 4. **L. 2005:** Entire section amended, p. 124, § 1, effective August 8. **L. 2017:** (2) amended, (HB 17-1238), ch. 260, p. 1171, § 12, effective August 9. **L. 2021:** (4), (5), (6), and (7) added, (HB 21-1198), ch. 435, p. 2881, § 3, effective September 7. **L. 2026:** IP and (1) amended, (SB 26-138), ch. 308, p. 1773, § 13, effective August 12.

Cross references: For the legislative declaration in SB 26-138, see section 1 of chapter 308, Session Laws of Colorado 2026.

6-20-202. Notice to patient of debt.

(1) (a) When a person has health benefit coverage to provide payment for care or treatment rendered by a health-care provider and the person has notified the health-care provider of coverage within thirty days after the date the care or treatment was rendered, and if the health coverage plan, as defined in section 10-16-102 (34), C.R.S., pays only a portion of the debt, prior to the assignment of the debt to a licensed collection agency, the health-care provider shall mail written notice to the last-known address of the person responsible for payment of the debt at least thirty days before any collection activity on any amount due and owing the health-care provider.

(b) The notice required of health-care providers by paragraph (a) of this subsection (1) shall include the amount due and owing; the name, address, and telephone number of the health-care provider; where payment may be made; the date of service; and the last date or number of days after the date of the notice the health-care provider will accept payment prior to the debt being submitted to a collection agency or reporting adverse information to a consumer reporting agency for the debt for which notice was provided.

(2) (a) If the health-care provider fails to provide the person with notice of such debt and all other information required by subsection (1) of this section, the health-care provider shall not pursue any rights to collect such outstanding amount either through a collection agency or by any further efforts of the health-care provider to collect the debt. In addition, the health-care provider

may not report adverse information to a consumer reporting agency for the debt for which notice was provided without providing notice to the person pursuant to subsection (1) of this section. The health-care provider shall assist the person in correcting any adverse credit information because of the health-care provider's failure to provide notice pursuant to subsection (1) of this section.

(b) Notwithstanding any provision of this section to the contrary, a health-care provider may remedy a failure to give notice by providing a written report to the collection agency to withhold any collection activity and withholding any of the health-care provider's own collection efforts until the provider complies with the notice and time requirements pursuant to subsection (1) of this section.

(c) Nothing in this subsection (2) shall be construed to require a health-care provider to perform additional attempts to notify a person of the person's portion of the debt other than mailing the notice required pursuant to subsection (1) of this section to the person's last-known address and maintaining a record of such mailing.

(d) The failure of a health-care provider or its agent to provide the notice required by subsection (1) of this section shall not create a cause of action or remedy against a collection agency under the "Colorado Fair Debt Collection Practices Act", article 16 of title 5.

Source: L. 2004: Entire part added, p. 458, § 1, effective August 4. **L. 2005:** (1) and (2)(b) amended and (2)(d) added, p. 124, § 2, effective August 8. **L. 2013:** (1)(a) amended, (HB 13-1266), ch. 217, p. 985, § 40, effective May 13. **L. 2017:** (2)(d) amended, (HB 17-1238), ch. 260, p. 1172, § 13, effective August 9.

6-20-203. Limitations on collection actions - definition.

(1) Beginning June 1, 2022, impermissible extraordinary collection actions may not be used by any medical creditor to collect debts owed for hospital services.

(2) Beginning June 1, 2022, no medical creditor collecting on a debt for hospital services shall engage in any permissible extraordinary collection actions until one hundred eighty-two days after the date the patient receives hospital services.

(3) (a) Beginning September 1, 2022, at least thirty days before taking any permissible extraordinary collection action, a medical creditor, as defined in section 6-20-201 (6)(a), collecting on a debt for hospital services shall notify the patient of potential collection actions and shall include with the notice a statement developed by the department of health care policy and financing that explains the availability of discounted care for qualified individuals and how to apply for such care.

(b) (I) A medical creditor, as defined in section 6-20-201 (6)(b), (6)(c), or (6)(d), collecting on a debt for hospital services shall include the following statement in the notices the medical creditor provides to the patient pursuant to section 5-16-109 (1) and 15 U.S.C. sec. 1692g (a): "Pursuant to Colorado law, discounts for hospital services are available for qualified individuals." The statement must include a link to the written explanation of the patient's rights that is posted to the department of health care policy and financing's website pursuant to section 25.5-3-505 (5)(a).

(II) A medical creditor, as defined section 6-20-201 (6)(b), (6)(c), or (6)(d), shall not take any permissible extraordinary collection actions until the later of thirty days from the date of sending the notice required pursuant to subsection (3)(b)(I) of this section or the completion of the validation requirements described in section 5-16-109 (2) and 15 U.S.C. sec. 1692g (b).

(4) Beginning September 1, 2022, if a medical creditor collecting on a debt for hospital services bills or initiates collection activities and it is later determined that the patient should have been screened pursuant to section 25.5-3-503 and is determined to be a qualified patient, as defined in section 25.5-3-501 (5), or it is determined that the patient's bill is eligible for reimbursement through a public health-care coverage program, the medical creditor shall:

(a) Delete any negative reports to consumer reporting agencies;

(b) (I) Unless prohibited by law, if the court has entered a judgment on the medical debt:

(A) Request the court vacate the judgment in any collection lawsuit over the medical debt and enter into a payment plan with the patient that meets the requirements of section 25.5-3-503 (1)(b); or

(B) Request the court reduce the amount of the judgment, including any fees and costs related to the collection lawsuit, to the total amount the patient owes pursuant to the public health-care coverage program or discounted care policy that the patient qualifies for, enter into a payment plan with the patient that meets the requirements of section 25.5-3-503 (1)(b), and suspend all execution on the judgment while the patient is compliant with the terms of the payment plan; or

(C) File a satisfaction of judgment such that the remaining unpaid balance of the judgment, including any fees and costs related to the collection lawsuit, is equal to the total amount the patient owes under the public health-care coverage program or discounted care policy that the patient qualifies for, enter into a payment plan with the patient that meets the requirements of section 25.5-3-503 (1)(b), and suspend all execution on the judgment while the patient is compliant with the terms of the payment plan.

(II) For the purposes of subsections (4)(b)(I)(B) and (4)(b)(I)(C) of this section, the court shall refund to the parties any fees and costs paid to the court in connection with the litigation of

the medical debt and the health-care provider shall indemnify the medical creditor for any fees awarded as part of the judgment in connection with the medical debt.

(c) As the term "medical creditor" is defined in section 6-20-201 (6)(a), refund any excess amount to the patient if the patient has paid any part of the medical debt or if any of the patient's money has been seized or levied in excess of the amount that the patient owes after application of required discounts;

(d) As the term "medical creditor" is defined in sections 6-20-201 (6)(b), (6)(c), and (6)(d), if the patient has paid any part of the medical debt or if any of the patient's money has been seized or levied in excess of the amount that the patient owes after application of required discounts, refund any excess amount to the patient to the extent the medical creditor has not already remitted such an amount to the health-care provider; and

(e) Remedy any other permissible extraordinary collection action.

(5) Beginning September 1, 2022, a medical creditor collecting on a debt for hospital services shall not sell a medical debt to another party unless, prior to the sale, the medical debt seller has entered into a legally binding written agreement with the medical debt buyer of the debt pursuant to which:

(a) The medical debt buyer agrees not to pursue impermissible extraordinary collection actions to obtain payment for the care;

(b) The debt is returnable to or recallable by the medical debt seller upon a determination that the patient should have been screened pursuant to sections 25.5-3-502 and 25.5-3-502.5 and is eligible for discounted care pursuant to section 25.5-3-503 or that the bill underlying the medical debt is eligible for reimbursement through a public health-care coverage program; and

(c) If it is determined that the patient should have been screened pursuant to sections 25.5-3-502 and 25.5-3-502.5 and is eligible for discounted care pursuant to section 25.5-3-503 or that the bill underlying the medical debt is eligible for reimbursement through a public health-care coverage program and the debt is not returned to or recalled by the medical debt seller, the medical debt buyer shall adhere to procedures that must be specified in the agreement that ensures the patient will not pay, and has no obligation to pay, the medical debt buyer and the medical creditor together more than the patient is personally responsible for paying.

(6) The medical debt seller shall indemnify the medical debt buyer for any amount paid for a debt that is returned to or recalled by the medical debt seller.

(7) Nothing in this section limits or affects a health-care provider's right to pursue against any party other than the patient the collection of personal injury, liability, uninsured, underinsured, medical payment rehabilitation, disability, homeowner's, business owner's, workers' compensation, fault-based insurance, subrogated claims, or other claims not against the patient.

Source: L. 2021: Entire section added, (HB 21-1198), ch. 435, p. 2882, § 4, effective September 7. **L. 2022:** (3)(a), IP(4), and IP(5) amended, (HB 22-1403), ch. 203, p. 1363, § 6, effective May 20; (3)(b)(I) amended, (SB 22-212), ch. 421, p. 2966, § 16, effective August 10. **L. 2024:** IP(4), (5)(b), and (5)(c) amended, (HB 24-1399), ch. 76, p. 253, § 9, effective July 1, 2025. **L. 2026:** (5)(b) and (5)(c) amended, (SB 26-138), ch. 308, p. 1773, § 14, effective August 12.

Cross references: For the legislative declaration in SB 26-138, see section 1 of chapter 308, Session Laws of Colorado 2026.

PROTECTION AGAINST EXPLOITATION OF AT-RISK ADULTS

ARTICLE 21

Protection Against Financial Exploitation

6-21-101 to 6-21-103. (Repealed)

Source: L. 2013: Entire article repealed, (SB 13-111), ch. 233, p. 1128, § 17, effective May 16.

Editor's note: This article was added in 2010 and was not amended prior to its repeal in 2013. For the text of this article prior to 2013, consult the 2012 Colorado Revised Statutes.

Cross references: For the legislative declaration in the 2013 act repealing this article, see section 1 of chapter 233, Session Laws of Colorado 2013.

RESIDENTIAL ROOFING SERVICES

ARTICLE 22

Roofing Services - Residential Property

6-22-101. Legislative declaration. 6-22-102. Definitions.

6-22-103. Contracts for roofing services - writing required - required terms.

6-22-104. Residential roofing contract - payment from insurance proceeds - right to rescind - return of payments.

6-22-105. Waiver of insurance deductible prohibited.

6-22-101. Legislative declaration.

(1) The general assembly hereby declares that the purpose of enacting this article is to protect Colorado consumers by:

(a) Requiring roofing contractors offering to perform roofing work on residential property in this state to sign a written contract with property owners detailing the scope and cost of the roofing work and contact information for the roofing contractor;

(b) Requiring roofing contractors to permit property owners to rescind a contract for the performance of roofing work and obtain a refund of any deposit paid to the roofing contractor; and

(c) Prohibiting roofing contractors from paying, waiving, rebating, or promising to pay, waive, or rebate all or part of any insurance deductible applicable to an insurance claim made to the property owner's property and casualty insurer for payment for roofing work on the residential property covered by a property and casualty insurance policy.

Source: L. 2012: Entire article added, (SB 12-038), ch. 267, p. 1386, § 1, effective June 6.

6-22-102. Definitions.

As used in this article, unless the context otherwise requires:

(1) "Property owner" means the owner of residential property or the owner's legal representative.

(2) (a) "Residential property" means:

(I) A detached, one- or two-family dwelling; or

(II) Multiple single-family dwellings that are not more than three stories above grade plane height and provide separate means of egress.

(b) "Residential property" does not include:

(I) A structure comprising multiple, attached single-family dwellings, unless maintenance, repair, or replacements of the dwellings' roof is the responsibility of a condominium association, homeowners' association, common interest community, unit owners' association, or any other entity subject to the "Colorado Common Interest Ownership Act", article 33.3 of title 38, C.R.S., regardless of when the entity was formed; or

(II) New construction.

(3) "Roofing contractor" means:

(a) An individual or sole proprietorship that performs roofing work or roofing services in this state for compensation; or

(b) (I) A firm, partnership, corporation, association, business trust, limited liability company, or other legal entity that performs or offers to perform roofing work in this state on residential property for compensation.

(II) As used in subparagraph (I) of this paragraph (b), "association" does not include a condominium association, homeowners' association, common interest community, unit owners' association, or any other entity subject to the "Colorado Common Interest Ownership Act", article 33.3 of title 38, C.R.S., regardless of when the entity was formed.

(4) (a) "Roofing work" or "roofing services" means the construction, reconstruction, alteration, maintenance, or repair of a roof on a residential property and the use of materials and items in the construction, reconstruction, alteration, maintenance, and repair of roofing and waterproofing of roofs, all in a manner to comply with plans, specifications, codes, laws, rules, regulations, and roofing industry standards for workmanlike performance applicable to the construction, reconstruction, alteration, maintenance, and repair of roofs on residential properties.

(b) "Roofing work" or "roofing services" does not include roofing work or services for which the compensation is one thousand dollars or less per contract.

Source: L. 2012: Entire article added, (SB 12-038), ch. 267, p. 1387, § 1, effective June 6.

6-22-103. Contracts for roofing services - writing required - required terms.

(1) Prior to engaging in any roofing work, a roofing contractor shall provide a written contract to the property owner, signed by both the roofing contractor or the roofing contractor's designee and the property owner, stating at least the following terms:

(a) The scope of roofing services and materials to be provided;

(b) The approximate dates of service;

(c) The approximate costs of the services based on damages known at the time the contract is entered;

(d) The roofing contractor's contact information, including physical address, electronic mail address, telephone number, and any other contact information available for the roofing contractor;

(e) Identification of the roofing contractor's surety and liability coverage insurer and their contact information, if applicable;

(f) (I) The roofing contractor's policy regarding cancellation of the contract and refund of any deposit, including a rescission clause allowing the property owner to rescind the contract and obtain a full refund of any deposit within seventy-two hours after entering the contract; and

(II) A written statement that the property owner may rescind a roofing contract pursuant to section 6-22-104; and

(g) A written statement that if the property owner plans to use the proceeds of a property and casualty insurance policy issued pursuant to part 1 of article 4 of title 10, C.R.S., to pay for the roofing work, pursuant to section 6-22-105, the roofing contractor cannot pay, waive, rebate, or promise to pay, waive, or rebate all or part of any insurance deductible applicable to the insurance claim for payment for roofing work on the covered residential property.

(2) In addition to the contract terms required in subsection (1) of this section, a roofing contractor shall include, on the face of the contract, in bold-faced type, a statement indicating that the roofing contractor shall hold in trust any payment from the property owner until the roofing contractor has delivered roofing materials at the residential property site or has performed a majority of the roofing work on the residential property.

Source: L. 2012: Entire article added, (SB 12-038), ch. 267, p. 1388, § 1, effective June 6. **L. 2026:** IP(1) amended, (HB 26-1426), ch. 334, p. 2017, § 72, effective August 12.

6-22-104. Residential roofing contract - payment from insurance proceeds - right to rescind - return of payments.

(1) (a) A property owner who enters into a written contract with a roofing contractor to perform roofing work on the property owner's residential property, the payment for which will be made from the proceeds of a property and casualty insurance policy issued pursuant to part 1 of article 4 of title 10, C.R.S., may rescind the contract within seventy-two hours after the property owner receives written notice from the property and casualty insurer that the claim for payment

for roofing work on the residential property is denied in whole or in part. The property owner's right of rescission under this subsection (1) does not apply when the property and casualty insurer denies, in whole or in part, a claim related to a request for supplemental roofing services if the damage requiring the supplemental roofing services could not have been reasonably foreseen as a necessary and related roofing service at the time of the initial roofing inspection or the execution of the initial roofing contract.

(b) The property owner shall give written notice of rescission of the contract to the roofing contractor at the physical address provided in the contract within seventy-two hours after the property owner is notified of the denial. The property owner may give notice of rescission of the contract:

(I) In an electronic form, which is effective on the date of the electronic transmission;

(II) By mail, which is effective upon deposit in the United States mail, postage prepaid, sent to the physical address stated in the contract; or

(III) By personal delivery to the roofing contractor, which is effective upon delivery.

(2) Within ten days after rescission of a contract in accordance with subsection (1) of this section, the roofing contractor shall return to the property owner any payments or deposits made by or evidence of indebtedness of the property owner in connection with the contract for roofing work on the residential property.

(3) Nothing in this section precludes a roofing contractor from retaining all or a portion of any payments or deposits made by a property owner to compensate the roofing contractor for roofing work actually performed on the residential property in a workmanlike manner consistent with standard roofing industry practices, but the roofing contractor may retain only an amount required to compensate the roofing contractor for the actual work performed.

(4) Nothing in this section abrogates the roofing contractor's right to pursue common law remedies for the reasonable value of roofing materials ordered and actually installed on the residential property pursuant to a contract for roofing work before the property owner rescinded the contract, as long as the roofing contractor performed the roofing services consistent with roofing industry standards for workmanlike performance of roofing services.

(5) Nothing in this section abrogates a property and casualty insurer's duties, responsibilities, or liability under sections 10-3-1115 and 10-3-1116, C.R.S.

Source: L. 2012: Entire article added, (SB 12-038), ch. 267, p. 1388, § 1, effective June 6. **L. 2026:** IP(1)(b) amended, (HB 26-1426), ch. 334, p. 2017, § 73, effective August 12.

6-22-105. Waiver of insurance deductible prohibited.

(1) A roofing contractor that performs roofing work, the payment for which will be made from the proceeds of a property and casualty insurance policy issued pursuant to part 1 of article 4 of title 10, C.R.S., shall not advertise or promise to pay, waive, or rebate all or part of any insurance deductible applicable to the claim for payment for roofing work on the covered residential property.

(2) If a roofing contractor violates subsection (1) of this section:

(a) The insurer to whom the property owner submitted the claim for payment for the roofing work is not obligated to consider the estimate of costs for the roofing work prepared by the roofing contractor; and

(b) The property owner whose residential property is insured under the property and casualty insurance policy or the insurer that issued the policy may bring an action against the roofing contractor in a court of competent jurisdiction to recover damages sustained by the property owner or insurer as a consequence of the violation.

(3) A roofing contractor soliciting roofing services in this state shall not claim to be or act as a public insurance adjuster adjusting claims for losses or damages. Nothing in this article prevents a public insurance adjuster licensed pursuant to section 10-2-417, C.R.S., from acting or holding himself or herself out as a public insurance adjuster. Nothing in this subsection (3) precludes a roofing contractor from discussing, on behalf of the property owner, the scope of repairs with a property and casualty insurer when the roofing contractor has a valid contract with the property owner of the residential property on which the roofing contractor has contracted to perform roofing work.

Source: L. 2012: Entire article added, (SB 12-038), ch. 267, p. 1390, § 1, effective June 6.

DIRECT PRIMARY HEALTH CARE

ARTICLE 23

Direct Primary Care

6-23-101. Definitions.

6-23-102. Direct primary care - not regulated by the division of insurance.

6-23-103. Direct primary health-care provider rights.

6-23-104. Direct primary health-care providers - prohibitions.

6-23-105. Enforcement.

6-23-101. Definitions.

As used in this article 23:

(1) "Direct primary care agreement" means a written agreement that:

(a) Is between a patient, the patient's legal representative, a government entity, or a patient's employer and a direct primary health-care provider;

(b) Discloses and describes to the patient and to the person paying the direct primary care fee the primary care services to be provided in exchange for payment of a periodic fee;

(c) Specifies the periodic fee required and any additional fees that may be charged;

(d) May allow the periodic fee and any additional fees to be paid by a third party;

(e) Prohibits the provider from submitting a fee-for-service claim for payment to a health insurance issuer for primary care services covered under the agreement and states that some services may be a covered benefit or covered service under the patient's health benefit plan as defined in section 10-16-102, at no cost to the patient;

(f) Conspicuously and prominently discloses to all parties subject to the agreement that it is not health insurance and does not meet any individual health benefit plan mandate that may be required by federal law and the patient is not entitled to health insurance protections for consumers under title 10; and

(g) Allows either party to terminate the agreement, in writing and with notice, as specified in the agreement and subject to refund terms and conditions in the agreement.

(2) "Direct primary health-care provider" means an individual or legal entity that is licensed under article 240 of title 12 or part 1 of article 255 of title 12 to provide primary care services in this state and who enters into a direct primary care agreement. "Direct primary health-care provider" includes an individual primary care provider or other legal entity, alone or with others professionally associated with the individual or other legal entity.

(3) "Primary care service" includes the screening, assessment, diagnosis, and treatment for the purpose of promotion of health or the detection and management of disease or injury within the competency and training of the primary care provider.

Source: L. 2017: Entire article added, (HB 17-1115), ch. 151, p. 511, § 2, effective August 9. **L. 2019:** (2) amended, (HB 19-1172), ch. 136, p. 1646, § 16, effective October 1. **L. 2020:** (2) amended, (HB 20-1183), ch. 157, p. 695, § 31, effective July 1. **L. 2026:** IP amended, (SB 26-

169), ch. 311, p. 1798, § 4, effective August 12; (1)(a) amended, (HB 26-1426), ch. 334, p. 2017, § 74, effective August 12.

6-23-102. Direct primary care - not regulated by the division of insurance.

(1) Direct primary care is not insurance and is not regulated by the commissioner of insurance pursuant to title 10.

(2) Direct primary health-care providers and direct primary care agreements that comply with this article 23 shall not be considered to be a health maintenance organization, insurer, insurance producer, or insurance and are not subject to title 10.

(3) Offering or entering into a direct primary care agreement is not the business of insurance or the practice of underwriting.

(4) A direct primary health-care provider or agent of a direct primary health-care provider is not required to obtain a certificate of authority or license to market, sell, or offer to sell a direct primary care agreement.

Source: L. 2017: Entire article added, (HB 17-1115), ch. 151, p. 511, § 2, effective August 9; (2) amended, (SB 17-294), ch. 264, p. 1417, § 117, effective August 9.

6-23-103. Direct primary health-care provider rights.

(1) A direct primary health-care provider may:

(a) Decline to accept patients whose health needs exceed the primary care services offered by the direct primary health-care provider; and

(b) Terminate a direct primary care agreement if the termination allows for the transition of care to another health-care provider commensurate with the standards of professional responsibility within the state.

Source: L. 2017: Entire article added, (HB 17-1115), ch. 151, p. 512, § 2, effective August 9.

6-23-104. Direct primary health-care providers - prohibitions.

(1) A direct primary health-care provider may not discriminate in the selection of patients on the basis of age, citizenship status, color, disability, gender, gender identity, gender expression,

genetic information, health status, national origin, race, religion, sex, sexual orientation, or any other protected class.

(2) Direct primary health-care providers are subject to section 25.5-4-301.

(3) This section does not prevent a direct primary health-care provider from providing primary care to patients who are not party to a direct primary care agreement.

Source: L. 2017: Entire article added, (HB 17-1115), ch. 151, p. 512, § 2, effective August 9. **L. 2021:** (1) amended, (HB 21-1108), ch. 156, p. 890, § 11, effective September 7.

Cross references: For the legislative declaration in HB 21-1108, see section 1 of chapter 156, Session Laws of Colorado 2021.

6-23-105. Enforcement.

This article 23 is not subject to enforcement by the attorney general or the district attorney pursuant to this title 6.

Source: L. 2017: Entire article added, (HB 17-1115), ch. 151, p. 512, § 2, effective August 9.

CEMETERIES

ARTICLE 24

Cemeteries

6-24-101. Definitions.
6-24-102. Organization as endowment care cemetery - when.
6-24-103. Nonendowment section in endowment care cemetery.
6-24-104. Acquisition of land.
6-24-105. Plats of land to be recorded.
6-24-106. Endowment care fund.
6-24-107. Reports.
6-24-108. Delivery of copy of contract - required.
6-24-109. Burial memorial - changes - notice of ownership.
6-24-110. Discrimination.
6-24-111. Violations - penalties.

6-24-112. Abandoned graves - right to reclaim.

6-24-101. Definitions.

As used in this article 24, unless the context otherwise requires:

(1) "Burial memorial" means any type of gravestone, tombstone, headstone, memorial, monument, or marker that commemorates the permanent disposition of the remains of a human body either below or above the surface of the ground.

(2) "Cemetery" means any place, including a mausoleum, in which there is provided space either below or above the surface of the ground for the interment of the remains of human bodies. "Cemetery" does not include a cemetery that is owned, operated, or maintained by a government or governmental agency, by a church or synagogue, by a labor organization, by a cooperative association as defined in section 7-55-101, by a corporation organized and operated exclusively for religious purposes, or by a fraternal society, order, or association operating under the lodge system and exempt from the payment of state income tax and that has as its main business something other than the ownership, operation, or maintenance of any business connected with the burial of the dead.

(3) "Cemetery authority" means any person who owns, maintains, or operates a cemetery.

(4) "Endowment care cemetery" means any cemetery, the authority of which does, or represents to the public that it does, collect funds for the purpose of caring for, maintaining, or embellishing the cemetery to preserve it from becoming unkempt or a place of reproach and desolation. It does not include a cemetery which is owned, operated, or maintained by a government or governmental agency, by a church, by a labor organization, by a cooperative association as defined in section 7-55-101, by a corporation organized and operated exclusively for religious purposes, or by a fraternal society, order, or association operating under the lodge system and exempt from the payment of state income tax and which has as its main purpose something other than the ownership, operation, or maintenance of any business connected with burial of the dead.

(5) "Grave space" means any space in the ground for the interment of the remains of a human body.

(6) "Inscription" means any words or symbols on a burial memorial.

(7) "Interment" means the permanent disposition of the remains of a deceased person by cremation, inurnment, entombment, or burial.

(8) "Niche" or "crypt" means a space in any structure above the ground for the interment of the remains of a human body.

(9) "Nonendowment care cemetery" means any cemetery other than an endowment care cemetery.

(10) "Person" means a person as defined by section 2-4-401 (8).

Source: L. 2017: Entire article added with relocations, (HB 17-1244), ch. 239, p. 977, § 1, effective August 9.

Editor's note: This section is similar to former § 12-12-101 as it existed prior to 2017.

6-24-102. Organization as endowment care cemetery - when.

Any person who, after July 1, 1965, establishes or acquires a cemetery within twenty miles from the exterior boundary of any city with a population of five thousand or more, according to the latest federal decennial census, shall be organized as an endowment care cemetery.

Source: L. 2017: Entire article added with relocations, (HB 17-1244), ch. 239, p. 978, § 1, effective August 9.

Editor's note: This section is similar to former § 12-12-103 as it existed prior to 2017.

6-24-103. Nonendowment section in endowment care cemetery.

Any cemetery authority of an endowment care cemetery that has a nonendowed section that is used only as single graves for indigents may continue to donate the graves for the burial of indigents. Nothing in this article shall be construed to prevent a cemetery authority of an endowed care cemetery from donating a grave space for the burial of an indigent person without placing money in the endowment care fund for the space.

Source: L. 2017: Entire article added with relocations, (HB 17-1244), ch. 239, p. 978, § 1, effective August 9.

Editor's note: This section is similar to former § 12-12-104 as it existed prior to 2017.

6-24-104. Acquisition of land.

Any cemetery authority may acquire suitable and sufficient land for a cemetery in a manner provided by articles 1 to 7 of title 38.

Source: L. 2017: Entire article added with relocations, (HB 17-1244), ch. 239, p. 978, § 1, effective August 9.

Editor's note: This section is similar to former § 12-12-105 as it existed prior to 2017.

6-24-105. Plats of land to be recorded.

Any cemetery authority shall cause its land or the portion thereof as may become necessary for that purpose to be surveyed into blocks, lots, avenues, and walks and platted. The plat of ground as surveyed shall be acknowledged by some officer of the cemetery authority and filed for record in the office of the clerk and recorder of the county in which the land is situated. Each block or lot shall be regularly numbered by the surveyor, and the numbers shall be marked on the plat.

Source: L. 2017: Entire article added with relocations, (HB 17-1244), ch. 239, p. 979, § 1, effective August 9.

Editor's note: This section is similar to former § 12-12-106 as it existed prior to 2017.

6-24-106. Endowment care fund.

(1) A cemetery authority of an endowment care cemetery shall establish an irrevocable endowment care fund for each endowment care cemetery owned, maintained, or operated by it in a state bank or trust company authorized to act as fiduciary and under the supervision of the banking board or in a national banking association authorized to act as fiduciary or in a state or federally chartered savings and loan association authorized to act as a fiduciary. The endowment care fund shall be invested in investments lawful for trustees, which shall not include investments in nor mortgages on property owned or contracted for by the cemetery authority or any owned or affiliated company.

(2) (a) A cemetery authority of an endowment care cemetery shall make deposits in the endowment care fund or, if it operates more than one endowment care fund, in the appropriate endowment care fund, in accordance with one of the following plans:

(I) Plan A:

It shall deposit in the fund not more than thirty days after any sale is completed at least fifteen percent of the sales price of any grave space and at least ten percent of the sales price of any crypt or niche, and in case any sale has not been completed within sixty months after date of first payment, it shall deposit in the fund, not later than one month after the sixtieth month, at least fifteen percent of the sales price of any grave space and at least ten percent of the sales price of any crypt or niche. A sale is completed at the time the final payment is made and no balance remains due to the cemetery authority, whether or not a deed has been issued. If a contract of sale is rewritten, the date of the first payment under the original contract of sale shall be the date of first payment under the rewritten contract of sale.

(II) Plan B:

It shall deposit, not later than thirty days after the end of the fiscal year in which the payments are received, fifteen percent of all payments received on account of the sale of any grave space and at least ten percent of all payments received on account of the sale of a niche or crypt. This deposit requirement applies to all uncompleted sales contracts that carry an endowment care provision.

(III) Plan C: (applicable only to sale of niches or crypts in a mausoleum)

It shall deposit in its endowment care fund for the mausoleum, not later than thirteen months after the end of its fiscal year in which any sale is completed, at least ten percent of the sale price of any niche or crypt, and in case any sale has not been completed within twenty-four months after date of first payment, it shall deposit in the fund, not later than one month after the end of its fiscal year in which the last day of the twenty-four month period occurs, at least ten percent of the sales price of any niche or crypt. A sale is completed at the time the final payment is made and no balance remains due to the cemetery authority, whether or not a deed has been issued. If a contract of sale is rewritten, the date of first payment under the original contract of sale shall be the date of first payment under the rewritten contract of sale.

(b) As to any endowment care cemetery in operation on July 1, 1965, this subsection (2) shall only apply to all sales contracts entered into on or after the date.

(3) (a) The cemetery authority of an endowment care cemetery, before commencing operation, on or after July 1, 1965, shall have on deposit in the endowment care fund a sum in accordance with the following scale:

For 10,000 or less population $10,000

For more than 10,000 but less than 20,000 population $15,000

For 20,000 but less than 25,000 population $20,000

For 25,000 or more population $25,000

(b) "Population" means the people residing within a twenty-mile radius of the location of the endowment care cemetery, the population figure to be taken from the latest federal decennial census.

(c) The cemetery authority for the endowment care cemetery shall thereafter make deposits in accordance with subsection (2) of this section. When the deposits have reached twice the amount stated in the above table, the cemetery authority may withdraw the sum of the initial deposit in amounts equal to the amounts deposited thereafter until the initial deposit has been withdrawn.

(4) A cemetery authority of a nonendowment care cemetery which converts to operation as an endowment care cemetery on or after July 1, 1965, shall deposit in its endowment care fund the sum of ten thousand dollars before making any further sale of any grave space or niche or crypt. The cemetery authority for the cemetery shall thereafter make deposits in accordance with subsection (2) of this section until total deposits into the endowment care fund have reached twenty thousand dollars. It may thereafter withdraw from the initial ten thousand dollar deposit amounts equal to the amounts of deposits thereafter made until the entire ten thousand dollar initial deposit has been withdrawn and replaced by deposits in accordance with subsection (2) of this section.

(5) The cemetery authority of an endowment care cemetery that constructs foundations for the setting of markers or memorials and receives payment for the care of the markers or memorials as part of the cost of foundation construction, setting charges, or itemized endowment requirements shall deposit all of the care payments in their irrevocable endowment care fund not later than one month after the end of its fiscal year in which the payments are received.

(6) The cemetery authority of an endowment care cemetery shall keep in its principal office a copy of the report referred to in section 6-24-107, and the cemetery authority shall make a copy of the report available to any grave space, niche, or crypt owner or any such person's duly authorized representative for inspection and study.

(7) (a) The endowment care fund, for all purposes, shall constitute a nonprofit irrevocable trust fund. The fiduciary shall not distribute principal from an endowment care fund; except that principal may be distributed from the fund to the extent that a unitrust election is in effect under subsection (8)(a)(II) of this section.

(b) Endowment care is a provision for the benefit and protection of the public by preserving and keeping cemeteries from becoming unkempt and places of reproach and desolation in the

communities in which they are situated. The income from the fund is for the benefit of the public for the purposes provided for in the trust agreement.

(8) (a) The cemetery authority of an endowment care cemetery may choose the distribution as income of either of the following from the endowment care fund:

(I) All net income, including net realized capital gains; or

(II) An amount set and administered in accordance with part 3 of article 1.2 of title 15 for unitrust elections.

(b) (I) A cemetery authority may request that the fiduciary convert an endowment care fund to a unitrust. To take effect during a specific calendar year, the request must be made by delivering written instructions to the fund's fiduciary by November 2 of the year before the trust is converted. Once the fiduciary and the cemetery authority agree on the terms and conditions of conversion, the distribution method, and the distribution rate, these terms remain in effect until the fiduciary and the cemetery authority agree to a change.

(II) Disbursements from the trust shall be made on a monthly, quarterly, semi-annual, or annual basis, as agreed upon by the cemetery authority and the fiduciary. If the fiduciary and cemetery authority are in agreement, the fiduciary need not obtain any court approval or notify a court to set or change the timing of disbursements.

(III) The fiduciary is subject to part 3 of article 1.2 of title 15 when administering an endowment care fund for which the unitrust election has been made; except that, in the event of a conflict between this section and part 3 of article 1.2 of title 15, this section controls.

(c) If the fiduciary does not receive written instructions from the cemetery authority informing the fiduciary of the method of income distribution chosen, then the fiduciary shall calculate and disburse the earned net income under subsection (8)(a)(I) of this section on a monthly basis.

Source: L. 2017: Entire article added with relocations, (HB 17-1244), ch. 239, p. 979, § 1, effective August 9; (7) amended and (8) added, (HB 17-1096), ch. 65, p. 206, § 1, effective August 9. **L. 2021:** (8)(a)(II) and (8)(b)(III) amended, (SB 21-171), ch. 143, p. 841, § 3, effective January 1, 2022. **L. 2026:** (6) amended, (HB 26-1426), ch. 334, p. 2018, § 75, effective August 12.

Editor's note: (1) This section is similar to former § 12-12-109 as it existed prior to 2017.

(2) Subsections (7) and (8) were numbered as § 12-12-109 (7) and (8), respectively, in HB 17-1096 (See L. 2017, p. 206). Those provisions were harmonized with this section as it appears in HB 17-1244.

6-24-107. Reports.

(1) Each cemetery authority shall keep on file annually, within three months after the end of its fiscal year, a written report setting forth:

(a) The total amount deposited in the endowment care fund, listing separately the total amounts paid for endowment of grave spaces, for niches, and for crypts, in accordance with the provisions of section 6-24-106;

(b) The total amount of endowment care funds invested in each of the investments authorized by law and the amount of cash on hand not invested;

(c) Any other facts necessary to show the actual financial condition of the fund; and

(d) The total number of interments and entombments for the preceding year.

(2) Each report shall be verified by the owner or by the president or the vice-president and one other officer of the cemetery authority and shall be attested to by the accountant, auditor, or other person preparing the same.

Source: L. 2017: Entire article added with relocations, (HB 17-1244), ch. 239, p. 981, § 1, effective August 9.

Editor's note: This section is similar to former § 12-12-110 as it existed prior to 2017.

6-24-108. Delivery of copy of contract - required.

A duplicate original of any contract entered into between a purchaser of any lot, grave space, interment right, niche, or crypt and any cemetery authority shall be given to the buyer at the time both parties become bound by the contract and any consideration whatsoever is given by the buyer and retained pursuant to the contract by the cemetery authority.

Source: L. 2017: Entire article added with relocations, (HB 17-1244), ch. 239, p. 981, § 1, effective August 9.

Editor's note: This section is similar to former § 12-12-113 as it existed prior to 2017.

6-24-109. Burial memorial - changes - notice of ownership.

(1) No person other than the owner of a burial memorial or a person authorized by the owner of the burial memorial shall make a change to the inscription on the burial memorial.

(2) If a burial memorial is to be placed at a grave space, niche, or crypt that is purchased on or after July 1, 2004, the cemetery authority shall give written notice to the purchaser of the grave space, niche, or crypt of who shall be the owner of the burial memorial and, as owner, who shall be entitled to make or authorize a change to the inscription on the burial memorial.

(3) Repealed.

Source: L. 2017: Entire article added with relocations, (HB 17-1244), ch. 239, p. 981, § 1, effective August 9. **L. 2021:** (3)(b) added by revision, (SB 21-271), ch. 462, pp. 3135, 3331, §§ 63, 65, 803.

Editor's note: (1) This section is similar to former § 12-12-113.5 as it existed prior to 2017.

(2) Subsection (3)(b) provided for the repeal of subsection (3), effective March 1, 2022. (See L. 2021, pp. 3135, 3331.)

6-24-110. Discrimination.

There shall be no limitation, restriction, or covenant based upon race, color, sex, sexual orientation, gender identity, gender expression, marital status, disability, national origin, or ancestry on the size, placement, location, sale, or transfer of any cemetery grave space, niche, or crypt or in the interment of a deceased person.

Source: L. 2017: Entire article added with relocations, (HB 17-1244), ch. 239, p. 982, § 1, effective August 9. **L. 2021:** Entire section amended, (HB 21-1108), ch. 156, p. 890, § 12, effective September 7.

Editor's note: This section is similar to former § 12-12-114 as it existed prior to 2017.

Cross references: For the legislative declaration in HB 21-1108, see section 1 of chapter 156, Session Laws of Colorado 2021.

6-24-111. Violations - penalties.

(1) It is unlawful for any person to sell or offer to sell a grave space, niche, or crypt upon the promise, representation, or inducement of resale at a financial profit.

(2) Any person who violates any provision of this article 24 commits a class 2 misdemeanor. Whenever any person has reason to believe that any person is liable to punishment under this article 24, the person may certify the facts to the district attorney of the judicial district in which the alleged violation occurred who shall cause appropriate proceedings to be brought.

Source: L. 2017: Entire article added with relocations, (HB 17-1244), ch. 239, p. 982, § 1, effective August 9. **L. 2021:** (2) amended, (SB 21-271), ch. 462, p. 3135, § 64, effective March 1, 2022.

Editor's note: This section is similar to former § 12-12-115 as it existed prior to 2017.

6-24-112. Abandoned graves - right to reclaim.

(1) If there is a lot, grave space, niche, or crypt in a cemetery in which no remains have been interred, no burial memorial has been placed, and no other improvement has been made for a continuous period of no less than seventy-five years, a cemetery authority may initiate the process of reclaiming title to the lot, grave space, niche, or crypt in accordance with this section.

(2) A cemetery authority seeking to reclaim a lot, grave space, niche, or crypt shall:

(a) Send written notice of the cemetery authority's intent to reclaim title to the lot, grave space, niche, or crypt to the owner's last-known address by first-class mail; and

(b) Publish a notice of the cemetery authority's intent to reclaim title to the lot, grave space, niche, or crypt in a newspaper of general circulation in the area in which the cemetery is located once per week for four weeks.

(3) The notice required by subsection (2) of this section shall clearly indicate that the cemetery authority intends to terminate the owner's rights and title to the lot, grave space, niche,

or crypt and include a recitation of the owner's right to notify the cemetery authority of the owner's intent to retain ownership of the lot, grave space, niche, or crypt.

(4) If the cemetery authority does not receive from the owner of the lot, grave space, niche, or crypt a letter of intent to retain ownership of the lot, grave space, niche, or crypt within sixty days after the last publication of the notice required by subsection (2)(b) of this section, all rights and title to the lot, grave space, niche, or crypt shall transfer to the cemetery authority. The cemetery authority may then sell, transfer, or otherwise dispose of the lot, grave space, niche, or crypt without risk of liability to the prior owner of the lot, grave space, niche, or crypt.

(5) A cemetery authority that reclaims title to a lot, grave space, niche, or crypt in accordance with this section shall retain in its records for no less than one year a copy of the notice sent pursuant to subsection (2)(a) of this section and a copy of the notice published pursuant to subsection (2)(b) of this section.

(6) If a person submits to a cemetery authority a legitimate claim to a lot, grave space, niche, or crypt that the cemetery authority has reclaimed pursuant to this section, the cemetery authority shall transfer to the person at no charge a lot, grave space, niche, or crypt that, to the extent possible, is equivalent to the reclaimed lot, grave space, niche, or crypt.

(7) Notwithstanding any provision of law to the contrary, on and after August 7, 2006, a cemetery authority shall not convey title to the real property surveyed as a lot in a cemetery for use as a burial space. A cemetery authority may grant interment rights to a lot, grave space, niche, or crypt in a cemetery.

Source: L. 2017: Entire article added with relocations, (HB 17-1244), ch. 239, p. 982, § 1, effective August 9.

Editor's note: This section is similar to former § 12-12-116 as it existed prior to 2017.

PUBLIC ESTABLISHMENTS

ARTICLE 25

Public Establishments

PART 1
HOTELS AND RESTAURANTS

6-25-101. Definitions - evidence of intent.

6-25-102. Public establishment - vendor contract.

6-25-103. Defrauding an innkeeper - repeal. (Repealed)

6-25-104. Notice prerequisite to conviction - repeal. (Repealed)

6-25-105. Jurisdiction - repeal. (Repealed)

6-25-106. Safe for valuables - notice.

6-25-107. Maximum amount landlord bound to receive.

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PART 2
INNKEEPERS' RIGHTS

6-25-201. Definitions.

6-25-202. Innkeepers' right to refuse accommodations - exceptions.

PART 1

HOTELS AND RESTAURANTS

6-25-101. Definitions - evidence of intent.

(1) As used in this part 1, unless the context otherwise requires:

(a) "Agreement with the public establishment" means any written or verbal agreement as to the price to be charged for, and the acceptance of, food, beverage, service, or accommodations where the price to be charged therefor is printed on a menu or schedule of rates shown to or made available by a public establishment to the patron and includes the acceptance of the food, beverage, service, or accommodations for which a reasonable charge is made.

(b) "Public establishment" means an establishment selling or offering for sale prepared food or beverages to the public generally or any establishment leasing or renting overnight sleeping accommodations to the public generally, including, but not exclusively, a restaurant, café, dining room, lunch counter, coffee shop, boarding house, hotel, motor hotel, motel, or rooming house, unless the rental is on a month-to-month basis or a longer period of time.

(2) It is evidence of an intent to defraud that food, service, or accommodations were given to a person who gave false information concerning the person's name or address, or both, in obtaining the food, service, or accommodations or that the person removed or attempted to remove the person's baggage from the premises of the public establishment without giving notice

of the person's intent to do so to the public establishment. This subsection (2) does not constitute the sole means of establishing evidence that a person accused under this part 1 had an intent to defraud. Proof of intent to defraud may be made by any facts or circumstances sufficient to establish the intent to defraud beyond a reasonable doubt as provided by law.

(3) If any person, partnership, or corporation by written or verbal complaint or otherwise institutes or causes to be instituted a prosecution for a violation of this section and thereafter, regardless of whether restitution is sought or received from the alleged offender, fails to cooperate in the full prosecution of the alleged offender without reasonable cause, the court having jurisdiction, on motion of the prosecuting attorney appearing therein and after notice to the person, partnership, or corporation and an opportunity to be heard, may give judgment against the person, partnership, or corporation and in favor of the county wherein prosecution was commenced for all costs of the prosecution, including a reasonable allowance for the time of the prosecuting attorney.

Source: L. 2017: Entire article added with relocations, (HB 17-1245), ch. 240, p. 985, § 1, effective August 9. **L. 2021:** (2)(b) added by revision, (SB 21-271), ch. 462, pp. 3135, 3331, §§ 66, 803. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 2018, § 76, effective August 12.

Editor's note: (1) This section is similar to former § 12-44-101 as it existed prior to 2017.

(2) Subsection (2)(b) provided for the repeal of subsection (2), effective March 1, 2022. (See L. 2021, pp. 3135, 3331.)

6-25-102. Public establishment - vendor contract.

A contract between a vendor and a public establishment shall be invalid unless the vendor enters into the contract directly with the public establishment's owner, general manager, or a person with authority to enter into a contract as specifically designated in writing by the owner or general manager. The acceptance of delivered items by a public establishment from a vendor that includes an invoice stating the terms of a contract shall not constitute acceptance of the terms and the contract shall be void.

Source: L. 2017: Entire article added with relocations, (HB 17-1245), ch. 240, p. 986, § 1, effective August 9.

Editor's note: This section is similar to former § 12-44-101.5 as it existed prior to 2017.

6-25-103. Defrauding an innkeeper - repeal. (Repealed)

Source: L. 2017: Entire article added with relocations, (HB 17-1245), ch. 240, p. 986, § 1, effective August 9. **L. 2021:** (2) added by revision, (SB 21-271), ch. 462, pp. 3135, 3331, §§ 67, 803.

Editor's note: (1) This section was similar to former § 12-44-102 as it existed prior to 2017.

(2) Subsection (2) provided for the repeal of this section, effective March 1, 2022. (See L. 2021, pp. 3135, 3331.)

6-25-104. Notice prerequisite to conviction - repeal. (Repealed)

Source: L. 2017: Entire article added with relocations, (HB 17-1245), ch. 240, p. 986, § 1, effective August 9. **L. 2021:** (2) added by revision, (SB 21-271), ch. 462, pp. 3136, 3331, §§ 68, 803.

Editor's note: (1) This section was similar to former § 12-44-103 as it existed prior to 2017.

(2) Subsection (2) provided for the repeal of this section, effective March 1, 2022. (See L. 2021, pp. 3136, 3331.)

6-25-105. Jurisdiction - repeal. (Repealed)

Source: L. 2017: Entire article added with relocations, (HB 17-1245), ch. 240, p. 987, § 1, effective August 9. **L. 2021:** (2) added by revision, (SB 21-271), ch. 462, pp. 3136, 3331, §§ 69, 803.

Editor's note: (1) This section was similar to former § 12-44-104 as it existed prior to 2017.

(2) Subsection (2) provided for the repeal of this section, effective March 1, 2022. (See L. 2021, pp. 3136, 3331.)

6-25-106. Safe for valuables - notice.

A landlord or keeper of a hotel or public establishment in this state who provides in the office of the hotel, establishment, or other convenient place a safe, vault, or other suitable receptacle for the secure custody of money, jewelry, ornaments, or other valuable articles other than necessary baggage belonging to the guests or patrons of the hotel or public establishment, and who keeps posted in a public and conspicuous place in the office, public room, and public parlors of the hotel or public establishment and upon the inside entrance door of every public sleeping room in the hotel or public establishment a notice printed in English stating the fact, is not liable for the loss of any money, jewelry, ornaments, or other valuable articles, other than necessary baggage, sustained by the guest or patron by theft or otherwise, unless the guest or patron delivers the money, jewelry, ornaments, or other valuable articles, other than necessary baggage, to the landlord or keeper of the hotel or public establishment, or person in charge of the office of the hotel or public establishment, for deposit in the safe, vault, or other receptacle. The liability shall not be greater than the amount at the time of deposit declared by the guest or patron to be the value of the article deposited.

Source: L. 2017: Entire article added with relocations, (HB 17-1245), ch. 240, p. 987, § 1, effective August 9. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 2019, § 77, effective August 12.

Editor's note: This section is similar to former § 12-44-105 as it existed prior to 2017.

6-25-107. Maximum amount landlord bound to receive.

A landlord or keeper of a hotel or public establishment is not required to receive property from a guest or patron for custody under section 6-25-106 exceeding in value the sum of five thousand dollars, nor is the landlord or keeper liable for any loss thereof by theft or otherwise in any sum exceeding the sum of five thousand dollars, unless the landlord or keeper of the hotel or public establishment, or person in charge of the office, assumes in writing a greater liability.

Source: L. 2017: Entire article added with relocations, (HB 17-1245), ch. 240, p. 987, § 1, effective August 9. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 2019, § 78, effective August 12.

Editor's note: This section is similar to former § 12-44-106 as it existed prior to 2017.

6-25-108. Landlord not responsible - when.

(1) The landlord or keeper of a hotel or public establishment is not liable to a guest or patron of the hotel or public establishment for the loss within the hotel or public establishment of any article of wearing apparel or baggage belonging to the guest or patron unless the article or baggage was:

(a) Left within a room assigned to the guest or patron; or

(b) Especially entrusted to the care or custody of the landlord or keeper or to an employee entrusted with the duty of receiving or caring for the article or baggage in the hotel or public establishment.

Source: L. 2017: Entire article added with relocations, (HB 17-1245), ch. 240, p. 987, § 1, effective August 9. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 2019, § 79, effective August 12.

Editor's note: This section is similar to former § 12-44-107 as it existed prior to 2017.

6-25-109. Responsibility when key furnished.

(1) When the landlord or keeper of a hotel or public establishment provides the doors of the rooms or sleeping apartments in the hotel or public establishment with locks and keys in good order and repair and the room or sleeping apartment is turned over to the possession of any guest or patron together with the keys to the doors, the landlord or keeper is not liable to a guest or patron occupying the room or apartment for loss of an article of personal property left within the room or apartment by the guest or patron while in possession of the keys, unless the doors to the room or apartment were left locked when unoccupied and thereafter the keys were delivered to the person in charge of the office of the hotel or public establishment.

(2) If an article of personal property is taken by an employee or servant of the landlord or keeper of the hotel or public establishment, then this section does not prevent the guest or patron

from recovering the value of the article, not to exceed the sum of two hundred dollars for all such articles.

Source: L. 2017: Entire article added with relocations, (HB 17-1245), ch. 240, p. 987, § 1, effective August 9. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 2020, § 80, effective August 12.

Editor's note: This section is similar to former § 12-44-108 as it existed prior to 2017.

6-25-110. Maximum liability for articles lost from rooms.

The landlord or keeper of a hotel or public establishment is not liable for the loss of an article left by a guest or patron in a room assigned to or occupied by the guest or patron, greater in value, in any event, than the sum of two hundred dollars for all articles that may be lost by the guest or patron, except by an agreement in writing made by the landlord or keeper of the hotel or public establishment, or person in charge of the office, assuming a greater liability.

Source: L. 2017: Entire article added with relocations, (HB 17-1245), ch. 240, p. 988, § 1, effective August 9. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 2020, § 81, effective August 12.

Editor's note: This section is similar to former § 12-44-109 as it existed prior to 2017.

6-25-111. Liability for baggage left by guest.

If an individual who has been the guest or patron of a hotel or public establishment ceases to be a guest or patron and leaves with the landlord or keeper of the hotel or public establishment any baggage or other personal property for safekeeping, and the landlord or keeper accepts and receives the same for safekeeping and makes no charge for services or storage in keeping the property, then the landlord or keeper is liable only as a gratuitous bailee and, as such, is liable for no sum greater than fifty dollars.

Source: L. 2017: Entire article added with relocations, (HB 17-1245), ch. 240, p. 988, § 1, effective August 9. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 2020, § 82, effective August 12.

Editor's note: This section is similar to former § 12-44-110 as it existed prior to 2017.

ANNOTATION

Annotator's note. Since § 6-25-111 is similar to former § 12-44-110 and laws antecedent to that section, relevant cases construing those provisions have been included in the annotations to this section.

This section applies to baggage left for safekeeping only, not to that in pledge. Dutton Hotel Co. v. Fitzpatrick, 69 Colo. 229, 193 P. 549 (1920).

Where a guest, having paid her bill at defendant's hotel, was told by the clerk that her baggage would be sent to her residence as she had requested, and the baggage was then brought by a servant to the baggage room, and while the servant was looking for an expressman it was stolen, it was held that the case was not within this section and that defendant was liable for the full value. New Albany Hotel Co. v. Dingman, 66 Colo. 306, 181 P. 126 (1919).

6-25-112. Liability in case of fire or accident.

The landlord or keeper of a hotel or public establishment is not liable for loss of or damage to the property of a guest or patron of the hotel or public establishment by fire or by any unforeseen cause or inevitable accident unless the loss or damage occurs on account of the landlord's or keeper's negligence or the negligence of the landlord's or keeper's employee.

Source: L. 2017: Entire article added with relocations, (HB 17-1245), ch. 240, p. 988, § 1, effective August 9. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 2021, § 83, effective August 12.

Editor's note: This section is similar to former § 12-44-111 as it existed prior to 2017.

ANNOTATION

Law reviews. For comment on Bidlake v. Shirley Hotel Co., appearing below, see 29 Rocky Mt. L. Rev. 136 (1956). For article, "One Year Review of Torts", see 34 Dicta 115 (1957).

Annotator's note. Since § 6-25-112 is similar to former § 12-44-111 and laws antecedent to that section, relevant cases construing those provisions have been included in the annotations to this section.

"Unforeseen causes", within this section, cannot be anticipated as likely to occur, and thus the theft of the baggage of a guest at an inn, or an ordinary burglary, is not an unforeseen cause. New Albany Hotel Co. v. Dingman, 66 Colo. 306, 181 P. 126 (1919).

Where a hotel's uniformed employee, after inquiry and consent, assumed custody and control of guest's automobile with the understanding that it was to be stored in a nearby garage overnight, but instead such employee used the automobile for a "joy ride" and left it on a public street in a damaged condition, and articles of personal property were removed or stolen from the glove compartment, the hotel was liable for the loss and damage resulting from its employee's conduct. Bidlake v. Shirley Hotel Co., 133 Colo. 166, 292 P.2d 749 (1956).

6-25-113. Liability limited to damages.

Sections 6-25-106 to 6-25-113 shall not be construed to render the landlord or keeper of a hotel or public establishment in this state liable in a greater sum than the actual loss or damage sustained.

Source: L. 2017: Entire article added with relocations, (HB 17-1245), ch. 240, p. 988, § 1, effective August 9. **L. 2026:** Entire section amended, (HB 26-1426), ch. 334, p. 2021, § 84, effective August 12.

Editor's note: This section is similar to former § 12-44-112 as it existed prior to 2017.

PART 2

INNKEEPERS' RIGHTS

6-25-201. Definitions.

As used in this part 2, unless the context otherwise requires:

(1) "Innkeeper" means the owner, operator, or manager of a lodging establishment.

(2) "Lodging establishment" means a bed and breakfast, as defined in section 44-3-103 (4), or a hotel, motel, resort, or public establishment, as defined in section 6-25-101 (1)(b).

(3) "Minor" means a person under eighteen years of age.

(4) "Resort" means a hotel with related sports and recreational facilities for the convenience of its guests or the general public located contiguous or adjacent to the hotel.

Source: L. 2017: Entire article added with relocations, (HB 17-1245), ch. 240, p. 988, § 1, effective August 9. **L. 2018:** (2) amended, (HB 18-1025), ch. 152, p. 1077, § 4, effective October 1. **L. 2026:** (2) amended, (HB 26-1426), ch. 334, p. 2021, § 85, effective August 12.

Editor's note: This section is similar to former § 12-44-301 as it existed prior to 2017.

6-25-202. Innkeepers' right to refuse accommodations - exceptions.

(1) An innkeeper may refuse or deny accommodations, facilities, and the privileges of a lodging establishment to any person that is not willing or able to pay for the accommodations, facilities, and services. An innkeeper may require a prospective guest to demonstrate the ability to pay by cash, valid credit card, or a validated check, and, if the prospective guest is a minor, the innkeeper may require a parent or legal guardian of the minor or other responsible adult:

(a) To provide a valid credit card number or agree, in writing, to pay for the cost of:

(I) The guest room, including applicable taxes;

(II) All charges made by the minor; and

(III) Any damages caused by the minor or the minor's guests to the guest room or its furnishings; or

(b) To provide an advance cash payment to cover the cost of the guest room for all nights reserved, including applicable taxes, plus a cash deposit to be held toward the payment of any charges made by the minor and any damages to the guest room or its furnishings. The cash deposit shall be refunded, unless applied to charges or damages, following a joint inspection of the room. It is the obligation of the guest to join the innkeeper during the inspection. If the guest fails to join the innkeeper, the guest waives the right to the joint inspection. The refund, if any, shall immediately be made to the extent it is not used to cover the described charges or damages.

Source: L. 2017: Entire article added with relocations, (HB 17-1245), ch. 240, p. 989, § 1, effective August 9. **L. 2026:** IP(1) and (1)(b) amended, (HB 26-1426), ch. 334, p. 2021, § 86, effective August 12.

Editor's note: This section is similar to former § 12-44-302 as it existed prior to 2017.

INTERNET SERVICE PROVIDERS

ARTICLE 26

Internet Service Providers

6-26-101. Complaints to federal trade commission - attorney general to provide guidance.

6-26-101. Complaints to federal trade commission - attorney general to provide guidance.

(1) The attorney general or the attorney general's designee, in collaboration with the Colorado broadband office created in section 24-37.5-903 (1), shall develop written guidance for consumers seeking to file a complaint with the federal trade commission to allege that an internet service provider, as defined in section 40-15-209 (4)(b), has engaged in any practice that violates federal law regarding interference with the open internet.

(2) On or before October 1, 2019, the department of law shall post the written guidance developed pursuant to subsection (1) of this section on its public website.

(3) The attorney general, in collaboration with the Colorado broadband office, shall update the written guidance as needed.

Source: L. 2019: Entire article added, (SB 19-078), ch. 210, p. 2216, § 3, effective May 17. **L. 2021:** (1) amended, (HB 21-1109), ch. 489, p. 3527, § 5, effective July 7. **L. 2024:** (1) and (3) amended, (HB 24-1336), ch. 219, p. 1366, § 4, effective September 1.

MISCELLANEOUS

ARTICLE 27

Firearms and Ammunition Manufacturers

PART 1
FIREARM INDUSTRY STANDARDS

6-27-101. Short title.
6-27-102. Legislative declaration.
6-27-103. Definitions.
6-27-104. Firearm industry standards of responsible conduct.
6-27-105. Cause of action for violations of standards of responsible conduct.
6-27-106. Limitations.

PART 2
PAYMENT PROCESSING FOR RETAIL SALES OF FIREARMS

6-27-201. Definitions.
6-27-202. Payment card network - merchant category code.
6-27-203. Merchant acquirer - merchant category.
6-27-204. Waivers void.
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6-27-206. Enforcement.

PART 1

FIREARM INDUSTRY STANDARDS

6-27-101. Short title.

The short title of this part 1 is the "Jessi Redfield Ghawi's Act For Gun Violence Victims' Access to Justice and Firearms Industry Accountability".

Source: L. 2023: Entire article added, (SB 23-168), ch. 122, p. 453, § 2, effective October 1. **L. 2024:** Entire section amended, (SB 24-066), ch. 141, p. 521, § 4, effective August 7.

6-27-102. Legislative declaration.

(1) The general assembly finds and declares that:

(a) The state of Colorado has a compelling interest in protecting the life, health, safety, and well-being of Colorado residents;

(b) Unlawful and irresponsible conduct by the firearm industry poses significant risks to the life, health, safety, and well-being of Colorado residents;

(c) Our state and our nation have a long-standing historical tradition of prescribing standards of responsible conduct and accountability for industries whose business practices may cause harm to the public;

(d) The federal "Protection of Lawful Commerce in Arms Act" preserves states' critical authority to enact laws prescribing and enforcing standards of responsible conduct and accountability for firearm industry members;

(e) It is the policy of this state that firearm industry members have a duty and responsibility to follow Colorado law, including not engaging in unfair or deceptive trade practices in violation of the "Colorado Consumer Protection Act", article 1 of this title 6; and

(f) It is further the policy of this state that victims harmed by firearm industry members' wrongful and unlawful conduct, and public officials acting on behalf of the people of Colorado, shall not be barred from pursuing civil actions seeking appropriate justice and fair remedies for those harms in court, including civil actions for harms caused by negligent entrustment of firearm industry products, consistent with any limitations or immunities otherwise provided in state or federal law.

(2) It is further the policy of this state that product liability for injury, damage, or death caused by the discharge of a firearm or ammunition is not based upon the inherent potential of a firearm to cause injury, damage, or death when discharged. It shall be the further policy of this state that a civil action in tort for any remedy arising from physical or emotional injury, physical damage, or death caused by the discharge of a firearm is not based upon the inherent potential of a firearm to cause injury, damage, or death when discharged.

Source: L. 2023: Entire article added, (SB 23-168), ch. 122, p. 453, § 2, effective October 1.

6-27-103. Definitions.

As used in this part 1, unless the context otherwise requires:

(1) "Firearm industry member" means a person, firm, corporation, or any other entity engaged in the manufacture, distribution, importation, marketing, or wholesale or retail sale of a firearm industry product.

(2) "Firearm industry product" means:

(a) A firearm, as defined in section 18-1-901;

(b) Ammunition;

(c) A completed or unfinished frame or receiver;

(d) A firearm component or magazine;

(e) A device marketed or sold to the public that is designed or adapted to be inserted into, affixed onto, or used in conjunction with a firearm, if the device is:

(I) Reasonably designed or intended to be used to increase a firearm's rate of fire, concealability, magazine capacity, or destructive capacity; or

(II) Reasonably designed or intended to increase the firearm's stability and handling when the firearm is repeatedly fired; and

(f) Any machine or device that is marketed or sold to the public, or reasonably designed or intended to be used to manufacture or produce a firearm or any other firearm industry product as described in this subsection (2).

(3) "Unfinished frame or receiver" means any forging, casting printing, extrusion, machined body, or similar article that has reached a stage in manufacture when it may be readily completed, assembled, or converted to be used as the frame or receiver of a functional firearm or that is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once completed, assembled, or converted.

Source: L. 2023: Entire article added, (SB 23-168), ch. 122, p. 454, § 2, effective October 1. **L. 2024:** IP amended, (SB 24-066), ch. 141, p. 521, § 5, effective August 7.

6-27-104. Firearm industry standards of responsible conduct.

(1) This section applies to a firearm industry member engaged in the manufacture, distribution, importation, marketing, or wholesale or retail sale of a firearm industry product that meets any of the following conditions:

(a) The firearm industry product was sold, made, distributed, or marketed in this state; or

(b) The firearm industry product was intended to be sold, made, distributed, or marketed in this state.

(2) A firearm industry member shall not knowingly engage in conduct, through acts or omissions, that violates the "Colorado Consumer Protection Act", article 1 of this title 6, including any unfair or deceptive trade practice, as described in section 6-1-105.

(3) A firearm industry member shall not knowingly engage in conduct, through acts or omissions, that violates article 12 of title 18.

Source: L. 2023: Entire article added, (SB 23-168), ch. 122, p. 455, § 2, effective October 1.

6-27-105. Cause of action for violations of standards of responsible conduct.

(1) A person or entity that has suffered harm as a result of a firearm industry member's acts or omissions in knowing violation of section 6-27-104 may bring a civil action pursuant to this part 1 in a court of competent jurisdiction.

(2) The attorney general, or the attorney general's designee, may bring a civil action in a court of competent jurisdiction to enforce this part 1 and remedy harms caused by any acts or omissions in knowing violation of section 6-27-104.

(3) In an action brought pursuant to this section, if the court determines that a firearm industry member engaged in conduct in violation of section 6-27-104, the court shall award just and appropriate relief, which may include but is not limited to:

(a) Injunctive relief sufficient to prevent the firearm industry member and any other defendant from further violating this part 1;

(b) Compensatory and punitive damages;

(c) Reasonable attorney fees, filing fees, and reasonable costs of action; and

(d) Any other just and appropriate relief necessary to enforce this part 1 and remedy the harm caused by the violation.

(4) In an action brought pursuant to this part 1, and notwithstanding any intervening act by a third party, if a firearm industry member's knowing violation of this part 1 creates a reasonably foreseeable risk that harm would occur, the firearm industry member's violation is presumed to be the proximate cause of the harm suffered by the plaintiff.

(5) An action brought pursuant to this section must be commenced within five years after the date that the violation occurred or the harm was incurred.

(6) A civil action brought pursuant to this section may be brought in:

(a) The county in which all or a substantial part of the events or omissions giving rise to the claim occurred;

(b) The county of residence of any one of the natural person defendants at the time the cause of action accrued;

(c) The county of the principal office in this state of any of the defendants that is not a natural person; or

(d) The county of residence for the plaintiff if the plaintiff is a natural person residing in Colorado.

Source: L. 2023: Entire article added, (SB 23-168), ch. 122, p. 455, § 2, effective October 1. **L. 2024:** (1), (2), (3)(a), (3)(d), and (4) amended, (SB 24-066), ch. 141, p. 521, § 6, effective August 7.

6-27-106. Limitations.

(1) Nothing in this part 1 limits or impairs in any way the right of the attorney general, or any person or entity, to pursue a legal action pursuant to any other law, cause of action, tort theory, or other authority.

(2) Nothing in this part 1 limits or impairs in any way an obligation or requirement placed on a firearm industry member by any other authority.

(3) This part 1 must be construed and applied in a manner that is consistent with the requirements of the constitutions of Colorado and the United States.

Source: L. 2023: Entire article added, (SB 23-168), ch. 122, p. 456, § 2, effective October 1. **L. 2024:** Entire section amended, (SB 24-066), ch. 141, p. 521, § 7, effective August 7.

PART 2

PAYMENT PROCESSING FOR RETAIL SALES OF FIREARMS

6-27-201. Definitions.

As used in this part 2, unless the context otherwise requires:

(1) "Attorney general" includes an attorney general's designee acting within the scope of the designee's duties as an employee of the attorney general's office.

(2) "Firearm" has the meaning set forth in section 18-1-901 (3)(h).

(3) "Firearm accessory" means a device designed or adapted to be inserted into, attached to, or used with a firearm if the device alters:

(a) The firing capabilities of the firearm;

(b) The lethality of the firearm; or

(c) The shooter's ability to hold or use the firearm.

(4) "Firearms merchant" means a business that:

(a) Is physically located in Colorado;

(b) Acquires and sells firearms, firearm accessories, and firearm ammunition with the intention of making a profit; and

(c) Has its highest gross revenue or expected gross revenue from the combined sale in Colorado of firearms, firearm accessories, or firearm ammunition, as stated by the business to its merchant acquirer in the ordinary course of business.

(5) "Merchant acquirer" means a person with a relationship with a merchant for the purposes of processing credit, debit, or prepaid transactions.

(6) "Merchant category code for firearms" or "code" means the merchant category code for firearms and ammunition businesses established by the International Organization for Standardization on September 9, 2022.

(7) "Payment card network" means a person that provides services to route transactions between bank participants to conduct debit, credit, or prepaid transactions for the purposes of authorization, clearance, or settlement.

Source: L. 2024: Entire part added, (SB 24-066), ch. 141, p. 518, § 1, effective August 7.

6-27-202. Payment card network - merchant category code.

On and after September 1, 2024, a payment card network shall make the merchant category code for firearms available for merchant acquirers that provide payment services for firearms merchants.

Source: L. 2024: Entire part added, (SB 24-066), ch. 141, p. 519, § 1, effective August 7.

6-27-203. Merchant acquirer - merchant category.

Effective May 1, 2025, a merchant acquirer shall assign the merchant category code for firearms to each firearms merchant to which the merchant acquirer provides services.

Source: L. 2024: Entire part added, (SB 24-066), ch. 141, p. 519, § 1, effective August 7.

6-27-204. Waivers void.

A contractual waiver of this part 2 is void because the waiver is contrary to public policy.

Source: L. 2024: Entire part added, (SB 24-066), ch. 141, p. 519, § 1, effective August 7.

6-27-205. Attorney general - exclusive enforcement authority.

The attorney general has exclusive authority to enforce this part 2, which does not grant any other person authority to bring a civil action to enforce this part 2 or seek damages as a result of a violation of this part 2.

Source: L. 2024: Entire part added, (SB 24-066), ch. 141, p. 519, § 1, effective August 7.

6-27-206. Enforcement.

(1) Not fewer than forty-five days before bringing an action under subsection (3) of this section, the attorney general must notify in writing the person alleged to be in violation of this part 2. A court shall dismiss, without prejudice, an action until the attorney general has complied with this subsection (1). The notice must contain:

(a) Each specific provision of this part 2 that is alleged to have been violated; and

(b) The acts or omissions that are alleged to have violated each provision described in subsection (1)(a) of this section.

(2) The attorney general shall not bring an action under this section if the person that receives the notice described in subsection (1) of this section:

(a) Cures the described violation within thirty days after receiving the notice;

(b) Provides the attorney general a written statement, made under penalty of perjury, that the person has:

(I) Cured the violation; and

(II) Made any necessary changes to the person's internal policies to prevent future violations of this section; and

(c) Provides any necessary supporting documentation that shows how the violation was cured.

(3) A person that violates this part 2 and does not cure the violation in accordance with subsections (2)(a) to (2)(c) of this section is subject to the following and the attorney general may file an action seeking:

(a) A civil penalty of up to ten thousand dollars for each violation; or

(b) An injunction or equitable relief that prevents a further violation of this part 2.

(4) If the attorney general prevails in an action brought pursuant to this part 2, a court may issue an order requiring the violator to pay reasonable attorney fees and costs incurred in bringing the action.

Source: L. 2024: Entire part added, (SB 24-066), ch. 141, p. 519, § 1, effective August 7.

ARTICLE 28

Regulation of Dietary Supplements for Weight Loss

6-28-101. Definitions.

6-28-102. Over-the-counter diet pills - prohibition on selling to persons under eighteen years of age - deceptive trade practice - rules.

6-28-101. Definitions.

As used in this article 28, unless the context otherwise requires:

(1) (a) "Over-the-counter diet pill" means a class of drugs that are labeled and marketed under the "Federal Food, Drug, and Cosmetic Act", 21 U.S.C. sec. 301 et seq., for the purpose of achieving weight loss that are lawfully sold, transferred, or otherwise furnished without a prescription.

(b) "Over-the-counter diet pill" includes products marketed with a drug facts panel pursuant to federal regulations that contain either approved drug ingredients or ingredients deemed adulterated pursuant to 21 U.S.C. sec. 342, or both.

(2) "Retail establishment" means any vendor that, in the regular course of business, sells over-the-counter diet pills at retail directly to the public, including but not limited to, pharmacies, grocery stores, other retail stores, and vendors that accept orders placed by mail, telephone, electronic mail, internet website, online catalog, or software application.

Source: L. 2023: Entire article added, (SB 23-176), ch. 275, p. 1627, § 3, effective July 1, 2024.

6-28-102. Over-the-counter diet pills - prohibition on selling to persons under eighteen years of age - deceptive trade practice - rules.

(1) (a) A retail establishment shall not sell, transfer, or otherwise furnish over-the-counter diet pills to any person under eighteen years of age.

(b) A retail establishment shall request valid identification from any person who attempts to purchase over-the-counter diet pills if that person reasonably appears to the retail establishment to be under eighteen years of age.

(2) A violation of this article 28 is a deceptive trade practice pursuant to section 6-1-105 (1)(cccc).

Source: L. 2023: Entire article added, (SB 23-176), ch. 275, p. 1627, § 3, effective July 1, 2024.

ARTICLE 29

Colorado 340B Contract Pharmacy Protection Act

6-29-101. Short title.
6-29-102. Legislative declaration.
6-29-103. Definitions.
6-29-104. Applicability.
6-29-105. Acquisition of 340B drugs - prohibited acts - use of savings - enforcement - penalties - nonpreemption - data exclusions.

6-29-101. Short title.

The short title of this article 29 is the "Colorado 340B Contract Pharmacy Protection Act".

Source: L. 2025: Entire article added, (SB 25-071), ch. 313, p. 1637, § 2, effective August 6.

6-29-102. Legislative declaration.

(1) The general assembly finds and determines that:

(a) The 340B drug pricing program requires drug manufacturers to provide drug discounts on identified outpatient drugs to 340B covered entities as a condition of medicaid and medicare part B covering those drugs;

(b) Congress created the 340B program in 1992, stating that the program's benefits "enable [covered] entities to stretch scarce Federal resources as far as possible, reaching more eligible patients and providing more comprehensive services." (H.R. Rep. No.102-384 (II), at 12 (1992)).

(c) The 340B program supports Colorado's medically vulnerable and underserved populations by providing additional resources to 340B covered entities and allowing these entities to determine the most effective use of these resources;

(d) The 340B program is a critical component of Colorado's safety net infrastructure;

(e) Colorado has sixty-eight hospitals statewide that participate in the 340B program, with nearly ninety percent of these hospitals operating under unsustainable long-term margins;

(f) Additionally, Colorado has twenty federally qualified health centers, or FQHCs, all of which participate in the 340B program and sixty-five percent of which currently operate with negative margins;

(g) Colorado hospitals participating in the 340B program utilize program benefits to address their communities' unique needs, which include providing direct prescription drug discounts, subsidizing uncompensated charity care and medicaid underpayments to remain financially operational, supporting opioid use disorder treatment, funding mobile health-care and immunization clinics, and paying for chemotherapy and infusion centers;

(h) Colorado's FQHCs are the primary care medical home for one in seven Coloradans, with eighty-nine percent of FQHCs' patients in 2023 living with family incomes below two hundred percent of the federal poverty guideline and twenty-three percent uninsured;

(i) Colorado's FQHCs utilize 340B program benefits to address their communities' unique needs, which include reduced drug prices for patients, provider recruitment and retention, and expansion of oral health and behavioral health services that the FQHCs would otherwise not be able to offer;

(j) Further, Colorado's FQHCs experienced an estimated loss of four million three hundred dollars in 340B program savings in the last two years;

(k) Conversely, in 2023, sixteen of the largest pharmaceutical companies reported six hundred eighty-four billion dollars in earnings in their annual financial reports, a figure that was higher than the gross domestic product of eighty-eight percent of the countries in the world;

(l) In addition, the eight largest pharmaceutical companies paid a combined two billion dollars in federal taxes on two hundred fourteen billion dollars of domestic revenue in 2022, according to their 10-K annual financial reports;

(m) In 2022, Colorado hospitals provided two billion one hundred million dollars of community benefit;

(n) Starting in 2020, pharmaceutical manufacturers began to unlawfully place restrictions on 340B covered entities using contract pharmacies to dispense drugs to patients, unilaterally limiting the 340B program's benefits; and

(o) In a letter dated July 28, 2023, from William Tong, attorney general of Connecticut, to the United States senate 340B working group, and signed by twenty-two other bipartisan attorneys general, the attorneys general declared that "outpatient pharmacies are a key mechanism for the delivery of life-saving drugs to eligible patients, including those who have limited access to transportation, live in remote or rural areas, or are confined to their homes and rely on mail-order pharmacies."

(2) Therefore, the general assembly declares that this article 29 prohibiting pharmaceutical manufacturers from imposing limitations or placing restrictive conditions on 340B covered entities is necessary to protect Colorado's vulnerable patients and safety net providers and to ensure that much-needed financial resources generated by the 340B program remain in Colorado for the benefit of the public.

Source: L. 2025: Entire article added, (SB 25-071), ch. 313, p. 1637, § 2, effective August 6.

6-29-103. Definitions.

As used in this article 29, unless the context otherwise requires:

(1) "340B covered entity" or "covered entity" has the meaning set forth in section 340B (a)(4) of the federal "Public Health Service Act", 42 U.S.C. sec. 256b (a)(4).

(2) "340B drug" means a drug that:

(a) Is a covered outpatient drug within the meaning set forth in 42 U.S.C. sec. 256b;

(b) Has been subject to any offer for reduced prices by a manufacturer pursuant to 42 U.S.C. sec. 256b (a)(1); and

(c) Is purchased by a covered entity. As used in this subsection (2)(c), a drug is considered "purchased" if it would have been purchased but for the restriction or limitation described in section 6-29-105.

(3) "340B drug pricing program" or "340B program" means the program described in 42 U.S.C. sec. 256b (a)(1).

(4) "340B savings" means the difference between the aggregated market rate costs and the aggregated acquisition costs for 340B drugs.

(5) "Board" means the state board of pharmacy created in section 12-280-104.

(6) "Federal health care program" has the meaning set forth in section 42 U.S.C. sec. 1320a-7b (f).

(7) "Health information" means information, including demographic information collected from an individual or a group of individuals that:

(a) Is created or received by a health-care provider, pharmacy, health benefit plan, employer, or health-care clearinghouse; and

(b) Relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

(8) "Manufacturer" has the meaning set forth in section 12-280-103 (27).

(9) "Package" has the meaning set forth in 21 U.S.C. sec. 360eee (11)(A).

(10) "Pharmacy" has the meaning set forth in section 12-280-103 (43).

(11) "Repackager" has the meaning set forth in section 12-280-103 (46).

(12) "Third-party logistics provider" has the meaning set forth in section 12-280-103 (52.5).

Source: L. 2025: Entire article added, (SB 25-071), ch. 313, p. 1639, § 2, effective August 6.

6-29-104. Applicability.

This article 29 applies to a manufacturer, third-party logistics provider, or repackager of a manufacturer's drugs doing business in this state and engaged in the production, manufacture, distribution, or sale of a 340B drug in this state.

Source: L. 2025: Entire article added, (SB 25-071), ch. 313, p. 1640, § 2, effective August 6.

6-29-105. Acquisition of 340B drugs - prohibited acts - use of savings - enforcement - penalties - nonpreemption - data exclusions.

(1) **Prohibited acts.** On and after August 6, 2025:

(a) Unless the receipt of the 340B drugs is prohibited by the federal department of health and human services, a manufacturer, third-party logistics provider, or repackager, or an agent, contractor, or affiliate of a manufacturer, third-party logistics provider, or repackager, including an entity that collects or processes health information, shall not, directly or indirectly, deny, restrict, prohibit, discriminate against, or otherwise limit the acquisition of a 340B drug by, or delivery of a 340B drug to, a 340B covered entity, a pharmacy contracted with a 340B covered entity, or a location otherwise authorized by a 340B covered entity to receive and dispense 340B drugs; and

(b) A manufacturer shall not directly or indirectly require, including as a condition, a 340B covered entity, a pharmacy contracted with a 340B covered entity, or any other location authorized to receive 340B drugs by a 340B covered entity to submit any health information, claims or utilization data, purchasing data, payment data, or other data that does not relate to a claim submitted to a federal health-care program, unless such data is voluntarily furnished by such covered entity or otherwise required to be furnished under applicable federal law.

(2) A covered entity that is a reporting hospital, as defined in section 25.5-1-701, shall not use 340B savings for the following purposes:

(a) More than thirty-five percent of total annual compensation or expense reimbursement for the hospital's board of directors;

(b) Tax penalties or fines issued against the hospital;

(c) Expenses related to advertising and public relations that promote the hospital's image, services, or proposals, not including communications required by law or that are essential for patient safety and patient information;

(d) Lobbying expenses and other costs intended to influence legislation or ballot measures at the local, state, or federal level;

(e) Travel, lodging, food, or beverage expenses for the hospital's board of directors and officers; and

(f) Gifts or entertainment expenses.

(3) **Enforcement - penalties.**

(a) The attorney general may investigate a complaint concerning a violation of this article 29. A person that violates this article 29 risks the public's health and engages in an unfair or deceptive trade practice pursuant to section 6-1-105 (1)(oooo) and is subject to the enforcement provisions, civil penalties, and damages set forth in article 1 of this title 6.

(b) Each package of a 340B drug that constitutes a prohibited act under this article 29 constitutes a separate violation of subsection (1) of this section.

(c) Limited distribution of a drug required under 21 U.S.C. sec. 355-1 does not constitute a violation of this article 29.

(d) A person regulated by the state board of pharmacy created in section 12-280-104 may be subject to discipline pursuant to section 12-280-108 (1)(c), (1)(d), or (1)(i) for violating this article 29.

(4) **Nonpreemption.** Nothing in this article 29 shall be construed or applied to be less restrictive than any federal law applying to persons regulated by this section. Nothing in this section shall be construed or applied to be in conflict with any of the following:

(a) Applicable federal law and related regulations; or

(b) Other laws of this state, if the laws are compatible with applicable federal law.

(5) **Data exclusions.** Subsection (1) of this section does not prohibit a manufacturer from requiring health information or other data that a covered entity is required to furnish to the manufacturer under applicable federal law, including data relating to an audit in accordance with procedures established by the federal department of health and human services under 42 U.S.C. sec. 256b (a)(5)(C).

Source: L. 2025: Entire article added, (SB 25-071), ch. 313, p. 1640, § 2, effective August 6.

ARTICLE 30

Age Attestation for Online Users

6-30-101. Definitions.

6-30-102. Requirements for operating system providers and developers.

6-30-103. Applicability to existing devices.

6-30-104. Enforcement - penalties.

6-30-105. Applicability - limitations.

6-30-101. Definitions.

[*Editor's note: This section is effective July 1, 2028.*] As used in this article 30, unless the context otherwise requires:

(1) "Account" means a user account that connects an operating system to a covered application store.

(2) (a) "Account holder" means an individual in the state who is at least eighteen years old, or the parent or legal guardian of a user who is a minor, and who establishes an account on a device.

(b) "Account holder" does not include a parent of an emancipated minor who is a user of a device.

(3) "Age-bracket data" means nonpersonally identifiable data derived from a user's birth date or age for the purpose of sharing with covered applications, which data indicates the user's age range, including, at a minimum, data that indicates whether a user is:

(a) Under thirteen years old;

(b) Thirteen years old or older but under sixteen years old;

(c) Sixteen years old or older but under eighteen years old; or

(d) Eighteen years old or older.

(4) "Age signal" means age-bracket data sent through a real-time secure application programming interface from an operating system or covered application store to a covered application.

(5) (a) "Covered application" means a consumer software application that is accessed through a covered application store and that may be run or directed by a user on a device.

(b) "Covered application" does not include:

(I) A software application that does not process users' personal data; or

(II) An application from a free, publicly available code repository.

(6) (a) "Covered application store" means a publicly available internet website, software application, online service, or platform that distributes and facilitates, on a commercial basis, the download of applications from third-party developers to users of devices.

(b) "Covered application store" does not include:

(I) A code repository provider;

(II) A containerized software distribution; or

(III) An online service or platform that distributes any of the following applications if the application runs exclusively within a separate host application:

(A) An extension;

(B) A plug-in;

(C) An add-on; or

(D) Any other software application.

(7) "Developer" means a person that writes, creates, maintains, or controls a covered application.

(8) "Device" means a computer, mobile device, or similar general-purpose computing device that is intended for use by a consumer.

(9) "Family account application" means a covered application that:

(a) Offers subaccounts or profiles within the application;

(b) Requires a paid subscription or account creation with payment method verification as the application's primary business model;

(c) Does not permit account creation by minors; and

(d) Verifies that the primary account holder for the application is over the age of eighteen years old using commercially reasonable age estimation methods.

(10) "Minor" means an individual who is under eighteen years old.

(11) "Operating system provider" means a person that develops, licenses, or controls the operating system software on a device.

(12) "Personal data" has the meaning set forth in section 6-1-1303 (17).

(13) "Process" has the meaning set forth in section 6-1-1303 (18).

(14) "User" means the primary user of a device.

Source: L. 2026: Entire article added, (SB 26-051), ch. 343, p. 2087, § 2, effective July 1, 2028.

6-30-102. Requirements for operating system providers and developers.

[*Editor's note: This section is effective July 1, 2028.*]

(1) On and after July 1, 2028, an operating system provider that operates a covered application store or makes a covered application store available pre-installed on an operating system shall provide an accessible interface at account setup that requires an account holder to indicate the birth date, age, or age bracket of the user of that device for the purpose of providing an age signal to covered applications available in the operating system provider's covered application store. Operating system providers may minimize the use of personal data by allowing an account holder to select an age bracket for a user who is eighteen years old or older without providing a birth date or age.

(2) On and after July 1, 2028, an operating system provider or a covered application store shall:

(a) Provide developers with a reasonably consistent, real-time application programming interface to request and receive an age signal; and

(b) Send only the minimum amount of information necessary to comply with this article 30. An operating system provider or covered application store shall not share an age signal with a third party for a purpose not required by this article 30.

(3) (a) A covered application must use the application programming interface provided by the operating system provider or covered application store to:

(I) Request an age signal with respect to a particular user when the application is initially launched or when a user first creates an account on the covered application; and

(II) Request a user's age bracket data, as needed, to update the age information held by the application.

(b) (I) A covered application that receives an age signal is deemed to have knowledge of the age range of the user to whom the signal pertains across all platforms and points of access of the covered application.

(II) A developer shall not willfully disregard clear and convincing information that indicates that a user's age is different than the age-bracket data indicated by an age signal provided by an operating system provider or by a covered application store.

(III) If a developer has clear and convincing information that a user's age is different than the age indicated by an age signal received pursuant to this article 30, the developer shall use that information as the primary indicator of the user's age.

(IV) Except as provided in subsections (3)(b)(II) and (3)(b)(III) of this section, a developer shall treat an age signal received pursuant to this article 30 as the primary indicator of a user's age range.

(V) Nothing in this section requires a developer to acquire age-related data other than an age signal.

(c) A developer shall ensure that a covered application that receives an age signal pursuant to this article 30 uses the age signal only to comply with applicable law.

(d) A developer shall ensure that a covered application that receives an age signal pursuant to this article 30 does not:

(I) Request more information concerning the user from an operating system provider or a covered application store than the minimum amount of information necessary to comply with this article 30; or

(II) Communicate the age signal to a third party for a purpose not required by this article 30.

(e) Notwithstanding subsections (3)(a), (3)(b)(I), and (3)(b)(IV) of this section, a developer of a family account application may:

(I) Use the age of the primary account holder of a family account application as the age of a user for purposes of applying age-related safety defaults and access to features within the family account application; and

(II) Allow the primary account holder of a family account application to attest to the age of the users of subaccounts of the family account application.

Source: L. 2026: Entire article added, (SB 26-051), ch. 343, p. 2089, § 2, effective July 1, 2028.

6-30-103. Applicability to existing devices.

[*Editor's note: This section is effective July 1, 2028.*]

(1) With respect to a device for which account setup was completed before July 1, 2028, an operating system provider shall provide, before January 1, 2029, an accessible interface that allows an account holder to indicate the birth date or age of the user of that device for the purpose of providing an age signal regarding the user's age-bracket data to covered applications available in the operating system provider's covered application store.

(2) If a covered application last updated on or after July 1, 2027, was downloaded to a device before July 1, 2028, and the covered application has not requested an age signal with respect to the user of the device on which the covered application was downloaded, the covered application must request an age signal from the covered application store from which the covered application was downloaded with respect to that user before January 1, 2029.

Source: L. 2026: Entire article added, (SB 26-051), ch. 343, p. 2090, § 2, effective July 1, 2028.

6-30-104. Enforcement - penalties.

[*Editor's note: This section is effective July 1, 2028.*]

(1) A person that violates this article 30 shall pay a civil penalty of no more than two thousand five hundred dollars for each minor harmed by each negligent violation or no more than seven thousand five hundred dollars for each minor harmed by each intentional violation. The attorney general shall assess and recover the penalty in a civil action.

(2) Notwithstanding subsection (1) of this section, if an operating system provider or a covered application store makes a good faith effort to comply with this article 30, taking into consideration available technology and any reasonable technical limitations or outages, the operating system provider or covered application store is not liable for an erroneous age signal indicating a user's age range or for conduct by a covered application that receives an age signal indicating a user's age range.

Source: L. 2026: Entire article added, (SB 26-051), ch. 343, p. 2091, § 2, effective July 1, 2028.

6-30-105. Applicability - limitations.

[*Editor's note: This section is effective July 1, 2028.*]

(1) This article 30 does not:

(a) Modify, impair, or supersede any antitrust law, including the "Colorado State Antitrust Act of 2023", article 4 of this title 6; or

(b) Require the collection of additional personal data from device owners or device users that is not necessary to comply with this article 30.

(2) An operating system provider or covered application store shall not discriminate in complying with this article 30. Discrimination in complying with this article 30 includes:

(a) Imposing less stringent restrictions and obligations on its own applications and application distribution than it does on those from third-party applications or application distributors; or

(b) Using nonpublicly available data collected from a third party in the course of compliance with this article 30 to compete against that third party, give the covered application store's services preference relative to those of a third party, or use the nonpublicly available data in an anticompetitive manner in violation of applicable law.

(3) This article 30 does not apply to:

(a) A broadband internet access service, as defined in section 40-15-209 (4)(a);

(b) A telecommunications service, as defined in 47 U.S.C. sec. 153 (53);

(c) The delivery of or use of a physical product;

(d) Data maintained by a state institution of higher education, as defined in section 23-18-102 (10); the state; a subdivision of the state; the judicial department of the state; or a county, city and county, or municipality if the data is collected, maintained, disclosed, communicated, and used as authorized by state and federal law for noncommercial purposes; or

(e) An operating system provider or developer that distributes an operating system or application under license terms that permit a recipient to copy, redistribute, and modify the software without any platform-imposed technical or contractual restrictions imposed by the provider or developer on installing all modified versions.

(4) This article 30 does not impose liability that arises from the use of a device or application by an individual who is not the user to whom an age signal pertains on an operating system provider, a covered application store, or a developer.

(5) Notwithstanding any provision of this article 30 to the contrary, this article 30 does not apply to a developer if the predominant or exclusive function of the covered application that the developer writes, creates, maintains, or controls is:

(a) Facilitating communication within a business or an enterprise among employees or affiliates of the business or enterprise, so long as access to the covered application is restricted to employees or affiliates of the business or enterprise;

(b) Providing enterprise software functions used by businesses, governments, or nonprofit organizations; or

(c) Providing or obtaining technical support for a software platform, product, or service.

Source: L. 2026: Entire article added, (SB 26-051), ch. 343, p. 2091, § 2, effective July 1, 2028.