

CHAPTER 232

GOVERNMENT - STATE

HOUSE BILL 25-1239

BY REPRESENTATIVE(S) Zokaie and Boesenecker, Bacon, Brown, Clifford, English, Froelich, Garcia, Jackson, Joseph, Lieder, Lindsay, Mabrey, McCormick, Paschal, Rutinel, Sirota, Smith, Story, Titone, Woodrow, McCluskie, Ricks, Valdez; also SENATOR(S) Daugherty and Weissman, Roberts, Amabile, Ball, Cutter, Exum, Gonzales J., Hinrichsen, Jodeh, Kipp, Michaelson Jenet, Wallace, Winter F.

AN ACT

CONCERNING MODIFICATION OF REMEDY PROVISIONS IN THE COLORADO ANTI-DISCRIMINATION ACT, AND, IN CONNECTION THEREWITH, REORGANIZING AND EXPANDING THE PROVISIONS FOR DAMAGES IN A CIVIL ACTION FOR CERTAIN DISCRIMINATORY OR UNFAIR PRACTICES AND MAKING AN APPROPRIATION.

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

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

- (a) Coloradans with disabilities continue to face discrimination in places of public accommodation, including by publication of discriminatory advertising related to those places;
- (b) The inability of individuals with disabilities to recover compensatory damages in a civil action for certain discriminatory and unfair practices diminishes the reality of the harm done by such discriminatory acts and robs the individuals with disabilities of the opportunity to be made truly whole;
- (c) Particularly in light of a recent United States Supreme Court decision concluding that emotional distress damages could not be implied under the federal spending clause anti-discrimination statutes, it is necessary to protect the rights of Coloradans with disabilities by expressly and unambiguously making compensatory damages, including for pecuniary and nonpecuniary losses, available as a remedy in a civil action for certain discriminatory and unfair practices; and
- (d) In an effort to protect all Coloradans from acts of discrimination and ensure

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

equal access to justice to those who are discriminated against, the general assembly finds that it is necessary to merge the remedy sections of the Colorado anti-discrimination act.

SECTION 2. In Colorado Revised Statutes, 24-34-601, **amend** (2.5); and **repeal** (2)(b) as follows:

24-34-601. Discrimination in places of public accommodation - definition.
(2) (b) ~~A claim brought pursuant to paragraph (a) of this subsection (2) that is based on disability is covered by the provisions of section 24-34-802.~~

(2.5) It is a discriminatory practice and unlawful for any person to discriminate against any individual or group because such person or group has opposed any practice made a discriminatory practice by this part 6, BECAUSE SUCH PERSON OR GROUP HAS REQUESTED REASONABLE ACCOMMODATIONS ON THE BASIS OF A PERSON'S DISABILITY, or because such person or group has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing conducted pursuant to this part 6.

SECTION 3. In Colorado Revised Statutes, 24-34-602, **amend** (1); and **add** (4) as follows:

24-34-602. Penalty and civil liability. (1) (a) ~~Any person who violates section 24-34-601 shall be fined three thousand five hundred dollars for each violation. A person aggrieved by the violation of section 24-34-601, 24-34-802 (1)(b), or 24-34-803 may bring an action in any court of competent jurisdiction, in the county where the violation occurred. Upon finding a violation the court shall order the defendant to pay the fine to the aggrieved party and to comply with the provisions of section 24-34-601~~ OF SECTION 24-34-601, 24-34-802 (1)(b), OR 24-34-803, THE PLAINTIFF IS ENTITLED TO A COURT ORDER REQUIRING COMPLIANCE WITH THE PROVISIONS OF THE APPLICABLE SECTION, ATTORNEY FEES AND COSTS, AND EITHER:

(I) RECOVERY OF ACTUAL MONETARY DAMAGES AND, EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (1)(c) OF THIS SECTION, DAMAGES FOR NONECONOMIC LOSS OR INJURY, AS DEFINED IN SECTION 13-21-102.5 (2)(b); OR

(II) A STATUTORY FINE OF FIVE THOUSAND DOLLARS, PAYABLE TO EACH PLAINTIFF FOR EACH VIOLATION.

(b) ~~Notwithstanding the provisions of paragraph (a) of this subsection (1), a person who violates the provisions of section 24-34-601 based on a disability shall be subject to the provisions of section 24-34-802.~~

(c) (I) RECOVERY OF DAMAGES FOR NONECONOMIC LOSS OR INJURY IN ACCORDANCE WITH SUBSECTION (1)(a)(I) OF THIS SECTION IS LIMITED TO AN AMOUNT NOT TO EXCEED FIFTY THOUSAND DOLLARS.

(II) (A) A DEFENDANT IS ENTITLED TO A FIFTY-PERCENT REDUCTION OF THE STATUTORY CAP SET FORTH IN SUBSECTION (1)(c)(I) OF THIS SECTION ON NONECONOMIC LOSS OR INJURY DAMAGES AWARDED IN ACCORDANCE WITH SUBSECTION (1)(a)(I) OF THIS SECTION IF THE DEFENDANT CORRECTS THE VIOLATION

WITHIN THIRTY DAYS AFTER THE COMPLAINT IS FILED; EXCEPT THAT A DEFENDANT THAT KNOWINGLY, INTENTIONALLY, OR RECKLESSLY MADE OR CAUSED TO BE MADE THE VIOLATION IS NOT ENTITLED TO A REDUCTION PURSUANT TO THIS SUBSECTION (1)(c)(II).

(B) NOTWITHSTANDING THE PERIOD SET FORTH IN SUBSECTION (1)(c)(II)(A) OF THIS SECTION, A DEFENDANT THAT IS NOT ABLE TO FULLY CORRECT THE VIOLATION WITHIN THE THIRTY-DAY PERIOD SET FORTH IN SUBSECTION (1)(c)(II)(A) OF THIS SECTION MAY BE ALLOWED ADDITIONAL TIME IN THIRTY-DAY INCREMENTS NOT TO EXCEED A TOTAL OF ONE HUNDRED TWENTY DAYS, INCLUDING THE INITIAL THIRTY-DAY PERIOD SET FORTH IN SUBSECTION (1)(c)(II)(A) OF THIS SECTION, IF THE DEFENDANT SHOWS GOOD FAITH EFFORT TO CORRECT THE VIOLATION. IF THE DEFENDANT HAS NOT FULLY CORRECTED THE VIOLATION WITHIN ONE HUNDRED TWENTY DAYS, THE DEFENDANT IS NOT ENTITLED TO THE REDUCTION SET FORTH IN SUBSECTION (1)(c)(II)(A) OF THIS SECTION.

(III) NOTHING IN THIS SUBSECTION (1)(c) REDUCES ACTUAL MONETARY DAMAGES AWARDED IN ACCORDANCE WITH SUBSECTION (1)(a)(I) OF THIS SECTION.

(4) FOR ANY SUIT BROUGHT PURSUANT TO THIS SECTION THAT RELATES TO DISCRIMINATION ON THE BASIS OF DISABILITY, THE COURT SHALL APPLY THE SAME STANDARDS AND DEFENSES THAT ARE AVAILABLE UNDER THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ., AND ITS RELATED AMENDMENTS AND IMPLEMENTING REGULATIONS.

SECTION 4. In Colorado Revised Statutes, **amend** 24-34-707 as follows:

24-34-707. Relief authorized - definition. (1) In addition to the relief authorized by section 24-34-306 (9), the commission may order a respondent who has been found to have violated any of the provisions of this part 7 to rehire, reinstate, and provide back pay to any employee or agent discriminated against because of ~~his~~ THEIR obedience to this part 7; to make reports as to the manner of compliance with the order of the commission; and to take affirmative action, including the posting of notices setting forth the substantive rights of the public under this part 7.

(2) (a) A PERSON AGGRIEVED BY THE VIOLATION OF SECTION 24-34-701 MAY BRING AN ACTION IN ANY COURT OF COMPETENT JURISDICTION. UPON FINDING A VIOLATION OF SECTION 24-34-701, THE PLAINTIFF IS ENTITLED TO A COURT ORDER REQUIRING COMPLIANCE WITH SECTION 24-34-701, ATTORNEY FEES AND COSTS, AND EITHER:

(I) RECOVERY OF ACTUAL MONETARY DAMAGES AND, EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2)(b) OF THIS SECTION, DAMAGES FOR NONECONOMIC LOSS OR INJURY, AS DEFINED IN SECTION 13-21-102.5 (2)(b); OR

(II) A STATUTORY FINE OF FIVE THOUSAND DOLLARS, PAYABLE TO EACH PLAINTIFF FOR EACH VIOLATION.

(b) (I) RECOVERY OF DAMAGES FOR NONECONOMIC LOSS OR INJURY IN

ACCORDANCE WITH SUBSECTION (2)(a)(I) OF THIS SECTION IS LIMITED TO AN AMOUNT NOT TO EXCEED FIFTY THOUSAND DOLLARS.

(II) (A) A DEFENDANT THAT IS A SMALL BUSINESS IS ENTITLED TO A FIFTY-PERCENT REDUCTION OF THE STATUTORY CAP SET FORTH IN SUBSECTION (2)(b)(I) OF THIS SECTION ON NONECONOMIC LOSS OR INJURY DAMAGES AWARDED IN ACCORDANCE WITH SUBSECTION (2)(a)(I) OF THIS SECTION IF THE DEFENDANT CORRECTS THE VIOLATION WITHIN THIRTY DAYS AFTER THE COMPLAINT IS FILED; EXCEPT THAT A DEFENDANT THAT IS A SMALL BUSINESS AND KNOWINGLY, INTENTIONALLY, OR RECKLESSLY MADE OR CAUSED TO BE MADE THE VIOLATION IS NOT ENTITLED TO A REDUCTION PURSUANT TO THIS SUBSECTION (2)(b)(II)(A).

(B) AS USED IN THIS SUBSECTION (2)(b)(II), "SMALL BUSINESS" MEANS AN EMPLOYER WITH TWENTY-FIVE OR FEWER EMPLOYEES THAT GENERATES NO MORE THAN THREE MILLION FIVE HUNDRED DOLLARS IN ANNUAL GROSS INCOME.

(III) NOTHING IN THIS SUBSECTION (2)(b) REDUCES ACTUAL MONETARY DAMAGES AWARDED IN ACCORDANCE WITH SUBSECTION (2)(a)(I) OF THIS SECTION.

(c) FOR ANY SUIT BROUGHT PURSUANT TO THIS SECTION THAT RELATES TO DISCRIMINATION ON THE BASIS OF DISABILITY, THE COURT SHALL APPLY THE SAME STANDARDS AND DEFENSES THAT ARE AVAILABLE UNDER THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ., AND ITS RELATED AMENDMENTS AND IMPLEMENTING REGULATIONS.

(d) THE RELIEF PROVIDED BY THIS SUBSECTION (2) IS AN ALTERNATIVE TO THAT AUTHORIZED BY SECTION 24-34-306 (9) AND AN ALTERNATIVE TO THE RELIEF SET FORTH IN SUBSECTION (1) OF THIS SECTION, AND A PERSON WHO SEEKS REDRESS UNDER THIS SUBSECTION (2) IS NOT PERMITTED TO SEEK RELIEF FROM THE COMMISSION.

SECTION 5. In Colorado Revised Statutes, 24-34-802, **amend** (2)(a) introductory portion; and **repeal** (2)(c), (2)(d), and (4) as follows:

24-34-802. Violations - penalties - immunity - repeal. (2) (a) An individual with a disability, as defined in section 24-34-301, who is subject to a violation of ~~subsection (1)~~ SUBSECTION (1)(c) of this section or of section 24-34-502 or 24-34-502.2 ~~24-34-601, or 24-34-803~~ based on the individual's disability may bring a civil suit in a court of competent jurisdiction and is entitled to a court order requiring compliance with the provisions of the applicable section and either of the following remedies:

(c) ~~For a claim brought pursuant to subsection (2)(a) of this section for a construction-related accessibility violation, the violation must be considered a single incident and not as separate violations for each day the construction-related accessibility violation exists.~~

(d) ~~(f) A small business defendant is entitled to a fifty percent reduction in a statutory fine assessed pursuant to subsection (2)(a)(III) of this section if it corrects the accessibility violation within thirty days after the filing of the complaint. The fifty percent reduction in a statutory fine does not apply, however, if the defendant~~

~~knowingly or intentionally made or caused to have made the access barrier that caused the accessibility violation.~~

~~(H) For purposes of this subsection (2)(d), "small business" means an employer with twenty-five or fewer employees and no more than three million five hundred thousand dollars in annual gross income.~~

~~(III) Nothing in this subsection (2)(d) may be interpreted to result in a reduction in actual monetary damages awarded pursuant to subsection (2)(a)(II) of this section.~~

~~(4) A court that hears civil suits pursuant to this section shall apply the same standards and defenses that are available under the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., and its related amendments and implementing regulations.~~

SECTION 6. In Colorado Revised Statutes, 24-34-804, **amend** (3)(a)(I) as follows:

24-34-804. Service animals - violations - penalties. (3) (a) (I) Except as provided for in ~~subparagraphs (H) and (III) of this paragraph (a)~~, SUBSECTIONS (3)(a)(II) AND (3)(a)(III) OF THIS SECTION, a person who violates any provision of subsection (1) of this section is liable to the qualified individual with a disability who is accompanied by a service animal or a trainer of a service animal whose rights were affected for the penalties provided in ~~section 24-34-802~~ SECTION 24-34-602.

SECTION 7. In Colorado Revised Statutes, 24-34-806, **amend** (3)(a)(II) and (4)(a); and **repeal** (3)(a)(III) as follows:

24-34-806. Testing accommodations for Coloradans with disabilities - right of action - legislative declaration - definitions. (3) (a) A testing entity must grant an individual's request for a testing accommodation on a licensing exam if the individual:

(II) Provides EITHER:

(A) Proof of having received the previous testing accommodation due to the individual's disability on a past standardized exam or high-stakes test; OR

(B) A RECOMMENDATION LETTER FROM THE INDIVIDUAL'S TREATING MEDICAL PROFESSIONAL THAT RECOMMENDS THE ACCOMMODATIONS REQUESTED BY THE INDIVIDUAL AND IS SIGNED AND DATED BY THE TREATING MEDICAL PROFESSIONAL MAKING THE RECOMMENDATION; AND

~~(III) Provides a recommendation letter from the individual's treating medical professional that recommends the accommodations requested by the individual. The recommendation letter must be signed and dated by the treating medical professional making the recommendation; and~~

(4) An individual adversely affected or aggrieved by a testing entity's decision

regarding the individual's request for a testing accommodation pursuant to this section may bring a civil action against the testing entity in a court of competent jurisdiction for a willful violation of this section and is entitled to the following remedies:

- (a) The relief set forth in ~~section 24-34-802 (2)~~ SECTION 24-34-602; and

SECTION 8. In Colorado Revised Statutes, 1-1-116, **amend** (3) as follows:

1-1-116. Access to precinct caucus - party assembly. (3) The failure of any political party to make a reasonable effort to comply with the requirements of this section constitutes discrimination on the basis of disability in violation of ~~section 24-34-802~~ SECTION 24-34-602. Any person who is subjected to a violation of this section is entitled to seek all relief provided in ~~section 24-34-802~~ SECTION 24-34-602.

SECTION 9. Appropriation. For the 2025-26 state fiscal year, \$100,305 is appropriated to the department of law. This appropriation is from the legal services cash fund created in section 24-31-108 (4), C.R.S., from revenue received from the department of personnel that is continuously appropriated to the department of personnel from the risk management fund created in section 24-30-1510 (1)(a), C.R.S. The appropriation to the department of law is based on an assumption that the department of law will require an additional 0.4 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of personnel.

SECTION 10. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 22, 2025