A BILL FOR AN ACT

CONCERNING METHODS TO ALLEVIATE THE FISCAL IMPACT OF STATE REGULATIONS ON SMALL BUSINESSES, AND, IN CONNECTION THEREWITH, ENACTING THE "REGULATORY RELIEF ACT OF 2017".

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov/.)

The bill enacts the "Regulatory Relief Act of 2017". The bill includes a legislative declaration about the importance of small businesses to the Colorado economy and acknowledges the difficulty
these types of businesses have in complying with state rules that are not known or understood by these businesses.

The bill requires a state agency (agency) to give a small business (which is defined in the "State Administrative Procedure Act" as a business with fewer than 500 employees) a period of time to cure a first-time minor violation of a rule instead of enforcing the rule by imposing a fine. When an agency determines that a small business has committed a minor violation of a rule, instead of imposing a fine, the agency is required to notify the small business in writing of the violation, including the steps to cure the violation, and give the small business 30 business days to cure the violation. Upon a showing of good cause, the business owner may request additional time to cure the violation. If the small business owner fails to cure the minor violation within the stated time period, the agency may impose the fine on the small business. This does not apply in cases where an agency is required by statute to assess a fine for noncompliance.

The bill defines "minor violation" as a violation that includes operational or administrative matters, such as record keeping, retention of data, or filing of reports, and that is enforced by a fine; except that "minor violation" does not include any matter that places the safety of the public, employees, or others at risk. The bill provides exceptions from the definition of "minor violation" for certain types of rules or violations.

Under current law, agencies are required to convene stakeholder groups to give input about proposed rules. The bill amends the stakeholder provision to direct agencies to make diligent attempts to notify and solicit input from representatives of small businesses about proposed rule-making, if the agency's proposed rule-making has a potential negative impact on small businesses.

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

SECTION 1. Short title. The short title of this act is the "Regulatory Relief Act of 2017".

SECTION 2. Legislative declaration. (1) The general assembly finds and determines that:

(a) Colorado's business community consists overwhelmingly of small businesses;

(b) These businesses make up the majority of the business activity in Colorado and employ tens of thousands of Coloradans;
(c) There is a gap between the promulgation of rules, especially new rules, by state agencies and the education and awareness of small business owners about regulatory requirements. A small business owner may not be aware of rules until a state agency audit determines that the business has not complied with the agency's rules.

(d) Small businesses in Colorado would benefit from relief from regulatory burdens.

(2) The general assembly declares that it would benefit small businesses in this state if the enforcement activities of state agencies for first-time minor violations of new rules were focused on educating and training small businesses to comply with rules and giving them an opportunity to cure the problems rather than on punishing first-time violators for noncompliance.

(3) The general assembly also declares that it would benefit small businesses in this state to have notice and an opportunity through the stakeholder process to provide input to state agencies about proposed rules that have the potential for a negative fiscal impact upon small businesses. With that opportunity, small businesses would be able to provide valuable input to state agencies on how those fiscal impacts might be eliminated or alleviated.

SECTION 3. In Colorado Revised Statutes, add 24-4-104.6 as follows:

24-4-104.6. Impact on small businesses - opportunity to cure a violation before imposition of a fine - definition - exceptions. (1) As used in this section, unless the context otherwise requires, "MINOR VIOLATION" means a violation that includes operational or administrative matters, such as record keeping, retention of
DATA, OR FILING OF REPORTS, AND THAT IS ENFORCED BY A FINE; EXCEPT THAT "MINOR VIOLATION" DOES NOT INCLUDE ANY MATTER THAT PLACES THE SAFETY OF THE PUBLIC, EMPLOYEES, OR OTHERS AT RISK. "MINOR VIOLATION" DOES NOT INCLUDE VIOLATIONS RELATING TO:

(a) STATE-ISSUED PERMITS, LICENSES, OR REGISTRATIONS;
(b) MATTERS RELATED TO BIDDING ON STATE CONTRACTS;
(c) ACTIVITIES REQUIRED BY FEDERAL LAW;
(d) THE ENFORCEMENT ACTIVITIES OF THE ADMINISTRATOR OF THE "UNIFORM CONSUMER CREDIT CODE", ARTICLES 1 TO 9 OF TITLE 5, DESIGNATED BY THE ATTORNEY GENERAL UNDER SECTION 5-6-103;
(e) RULES ADOPTED BY THE COLORADO CIVIL RIGHTS DIVISION, CREATED IN PART 3 OF ARTICLE 34 OF THIS TITLE 24; OR
(f) RULES ADOPTED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, CREATED IN SECTION 25-1-102.

(2) WHEN AN AGENCY DETERMINES THAT A SMALL BUSINESS HAS COMMITTED A FIRST-TIME MINOR VIOLATION OF A RULE, INSTEAD OF ENFORCING THE RULE BY IMPOSING A FINE, THE AGENCY SHALL NOTIFY THE SMALL BUSINESS IN WRITING OF THE VIOLATION, INCLUDING WHAT STEPS THE SMALL BUSINESS NEEDS TO TAKE TO CORRECT THE VIOLATION, AND GIVE THE SMALL BUSINESS THIRTY BUSINESS DAYS TO CURE THE VIOLATION. UPON A SHOWING OF GOOD CAUSE, THE SMALL BUSINESS MAY REQUEST ADDITIONAL TIME FROM THE AGENCY TO CURE THE VIOLATION. IF THE SMALL BUSINESS FAILS TO CURE THE MINOR VIOLATION WITHIN THE STATED TIME PERIOD, THE AGENCY MAY IMPOSE THE FINE ON THE SMALL BUSINESS.

(3) THIS SECTION DOES NOT APPLY IN CASES WHERE AN AGENCY IS REQUIRED BY STATUTE TO ASSESS A FINE FOR NONCOMPLIANCE WITH AN
SECTION 4. In Colorado Revised Statutes, 24-4-103, amend (2) as follows:

24-4-103. Rule-making - procedure - definitions - repeal.

(2) When rule-making is contemplated, public announcement thereof may be made at such time and in such manner as the agency determines. The agency shall establish a representative group of participants with an interest in the subject of the rule-making to submit views or otherwise participate informally in conferences on the proposals under consideration or to participate in the public rule-making proceedings on the proposed rules. In establishing the representative group, the agency shall make diligent attempts to solicit input from representatives of each of the various stakeholder interests that may be affected positively or negatively by the proposed rules. IF THE AGENCY'S PROPOSED RULE-MAKING HAS A POTENTIAL NEGATIVE IMPACT ON SMALL BUSINESSES, THE AGENCY MUST MAKE DILIGENT ATTEMPTS TO NOTIFY AND SOLICIT INPUT FROM REPRESENTATIVES OF SMALL BUSINESSES ABOUT THE PROPOSED RULE-MAKING, INCLUDING SOLICITING INPUT ABOUT THE FISCAL IMPACT OF THE PROPOSED RULES AND HOW THOSE FISCAL IMPACTS MIGHT BE ELIMINATED OR ALLEVIATED. If the agency convenes a representative group prior to issuing a notice of proposed rule-making as provided in paragraph (a) of subsection (3) of this section, the agency shall add those persons who participated in the representative group to the list of persons who receive notification of proposed rule-making as provided in paragraph (b) of subsection (3) of this section.

SECTION 5. 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 (August
9, 2017, if adjournment sine die is on May 10, 2017); 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 2018 and, in such case, will take effect on the date of the
official declaration of the vote thereon by the governor.