

CHAPTER 361

HEALTH AND ENVIRONMENT

SENATE BILL 19-096

BY SENATOR(S) Donovan, Bridges, Court, Fenberg, Foote, Ginal, Lee, Pettersen, Story, Williams A., Winter;
also REPRESENTATIVE(S) Hansen, Arndt, Bird, Buckner, Buentello, Caraveo, Cutter, Duran, Galindo, Gray, Herod, Hooton,
Jackson, Jaquez Lewis, Kennedy, Kipp, Lontine, McCluskie, McLachlan, Melton, Michaelson Jenet, Roberts, Singer, Sirota,
Snyder, Tipper, Titone, Valdez A., Weissman, Becker.

AN ACT

CONCERNING THE COLLECTION OF GREENHOUSE GAS EMISSIONS DATA TO FACILITATE THE IMPLEMENTATION OF MEASURES THAT WOULD MOST COST-EFFECTIVELY ALLOW THE STATE TO MEET ITS GREENHOUSE GAS EMISSIONS REDUCTION GOALS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, **add** 25-7-140 as follows:

25-7-140. Greenhouse gas emissions - data collection - legislative declaration - rules - reporting - forecasting - public information - definitions.

(1) Legislative declaration. THE GENERAL ASSEMBLY HEREBY:

(a) FINDS THAT:

(I) GREENHOUSE GAS EMISSIONS REPORTING REQUIREMENTS WERE FIRST ESTABLISHED IN COLORADO IN 2008 WITH EXECUTIVE ORDER D 004-08. THE POLICIES ESTABLISHED BY THIS EXECUTIVE ORDER WERE CONTINUED UNDER THE NEXT GOVERNOR AND REQUIRE THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT TO REPORT EVERY FIVE YEARS ON ESTIMATES OF GREENHOUSE GAS EMISSIONS BY SECTOR. THE LAST REPORT BY THE DEPARTMENT WAS ISSUED IN 2014 AND THE NEXT REPORT IS DUE IN 2019.

(II) EXECUTIVE ORDER D 2017-015 DIRECTED THE DEPARTMENT TO PROPOSE A STATE GREENHOUSE GAS REPORTING RULE THAT MIRRORS THE CURRENT FEDERAL REPORTING RULE, 40 CFR 98, BY DECEMBER 30, 2018, AND ESTABLISHED THE FOLLOWING GOALS:

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.

(A) REDUCING GREENHOUSE GAS EMISSIONS STATEWIDE BY MORE THAN TWENTY-SIX PERCENT BELOW 2005 LEVELS BY 2025;

(B) REDUCING CARBON DIOXIDE EMISSIONS FROM THE ELECTRICITY SECTOR BY TWENTY-FIVE PERCENT BELOW 2012 LEVELS BY 2025 AND THIRTY-FIVE PERCENT BELOW 2012 LEVELS BY 2030; AND

(C) REDUCING ELECTRICITY SALES BY TWO PERCENT BY 2020 THROUGH COST-EFFECTIVE ENERGY EFFICIENCY MEASURES; AND

(b) DECLARES THAT IT IS IN THE STATE'S INTEREST TO LEVERAGE DATA COLLECTED AND ANALYSES CONDUCTED FOR ITS GREENHOUSE GAS EMISSIONS INVENTORIES AND FORECASTS AND MAKE DATA SETS AVAILABLE TO LOCAL GOVERNMENTS.

(2) (a) **Rules.** THE COMMISSION SHALL:

(I) BY JUNE 1, 2020, ADOPT RULES REQUIRING GREENHOUSE GAS-EMITTING ENTITIES TO MONITOR AND PUBLICLY REPORT THEIR EMISSIONS AS THE COMMISSION DEEMS APPROPRIATE TO SUPPORT COLORADO'S GREENHOUSE GAS EMISSION INVENTORY EFFORTS AND TO FACILITATE IMPLEMENTATION OF RULES THAT WILL TIMELY ACHIEVE COLORADO'S GREENHOUSE GAS EMISSION REDUCTION GOALS. THE COMMISSION SHALL CONSIDER WHAT INFORMATION IS ALREADY BEING PUBLICLY REPORTED BY THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY AND TAILOR NEW REPORTING REQUIREMENTS TO FILL ANY GAPS IN DATA, AS IT DETERMINES IS APPROPRIATE, TO ALLOW FOR MAINTAINING AND UPDATING STATE INVENTORIES THAT ARE SUFFICIENTLY COMPREHENSIVE AND ROBUST. THE RULES MUST INCLUDE REQUIREMENTS FOR PROVIDERS OF RETAIL OR WHOLESALE ELECTRIC SERVICE IN THE STATE OF COLORADO TO TRACK AND REPORT EMISSIONS FROM ALL GENERATION SOURCES WITHIN THE STATE AND ELSEWHERE THAT ELECTRICITY CONSUMPTION BY THEIR CUSTOMERS IN THIS STATE CAUSES TO BE EMITTED. THE COMMISSION MAY REQUIRE EMITTING ENTITIES TO REPORT THE AMOUNT OF EMISSIONS OF EACH OF THE SEVEN INDIVIDUAL COMPONENTS OF GREENHOUSE GASES AS WELL AS THE CARBON DIOXIDE EQUIVALENT OF THOSE EMISSIONS.

(II) DIRECT THE DIVISION TO UPDATE THE STATEWIDE INVENTORY OF GREENHOUSE GAS EMISSIONS BY SECTOR, UP TO ON AN ANNUAL BASIS AS DETERMINED BY THE COMMISSION, BUT IN NO EVENT LESS FREQUENTLY THAN EVERY TWO YEARS. THE DIVISION SHALL UPDATE THE INVENTORY IN A MANNER THAT ALLOWS REASONABLE TRACKING OF PROGRESS IN REDUCING GREENHOUSE GAS EMISSIONS OVER TIME. THE COMMISSION SHALL TAKE REASONABLE STEPS TO ENSURE THAT EMISSION ABATEMENT THAT COUNTS TOWARD MEETING THE STATE'S GREENHOUSE GAS EMISSION REDUCTION GOALS IS DURABLE AND RIGOROUSLY TRACKED. THE INVENTORY MUST INCLUDE A FORECAST OF COLORADO'S GREENHOUSE GAS EMISSIONS FOR THE MILESTONE YEAR OF 2025, AS WELL AS 2030, 2035, 2040, AND 2045. THE INITIAL INVENTORY REQUIRED UNDER THIS SUBSECTION (2) MUST INCLUDE A RECALCULATION OF COLORADO'S 2005 GREENHOUSE GAS EMISSIONS TO SERVE AS A BASELINE FOR MEASURING PROGRESS AGAINST COLORADO'S GREENHOUSE GAS EMISSION REDUCTION GOALS.

(III) BY JULY 1, 2020, PUBLISH A NOTICE OF PROPOSED RULE-MAKING THAT PROPOSES RULES TO IMPLEMENT MEASURES THAT WOULD COST-EFFECTIVELY ALLOW THE STATE TO MEET ITS GREENHOUSE GAS EMISSION REDUCTION GOALS.

(b) ALL RULES PROMULGATED PURSUANT TO THIS SECTION ARE SUBJECT TO ALL APPLICABLE REQUIREMENTS, INCLUDING APPLICABLE REQUIREMENTS SPECIFIC TO GREENHOUSE GAS ABATEMENT, PROVIDED IN THIS ARTICLE 7.

(3) **Public information.** THE DIVISION SHALL:

(a) PUBLICLY RELEASE THE FINDINGS OF THE INVENTORY ON THE DIVISION'S WEBSITE AND MAINTAIN THE DATA THROUGH AT LEAST 2030; AND

(b) NOTWITHSTANDING SECTION 24-1-136 (11), REPORT THE FINDINGS TO THE GOVERNOR, THE PUBLIC UTILITIES COMMISSION, AND THE GENERAL ASSEMBLY.

(4) NOTHING IN THIS SECTION ALTERS THE REGULATORY EXEMPTIONS PROVIDED IN SECTION 25-7-109 (8)(a).

(5) THIS SECTION IS INTENDED TO FACILITATE PROMPT STATE ACTION TO ADDRESS GREENHOUSE GAS EMISSIONS AND NOTHING IN THIS SECTION OR THE EMISSIONS INVENTORY PROVISIONS IN SECTION 25-7-102 SHALL BE CONSTRUED TO SLOW, INTERFERE WITH, OR IMPEDE STATE ACTION TO TIMELY ADOPT RULES THAT REDUCE GREENHOUSE GAS EMISSIONS TO MEET THE STATE'S GREENHOUSE GAS EMISSION REDUCTION GOALS.

(6) **Definition.** FOR THE PURPOSES OF THIS SECTION, "GREENHOUSE GAS" INCLUDES CARBON DIOXIDE (CO₂), METHANE (CH₄), NITROUS OXIDE (N₂O), HYDROFLUOROCARBONS (HFCs), PERFLUOROCARBONS (PFCs), SULFUR HEXAFLUORIDE (SF₆), AND NITROGEN TRIFLUORIDE (NF₃).

SECTION 2. Appropriation. For the 2019-20 state fiscal year, \$265,589 is appropriated to the department of public health and environment for use by the air pollution control division. This appropriation is from the general fund and is based on an assumption that the division will require an additional 3.1 FTE. To implement this act, the division may use this appropriation for program costs.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 30, 2019