

CHAPTER 100

GOVERNMENT - STATE

SENATE BILL 23-244

BY SENATOR(S) Bridges and Zenzinger, Kirkmeyer, Buckner, Coleman, Cutter, Exum, Fields, Ginal, Gonzales, Hansen, Hinrichsen, Jaquez Lewis, Kolker, Marchman, Moreno, Mullica, Priola, Roberts, Winter F.;
also REPRESENTATIVE(S) Bird and Sirota, Bockenfeld, Brown, Epps, Froelich, Garcia, Hamrick, Joseph, Kipp, Lieder, Lindstedt, Marshall, Parenti, Snyder, Story, Titone, Weinberg, Weissman, Young, McCluskie.

AN ACT

CONCERNING UPDATES TO LANGUAGE IN RELEVANT COLORADO STATUTES RELATED TO ENSURING TECHNOLOGY ACCESSIBILITY TO PERSONS WITH DISABILITIES.

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

SECTION 1. In Colorado Revised Statutes, 24-85-102, **amend** (1.5) as follows:

24-85-102. Definitions. As used in this article 85, unless the context otherwise requires:

(1.5) "Accessible" or "accessibility" means perceivable, operable, and understandable digital content that REASONABLY enables an individual with a disability to access the same information, engage in the same interactions, and enjoy the same services offered to other individuals, with the same privacy, independence, and ease of use as exists for individuals without a disability.

SECTION 2. In Colorado Revised Statutes, 24-85-103, **amend** (1) introductory portion, (1.5), (2.5), and (3); and **add** (4) as follows:

24-85-103. Accessibility standards for individuals with a disability - appropriation - repeal. (1) The chief information officer in the office of information technology shall ~~maintain~~ ESTABLISH IN RULE PURSUANT TO SECTION 24-37.5-106 (4), accessibility standards for an individual with a disability for information technology systems employed by state agencies that:

(1.5) The chief information officer in the office of information technology shall, consistent with the responsibilities of the office, promote and monitor the ~~access~~

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.

ACCESSIBILITY standards for individuals with a disability in the state's information technology infrastructure, including but not limited to architecture INFRASTRUCTURE. Each state agency is directed to comply with the access ACCESSIBILITY standards for individuals with a disability, established by the office of information technology pursuant to subsection (2.5) of this section, in the creation and promulgation of any online content and materials used by such state agency.

(2.5) The chief information officer in the office of information technology shall PROMULGATE RULES THAT establish accessibility standards for individuals with a disability using BASED ON AND INCLUDING, BUT NOT LIMITED TO, the most recent web content accessibility guidelines promulgated and published by the world wide web consortium web accessibility initiative or the international accessibility guidelines working group, or any successor group or organization, or any subsequent updates or revisions to such guidelines by any successor group or organization WHEN ESTABLISHING THE ACCESSIBILITY STANDARDS FOR INDIVIDUALS WITH A DISABILITY.

~~(3) (a) The head of each state agency, as that term is defined in section 24-37.5-102, shall establish a written plan, as part of its annual information technology plan, and develop any proposed budget requests for implementing the accessibility standards for individuals with a disability for its agency at facilities accessible by the public. Each such state agency shall follow up on the plan as follows:~~

~~(f) On or before July 1, 2022, the state agency shall submit its written accessibility plan to the office of information technology. The office of information technology shall work collaboratively with the state agency to review the sections of the agency's plan related to accessibility standards for individuals with a disability and establish implementation methodology; and~~

~~(ff) On or before July 1, 2024, each state agency shall fully implement the sections of the agency's plan related to accessibility standards for individuals with a disability. Any state agency not in compliance WITH THE ACCESSIBILITY STANDARDS PURSUANT TO SUBSECTION (2.5) OF THIS SECTION after July 1, 2024, is in violation of section 24-34-802 and is subject to the remedies for noncompliance set forth in section 24-34-802.~~

(4) (a) ANY UNEXPENDED AND UNENCUMBERED MONEY APPROPRIATED TO A DEPARTMENT IN A SPECIFIC LINE ITEM FOR INFORMATION TECHNOLOGY ACCESSIBILITY FOR FISCAL YEAR 2023-24 REMAINS AVAILABLE FOR EXPENDITURE BY THE DEPARTMENT THROUGH FISCAL YEAR 2025-26 WITHOUT FURTHER APPROPRIATION FOR THE DEPARTMENT TO COMPLY WITH INFORMATION TECHNOLOGY ACCESSIBILITY STANDARDS. AT THE END OF FISCAL YEAR 2025-26, MONEY THAT IS UNEXPENDED OR UNENCUMBERED REVERTS TO THE FUND FROM WHICH IT WAS APPROPRIATED.

(b) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE JULY 1, 2027.

SECTION 3. In Colorado Revised Statutes, 24-34-802, **amend** (1)(c) and (2) as follows:

24-34-802. Violations - penalties - immunity. (1) (c) Discrimination pursuant to this section includes the failure of a public entity or state agency, as those terms are defined in section 24-34-301, to ~~develop an accessibility plan using the accessibility standards established pursuant to section 24-85-103 (2.5) and~~ fully comply, on or before July 1, 2024, with the accessibility standards for individuals with a disability established by the office of information technology pursuant to ~~section 24-85-103 (2.5)~~ SECTION 24-85-103. Liability for noncompliance as to content lies with the public entity or state agency that manages the content. Liability for noncompliance of the platform hosting the content lies with the public entity or state agency that manages the platform.

(2) (a) An individual with a disability, as defined in section ~~24-34-301 (5.6)~~, 24-34-301, who is subject to a violation of subsection (1) of this section or of section 24-34-502, 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, except as provided in section 24-85-103,~~ AND is entitled to any of the following remedies:

(I) A court order requiring compliance with the provisions of the applicable section;

(II) The recovery of actual monetary damages; or

(III) A statutory fine of three thousand five hundred dollars, payable to each plaintiff for each violation.

(b) FOR A CLAIM BROUGHT PURSUANT TO SECTION 24-85-103 FOR A VIOLATION OF ACCESSIBILITY STANDARDS, THE VIOLATION MUST BE CONSIDERED A SINGLE INCIDENT AND NOT AS SEPARATE VIOLATIONS IF THE VIOLATION OCCURRED ON A SINGLE DIGITAL PRODUCT, INCLUDING A WEBSITE OR AN APPLICATION.

~~(b)~~ (c) For a claim brought pursuant to ~~paragraph (a) of this subsection (2)~~ 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.

~~(c)~~ (d) (I) A small business defendant is entitled to a fifty percent reduction in a statutory fine assessed pursuant to ~~subparagraph (H) of paragraph (a) of this subsection (2)~~ 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.

(II) For purposes of this ~~paragraph (c)~~ 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 ~~paragraph (c)~~ SUBSECTION (2)(d) may be interpreted to result in a reduction in actual monetary damages awarded pursuant to ~~subparagraph (H) of paragraph (a) of this subsection (2)~~ SUBSECTION (2)(a)(II) OF THIS SECTION.

SECTION 4. In Colorado Revised Statutes, 24-37.5-106, **amend** (4) as follows:

24-37.5-106. Chief information officer - duties and responsibilities. (4) The chief information officer may promulgate as rules pursuant to article 4 of this title 24, all of the policies, procedures, standards, specifications, guidelines, or criteria that are developed or approved pursuant to section 24-37.5-105 (4) AND TO ESTABLISH ACCESSIBILITY STANDARDS FOR INDIVIDUALS WITH A DISABILITY PURSUANT TO SECTION 24-85-103.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: April 20, 2023