

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

DRAFT
3/22/23

DRAFT

LLS NO. 23-0973.01 Chelsea Princell x4335

COMMITTEE BILL

Joint Budget Committee

BILL TOPIC: Technology Accessibility Cleanup

A BILL FOR AN ACT

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

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/>.)

Joint Budget Committee. The bill clarifies statutory language to ensure the provision of reasonable accommodations for persons with disabilities.

The bill requires the office of information technology to promulgate rules regarding accessibility standards for an individual with

*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words indicate deletions from existing law.*

a disability for information technology systems employed by state agencies.

The bill clarifies language regarding sanctions for failing to comply with accessibility standards.

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, NOTWITHSTANDING INFORMATION PROVIDED FOR THE PURPOSE OF REQUESTING A REASONABLE MODIFICATION OF A POLICY, PRACTICE, OR PROCEDURE.

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

24-85-103. Accessibility standards for individuals with a disability. (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~~ ACCESSIBILITY standards for individuals

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

8 (2.5) The chief information officer in the office of information
9 technology shall PROMULGATE RULES THAT establish accessibility
10 standards for individuals with a disability BASED ON AND INCLUDING, BUT
11 NOT LIMITED TO, using the most recent web content accessibility
12 guidelines promulgated and published by the world wide web consortium
13 web accessibility initiative or the international accessibility guidelines
14 working group, or any successor group or organization, or any subsequent
15 updates or revisions to such guidelines by any successor group or
16 organization WHEN ESTABLISHING THE ACCESSIBILITY STANDARDS FOR
17 INDIVIDUALS WITH A DISABILITY.

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

24 (I) ~~On or before July 1, 2022, the state agency shall submit its~~
25 ~~written accessibility plan to the office of information technology. The~~
26 ~~office of information technology shall work collaboratively with the state~~
27 ~~agency to review the sections of the agency's plan related to accessibility~~

1 ~~standards for individuals with a disability and establish implementation~~
2 ~~methodology; and~~

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

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

12 **24-34-802. Violations - penalties - immunity.**

13 (1) (c) Discrimination pursuant to this section includes the failure of a
14 public entity or state agency, as those terms are defined in section
15 24-34-301, to ~~develop an accessibility plan using the accessibility~~
16 ~~standards established pursuant to section 24-85-103 (2.5) and~~ fully
17 comply, on or before July 1, 2024, with the accessibility standards for
18 individuals with a disability established by the office of information
19 technology pursuant to ~~section 24-85-103 (2.5)~~ SECTION 24-85-103.
20 Liability for noncompliance as to content lies with the public entity or
21 state agency that manages the content. Liability for noncompliance of the
22 platform hosting the content lies with the public entity or state agency that
23 manages the platform.

24 (2) (a) An individual with a disability, as defined in section
25 ~~24-34-301 (5.6)~~, 24-34-301, who is subject to a violation of subsection
26 (1) of this section or of section 24-34-502, 24-34-502.2, 24-34-601, or
27 24-34-803 based on the individual's disability may bring a civil suit in a

1 court of competent jurisdiction ~~and, except as provided in section~~
2 ~~24-85-103~~, AND is entitled to any of the following remedies:

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

5 (II) The recovery of actual monetary damages; ~~or~~ AND

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

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

13 ~~(b)~~ (c) For a claim brought pursuant to ~~paragraph (a) of this~~
14 ~~subsection (2)~~ SUBSECTION (2)(a) OF THIS SECTION for a
15 construction-related accessibility violation, the violation must be
16 considered a single incident and not as separate violations for each day
17 the construction-related accessibility violation exists.

18 ~~(c)~~ (d) (I) A small business defendant is entitled to a fifty percent
19 reduction in a statutory fine assessed pursuant to ~~subparagraph (III) of~~
20 ~~paragraph (a) of this subsection (2)~~ SUBSECTION (2)(a)(III) OF THIS
21 SECTION if it corrects the accessibility violation within thirty days after the
22 filing of the complaint. The fifty percent reduction in a statutory fine does
23 not apply, however, if the defendant knowingly or intentionally made or
24 caused to have made the access barrier that caused the accessibility
25 violation.

26 (II) For purposes of this ~~paragraph (c)~~ SUBSECTION (2)(d), "small
27 business" means an employer with twenty-five or fewer employees and

1 no more than three million five hundred thousand dollars in annual gross
2 income.

3 (III) Nothing in this ~~paragraph (c)~~ SUBSECTION (2)(d) may be
4 interpreted to result in a reduction in actual monetary damages awarded
5 pursuant to ~~subparagraph (H) of paragraph (a) of this subsection (2)~~
6 SUBSECTION (2)(a)(II) OF THIS SECTION.

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

9 **24-37.5-106. Chief information officer - duties and**
10 **responsibilities.** (4) The chief information officer may promulgate as
11 rules pursuant to article 4 of this title 24, all of the policies, procedures,
12 standards, specifications, guidelines, or criteria that are developed or
13 approved pursuant to ~~section 24-37.5-105 (4)~~ SECTION 24-37.5-105 (4)
14 AND TO ESTABLISH ACCESSIBILITY STANDARDS FOR INDIVIDUALS WITH A
15 DISABILITY PURSUANT TO SECTION 24-85-103.

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