A BILL FOR AN ACT

CONCERNING STANDARDS FOR THE CERTIFICATION OF CERTAIN TYPES
OF RESPIRATORS EQUIPPED WITH PRESSURE VESSELS, AND, IN
CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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.)

Currently, local fire departments and other users of self-contained breathing apparatus (SCBA) rely on certification under standards promulgated by the United States department of transportation (DOT) or the national institute for occupational safety and health (NIOSH) for quality control of pressure vessels. These certifications are considered
valid through the vessel's recommended service life, but that service life is finite.

Section 1 of the bill declares that, with the emergence of new technology to test the continuing safety of vessels that are at the end of their initial recommended service life, vessels that remain safe can and should be recertified for an additional period rather than discarded, resulting in a saving of tax dollars for local governments.

Sections 2 through 4 give the executive director of the department of public health and environment the authority to inspect SCBA equipment and, if necessary, to write rules governing the inspection and certification of pressure vessels. Any such rules must incorporate or recognize current DOT or NIOSH standards for certification and recertification with regard to any technology that is accepted by those federal agencies.

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

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

(a) The availability of self-contained breathing apparatus (SCBA) is critical to the performance of life-saving duties by first responders, such as firefighters, and the mitigation of hazards such as asbestos and chemical spills in which the presence of dangerous substances makes the air unbreatheable in the vicinity of the hazard;

(b) An SCBA depends on a portable supply of breathable air, which is typically carried in a cylinder or similar container at high pressure;

(c) To ensure user safety, these air containers, generally known as "cylinders", must be tested and certified as capable of withstanding a specified amount of pressure for a defined period, usually fifteen years, after which period the cylinders must be replaced;

(d) Recently, new technology has been developed to test the continuing safety of SCBA cylinders that are at the end of their initial
recommended service life, potentially allowing them to be placed back in
service rather than discarded, and the federal agencies responsible for
certifying these cylinders have initially approved certain methods of
retesting and recertifying them for additional years of safe service; and

(e) The cost of retesting and recertifying a cylinder is
approximately one-third the cost of purchasing a new cylinder and can
effectively double its service life, saving local governments and other
entities that use SCBA cylinders an estimated six hundred to nine hundred
dollars per cylinder.

(2) The general assembly declares that, for these reasons, it is in
the public interest that Colorado's local governments and state agencies
be encouraged to use federally approved retesting and recertification
methods to extend the life of SCBA cylinders and that the division of fire
prevention and control in the department of public safety be authorized
to ensure that applicable standards are observed in doing so.

SECTION 2. In Colorado Revised Statutes, add part 23 to article
33.5 of title 24 as follows:

PART 23
CERTIFICATION OF
SELF-CONTAINED BREATHING APPARATUS

24-33.5-2301. Definitions. As used in this part 23, unless the
context otherwise requires:

(1) "Director" means the director of the division.

(2) "Division" means the division of fire prevention and
control in the department of public safety created in this
article 33.5.
(3) "DOT" MEANS THE UNITED STATES DEPARTMENT OF TRANSPORTATION.

(4) "NIOSH" MEANS THE NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH WITHIN THE CENTERS FOR DISEASE CONTROL AND PREVENTION, UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(5) "PRESSURE VESSEL" MEANS A SUPPLY OR STORAGE CONTAINER, WHETHER CYLINDRICAL, SPHERICAL, OR OF ANY OTHER SHAPE, THAT CONTAINS BREATHABLE GASES UNDER A PRESSURE GREATER THAN ONE ATMOSPHERE FOR USE IN AN SCBA.

(6) "SELF-CONTAINED BREATHING APPARATUS" OR "SCBA" MEANS A PORTABLE SYSTEM THAT PROVIDES THE USER WITH A SUPPLY OF BREATHABLE AIR CARRIED IN A PRESSURE VESSEL OR GENERATED BY THE SYSTEM, REQUIRING NO INTAKE OF OXYGEN OR OTHER GASES FROM THE OUTSIDE ATMOSPHERE.

24-33.5-2302. Self-contained breathing apparatus - pressure vessels - certification required. (1) ON AND AFTER JANUARY 1, 2020, A PERSON SHALL NOT SELL, LEASE, OR OFFER FOR USE IN THE STATE AN SCBA THAT CONTAINS OR INCORPORATES A PRESSURE VESSEL UNLESS THE VESSEL IS:

(a) CERTIFIED AS MEETING ALL APPLICABLE STANDARDS PROMULGATED BY DOT OR NIOSH AND ANY STANDARDS ADOPTED BY THE DIRECTOR BY RULE; AND

(b) WITHIN ITS RECOMMENDED SERVICE LIFE FOLLOWING CERTIFICATION OR, IF APPLICABLE, RECERTIFICATION OR REQUALIFICATION IN ACCORDANCE WITH THE METHODS SPECIFIED IN SPECIAL PERMIT
DOT-SP 16320 or a successor standard adopted by DOT or NIOSH.

24-33.5-2303. Rules. As the director deems necessary for the protection of firefighters and others using any self-contained breathing apparatus, the director may promote rules to establish and enforce standards for the inspection, certification, and use of the apparatus. The rules must incorporate or recognize current DOT or NIOSH standards for certification and re-certification of pressure vessels with regard to any technology that is accepted by those federal agencies.

SECTION 3. In Colorado Revised Statutes, add 29-5-114 as follows:

29-5-114. Self-contained breathing apparatus - testing - certification - recertification. A town, city, city and county, county, fire protection district, or state institution of higher education that owns or leases any self-contained breathing apparatus, as defined in section 24-33.5-2301, for use by police officers, deputy sheriffs, or firefighters shall ensure that the apparatus and all associated pressure vessels are regularly tested and certified in accordance with all applicable federal standards and with any standards for retesting and recertification that the director of the division of fire prevention and control in the department of public safety may promulgate by rule in accordance with section 24-33.5-2303.

SECTION 4. Appropriation. (1) For the 2019-20 state fiscal year, $40,291 is appropriated to the department of public safety for use...
by the division of fire prevention and control. This appropriation is from
the general fund. To implement this act, the division may use this
appropriation as follows:

(a) $35,018 for personal services, which amount is based on an
assumption that the division will require an additional 0.5 FTE; and

(b) $5,273 for operating expenses.

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
2, 2019, if adjournment sine die is on May 3, 2019); 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 2020 and, in such case, will take effect on the date of the
official declaration of the vote thereon by the governor.