

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 21-0101.01 Thomas Morris x4218

SENATE BILL 21-036

SENATE SPONSORSHIP

Gardner,

HOUSE SPONSORSHIP

(None),

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 **CONCERNING ADDITIONAL PROCEDURAL REQUIREMENTS FOR THE**
102 **ISSUANCE OF EMERGENCY PUBLIC HEALTH ORDERS.**

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 requires that a state agency, in issuing an emergency public health order, comply with the procedural requirements set forth in the "State Administrative Procedure Act" (APA) that apply to emergency rules. To extend an emergency public health order beyond the 120-day limit that applies to emergency rules, the agency must comply with the rule-making procedures regarding notice and a hearing, as set forth in the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

APA.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-4-105, **amend**
3 (12) as follows:

4 **24-4-105. Hearings and determinations - repeal.**

5 (12) (a) EXCEPT AS SPECIFIED IN SUBSECTION (12)(c) OF THIS SECTION,
6 nothing in this ~~article shall affect~~ ARTICLE 4 AFFECTS statutory powers of
7 an agency to issue an emergency order where the agency finds, and states
8 of record the reasons for so finding, that:

9 (I) Immediate issuance of the order is imperatively necessary for
10 the preservation of public health, safety, or welfare; and

11 (II) Observance of the requirements of this section would be
12 contrary to the public interest.

13 (b) Any person against whom an emergency order is issued who
14 would otherwise be entitled to a hearing pursuant to this section ~~shall be~~
15 IS entitled upon request to an immediate hearing in accordance with this
16 ~~article~~ ARTICLE 4, in which proceeding the agency ~~shall be~~ IS deemed the
17 proponent of the order.

18 (c) (I) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN
19 AGENCY MAY ISSUE AN EMERGENCY PUBLIC HEALTH ORDER, INCLUDING
20 SPECIFICALLY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
21 ACTING PURSUANT TO SECTION 25-1.5-101 (1) OR 25-1.5-102 (1), ONLY
22 AFTER COMPLYING WITH THIS SUBSECTION (12)(c).

23 (II) AN EMERGENCY PUBLIC HEALTH ORDER IS SUBJECT TO THE
24 REQUIREMENTS THAT APPLY TO, AND THE LIMITATIONS IMPOSED ON,
25 EMERGENCY RULES PURSUANT TO SECTION 24-4-103 (6). TO EXTEND AN

1 EMERGENCY PUBLIC HEALTH ORDER BEYOND THE
2 ONE-HUNDRED-TWENTY-DAY LIMIT IMPOSED ON EMERGENCY RULES, THE
3 AGENCY MUST COMPLY WITH THE RULE-MAKING PROCEDURES SET FORTH
4 IN SECTION 24-4-103 (4).

5 **SECTION 2.** In Colorado Revised Statutes, 25-1.5-101, **add** (2)
6 as follows:

7 **25-1.5-101. Powers and duties of department - laboratory cash**
8 **fund - report - definition - repeal.** (2) NOTWITHSTANDING ANY OTHER
9 PROVISION OF LAW TO THE CONTRARY, THE DEPARTMENT SHALL
10 ADMINISTER THIS SECTION IN COMPLIANCE WITH SECTION 24-4-105
11 (12)(c).

12 **SECTION 3.** In Colorado Revised Statutes, 25-1.5-102, **amend**
13 (2) as follows:

14 **25-1.5-102. Epidemic and communicable diseases - powers and**
15 **duties of department - rules - definitions.** (2) Notwithstanding any
16 other provision of law to the contrary, the department shall administer ~~the~~
17 ~~provisions of~~ this section:

18 (a) Regardless of an individual's race, religion, gender, ethnicity,
19 national origin, or immigration status; AND

20 (b) IN COMPLIANCE WITH SECTION 24-4-105 (12)(c).

21 **SECTION 4. Applicability.** This act applies to emergency public
22 health orders issued on or after the effective date of this act.

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