

CHAPTER 8

GENERAL ASSEMBLY

HOUSE BILL 13-1029

BY REPRESENTATIVE(S) Levy and Gardner, Labuda, Murray, Waller, Buckner, Court, Exum, Fields, Gerou, Hullinghorst, Kagan, Landgraf, Lawrence, Lebsock, McLachlan, Melton, Mitsch Bush, Pabon, Salazar, Schafer, Williams, Ferrandino; also SENATOR(S) Roberts and Schwartz, Brophy, Morse, Aguilar, Hudak, Newell, Steadman.

AN ACT**CONCERNING THE USE OF AUTHORITY VERBS IN THE COLORADO REVISED STATUTES.**

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

SECTION 1. Legislative declaration. (1) The general assembly hereby:

(a) Finds that:

(I) Courts presume that, in the absence of any manifest indication to the contrary, the meaning attributed to the words used in one part of the statutes should be ascribed to the same words found elsewhere in the statutes; and

(II) Many statutes have been written in the passive voice and future tense, including the use of the word "shall" as a future tense verb;

(b) Determines that:

(I) Drafting statutes, when possible, in the active voice and present tense will clarify the general assembly's intent; and

(II) In order to clarify the general assembly's use of the authority verbs "must" and "shall", it is useful to use different words to distinguish between:

(A) The imposition of a duty on a person; and

(B) The creation of a condition to which a person or thing is subject but as to which there is no duty to act; and

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(c) Declares that:

(I) Passage of this act is not intended to alter the interpretation of a statute enacted before the effective date of this act; and

(II) While this act creates standard definitions of the words "must" and "shall", the determination of the proper meanings to be attributed to the words "must" and "shall" should include consideration of the context in which those words were enacted and are used.

SECTION 2. In Colorado Revised Statutes, 2-4-401, **add** (6.5) and (13.7) as follows:

2-4-401. Definitions. The following definitions apply to every statute, unless the context otherwise requires:

(6.5) (a) "MUST" MEANS THAT A PERSON OR THING IS REQUIRED TO MEET A CONDITION FOR A CONSEQUENCE TO APPLY. "MUST" DOES NOT MEAN THAT A PERSON HAS A DUTY.

(b) THIS SUBSECTION (6.5):

(I) IS NOT INTENDED TO ALTER THE INTERPRETATION OF A STATUTE ENACTED BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (6.5); AND

(II) APPLIES TO STATUTES ENACTED ON OR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (6.5) BUT ONLY WITH REGARD TO LANGUAGE THAT APPEARS IN SMALL CAPITAL FONT IN THE SESSION LAWS PUBLISHED PURSUANT TO SECTION 24-70-223, C.R.S.

(13.7) (a) "SHALL" MEANS THAT A PERSON HAS A DUTY.

(b) THIS SUBSECTION (13.7):

(I) IS NOT INTENDED TO ALTER THE INTERPRETATION OF A STATUTE ENACTED BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (13.7); AND

(II) APPLIES TO STATUTES ENACTED ON OR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (13.7) BUT ONLY WITH REGARD TO LANGUAGE THAT APPEARS IN SMALL CAPITAL FONT IN THE SESSION LAWS PUBLISHED PURSUANT TO SECTION 24-70-223, C.R.S.

SECTION 3. 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 7, 2013, if adjournment sine die is on May 8, 2013); 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 2014 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: February 27, 2013