First Regular Session Seventy-third General Assembly STATE OF COLORADO

INTRODUCED

LLS NO. 21-0636.01 Shelby Ross x4510

HOUSE BILL 21-1041

HOUSE SPONSORSHIP

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SENATE SPONSORSHIP

(None),

House Committees

101

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Senate Committees

State, Civic, Military and Veterans Affairs

A BILL FOR AN ACT CONCERNING THE PROHIBITION AGAINST RESTRICTING A PRIVATE SECTOR ENTERPRISE'S FULL AND FREE RIGHTS TO CONDUCT

103 BUSINESS IN ANY MANNER.

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 prohibits state government from passing or implementing any law or rule restricting the natural rights of a private sector enterprise or its customers to use and exercise their free will and free choice to conduct business, exchange goods and services, and take risks in any manner, time, or condition that is acceptable by the private sector enterprise, its customers, and any private sector individuals.

The bill authorizes a private sector enterprise to assert a violation as a claim against state government in any judicial or administrative proceeding or as a defense in any judicial or administrative proceeding without regard to whether the proceeding is brought by or in the name of state government, any private sector enterprise, private person, or any other party.

1 Be it enacted by the General Assembly of the State of Colorado: 2 **SECTION 1.** In Colorado Revised Statutes, add article 116 to 3 title 24 as follows: 4 **ARTICLE 116** 5 **Protections for Private Sector Enterprises** 6 **24-116-101. Definitions.** As used in this article 116, unless 7 THE CONTEXT OTHERWISE REQUIRES: 8 (1) "PRIVATE SECTOR ENTERPRISE" MEANS A PRIVATE SECTOR 9 INDIVIDUAL, FIRM, LIMITED LIABILITY COMPANY, PARTNERSHIP, JOINT 10 VENTURE, CORPORATION, ASSOCIATION, OR OTHER LEGAL ENTITY 11 ENGAGING IN THE MANUFACTURING, PROCESSING, SALE, OFFERING FOR 12 SALE, RENTAL, LEASING, DELIVERY, DISPENSING, DISTRIBUTING, OR 13 ADVERTISING OF GOODS OR SERVICES FOR PROFIT. 14 (2) "STATE GOVERNMENT" MEANS THE LAWFUL STATE OR ANY 15 CONSTITUTIONAL POLITICAL SUBDIVISION OF THE STATE, A PUBLIC 16 INSTITUTION OF HIGHER EDUCATION, OR ANY PERSON ACTING UNDER 17 COLOR OF STATE LAW OR UNITED STATES CONSTITUTIONAL LAW. 18 24-116-102. Protections for private sector enterprises -19 violation. (1) Pursuant to article IV of the United States 20 CONSTITUTION, AND NOTWITHSTANDING ANY STATE OR CONSTITUTIONAL 21 LAW TO THE CONTRARY, STATE GOVERNMENT SHALL NOT PASS OR 22 IMPLEMENT ANY LAW OR RULE RESTRICTING THE NATURAL RIGHTS OF A

-2- HB21-1041

PRIVATE SECTOR ENTERPRISE OR ITS CUSTOMERS TO USE AND EXERCISE THEIR FREE WILL AND FREE CHOICE TO CONDUCT BUSINESS; EXCHANGE GOODS AND SERVICES; AND TAKE RISKS IN ANY MANNER, TIME, OR CONDITION THAT IS ACCEPTABLE BY THE PRIVATE SECTOR ENTERPRISE, ITS CUSTOMERS, AND ANY PRIVATE SECTOR INDIVIDUALS, INCLUDING RIGHTS PROTECTED BY THE UNITED STATES CONSTITUTION, THE NINTH AMENDMENT OF THE UNITED STATES CONSTITUTION, THE DECLARATION OF INDEPENDENCE, AND 18 U.S.C. SEC. 242. (2) A PRIVATE SECTOR ENTERPRISE MAY ASSERT A VIOLATION OF

(2) A PRIVATE SECTOR ENTERPRISE MAY ASSERT A VIOLATION OF THIS ARTICLE 116 AS A CLAIM AGAINST STATE GOVERNMENT IN ANY JUDICIAL OR ADMINISTRATIVE PROCEEDING OR AS A DEFENSE IN ANY JUDICIAL OR ADMINISTRATIVE PROCEEDING WITHOUT REGARD TO WHETHER THE PROCEEDING IS BROUGHT BY OR IN THE NAME OF STATE GOVERNMENT, ANY PRIVATE SECTOR ENTERPRISE, PRIVATE PERSON, OR ANY OTHER PARTY.

SECTION 2. 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; 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 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

-3- HB21-1041