SENATE BILL 17-283

A BILL FOR AN ACT

CONCERNING A CLARIFICATION OF THE DISTINCTION BETWEEN
DISCRIMINATION AND THE FUNDAMENTAL RIGHT TO DISAGREE
IN THE LAW REGARDING DISCRIMINATION IN PLACES OF PUBLIC
ACCOMMODATION.

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 specifies that it is not a discriminatory practice for a private business to decline to contract to provide goods or services:

! That convey a message with which the business chooses
not to associate itself or with which the business owner disagrees; or

! For an event that conveys a message with which the business chooses not to associate itself or with which the business owner disagrees.

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

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

(a) There is a profound distinction between discrimination and the fundamental right to disagree. The right to disagree is the core unifying principle of the unalienable rights of conscience enumerated in the First Amendment of the United States Constitution.

(b) The current language of the commonly called "Colorado Anti-Discrimination Act" does not give reasonable notice to businesses as to what specific business decisions constitute unlawful discrimination;

(c) Colorado small business owners can be, and are being, penalized for good faith business decisions;

(d) Most Coloradans consider the refusal to sell pre-made inventoried goods because of a client’s disability, race, creed, color, sex, sexual orientation, marital status, national origin, or ancestry to be an improper form of discrimination;

(e) On the other hand, many Coloradans believe that a business has the fundamental right to decline to contract to provide goods or services:

(I) When providing such goods or services conveys a message that the business would rather not be associated with, chooses not to associate itself with, or with which the business owner disagrees; or

(II) For an event that, at its core, conveys a message that the
business would rather not be associated with, chooses not to associate itself with, or with which the business owner disagrees;

(f) The state issuance of business licenses does not convey unbridled authority to the state to control private business decisions or to coerce private parties to enter into contracts; and

(g) The authority to define what is and what is not discrimination resides with the elected state legislature rather than with unelected state commissions and administrative bodies.

(2) The general assembly further finds and declares that the purpose of this legislation is to clarify the distinction between discrimination and the fundamental right to disagree.

SECTION 2. In Colorado Revised Statutes, 24-34-601, add (4) as follows:

24-34-601. Discrimination in places of public accommodation - definition. (4) Notwithstanding any other provisions of this section, it is not a discriminatory practice for a private business, which is included in the definition of a place of public accommodation in subsection (1) of this section, to decline to contract to provide goods or services:

(a) That convey a message with which the business chooses not to associate itself or with which the business owner disagrees; or

(b) For an event that conveys a message with which the business chooses not to associate itself or with which the business owner disagrees.

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 9, 2017, if adjournment sine die is on May 10, 2017); 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 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.