



COPS, COUNTIES, AND LOCAL CONTROL: THE 2019 COLORADO MUNICIPAL LAW LEGISLATIVE UPDATE

With the close of the first regular session of Colorado's 72nd General Assembly, there were several significant developments for those of us who work in the local government and public entities arena. With both chambers and the governorship under democratic control, this legislature has seemingly changed its priorities with an emphasis on greater local control and a slew of measures aimed at dealing with the issues facing law enforcement.

Although hundreds of laws were introduced, and dozens made their way on to the governor's desk, this update focuses on the bills signed into law by Governor Polis. These new laws will likely impact decision-making at the local level and will have the greatest impact on cities and counties across the state. Below is a brief overview of some of the most interesting new legislation.

HB19-1003: Regulation of Nicotine Products

This law authorizes a county to enact a resolution prohibiting minors from purchasing nicotine products including cigarettes, chewing tobacco, and vape products. The law allows a city or county government to impose additional restrictions on the purchase of nicotine products including prohibiting sales to persons under 21 years of age. City and county governments may also tax the sale of nicotine products.

Colorado currently apportions 27% of state cigarette tax revenue to cities, towns, and counties in proportion to the amount state sales tax collected within their boundaries. Previously, to receive its allocation of this money, a local government was prohibited from imposing its own fees or taxes on nicotine products. The law removes this prohibition and allows cities, towns, and counties to impose fees and taxes without losing their portion of state cigarette revenues.

SB19-103: Minor Owned Businesses

This law prohibits a local government from requiring a license or permit for a business that is operated by a minor (under age 18) on an occasional basis (less than 84 days a year).

The law requires a minor's business be a sufficient distance (as determined by local law) from a licensed commercial entity to prevent the minor's business from becoming a direct economic competitor.

A local government may still enact and enforce local laws concerning the way a minor's business is conducted (i.e., no blocking sidewalks); however, a local government cannot require a minor to obtain permits or licenses to conduct business.

HB19-1074: Law Enforcement Information Sharing Grant Program

This law creates the law enforcement, public safety, and criminal justice information sharing grant program, to provide grants to assist local law enforcement agencies in gaining access to the information-sharing system created by the Colorado information sharing consortium (CISC). Grant recipients can use the money to pay for computer hardware, software, and programming costs necessary to connect to CISC's information-sharing systems.

HB19-1080: Benefits for First Responders with a Disability

This law allows first responders with a permanent occupational disability to be eligible to participate in a property tax work-off program. The law also grants a free lifetime small game hunting, fishing license, and Columbine Annual Pass for entrance into state parks to first responders with a permanent occupational disability.

HB19-1119: Peace Officer Internal Investigation Open Records

This law makes a peace officer's internal investigation file subject to an open records request if the investigation concerns a member of the public and the officer's conduct was on-duty or in-uniform. The law allows the custodian of the file to first provide a summary but allows the requestor full access to the file after review of the custodian's summary. The custodian can deny inspection of the file if a criminal case is ongoing, but the file becomes open for inspection after all charges are dismissed or the defendant is sentenced.

The law also allows a person who has been denied access to any information in a completed internal affairs investigation file to file an application in court to show cause why the withheld or redacted information should not be made available. If the court determines, after de novo review, that any portions of the completed internal affairs investigation file were improperly withheld, the court shall order the custodian to provide the applicant with a copy of those improperly withheld portions.

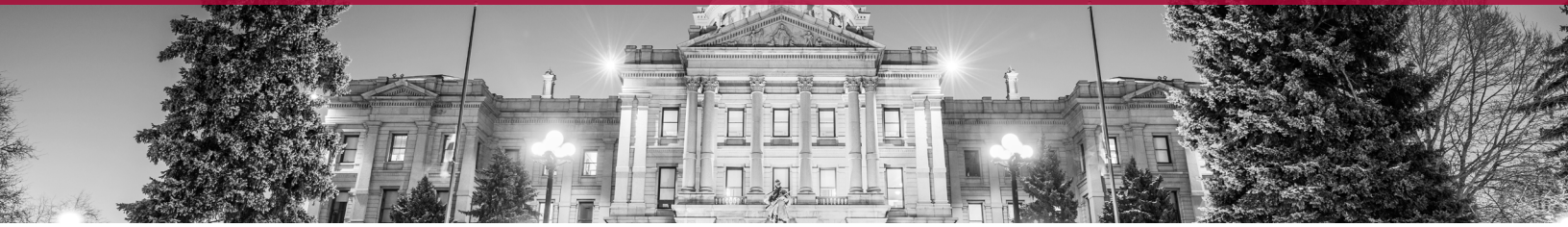
The law does not apply retroactively.

HB19-1124: Clarification of Criminal Justice Officials Authority to Enforce Federal Immigration Law

This law allows law enforcement to assist federal immigration authorities in the execution of warrants or writs issued by a state or federal judge concerning the transfer of a prisoner to federal custody.

The law prohibits a law enforcement officer from arresting or detaining an individual based solely on a civil immigration detainer. The law also prohibits a probation officer or probation department employee from providing an individual's personal information to federal immigration authorities.

Furthermore, if a law enforcement officer is coordinating a telephone or video interview between federal immigration authorities and an individual in jail or in another custodial facility, the individual must be given a warning consistent with *Miranda v. Arizona*, 384 U.S. 436 (1966).

**HB19-1250: Unlawful Sexual Conduct by a Peace Officer**

This law creates the offense of Unlawful Sexual Conduct by a Peace Officer. A peace officer commits the offense when he or she knowingly engages in sexual contact: (1) when the peace officer encounters the victim for the purpose of law enforcement or in the performance of the officer's duties; (2) when the peace officer knows at the time of the unlawful sexual conduct that the victim is the subject of an active investigation; or (3) if in furtherance of sexual contact, the peace officer makes any show of real or apparent authority.

Under current law, sexual assault is classified as a class 4 felony and unlawful sexual contact is classified as a class 1 misdemeanor. Now, where the offense is committed by a peace officer, the law classifies sexual assault as a class 3 felony and unlawful sexual contact as a class 4 felony. An offender convicted of unlawful sexual conduct by a peace officer is required to register as a sex offender and may be subject to lifetime supervision.

SB19-091: Support of Peace Officers Involved in a Use of Force Incident

This law requires law enforcement agencies to develop policies to support officers involved in a shooting or fatal use of force. The policies must address pre-incident training and preparation, support for the officer at the scene of the incident, post-incident support and services, guidelines for temporary leave or duty reassignment, and guidelines for return to duty.

The policies must be completed by January 1, 2020 and law enforcement agencies are required to review the policies every two years.

The law also allows a law enforcement agency to apply for and receive a grant from the peace officer's mental health support grant program to assist in developing and implementing the agency's policies.

SB19-166: P.O.S.T. Certification Revocation for Untruthful Statement

This law requires the Peace Officers Standards and Training Board, which certifies peace officers, to revoke the certification of a peace officer who knowingly makes an untruthful statement concerning a material fact or omits a material fact on an official criminal justice record while testifying under oath.

The law enforcement agency must certify that it completed an investigation and that it determined by clear and convincing evidence that the officer knowingly made a false statement under oath or during an internal affairs investigation or comparable administrative proceeding.

HB19-1007: Contribution Limits for Candidates to County Offices

This law sets limits on contributions to candidates for county office. Contributions are now capped at \$1,250 for individuals, \$12,500 for small donor committees, and \$22,125 for political parties. County offices include: County Commissioner; County Clerk; Recorder; Sheriff; Coroner; Treasurer; Assessor; or Surveyor.

HB19-1047: Metropolitan District Fire Protection Sales Tax

This law allows a metropolitan district to levy a sales tax to provide fire protection (in addition to a property tax or special assessment).

HB19-1210: Local Minimum Wage Laws

This law allows a local government to enact laws establishing a minimum wage within its jurisdiction.

HB19-1299: Contribution Rates to a Local Government Retirement Plan

A local government is currently authorized to establish and maintain a plan or system of retirement benefits for its elected or appointed officers and employees.

Previously, the law required participants to contribute a percentage of their salaries toward the cost of the plan and specified that the contribution rate could not be less than that made by the local government. This law changes the minimum contribution rate of participants in the plan to 3% of the participant's basic salary or wage. In addition, the law specifies that the contribution rate of the local government and the contribution rate of the participant do not have to be the same if the contribution rate for each is at least 3% of the participant's salary or wage.

HB19-1191: Local Regulation of Farm Stands

This law defines "farm stand" to mean a temporary or permanent structure used for the sale and display of agricultural products resulting from agricultural operations conducted on the farm stand site. The stand may also include off site agricultural products if permitted by the local government. The farm stand may be located on a parcel of any size.

The law does not prohibit a local government from requiring the farm stand operator to obtain a license or permit prior to operating the stand.

HB19-1246: Local Government Regulation of Food Trucks

This law allows the Colorado Municipal League ("CML") to study issues related to the regulation of food trucks by local governments. The CML may report its findings and recommendations for future legislative solutions to the business affairs and labor committee of the house; and the business, labor, and technology committee of the senate. The CML has a deadline of November 1, 2019 to report its findings.

HB19-1087: Local Public Meeting Notices Posted on Website

This law requires local governments to post notices of public meetings on the local government's website if the notice is required by Colorado's Sunshine Law.

Be sure to check back with us when the second regular session convenes in January 2020. We will be providing important updates as legislation is introduced and moves through the legislative process.

If you have any questions about this update, please contact Aaron Thompson, thompsona@hallevans.com

