

Colo. Antitrust Law Signals Growing Scrutiny Among States

By **Puja Patel and Noa Gur-Arie** (June 13, 2025)

On June 4, Colorado Gov. Jared Polis signed the Uniform Antitrust Pre-Merger Notification Act into law, making Colorado the second U.S. state to enact a broad antitrust premerger notification requirement following Washington state in April.[1]

The Colorado act is expected to take effect Aug. 6, shortly after the Washington act goes into effect July 27.

Both state laws are based on model antitrust legislation published by the Uniform Law Commission in 2024 and require that merging parties satisfying certain conditions file a copy of their Hart-Scott-Rodino Act form with the state attorney general.

Those conditions include having a principal place of business in the state and annual in-state sales involved in the transaction of at least 20% of the HSR Act filing threshold.[2]

Similar premerger notification laws have progressed in other state legislatures over the last weeks, achieving passage in the senates of both California on June 2 and New York June 4.[3]



Puja Patel



Noa Gur-Arie

Key Provisions of the Colorado Act

Like the Washington premerger notification law enacted in April, the Colorado act hews closely to the text developed by the Uniform Law Commission and contains all of the same key provisions regarding thresholds, requirements, fees, penalties and confidentiality.

Thresholds

Parties to a transaction are required to file HSR forms with the Colorado attorney general if: (1) their principal place of business is in the state, or (2) they, or a person they control, "directly or indirectly had annual net sales in this state of the goods or services involved in the transaction of at least twenty percent of the filing threshold."

At the current \$126.4 million federal HSR filing threshold, this amounts to a state minimum of \$25.28 million.[4]

Colorado, like Washington and a number of other states, also has a separate but narrower preexisting healthcare-specific premerger notification law: Since 2008, transactions involving a transfer of 50% or more of a hospital's assets must be reported to the Colorado attorney general.[5]

Requirements

Parties meeting either of the above threshold conditions must file a complete electronic copy of the HSR form and any "additional documentary material" filed with the form — e.g., business documents under the new HSR rules — with the Colorado attorney general contemporaneously with their federal filing.

Fees

Colorado, like Washington, conforms to the Uniform Law Commission's model in specifying that the attorney general may not charge a fee in connection with the premerger notification requirement.

Penalties

Colorado, like Washington, adopts the Uniform Law Commission's suggested penalty for failure to file of \$10,000 per day of noncompliance.

Confidentiality

Colorado follows the Uniform Law Commission's confidentiality and reciprocity provisions, prohibiting publication or disclosure of filings except under limited circumstances — e.g., by the attorney general under a protective order in an administrative proceeding or judicial action.

In comments to its model confidentiality provisions, the Uniform Law Commission stated that its goal was to "facilitate information sharing and collaboration among the AGs and the federal antitrust agencies, and among the AGs themselves." [6]

Developments in Other States

As noted above, in the first week of June, the senates of both California and New York passed their respective premerger notification legislation. The California bill largely adopts the same Uniform Act text enacted by Colorado and Washington, with the notable exception of a filing fee of \$1,000 for filings by parties meeting the principal place of business condition and \$500 for other filings. [7]

By contrast, New York's proposed legislation, the 21st Century Antitrust Act, includes much broader premerger notification requirements, with any person conducting business in the state required to file an HSR form for a transaction would have to provide the same notice and documentation in its entirety simultaneously to the New York attorney general. [8]

This represents the fourth attempt by New York Legislatures since 2020 to significantly expand the scope of New York's preexisting antitrust legislation, the Donnelly Act. [9]

Both the California and New York bills, however, remain subject to approval by their assemblies and governors. While bills equivalent to the Colorado and Washington laws remain pending in Hawaii, West Virginia and Washington, D.C., they have failed to pass in Nevada and Utah. [10]

Federal Backdrop

These state law developments are occurring against a backdrop of expanded federal reporting requirements.

In addition to the heightened demands imposed by the new HSR form, which went into effect Feb. 10 of this year, Section 857 of the National Defense Authorization Act mandates that parties to proposed mergers or acquisitions "that will require a review by the

Department of Defense," and which are already being filed with the U.S. Department of Justice or the Federal Trade Commission, must "concurrently provide such information to the Department of Defense during the waiting period." [11]

This provision has been in effect since December 2023, but in conjunction with new state notification requirements, it further broadens the potential list of HSR form recipients for some merging parties.

Conclusion

Taken together, these developments reflect a growing trend toward expanded antitrust scrutiny at both the state and federal levels, underscoring the need for merging parties to plan for a more complex and multilayered premerger notification landscape.

Puja Patel is a partner and Noa Gur-Arie is a law clerk at Cleary Gottlieb Steen & Hamilton LLP.

The opinions expressed are those of the author(s) and do not necessarily reflect the views of their employer, its clients, or Portfolio Media Inc., or any of its or their respective affiliates. This article is for general information purposes and is not intended to be and should not be taken as legal advice.

[1] S.B. 25-126, 75th Gen. Assemb., 1st Reg. Sess. (Colo. 2025), https://leg.colorado.gov/sites/default/files/2025a_126_signed.pdf; S.B. 5122, 69 Leg., 2]025 Reg. Sess. (Wash. 2025), <https://lawfilesexternal.wa.gov/biennium/202526/Pdf/Bills/Senate%20Passed%20Legislature/5122.PL.pdf?q=20250408084052>.

[2] Uniform Law Commission, Antitrust Pre-Merger Notification Act, <https://www.uniformlaws.org/viewdocument/final-act104?CommunityKey=6bf5d101-d698-4c72-b7c1-0191302a6a95&tab=librarydocuments>.

[3] S.B. 25, 2025 Leg., 2025-2026 Reg. Sess. (Cal. 2025), https://leginfo.ca.gov/faces/billHistoryClient.xhtml?bill_id=202520260SB25; S.B. S335, 2025 Leg., 2025-2026 Reg. Sess. (N.Y. 2025), <https://www.nysenate.gov/legislation/bills/2025/S335>.

[4] Federal Trade Commission, New HSR thresholds and filing fees for 2025 (Feb. 6, 2025), <https://www.ftc.gov/enforcement/competitionmatters/2025/02/new-hsr-thresholds-filing-fees-2025>.

[5] Colo. Rev. Stat. §§ 6-19-101.

[6] Uniform Law Commission, Antitrust Pre-Merger Notification Act, p. 6.

[7] S.B. 25, 2025 Leg., 2025-2026 Reg. Sess. (Cal. 2025).

[8] S.B. S335, 2025 Leg., 2025-2026 Reg. Sess. (N.Y. 2025), p. 5, <https://legislation.nysenate.gov/pdf/bills/2025/S335>.

[9] N.Y. Gen. Bus. L. § 340.

[10] S.B. 348, 32nd Leg., 2025 Reg. Sess. (Haw. 2025), https://www.capitol.hawaii.gov/session/measure_indiv.aspx?billtype=SB&billnumber=348&year=2025; H.B. 2110, 87th Legis., 2025 Reg. Sess. (W. Va. 2025), https://www.wvlegislature.gov/bill_status/bills_history.cfm?input=2110&year=2025&sessiontype=rs&btype=bill; S.B. 32, 87th Legis., 2025 Reg. Session (W. Va. 2025), https://www.wvlegislature.gov/bill_status/bills_history.cfm?input=32&year=2025&sessiontype=rs&btype=bill; B. 260030, Council (D.C. 2025), <https://lims.dccouncil.gov/Legislation/B26-0030>; S.B. 218, 2025 Leg., 83rd Sess. (Nev. 2025), <https://www.leg.state.nv.us/App/NELIS/REL/83rd2025/Bill/12306/Overview>; H.B. 466 S1, 66th Leg., 2025 Gen. Sess. (Utah 2025), <https://le.utah.gov/~2025/bills/static/HB0466.html>.

[11] National Defense Authorization Act for Fiscal Year 2024 § 857, Pub. L. 118-31, 137 Stat. 136, 346 (2023), <https://www.congress.gov/118/plaws/publ31/PLAW118publ31.pdf>.