

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0512.01 Thomas Morris x4218

HOUSE BILL 16-1079

HOUSE SPONSORSHIP

Becker K. and Singer,

SENATE SPONSORSHIP

(None),

House Committees

Public Health Care & Human Services

Senate Committees

A BILL FOR AN ACT

101 CONCERNING A CERTIFICATION PROGRAM FOR CANNABIS THAT IS
102 PESTICIDE-FREE.

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://www.leg.state.co.us/billsummaries>.)

Because marijuana and hemp are illegal under federal law and federal law governs whether a product can be labeled or advertised as "organic", marijuana or hemp that is cultivated, processed, and sold in accordance with state law currently cannot be labeled or advertised as "organic". **Section 3** of the bill directs the commissioner of agriculture to promulgate rules governing a program to enable consumers to easily

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

identify medical and retail marijuana and industrial hemp that have been cultivated and processed without the use of pesticides. The department of agriculture will certify third parties who can certify whether the marijuana or hemp cultivated or processed at a particular cannabis facility is free of pesticides. **Sections 1 and 2** allow marijuana product labels to include a standardized notification that the marijuana has been certified as being pesticide-free.

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

2 **SECTION 1.** In Colorado Revised Statutes, 12-43.3-202, **amend**
3 (2) (a) (XIV) as follows:

4 **12-43.3-202. Powers and duties of state licensing authority -**
5 **rules.** (2) (a) Rules promulgated pursuant to paragraph (b) of subsection
6 (1) of this section may include, but need not be limited to, the following
7 subjects:

8 (XIV) Labeling standards, WHICH MUST ALLOW A STANDARDIZED
9 NOTIFICATION THAT THE MEDICAL MARIJUANA HAS BEEN CERTIFIED AS
10 BEING PESTICIDE-FREE PURSUANT TO SECTION 35-11.5-201, C.R.S.;

11 **SECTION 2.** In Colorado Revised Statutes, 12-43.4-202, **amend**
12 (3) (a) (VII) introductory portion as follows:

13 **12-43.4-202. Powers and duties of state licensing authority -**
14 **rules.** (3) (a) Rules promulgated pursuant to paragraph (b) of subsection
15 (2) of this section must include, but need not be limited to, the following
16 subjects:

17 (VII) Labeling requirements for retail marijuana and retail
18 marijuana products sold by a retail marijuana establishment that are at
19 least as stringent as THOSE imposed by section 25-4-1614 (3) (a), C.R.S.
20 THE LABELING REQUIREMENTS MUST ALLOW A STANDARDIZED
21 NOTIFICATION THAT THE MEDICAL MARIJUANA HAS BEEN CERTIFIED AS
22 BEING PESTICIDE-FREE PURSUANT TO SECTION 35-11.5-201, C.R.S., and

1 MUST include but are not limited to:

2 **SECTION 3.** In Colorado Revised Statutes, **add** part 2 to article
3 11.5 of title 35 as follows:

4 PART 2

5 PESTICIDE-FREE CANNABIS

6 **35-11.5-201. Certification of pesticide-free cannabis.** (1) THE
7 COMMISSIONER SHALL ADOPT A PROGRAM TO ENABLE CONSUMERS TO
8 EASILY IDENTIFY MEDICAL AND RETAIL MARIJUANA, AS THOSE TERMS ARE
9 DEFINED IN SECTIONS 12-43.3-104 AND 12-43.4-103, C.R.S., AND
10 INDUSTRIAL HEMP, AS THAT TERM IS DEFINED IN SECTION 35-61-101, THAT
11 HAVE BEEN CULTIVATED AND PROCESSED WITHOUT THE USE OF
12 PESTICIDES.

13 (2) THE DEPARTMENT SHALL CERTIFY, ACCORDING TO THE TERMS
14 OF THE PROGRAM, THIRD-PARTY CERTIFIERS OF LICENSED PREMISES, AS
15 THAT TERM IS DEFINED IN SECTIONS 12-43.3-104 AND 12-43.4-103, C.R.S.,
16 AND LAND AREAS DESCRIBED IN SECTION 35-61-104, WHO CAN CERTIFY
17 WHETHER THE MARIJUANA OR HEMP AT A PARTICULAR PREMISES OR LAND
18 AREA HAS BEEN CULTIVATED AND PROCESSED WITHOUT THE USE OF
19 PESTICIDES.

20 **35-11.5-202. Rules.** (1) THE COMMISSIONER SHALL, AFTER
21 CONSULTING WITH THE STATE LICENSING AUTHORITY SPECIFIED IN
22 SECTION 12-43.3-201 (1), C.R.S., ADOPT RULES TO IMPLEMENT THIS PART
23 2. THE RULES MAY DISTINGUISH BETWEEN MARIJUANA AND INDUSTRIAL
24 HEMP AND MUST:

25 (a) SPECIFY THE EXPERIENCE OR CREDENTIALS AND THE
26 RESOURCES THAT A PERSON MUST HAVE, AND THE EVIDENCE THAT THE
27 PERSON MUST SUBMIT, TO BE QUALIFIED AS A CERTIFIER PURSUANT TO THIS

1 PART 2, INCLUDING A PLAN THAT THE CERTIFIER WILL FOLLOW IN ISSUING
2 CERTIFICATIONS;

3 (b) CONTAIN STANDARDS THAT CERTIFIERS MUST FOLLOW IN
4 CERTIFYING CANNABIS PURSUANT TO THIS PART 2, INCLUDING A
5 DEFINITION OF THE TERM "CULTIVATED AND PROCESSED WITHOUT THE USE
6 OF PESTICIDES" THAT INCLUDES DETECTION LEVELS BELOW WHICH A
7 PARTICULAR PESTICIDE WILL BE DEEMED TO NOT BE PRESENT;

8 (c) REQUIRE EACH CERTIFIER TO SUBMIT AN ANNUAL REPORT TO
9 THE DEPARTMENT THAT SUMMARIZES THE CERTIFIER'S ACTIVITIES IN THE
10 PREVIOUS CALENDAR YEAR ALONG WITH OTHER INFORMATION SPECIFIED
11 IN THE RULES;

12 (d) AUTHORIZE THE DEPARTMENT TO CONDUCT A PERIODIC OR
13 RISK-BASED ON-SITE AUDIT OF A CERTIFIER THAT INCLUDES THE ABILITY
14 TO ACCOMPANY A CERTIFIER WHILE THE CERTIFIER VISITS A LICENSED
15 PREMISES OR LAND AREA AND WHILE THE CERTIFIER CONDUCTS THE
16 NECESSARY ANALYSIS OF THE DATA COLLECTED DURING THE VISIT;

17 (e) SPECIFY FEES THAT THE DEPARTMENT MAY CHARGE TO CERTIFY
18 A CERTIFIER, WHICH FEES ARE SUBJECT TO SECTION 35-11.5-113; AND

19 (f) PROVIDE FOR THE CONFIDENTIALITY OF DOCUMENTS AND
20 INFORMATION AS SPECIFIED IN SECTION 35-11.5-105 (4).

21 **35-11.5-203. Funding.** THE DEPARTMENT MAY SEEK, ACCEPT,
22 AND EXPEND GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC
23 SOURCES FOR THE PURPOSES OF THIS PART 2. THE DEPARTMENT SHALL
24 TRANSMIT ALL MONEY RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS
25 TO THE STATE TREASURER, WHO SHALL CREDIT THE MONEY TO THE PLANT
26 HEALTH, PEST CONTROL, AND ENVIRONMENTAL PROTECTION CASH FUND
27 CREATED IN SECTION 35-1-106.3.

1 **SECTION 4.** In Colorado Revised Statutes, **amend** 35-11.5-101
2 as follows:

3 **35-11.5-101. Short title.** THE SHORT TITLE of this ~~article shall be~~
4 ~~known and may be cited as~~ PART 1 IS the "Organic Certification Act".

5 **SECTION 5.** In Colorado Revised Statutes, **amend** 35-11.5-102
6 as follows:

7 **35-11.5-102. Legislative declaration.** The general assembly
8 declares that the purpose of this ~~article~~ PART 1 is to provide a means for
9 the general public to recognize and purchase organically grown
10 agricultural products and to assist Colorado producers in the marketing
11 of such products. The general assembly further declares that uniformity
12 in labeling will protect both consumers and producers by providing
13 assurance of compliance with recognized production standards.

14 **SECTION 6.** In Colorado Revised Statutes, 35-11.5-105, **amend**
15 (3) as follows:

16 **35-11.5-105. Delegation of duties - inspections - cooperative**
17 **agreements - confidentiality.** (3) The department and the commissioner
18 shall coordinate with the secretary to implement the state organic
19 certification program pursuant to this ~~article~~ PART 1.

20 **SECTION 7.** In Colorado Revised Statutes, 35-11.5-114, **amend**
21 (1) introductory portion as follows:

22 **35-11.5-114. Advisory board.** (1) Effective July 1, 2010, for the
23 purpose of assisting the commissioner in formulating rules for carrying
24 out the provisions of this ~~article~~ PART 1, there is hereby created an organic
25 certification advisory board, to be composed of twelve members
26 appointed by the commissioner, as follows: Nine ~~shall~~ **MUST** represent
27 certified organic operations; one ~~shall~~ **MUST** be a consumer representing

1 the general public; one ~~shall~~ MUST be a representative from the Colorado
2 cooperative extension service; and one ~~shall~~ MUST be a representative
3 from the Colorado agricultural experiment station. The nine advisory
4 board members representing certified organic operations ~~shall~~ MUST
5 represent the following four categories of organic certification, in
6 proportion to the number of organic operations certified in each category:

7 **SECTION 8.** In Colorado Revised Statutes, **amend** 35-11.5-117
8 as follows:

9 **35-11.5-117. Conflict with federal law.** If the secretary or a court
10 of competent jurisdiction determines that there is a conflict between this
11 ~~article~~ PART 1 and any provisions of the federal "Organic Foods
12 Production Act of 1990", 7 U.S.C. sec. 6501 et seq. or 7 CFR part 205,
13 the provisions of the federal act and rules ~~shall~~ control, and the
14 commissioner shall perform the duties and discharge the obligations
15 contained in the federal act. If such a determination is made, the
16 commissioner shall submit a report to the general assembly explaining the
17 conflict.

18 **SECTION 9. Applicability.** This act applies to conduct occurring
19 on or after the effective date of this act.

20 **SECTION 10. Safety clause.** The general assembly hereby finds,
21 determines, and declares that this act is necessary for the immediate
22 preservation of the public peace, health, and safety.