

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-0512.01 Thomas Morris x4218

**HOUSE BILL 16-1079**

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**HOUSE SPONSORSHIP**

**Becker K. and Singer,**

**SENATE SPONSORSHIP**

**(None),**

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**House Committees**

Public Health Care & Human Services  
Finance

**Senate Committees**

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**A BILL FOR AN ACT**

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

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**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.

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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 ORGANIC 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) (IV) (B) and (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 (IV) (B) Testing ~~shall~~ MUST include, but IS not be limited to,  
18 analysis for residual solvents, poisons, or toxins; harmful chemicals;  
19 dangerous molds or mildew; filth; and harmful microbials such as E. Coli  
20 or salmonella and pesticides; EXCEPT THAT A LICENSED PREMISES THAT IS  
21 CERTIFIED AS ORGANIC PURSUANT TO PART 2 OF ARTICLE 11.5 OF TITLE 35,  
22 C.R.S., IS EXEMPT FROM TESTING FOR PESTICIDES.

1 (VII) Labeling requirements for retail marijuana and retail  
2 marijuana products sold by a retail marijuana establishment that are at  
3 least as stringent as THOSE imposed by section 25-4-1614 (3) (a), C.R.S.  
4 THE LABELING REQUIREMENTS MUST ALLOW A STANDARDIZED  
5 NOTIFICATION THAT THE MARIJUANA HAS BEEN CERTIFIED AS ORGANIC  
6 PURSUANT TO SECTION 35-11.5-201, C.R.S., and MUST include but are not  
7 limited to:

8 **SECTION 3.** In Colorado Revised Statutes, **add** part 2 to article  
9 11.5 of title 35 as follows:

10 PART 2

11 ORGANIC CANNABIS

12 **35-11.5-201. Certification of organic cannabis.** (1) THE  
13 COMMISSIONER SHALL ADOPT A PROGRAM TO ENABLE CONSUMERS TO  
14 EASILY IDENTIFY CANNABIS THAT IS ORGANIC.

15 (2) THE DEPARTMENT SHALL CERTIFY, ACCORDING TO THE TERMS  
16 OF THE PROGRAM, THIRD-PARTY CERTIFIERS OF LICENSED PREMISES, AS  
17 THAT TERM IS DEFINED IN SECTIONS 12-43.3-104 AND 12-43.4-103, C.R.S.,  
18 WHO CAN CERTIFY WHETHER THE CANNABIS AT A PARTICULAR PREMISES  
19 IS ORGANIC.

20 (3) A PERSON SHALL NOT, IN CONNECTION WITH AN ORGANIC  
21 CERTIFICATION PURSUANT TO THIS PART 2, USE THE ORGANIC SEAL  
22 ESTABLISHED BY THE UNITED STATES DEPARTMENT OF AGRICULTURE OR  
23 IMPLY ANY TACIT OR DIRECT APPROVAL BY OR ATTRIBUTION TO THE  
24 FEDERAL ORGANIC CERTIFICATION PROGRAM.

25 **35-11.5-202. Definitions - program - rules.** (1) FOR PURPOSES  
26 OF THIS PART 2, UNLESS THE CONTEXT OTHERWISE REQUIRES:

27 (a) "CANNABIS" MEANS "MEDICAL MARIJUANA" AS DEFINED IN

1 SECTION 12-43.3-104, C.R.S., AND "RETAIL MARIJUANA" AS DEFINED IN  
2 SECTION 12-43.4-103, C.R.S.

3 (b) "OMRI" MEANS THE ORGANIC MATERIALS REVIEW INSTITUTE  
4 OR AN ANALOGOUS SUCCESSOR ORGANIZATION AS DETERMINED BY THE  
5 COMMISSIONER.

6 (c) (I) "ORGANIC" MEANS, AS FURTHER SPECIFIED IN RULES  
7 PROMULGATED PURSUANT TO THIS SECTION, THAT:

8 (A) THERE ARE NO BIOSOLIDS PRESENT IN POTTING SOILS OR THE  
9 LAND USED FOR CULTIVATION; AND

10 (B) THE USE OF PROHIBITED NONSYNTHETIC SUBSTANCES  
11 COMPLIES WITH 7 CFR 205.602.

12 (II) OMRI-APPROVED NUTRIENTS AND INPUTS ARE ALLOWED IN  
13 THE CULTIVATION AND TREATMENT OF ORGANIC CANNABIS.

14 (2) THE PROGRAM MUST:

15 (I) NOT ACCEPT APPLICATIONS FOR CERTIFICATION UNTIL THE  
16 DEPARTMENT HAS MADE ITS DETERMINATION REGARDING THE USE OF  
17 PESTICIDES ON CANNABIS PURSUANT TO SECTION 24-20-112 (1), C.R.S.,  
18 AND THE STATE LICENSING AUTHORITY HAS ESTABLISHED THE TESTING  
19 AND CERTIFICATION PROGRAM REQUIRED BY SECTION 12-43.4-202 (3) (a)

20 (IV) (A), C.R.S.;

21 (II) HAVE THE CAPACITY TO RUN INDEPENDENT VERIFICATION OF  
22 INPUTS NOT ALREADY REVIEWED BY OMRI OR THE DEPARTMENT;

23 (III) SUPPORT INDOOR AND OUTDOOR CULTIVATORS;

24 (IV) REQUIRE INSPECTIONS EACH YEAR OF AT LEAST FIFTEEN  
25 PERCENT OF THE LICENSED PREMISES THAT HAVE BEEN CERTIFIED  
26 ORGANIC;

27 (V) SPECIFY THAT LICENSED PREMISES THAT HAVE BEEN CERTIFIED

1 ORGANIC PURSUANT TO THIS PART 2 ARE NOT SUBJECT TO TESTING FOR  
2 PESTICIDES BY THE STATE LICENSING AUTHORITY OR ANY LOCAL ENTITY;

3 (VI) INCLUDE COMPREHENSIVE DOCUMENTATION OF PESTICIDES  
4 AND FERTILIZERS USED AND INSPECTION OF THE DOCUMENTATION BOTH  
5 ANNUALLY AND WHEN ANY CHANGES ARE MADE; AND

6 (VII) REQUIRE THE DEPARTMENT TO POST A LIST OF CERTIFIERS  
7 AND LICENSED PREMISES THAT ARE CURRENTLY CERTIFIED ON ITS  
8 WEBSITE.

9 (3) THE COMMISSIONER SHALL, AFTER CONSULTING WITH THE  
10 STATE LICENSING AUTHORITY SPECIFIED IN SECTION 12-43.3-201 (1),  
11 C.R.S., ADOPT RULES TO IMPLEMENT THIS PART 2. THE RULES MUST:

12 (a) SPECIFY THE EXPERIENCE OR CREDENTIALS AND THE  
13 RESOURCES THAT A PERSON MUST HAVE, AND THE EVIDENCE THAT THE  
14 PERSON MUST SUBMIT, TO BE QUALIFIED AS A CERTIFIER PURSUANT TO THIS  
15 PART 2, INCLUDING A PLAN THAT THE CERTIFIER WILL FOLLOW IN ISSUING  
16 CERTIFICATIONS;

17 (b) CONTAIN STANDARDS THAT CERTIFIERS MUST FOLLOW IN  
18 CERTIFYING CANNABIS PURSUANT TO THIS PART 2; ■■■

19 (c) REQUIRE EACH CERTIFIER TO SUBMIT AN ANNUAL REPORT TO  
20 THE DEPARTMENT THAT SUMMARIZES THE CERTIFIER'S ACTIVITIES IN THE  
21 PREVIOUS CALENDAR YEAR ALONG WITH OTHER INFORMATION SPECIFIED  
22 IN THE RULES;

23 (d) AUTHORIZE THE DEPARTMENT TO CONDUCT A PERIODIC OR  
24 RISK-BASED ON-SITE AUDIT OF A CERTIFIER THAT INCLUDES THE ABILITY  
25 TO ACCOMPANY A CERTIFIER WHILE THE CERTIFIER VISITS A LICENSED  
26 PREMISES OR LAND AREA AND WHILE THE CERTIFIER CONDUCTS THE  
27 NECESSARY ANALYSIS OF THE DATA COLLECTED DURING THE VISIT;

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

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

5 **35-11.5-203. Funding.** THE DEPARTMENT MAY SEEK, ACCEPT,  
6 AND EXPEND GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC  
7 SOURCES FOR THE PURPOSES OF THIS PART 2. THE DEPARTMENT SHALL  
8 TRANSMIT ALL MONEY RECEIVED PURSUANT TO THIS SECTION, INCLUDING  
9 MARIJUANA TAXES AS AUTHORIZED BY SECTION 39-28.8-501 (2) (b) (III),  
10 C.R.S., THAT THE GENERAL ASSEMBLY MAY APPROPRIATE FOR THE  
11 PURPOSES OF THIS PART 2, INCLUDING FOR START-UP COSTS, TO THE STATE  
12 TREASURER, WHO SHALL CREDIT THE MONEY TO THE PLANT HEALTH, PEST  
13 CONTROL, AND ENVIRONMENTAL PROTECTION CASH FUND CREATED IN  
14 SECTION 35-1-106.3.

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

17 **35-11.5-101. Short title.** THE SHORT TITLE of this ~~article shall be~~  
18 ~~known and may be cited as~~ PART 1 IS the "Organic Certification Act".

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

21 **35-11.5-102. Legislative declaration.** The general assembly  
22 declares that the purpose of this ~~article~~ PART 1 is to provide a means for  
23 the general public to recognize and purchase organically grown  
24 agricultural products and to assist Colorado producers in the marketing  
25 of such products. The general assembly further declares that uniformity  
26 in labeling will protect both consumers and producers by providing  
27 assurance of compliance with recognized production standards.

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

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

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

9           **35-11.5-114. Advisory board.** (1) Effective July 1, 2010, for the  
10 purpose of assisting the commissioner in formulating rules for carrying  
11 out the provisions of this ~~article~~ PART 1, there is hereby created an organic  
12 certification advisory board, to be composed of twelve members  
13 appointed by the commissioner, as follows: Nine ~~shall~~ MUST represent  
14 certified organic operations; one ~~shall~~ MUST be a consumer representing  
15 the general public; one ~~shall~~ MUST be a representative from the Colorado  
16 cooperative extension service; and one ~~shall~~ MUST be a representative  
17 from the Colorado agricultural experiment station. The nine advisory  
18 board members representing certified organic operations ~~shall~~ MUST  
19 represent the following four categories of organic certification, in  
20 proportion to the number of organic operations certified in each category:

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

23           **35-11.5-117. Conflict with federal law.** If the secretary or a court  
24 of competent jurisdiction determines that there is a conflict between this  
25 ~~article~~ PART 1 and any provisions of the federal "Organic Foods  
26 Production Act of 1990", 7 U.S.C. sec. 6501 et seq. or 7 CFR part 205,  
27 the provisions of the federal act and rules ~~shall~~ control, and the

1 commissioner shall perform the duties and discharge the obligations  
2 contained in the federal act. If such a determination is made, the  
3 commissioner shall submit a report to the general assembly explaining the  
4 conflict.

5 **SECTION 9. Severability.** Section 2-4-204, Colorado Revised  
6 Statutes, regarding severability, applies to this act.

7 **SECTION 10. Applicability.** This act applies to conduct  
8 occurring on or after the effective date of this act.

9 **SECTION 11. Safety clause.** The general assembly hereby finds,  
10 determines, and declares that this act is necessary for the immediate  
11 preservation of the public peace, health, and safety.