



Legislative
Council Staff

Nonpartisan Services for Colorado's Legislature

FISCAL NOTE

Drafting Number:	LLS 18-0814	Date:	March 2, 2018
Prime Sponsors:	Rep. Danielson Sen. Coram	Bill Status:	House Agriculture
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Bill Topic: MODERNIZATION OF THE NURSERY ACT

Summary of Fiscal Impact:	<input checked="" type="checkbox"/> State Revenue (<i>potential</i>)	<input type="checkbox"/> TABOR Refund
	<input checked="" type="checkbox"/> State Expenditure (<i>minimal</i>)	<input checked="" type="checkbox"/> Local Government (<i>potential</i>)
	<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill modifies the Colorado Nursery Act to expand definitions, prohibit the sale of noxious weeds, and to raise the cap on registration fees. The bill potentially increases state and local revenue and workload on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Summary of Legislation

This bill modifies the Colorado Nursery Act. Specifically, the bill:

- removes the inspection exemption for a nursery that sells stock grown and sold only in Colorado;
- raises the nursery stock business registration fee cap from \$100 to \$300 per year;
- authorizes the Commissioner of Agriculture to promulgate rules regarding the information to be included on labels attached to nursery stock;
- adds new definitions and modifies the definition of "nursery stock"; and
- prohibits the sale of noxious weeds or nursery stock infested with noxious weeds.

Background

Anyone who sells or advertises with the intent to sell nursery stock in the state of Colorado must be registered with the Colorado Department of Agriculture. As of February 2018, there are over 1,600 businesses registered under the Nursery Act. The current fee for registration is \$90 per year. Nurseries are charged \$30 per hour for inspections. The program was last subject to sunset review in 1995 after which the program was continued indefinitely by Senate Bill 96-043.

Comparable Crime

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of the existing crime that creates a new factual basis for the offense. This bill adds a new violation to existing penalties for the intentional sale of noxious weeds. Intentional violations of the Nursery Act are punishable as a Class 3 misdemeanor and subject to a fine of \$50 to \$750 and up to 6 months in jail, or both. There have been no convictions under the Nursery Act in the past three years, so the fiscal note assumes that few if any charges will be brought under the new violation.

State Revenue

Beginning in FY 2018-19, the bill may increase state revenue from fees and fines.

Fees and fines. While the bill increases the registration fee cap, current revenue is sufficient to meet the expenditures of the program, so the Department of Agriculture is not expected to increase the fees at this time. The Division of Plant Industry may have an increase in revenue from civil penalties based on the addition of a prohibited act related to noxious weeds. Intentional violations are subject to prosecution of a class 3 misdemeanor with a fine of \$50 to \$750. However, few if any such cases are expected.

State Expenditures

This bill will increase workload in the Department of Agriculture and may increase workload in the Judicial Department as described below.

Department of Agriculture. The Division of Plant Industry in the Department of Agriculture will have an increase in workload to update its rules based on the bill's provisions. The division may also have an increase in enforcement actions based on the addition of a prohibited act related to noxious weeds. The department does not require new appropriations.

Judicial Department. If an enforcement action cannot be resolved with the department, the Commissioner of Agriculture can move a matter to district court. To the extent that this happens, it will increase workload for the Judicial Department, but will not require an increase in appropriations.

Local Government Impact

Overall, this bill may increase local government revenue, workload, and costs as described below. The exact impact to a particular local government will vary depending on the number of offenses committed within its jurisdiction.

District attorneys. The bill may increase workload and costs for district attorneys to prosecute any new offenses under the bill.

County jails. Under current law, a court may sentence an offender to jail for a class 3 misdemeanor for a period of up to 6 months. Because the courts have the discretion of incarceration or imposing a fine, the precise impact at the local level cannot be determined. Estimated costs to house an offender in a county jail vary from \$53 to \$114 per day. For the current fiscal year, the state reimburses county jails at a daily rate of \$54.39 to house state inmates.

Denver County Court. The bill results in a potential increase in workload for the Denver County Court, managed and funded by the City and County of Denver. The court will try misdemeanor cases under the bill where a person intentionally sells noxious weeds. Probation services in the Denver County Courts may also experience a minimal increase in workload and revenue to supervise persons convicted under the bill within Denver County.

Effective Date

The bill takes effect August 8, 2018, if the General Assembly adjourns on May 9, 2018, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

Agriculture

Information Technology

Law