



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

FISCAL NOTE

Drafting Number: LLS 20-0481
Prime Sponsors: Rep. Kipp; Jaquez Lewis; Sen. Fields; Priola

Date: March 3, 2020
Bill Status: House Energy & Environment
Fiscal Analyst: Clare Pramuk | 303-866-2677; clare.pramuk@state.co.us

Bill Topic: PROTECT POLLINATORS THROUGH PESTICIDE REGULATION

- Summary of Fiscal Impact: State Revenue, State Expenditure, State Transfer, TABOR Refund, Local Government, Statutory Public Entity

The bill requires the Commissioner of Agriculture to adopt rules by March 1, 2021, to classify certain neonicotinoid and sulfoximine pesticides as restricted-use pesticides. This will increase state revenue and expenditures on an ongoing basis.

Appropriation Summary: For FY 2020-21, the bill requires an appropriation of \$133,834 to the Department of Agriculture.

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

Table 1
State Fiscal Impacts Under HB 20-1180

Table with 4 columns: Category, Sub-category, FY 2020-21, FY 2021-22. Rows include Revenue, Expenditures, Total, Total FTE, Transfers, and TABOR Refund.

Summary of Legislation

The bill requires the Commissioner of Agriculture to adopt rules by March 1, 2021, to classify certain neonicotinoid and sulfoximine pesticides as restricted-use pesticides (RUPs) with exceptions for their use as indoor pest control products, personal care products, and pet care products. If after consultation with the Pesticide Advisory Committee, the commissioner determines that another commercially available pesticide product is as or more effective than a neonicotinoid or sulfoximine pesticide, the commissioner may disallow these uses in favor of the other product. These rules will not apply to commercial applicators, registered public applicators, qualified supervisors, certified operators, and private applicators.

Background

The Pesticide Registration Program in the Colorado Department of Agriculture (CDA) registers all 14,000 pesticides sold in the state and licenses and inspects pesticide dealers for the sales of restricted use pesticides. The program currently registers 982 pesticide products that include the 8 active ingredients included in the bill and routinely inspects retail locations to ensure that the products on shelves are registered with the state, sold by allowable sellers, and are stored properly.

The CDA also maintains a state RUP list that includes pesticides restricted at the state level. To distribute RUPs, businesses must have a pesticide dealer license and maintain records that verify sales of RUPs are only made to licensed certified applicators. Businesses that sell only general use pesticides are not required to have a dealer license.

State Revenue

Assuming that this bill will be funded from fee increases, state revenue will increase by \$196,000 in FY 2020-21 and \$238,000 in FY 2021-22 to the Plant Health, Pest Control and Environmental Protection Fund in the CDA. Retail stores that carry pesticide products that become classified as RUPs, may register as a dealer in order to sell their remaining inventory. The fee is \$50 per year and is expected to be only a minimal increase in revenue. The bill may also result in an increase in penalties, but these are not identified as a revenue increase in the fiscal note.

Fee impact on pesticide product registrations. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only, actual fees will be set administratively by the CDA based on cash fund balance, estimated program costs, and the estimated number of licenses subject to the fee. Table 2 below identifies the fee impact of this bill.

Table 2
Fee Impact on Pesticide Product Registration

Fiscal Year	Type of Fee	Current Fee	Proposed Fee	Number Affected	Total Fee Impact
FY 2020-21	Pesticide Product Registration	\$205	\$219	14,000	\$196,000
FY 2021-22	Pesticide Product Registration	\$205	\$222	14,000	\$238,000

State Expenditures

This bill is expected to increase CDA expenditures by \$187,755 and 1.6 FTE in FY 2020-21 and \$224,543 and 2.0 FTE in FY 2021-22 from the Plant Health, Pest Control and Environmental Protection Fund. These costs are shown in Table 3 and explained below.

**Table 3
Expenditures Under HB 20-1180**

	FY 2020-21	FY 2021-22
Department of Agriculture		
Personal Services	\$105,310	\$140,413
Operating Expenses	\$2,160	\$2,700
Capital Outlay Costs	\$12,400	-
Education and Outreach	\$5,750	\$5,750
Travel and Training	\$8,214	\$9,351
Centrally Appropriated Costs*	\$53,921	\$66,329
Total Cost	\$187,755	\$224,543
Total FTE	1.6 FTE	2.0 FTE

* Centrally appropriated costs are not included in the bill's appropriation.

Colorado Department of Agriculture. The Pesticide Registration Program will add an inspector and compliance specialist to support implementation of the bill. The program currently inspects 500 retail stores per year. These inspections are estimated to require an additional two hours to complete given that the products subject to the bill will not be labeled as RUPs and that inspectors will be looking for eight active ingredients and whether the product qualifies for an exemption. The new inspector will have a leased vehicle from the Department of Personnel and Administration.

The compliance specialist will process violations identified by the inspectors, take complaints from the general public, and investigate and compile cases for enforcement actions. As new products are filed for review with the program, the compliance specialist will review registrations, check active ingredients, and determine whether products containing neonicotinoid and sulfoximine ingredients either fit under an exception or are identified as RUPs.

The fiscal note assumes that the new staff will come on board in October 2020 and require annual training. Costs for education and outreach to make retailers aware of the new requirements are included in each fiscal year.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$53,921 in FY 2020-21 and \$66,329 in FY 2021-22.

TABOR refund. The bill is expected to increase state General Fund obligations for TABOR refunds by \$196,000 in FY 2020-21 and \$238,000 in FY 2021-22. Under current law and the December 2019 Legislative Council Staff forecast, the bill will correspondingly increase the amount refunded to taxpayers via sales tax refunds made available on income tax returns for tax years 2021 and 2022, respectively. A forecast of state revenue subject to TABOR is not available beyond FY 2021-22.

Effective Date

The bill takes effect August 5, 2020, if the General Assembly adjourns on May 6, 2020, as scheduled, and no referendum petition is filed.

State Appropriations

For FY 2020-21, the bill requires an appropriation of \$133,834 and 1.6 FTE from the Plant Health, Pest Control and Environmental Protection Fund to the Department of Agriculture. Of this, the Department of Personnel and Administration requires \$4,013 in reappropriated funds.

State and Local Government Contacts

Agriculture

Information Technology

Law