

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 20-0815.01 Jery Payne x2157

SENATE BILL 20-101

SENATE SPONSORSHIP

Sonnenberg,

HOUSE SPONSORSHIP

(None),

Senate Committees

Agriculture & Natural Resources
Finance

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE PROCEDURAL REQUIREMENTS RESULTING FROM THE**
102 **INITIATION OF AN INVESTIGATION OF A PESTICIDE APPLICATOR.**

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://leg.colorado.gov>.)

Current law requires certain commercial pesticide applicators to be licensed or registered. The bill requires the commissioner of agriculture (commissioner) to notify such a regulated person within 24 hours after the commissioner or department of agriculture receives a complaint about the person. The notice must include the alleged facts and any statute or rule the person is alleged to have violated. If the notice is

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

not provided:

! The commissioner is prohibited from suspending or revoking the person's license or registration, or imposing civil penalties; and

! The person is immune from a criminal prosecution based on the facts alleged in the complaint.

The bill also requires the following proceedings to be brought within one year after the occurrence of the facts upon which they are based:

! A proceeding to discipline a licensee or registrant;

! A proceeding to impose civil penalties, not including failing to obtain the required license or registration; or

! A criminal prosecution, not including failing to obtain the required license or registration.

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

2 **SECTION 1.** In Colorado Revised Statutes, 35-10-120, **add** (4)

3 as follows:

4 **35-10-120. Enforcement.** (4) (a) EXCEPT AS PROVIDED IN
5 SUBSECTION (4)(c) OF THIS SECTION, WITHIN TWENTY-FOUR HOURS AFTER
6 THE COMMISSIONER OR THE DEPARTMENT IDENTIFIES A PERSON WHO IS
7 THE SUBJECT OF A COMPLAINT AND WHO IS LICENSED OR REGISTERED
8 UNDER THIS ARTICLE 10, THE COMMISSIONER SHALL NOTIFY THE PERSON
9 WHO IS THE SUBJECT OF THE COMPLAINT. THE NOTICE MUST INCLUDE THE
10 TEXT OF THE COMPLAINT.

11 (b) IF THE COMMISSIONER FAILS TO COMPLY WITH SUBSECTION
12 (4)(a) OF THIS SECTION:

13 (I) THE COMMISSIONER SHALL NOT:

14 (A) SUSPEND OR REVOKE, OR BRING A PROCEEDING TO SUSPEND OR
15 REVOKE, THE PERSON'S LICENSE OR REGISTRATION BASED ON THE FACTS
16 ALLEGED IN THE COMPLAINT; OR

17 (B) IMPOSE, OR BRING A PROCEEDING TO IMPOSE, A CIVIL PENALTY

1 BASED ON THE FACTS ALLEGED IN THE COMPLAINT; AND

2 (II) THE PERSON IS IMMUNE FROM A CRIMINAL PROSECUTION
3 UNDER SECTION 35-10-123 BASED ON THE FACTS ALLEGED IN THE
4 COMPLAINT.

5 (c) THIS SUBSECTION (4) DOES NOT APPLY TO COMPLAINTS
6 CONCERNING THE COMMERCIAL APPLICATION OF PESTICIDES ON A
7 MARIJUANA CROP.

8 **SECTION 2.** In Colorado Revised Statutes, 35-10-121, **add** (5)
9 and (6) as follows:

10 **35-10-121. Disciplinary actions - denial of license.** (5) THIS
11 SECTION IS SUBJECT TO SECTION 35-10-120 (4).

12 (6) NOTWITHSTANDING ARTICLE 80 OF TITLE 13, TO BRING
13 PROCEEDINGS TO IMPOSE DISCIPLINE, THE SUBJECT OF A COMPLAINT MUST
14 BE GIVEN THE NOTICE REQUIRED IN SECTION 24-4-104 (3) WITHIN ONE
15 YEAR AFTER A COMPLAINT IS RECEIVED OR INITIATED. THIS SUBSECTION
16 (6) DOES NOT APPLY TO COMPLAINTS CONCERNING THE COMMERCIAL
17 APPLICATION OF PESTICIDES ON A MARIJUANA CROP.

18 **SECTION 3.** In Colorado Revised Statutes, 35-10-122, **add** (5)
19 and (6) as follows:

20 **35-10-122. Civil penalties.** (5) THIS SECTION IS SUBJECT TO
21 SECTION 35-10-120 (4).

22 (6) NOTWITHSTANDING ARTICLE 80 OF TITLE 13, TO BRING
23 PROCEEDINGS TO IMPOSE CIVIL PENALTIES, THE SUBJECT OF A COMPLAINT
24 MUST BE GIVEN THE NOTICE REQUIRED IN SECTION 24-4-104 (3) WITHIN
25 ONE YEAR AFTER A COMPLAINT IS RECEIVED OR INITIATED. THIS
26 SUBSECTION (6) DOES NOT APPLY TO PROCEEDINGS BASED ON A VIOLATION
27 OF SECTION 35-10-117 (1)(a), (1)(b), OR (1)(c) OR BASED ON COMPLAINTS

1 CONCERNING THE COMMERCIAL APPLICATION OF PESTICIDES ON A
2 MARIJUANA CROP.

3 **SECTION 4.** In Colorado Revised Statutes, 35-10-123, **add** (4)
4 as follows:

5 **35-10-123. Criminal penalties.** (4) NOTWITHSTANDING ARTICLE
6 80 OF TITLE 13, A CRIMINAL PROSECUTION OF A VIOLATION OF THIS
7 SECTION MUST BE COMMENCED WITHIN ONE YEAR AFTER A COMPLAINT IS
8 RECEIVED OR INITIATED. THIS SUBSECTION (4) DOES NOT APPLY TO A
9 PROSECUTION BASED ON A VIOLATION OF SECTION 35-10-117 (1)(a),
10 (1)(b), OR (1)(c) OR BASED ON COMPLAINTS CONCERNING THE
11 COMMERCIAL APPLICATION OF PESTICIDES ON A MARIJUANA CROP.

12 **SECTION 5. Act subject to petition - effective date -**
13 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
14 the expiration of the ninety-day period after final adjournment of the
15 general assembly (August 5, 2020, if adjournment sine die is on May 6,
16 2020); except that, if a referendum petition is filed pursuant to section 1
17 (3) of article V of the state constitution against this act or an item, section,
18 or part of this act within such period, then the act, item, section, or part
19 will not take effect unless approved by the people at the general election
20 to be held in November 2020 and, in such case, will take effect on the
21 date of the official declaration of the vote thereon by the governor.

22 (2) This act applies to complaints made, investigations begun, or
23 offenses occurring on or after the applicable effective date of this act.