

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 23-0327.01 Jennifer Berman x3286

SENATE BILL 23-192

SENATE SPONSORSHIP

Priola and Roberts, Marchman, Pelton B., Pelton R., Simpson

HOUSE SPONSORSHIP

Kipp and McLachlan,

Senate Committees

Agriculture & Natural Resources

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CONTINUATION OF THE "PESTICIDE APPLICATORS'**
102 **ACT", AND, IN CONNECTION THEREWITH, IMPLEMENTING**
103 **RECOMMENDATIONS CONTAINED IN THE 2022 SUNSET REPORT**
104 **BY THE DEPARTMENT OF REGULATORY AGENCIES REGARDING**
105 **THE ACT.**

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/>.)

Sunset Process - Senate Agriculture and Natural Resources Committee. The bill implements some of the recommendations of the

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

department of regulatory agencies, as contained in the department's sunset review of the "Pesticide Applicators' Act" (act), as follows:

- **Sections 1 and 2** of the bill continue the act for 11 years, until September 1, 2034;
- **Section 3** updates the statutory definition of "use" to align with the federal definition adopted by the federal environmental protection agency;
- **Section 4** increases the maximum civil penalty for a violation of the act from \$1,000 to \$2,500 for the first violation, which results in the possibility of a maximum civil penalty of \$5,000 for a second violation;
- **Section 5** requires that money collected for civil penalties imposed under the act be transferred to the general fund;
- **Section 6** requires the commissioner of agriculture (commissioner) to publish and periodically update information on the department of agriculture's website about pesticide applicators' licensing and registration;
- **Section 7** requires the commissioner to establish an online complaint process;
- **Section 8** limits the number of terms that members of the advisory committee may serve to 2 terms, but allows a member representing the Colorado state university agricultural experiment station or extension service (CSU) or the Colorado department of public health and environment (CDPHE) to serve on the advisory committee for unlimited terms during the duration of the member's employment with CSU or CDPHE; and
- **Sections 9 to 11** place language in statutes governing local governments that mirrors the language in the act requiring a local government that adopts an ordinance or resolution about pesticides to submit information to the commissioner about the ordinance or resolution.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-34-104, **repeal**
3 (24)(a)(I); and **add** (35)(a)(V) as follows:

4 **24-34-104. General assembly review of regulatory agencies**
5 **and functions for repeal, continuation, or reestablishment - legislative**
6 **declaration - repeal.** (24) (a) The following agencies, functions, or both,
7 are scheduled for repeal on September 1, 2023:

1 (I) ~~The regulation by the commissioner of agriculture of the~~
2 ~~application of pesticides in accordance with article 10 of title 35, C.R.S.;~~

3 (35) (a) The following agencies, functions, or both, are scheduled
4 for repeal on September 1, 2034:

5 (V) THE REGULATION OF THE APPLICATION OF PESTICIDES BY THE
6 COMMISSIONER OF AGRICULTURE IN ACCORDANCE WITH ARTICLE 10 OF
7 TITLE 35.

8 **SECTION 2.** In Colorado Revised Statutes, **amend** 35-10-128 as
9 follows:

10 **35-10-128. Repeal of article - review of functions.** Effective
11 ~~September 1, 2023~~, This article 10 is repealed, ~~Prior to~~ EFFECTIVE
12 SEPTEMBER 1, 2034. BEFORE the repeal, THIS ARTICLE 10 IS SCHEDULED
13 FOR REVIEW IN ACCORDANCE WITH SECTION 24-34-104. AS PART OF ITS
14 REVIEW, the department of regulatory agencies shall ~~review the regulation~~
15 ~~by the commissioner of the application of pesticides pursuant to this~~
16 ~~article 10 as provided for in section 24-34-104, C.R.S., and shall report~~
17 on the extent of local regulation of pesticides pursuant to section
18 31-15-707 (1)(b) ~~C.R.S.~~, or under the police power of any political
19 subdivision of the state.

20 **SECTION 3.** In Colorado Revised Statutes, 35-10-103, **amend**
21 the introductory portion and (18) as follows:

22 **35-10-103. Definitions.** As used in this ~~article~~ ARTICLE 10, unless
23 the context otherwise requires:

24 (18) "Use" means: ~~all aspects of the handling of pesticides,~~
25 ~~including but not limited to the mixing, loading, application or~~
26 ~~administration, spill control, and disposal of a pesticide or its container.~~

27 (a) PRE-APPLICATION ACTIVITIES, INCLUDING:

- 1 (I) ARRANGING FOR THE APPLICATION OF THE PESTICIDE;
2 (II) MIXING AND LOADING THE PESTICIDE; AND
3 (III) MAKING NECESSARY PREPARATIONS FOR THE APPLICATION OF
4 THE PESTICIDE, INCLUDING:
5 (A) RESPONSIBILITIES RELATED TO WORKER NOTIFICATION;
6 (B) TRAINING OF WORKERS OR HANDLERS;
7 (C) PROVIDING DECONTAMINATION SUPPLIES;
8 (D) PROVIDING PESTICIDE SAFETY INFORMATION AND PESTICIDE
9 APPLICATION AND HAZARD INFORMATION;
10 (E) USING AND TAKING CARE OF PERSONAL PROTECTIVE
11 EQUIPMENT;
12 (F) PROVIDING EMERGENCY ASSISTANCE; AND
13 (G) MANAGING HEAT STRESS;
14 (b) APPLICATION OF THE PESTICIDE;
15 (c) POST-APPLICATION ACTIVITIES INTENDED TO REDUCE THE RISKS
16 OF ILLNESS AND INJURY RESULTING FROM HANDLERS' AND WORKERS'
17 OCCUPATIONAL EXPOSURES TO PESTICIDE RESIDUES DURING AND AFTER
18 THE RESTRICTED-ENTRY INTERVAL, AS THAT TERM IS DEFINED IN 40 CFR
19 170.305, INCLUDING:
20 (I) RESPONSIBILITIES RELATED TO WORKER NOTIFICATION;
21 (II) TRAINING OF WORKERS OR EARLY-ENTRY WORKERS;
22 (III) PROVIDING DECONTAMINATION SUPPLIES;
23 (IV) PROVIDING PESTICIDE SAFETY INFORMATION AND PESTICIDE
24 APPLICATION AND HAZARD INFORMATION;
25 (V) USING AND TAKING CARE OF PERSONAL PROTECTIVE
26 EQUIPMENT;
27 (VI) PROVIDING EMERGENCY ASSISTANCE; AND

- 1 (VII) MANAGING HEAT STRESS; AND
2 (d) OTHER PESTICIDE-RELATED ACTIVITIES, INCLUDING:
3 (I) TRANSPORTING OR STORING PESTICIDES THAT HAVE BEEN
4 OPENED;
5 (II) CLEANING EQUIPMENT; AND
6 (III) DISPOSING OF EXCESS PESTICIDES, SPRAY MIX, EQUIPMENT
7 WASH WATERS, PESTICIDE CONTAINERS, AND OTHER
8 PESTICIDE-CONTAINING MATERIALS.

9 **SECTION 4.** In Colorado Revised Statutes, 35-10-122, **amend**
10 (1) as follows:

11 **35-10-122. Civil penalties.** (1) Any person who violates ~~any~~
12 ~~provision of this article or any rule or regulation~~ THIS ARTICLE 10 OR ANY
13 RULE adopted pursuant to this ~~article~~ ARTICLE 10 is subject to a civil
14 penalty, as determined by the commissioner or a court of competent
15 jurisdiction. The maximum penalty ~~shall not exceed one~~ IS TWO thousand
16 FIVE HUNDRED dollars per violation; except that ~~such~~ THE penalty may be
17 doubled if it is determined, after notice and an opportunity for hearing,
18 that the person has violated the provision OR rule ~~or regulation~~ for the
19 second time.

20 **SECTION 5.** In Colorado Revised Statutes, **amend** 35-10-126 as
21 follows:

22 **35-10-126. Transfer of money to plant health, pest control,**
23 **and environmental protection cash fund - fees.** (1) All fees ~~and civil~~
24 ~~fin~~es collected pursuant to this ~~article~~ ARTICLE 10 shall be transmitted to
25 the state treasurer, who shall credit the ~~same~~ MONEY to the plant health,
26 pest control, and environmental protection cash fund created in section
27 35-1-106.3.

1 (2) ALL CIVIL PENALTIES COLLECTED PURSUANT TO SECTION
2 35-10-122 SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL
3 CREDIT THE MONEY TO THE GENERAL FUND.

4 **SECTION 6.** In Colorado Revised Statutes, 35-10-124, **add** (3)
5 as follows:

6 **35-10-124. Information - use and handling of pesticides -**
7 **enforcement action - credentialing information - definition.**

8 (3) (a) THE COMMISSIONER SHALL:

9 (I) PUBLISH AND PERIODICALLY UPDATE INFORMATION ON THE
10 DEPARTMENT'S WEBSITE INFORMING CONSUMERS ABOUT WHICH PESTICIDE
11 APPLICATORS ARE CREDENTIALLED IN COMPLIANCE WITH THIS ARTICLE 10;
12 AND

13 (II) PROVIDE THE CREDENTIALING INFORMATION SPECIFIED IN
14 SUBSECTION (3)(a)(I) OF THIS SECTION IN A MANNER THAT MEMBERS OF
15 THE PUBLIC MAY EASILY ACCESS AND SEARCH ON THE WEBSITE.

16 (b) AS USED IN THIS SUBSECTION (3), "CREDENTIALLED" MEANS
17 HAVING A VALID LICENSE OR REGISTRATION ISSUED PURSUANT TO THIS
18 ARTICLE 10.

19 **SECTION 7.** In Colorado Revised Statutes, 35-10-118, **add** (9.7)
20 as follows:

21 **35-10-118. Powers and duties of the commissioner.**
22 (9.7) (a) THE COMMISSIONER SHALL:

23 (I) DEVELOP AN ONLINE COMPLAINT PROCESS ON THE
24 DEPARTMENT'S WEBSITE THAT ALLOWS MEMBERS OF THE PUBLIC TO FILL
25 OUT AND SUBMIT A COMPLAINT FORM ONLINE; AND

26 (II) PROVIDE THE COMPLAINT FORM IN A MANNER THAT IS:

27 (A) EASILY ACCESSIBLE ON THE DEPARTMENT'S WEBSITE;

- 1 (B) USER-FRIENDLY;
- 2 (C) PRINTABLE; AND
- 3 (D) ACCOMPANIED BY EASY-TO-FOLLOW INSTRUCTIONS.
- 4 (b) THE COMPLAINT FORM OR THE INSTRUCTIONS ACCOMPANYING
- 5 THE COMPLAINT FORM MUST INCLUDE THE DEPARTMENT'S MAILING
- 6 ADDRESS SO THAT A MEMBER OF THE PUBLIC MAY CHOOSE TO PRINT AND
- 7 SUBMIT THE COMPLAINT FORM BY MAIL INSTEAD OF ELECTRONICALLY.

8 **SECTION 8.** In Colorado Revised Statutes, 35-10-125, **amend**
9 (4) as follows:

10 **35-10-125. Advisory committee.** (4) ~~The appointment of the~~
11 ~~formulator, the commercial applicator engaged in the control of~~
12 ~~agricultural crop pests, and one of the representatives from a registered~~
13 ~~public applicator shall expire on January 1, 1991; and the appointment of~~
14 ~~the commercial applicator engaged in the control of turf or ornamental~~
15 ~~pests, the representative from the general public who is actively engaged~~
16 ~~in agricultural production, the qualified supervisor employed by a~~
17 ~~registered limited commercial applicator, and the representative from the~~
18 ~~department of health shall expire on January 1, 1992. The initial~~
19 ~~appointment of all other members shall be for a term of three years.~~
20 ~~Thereafter, the appointment of~~ Each member ~~to~~ OF the committee ~~shall be~~
21 ~~for~~ SERVES a term of three years AND MAY SERVE A MAXIMUM OF TWO
22 CONSECUTIVE TERMS ON THE COMMITTEE; EXCEPT THAT A COMMITTEE
23 MEMBER APPOINTED PURSUANT TO SUBSECTION (2)(g) OR (2)(h) OF THIS
24 SECTION MAY SERVE UNLIMITED TERMS FOR THE DURATION OF THE
25 COMMITTEE MEMBER'S EMPLOYMENT BY THE AGENCY THAT THE
26 COMMITTEE MEMBER REPRESENTS.

27 **SECTION 9.** In Colorado Revised Statutes, **add** 29-20-110 as

1 follows:

2 **29-20-110. Local government regulation of pesticide use -**
3 **definitions.** (1) A LOCAL GOVERNMENT THAT ADOPTS AN ORDINANCE OR
4 RESOLUTION CONCERNING PESTICIDES, INCLUDING AN ORDINANCE OR
5 RESOLUTION ADOPTED PURSUANT TO SECTION 31-15-707 (1)(b) THAT
6 AFFECTS PESTICIDE USE, SHALL FILE THE FOLLOWING WITH THE
7 COMMISSIONER OF AGRICULTURE IN ACCORDANCE WITH SECTION
8 35-10-112.5 (4):

9 (a) A CERTIFIED COPY OF THE ORDINANCE OR RESOLUTION; AND

10 (b) A MAP OR LEGAL DESCRIPTION OF THE GEOGRAPHIC AREA THAT
11 THE LOCAL GOVERNMENT INTENDS TO REGULATE UNDER THE ORDINANCE
12 OR RESOLUTION.

13 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
14 REQUIRES:

15 (a) "COMMISSIONER OF AGRICULTURE" MEANS THE COMMISSIONER
16 OF THE DEPARTMENT OF AGRICULTURE APPOINTED PURSUANT TO SECTION
17 35-1-107 (1) OR THE COMMISSIONER'S DESIGNEE.

18 (b) "PESTICIDE" HAS THE MEANING SET FORTH IN SECTION
19 35-10-103 (10).

20 **SECTION 10.** In Colorado Revised Statutes, **add** 30-11-131 as
21 follows:

22 **30-11-131. Regulation of pesticide use - definitions.** (1) A
23 BOARD OF COUNTY COMMISSIONERS THAT ADOPTS AN ORDINANCE OR
24 RESOLUTION CONCERNING PESTICIDES SHALL FILE THE FOLLOWING WITH
25 THE COMMISSIONER OF AGRICULTURE IN ACCORDANCE WITH SECTION
26 35-10-112.5 (4):

27 (a) A CERTIFIED COPY OF THE ORDINANCE OR RESOLUTION; AND

1 (b) A MAP OR LEGAL DESCRIPTION OF THE GEOGRAPHIC AREA THAT
2 THE BOARD OF COUNTY COMMISSIONERS INTENDS TO REGULATE UNDER
3 THE ORDINANCE OR RESOLUTION.

4 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
5 REQUIRES:

6 (a) "COMMISSIONER OF AGRICULTURE" MEANS THE COMMISSIONER
7 OF THE DEPARTMENT OF AGRICULTURE APPOINTED PURSUANT TO SECTION
8 35-1-107 (1) OR THE COMMISSIONER'S DESIGNEE.

9 (b) "PESTICIDE" HAS THE MEANING SET FORTH IN SECTION
10 35-10-103 (10).

11 **SECTION 11.** In Colorado Revised Statutes, **add 31-15-905** as
12 follows:

13 **31-15-905. Regulation of pesticide use - definitions.** (1) THE
14 GOVERNING BODY OF A MUNICIPALITY THAT ADOPTS AN ORDINANCE OR
15 RESOLUTION CONCERNING PESTICIDES, INCLUDING AN ORDINANCE OR
16 RESOLUTION ADOPTED PURSUANT TO SECTION 31-15-707 (1)(b) THAT
17 AFFECTS PESTICIDE USE, SHALL FILE THE FOLLOWING WITH THE
18 COMMISSIONER OF AGRICULTURE IN ACCORDANCE WITH SECTION
19 35-10-112.5 (4):

20 (a) A CERTIFIED COPY OF THE ORDINANCE OR RESOLUTION; AND

21 (b) A MAP OR LEGAL DESCRIPTION OF THE GEOGRAPHIC AREA THAT
22 THE GOVERNING BODY INTENDS TO REGULATE UNDER THE ORDINANCE OR
23 RESOLUTION.

24 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
25 REQUIRES:

26 (a) "COMMISSIONER OF AGRICULTURE" MEANS THE COMMISSIONER
27 OF THE DEPARTMENT OF AGRICULTURE APPOINTED PURSUANT TO SECTION

1 35-1-107 (1) OR THE COMMISSIONER'S DESIGNEE.

2 (b) "PESTICIDE" HAS THE MEANING SET FORTH IN SECTION
3 35-10-103 (10).

4 **SECTION 12. Act subject to petition - effective date.** This act
5 takes effect at 12:01 a.m. on the day following the expiration of the
6 ninety-day period after final adjournment of the general assembly; except
7 that, if a referendum petition is filed pursuant to section 1 (3) of article V
8 of the state constitution against this act or an item, section, or part of this
9 act within such period, then the act, item, section, or part will not take
10 effect unless approved by the people at the general election to be held in
11 November 2024 and, in such case, will take effect on the date of the
12 official declaration of the vote thereon by the governor.