

CHAPTER 21

AGRICULTURE

SENATE BILL 24-031

BY SENATOR(S) Roberts, Bridges, Exum, Fields, Marchman, Priola;
 also REPRESENTATIVE(S) Lukens and McLachlan, McCormick, Amabile, Bird, Duran, Froelich, Joseph, Kipp, Mabrey,
 Marshall, Mauro, Parenti, Snyder, McCluskie.

AN ACT

**CONCERNING LOCAL AUTHORITY TO ENFORCE VIOLATIONS OF LAWS RELATED TO THE PREVENTION
 OF NOXIOUS WEEDS.**

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

SECTION 1. In Colorado Revised Statutes, 35-5.5-105, **amend** (1) as follows:

35-5.5-105. Noxious weed management - powers of county commissioners.

(1) The board of county commissioners of each county in the state shall adopt a noxious weed management plan for all of the unincorporated lands within the county. ~~Such~~ A NOXIOUS WEED MANAGEMENT plan ~~shall~~ MUST include all of the requirements and duties imposed by this ~~article~~ ARTICLE 5.5. Guidelines may be included that address no pesticide noxious weed management plans. In addition to and not in limitation of the powers delegated to boards of county commissioners in section 30-11-107, ~~and~~ article 15 of title 30, ~~C.R.S.~~, article 5 of this ~~title~~ TITLE 35, and elsewhere as provided by law, the board of county commissioners may adopt and provide for the enforcement, INCLUDING THE ASSESSMENT AND COLLECTION OF FINES, of ~~such~~ ordinances, resolutions, rules, and other regulations as may be necessary and proper to enforce ~~said~~ A NOXIOUS WEED MANAGEMENT plan and otherwise provide for the management of noxious weeds within the county, subject to the following limitation: ~~No~~ A county ordinance, rule, resolution, other regulation, or exercise of power pursuant to this ~~article~~ ~~shall~~ ARTICLE 5.5 DOES NOT apply within the corporate limits of any incorporated municipality ~~nor~~ OR to any municipal service, function, facility, or property, whether owned by or leased to the incorporated municipality outside the municipal boundaries, unless the county and municipality agree otherwise pursuant to part 2 of article 1 of title 29 ~~C.R.S.~~, or article 20 of title 29. ~~C.R.S.~~

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

SECTION 2. In Colorado Revised Statutes, **add** 35-5.5-118.5 as follows:

35-5.5-118.5. Local enforcement - civil infraction - civil penalty - injunction - definition. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "VIOLATION" MEANS A VIOLATION OF THIS ARTICLE 5.5, ANY RULE PROMULGATED PURSUANT TO THIS ARTICLE 5.5, OR ANY COUNTY ORDINANCE, RESOLUTION, RULE, OR OTHER REGULATION IMPLEMENTING THIS ARTICLE 5.5.

(2) (a) IN ADDITION TO THE ENFORCEMENT AUTHORITY OF THE COMMISSIONER PURSUANT TO SECTION 35-5.5-118, A PERSON WHO VIOLATES THIS ARTICLE 5.5, ANY RULE PROMULGATED PURSUANT TO THIS ARTICLE 5.5, OR ANY COUNTY ORDINANCE, RESOLUTION, RULE, OR OTHER REGULATION IMPLEMENTING THIS ARTICLE 5.5 COMMITS A CIVIL INFRACTION. THE COUNTY ATTORNEY FOR THE COUNTY WHERE THE VIOLATION OCCURS SHALL ENFORCE CIVIL INFRACTIONS PURSUANT TO THIS SUBSECTION (2)(a) BY PROSECUTION. EACH DAY THAT A VIOLATION CONTINUES IS A SEPARATE OFFENSE.

(b) AS USED IN THIS SUBSECTION (2), "PERSON" DOES NOT INCLUDE A STATE AGENCY.

(3) (a) (I) IN ADDITION TO THE ENFORCEMENT AUTHORITY OF THE COMMISSIONER PURSUANT TO SECTION 35-5.5-118 AND THE COUNTY ATTORNEY PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION, A COUNTY COURT, UPON A FINDING BY A PREPONDERANCE OF THE EVIDENCE THAT A VIOLATION OCCURRED OR IS OCCURRING, SHALL ORDER THE VIOLATOR TO PAY A CIVIL PENALTY OF NO LESS THAN FIVE HUNDRED DOLLARS AND NO MORE THAN ONE THOUSAND DOLLARS.

(II) NOTWITHSTANDING SUBSECTION (3)(a)(I) OF THIS SECTION, EACH DAY THAT A VIOLATION CONTINUES IS A SEPARATE OFFENSE, AND A VIOLATOR IS SUBJECT TO A CONTINUING CIVIL PENALTY OF NO MORE THAN ONE HUNDRED DOLLARS FOR EACH DAY THAT THE VIOLATION CONTINUES.

(b) (I) UNTIL THE FILING WITH THE COUNTY COURT OF A RECEIPT ISSUED BY THE COUNTY TREASURER SHOWING PAYMENT IN FULL OF A CIVIL PENALTY ORDERED PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION OR THE GRANTING OF A MOTION OF THE COUNTY ATTORNEY INDICATING THAT THE MATTER HAS BEEN RESOLVED PURSUANT TO SUBSECTION (3)(c)(I) OF THIS SECTION, THE CIVIL PENALTY, AS OF THE DATE OF THE RECORDING OF THE CIVIL PENALTY WITH THE CLERK AND RECORDER OF THE COUNTY WHERE THE VIOLATION OCCURRED OR IS OCCURRING, IS A LIEN AGAINST THE PROPERTY WHERE THE VIOLATION OCCURRED OR IS OCCURRING.

(II) IF THE CIVIL PENALTY IS NOT PAID WITHIN THIRTY DAYS AFTER THE ORDER OF THE COUNTY COURT, THE BOARD OF COUNTY COMMISSIONERS MAY CERTIFY THE CIVIL PENALTY TO THE COUNTY TREASURER, WHO SHALL COLLECT THE CIVIL PENALTY AND A TEN PERCENT ADDITIONAL PENALTY FOR THE COST OF COLLECTION IN THE SAME MANNER AS OTHER TAXES ARE COLLECTED.

(III) ANY STATE LAWS APPLICABLE TO THE ASSESSMENT AND COLLECTION OF GENERAL TAXES, INCLUDING THE LAWS FOR THE SALE AND REDEMPTION OF PROPERTY FOR TAXES, APPLY TO THE COLLECTION OF CIVIL PENALTIES PURSUANT TO SUBSECTION (3)(b)(II) OF THIS SECTION.

(c) (I) UPON THE FILING WITH THE COUNTY COURT OF A RECEIPT ISSUED BY THE COUNTY TREASURER SHOWING PAYMENT IN FULL OF A CIVIL PENALTY ORDERED PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION, THE COUNTY COURT SHALL DISMISS THE ACTION AND ISSUE A SATISFACTION IN FULL OF THE COUNTY COURT'S JUDGMENT. THE COUNTY COURT MAY ALSO DISMISS THE ACTION UPON A MOTION OF THE COUNTY ATTORNEY INDICATING THAT THE MATTER HAS BEEN RESOLVED.

(II) IF THE EVENTS DESCRIBED IN SUBSECTION (3)(c)(I) OF THIS SECTION DO NOT OCCUR, THE ACTION CONTINUES. IF A COUNTY ATTORNEY FILES A MOTION IN COUNTY COURT AND PRESENTS PROOF THAT THE VIOLATION HAS NOT BEEN CURED, REMOVED, OR CORRECTED, THE COUNTY COURT SHALL ORDER AN ADDITIONAL CIVIL PENALTY IN AN AMOUNT CONSISTENT WITH SUBSECTION (3)(a) OF THIS SECTION.

(4) THE COUNTY ATTORNEY MAY PETITION THE DISTRICT COURT FOR THE JUDICIAL DISTRICT WHERE A VIOLATION OCCURRED TO INSTITUTE AN INJUNCTION, MANDAMUS, ABATEMENT, OR OTHER APPROPRIATE ACTION OR PROCEEDING TO PREVENT, ENJOIN, ABATE, OR REMOVE AN ONGOING VIOLATION.

(5) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, THE BOARD OF COUNTY COMMISSIONERS IN THE COUNTY WHERE A VIOLATION OCCURRED OR IS OCCURRING MAY APPOINT THE DISTRICT ATTORNEY FOR THE JUDICIAL DISTRICT WHERE A VIOLATION OCCURRED OR IS OCCURRING TO CONDUCT AN ENFORCEMENT ACTION PURSUANT TO THIS SECTION:

(a) IF THERE IS NO COUNTY ATTORNEY FOR THE COUNTY WHERE THE VIOLATION OCCURRED; OR

(b) IN ANY OTHER CIRCUMSTANCE THAT THE BOARD OF COUNTY COMMISSIONERS DEEMS APPROPRIATE.

(6) EXCEPT FOR ANY SURCHARGES OR COURT COSTS COLLECTED BY A COURT, ANY FINES, FEES, OR COSTS COLLECTED PURSUANT TO THIS SECTION MUST BE TRANSMITTED TO THE COUNTY TREASURER OF THE COUNTY WHERE THE VIOLATION OCCURRED.

(7) NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, IT IS WITHIN THE DISCRETION OF A COUNTY ATTORNEY OR DISTRICT ATTORNEY, AS APPLICABLE, TO DETERMINE WHETHER TO PURSUE AN ENFORCEMENT ACTION PURSUANT TO THIS SECTION OR TO PURSUE ANOTHER REMEDY AVAILABLE UNDER THE LAW.

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

(2) This act applies to conduct occurring on or after the applicable effective date of this act.

Approved: March 12, 2024