

**First Regular Session
Seventieth General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 15-0186.01 Thomas Morris x4218

SENATE BILL 15-119

SENATE SPONSORSHIP

Sonnenberg, Baumgardner

HOUSE SPONSORSHIP

Becker K.,

Senate Committees

Agriculture, Natural Resources, & Energy
Finance

House Committees

Agriculture, Livestock, & Natural Resources

A BILL FOR AN ACT

101 **CONCERNING CONTINUATION OF THE REGULATION OF PESTICIDE**
102 **APPLICATORS BY THE DEPARTMENT OF AGRICULTURE, AND, IN**
103 **CONNECTION THEREWITH, IMPLEMENTING THE**
104 **RECOMMENDATIONS OF THE 2014 SUNSET REPORT BY THE**
105 **DEPARTMENT OF REGULATORY AGENCIES.**

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://www.leg.state.co.us/billsummaries>.)

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

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

HOUSE
Amended 2nd Reading
April 23, 2015

SENATE
3rd Reading Unamended
February 19, 2015

SENATE
2nd Reading Unamended
February 18, 2015

sunset review and report on the regulation of pesticide applicators by the department of agriculture by:

- ! Extending the repeal date of the regulatory program until September 1, 2024 (**sections 1 and 2** of the bill);
- ! Adding a representative of the agricultural sector affected by the federal pesticide worker protection standard and a representative of organic farmers to the pesticide advisory committee (**section 3**);
- ! Reducing the period for which private applicators must maintain records from 3 years to 2 years in keeping with applicable federal requirements (**section 4**); and
- ! Measuring the deadline for licensing applications by when the application is received rather than by when it is postmarked (**sections 5 and 6**).

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 (46) (i); and **add** (53.5) (h) as follows:

4 **24-34-104. General assembly review of regulatory agencies**
5 **and functions for termination, continuation, or reestablishment.**

6 (46) The following agencies, functions, or both shall terminate on July
7 1, 2015:

8 (i) ~~The regulation of commercial applicators, qualified~~
9 ~~supervisors, certified operators, and private applicators by the~~
10 ~~commissioner of agriculture in accordance with article 10 of title 35,~~
11 ~~C.R.S.;~~

12 (53.5) The following agencies, functions, or both, terminate on
13 September 1, 2022:

14 (h) THE REGULATION BY THE COMMISSIONER OF AGRICULTURE OF
15 THE APPLICATION OF PESTICIDES PURSUANT TO ARTICLE 10 OF TITLE 35,
16 C.R.S.

17 **SECTION 2.** In Colorado Revised Statutes, **amend** 35-10-128 as

1 follows:

2 **35-10-128. Repeal of article - termination of functions.**

3 Effective ~~July 1, 2015~~ SEPTEMBER 1, 2022, this article is repealed. ~~The~~
4 ~~regulatory functions of the commissioner of agriculture shall also~~
5 ~~terminate on July 1, 2015.~~ Prior to such THE repeal, ~~and termination, the~~
6 ~~regulatory functions shall be reviewed~~ THE DEPARTMENT OF REGULATORY
7 AGENCIES SHALL REVIEW THE REGULATION BY THE COMMISSIONER OF THE
8 APPLICATION OF PESTICIDES PURSUANT TO THIS ARTICLE as provided for
9 in section 24-34-104, C.R.S., and ~~as part of such review, the department~~
10 ~~of regulatory agencies~~ shall report on the extent of local regulation of
11 pesticides pursuant to section 31-15-707 (1) (b), C.R.S., or under the
12 police power of any political subdivision of the state.

13

14 **SECTION 3.** In Colorado Revised Statutes, **amend** 35-10-111 as
15 follows:

16 **35-10-111. Record-keeping requirements.** (1) Each
17 commercial, registered limited commercial, licensed private, and
18 registered public applicator shall keep and maintain records of each
19 pesticide application in the form and manner designated by the
20 commissioner. ~~Such~~ THE APPLICATOR SHALL RETAIN THE records ~~shall be~~
21 ~~retained~~ for a ~~period~~ of three years after the date of the pesticide
22 application; ~~and~~ EXCEPT THAT THE RECORD RETENTION PERIOD FOR
23 PRIVATE APPLICATORS IS TWO YEARS.

24 (2) THE RECORDS shall be kept AS FOLLOWS:

25 (a) FOR A COMMERCIAL APPLICATOR, at the address specified in
26 the application for the commercial applicator's business license; ~~or, in the~~
27 case of

1 (b) FOR A registered limited commercial ~~and~~ OR registered public
2 ~~applicators~~ APPLICATOR, at the address specified in the registry authorized
3 in section 35-10-109; or ~~in the case of~~

4 (c) FOR A licensed private ~~applicators~~, APPLICATOR, at the address
5 of record on file with the commissioner.

6 **SECTION 4.** In Colorado Revised Statutes, 35-10-107, **amend**
7 (2) and (3) as follows:

8 **35-10-107. Commercial applicator business license - renewals.**

9 (2) If the application for renewal is not ~~postmarked~~ RECEIVED on or
10 before the expiration date of the license, a penalty fee of ten percent of
11 the renewal fee shall be assessed and added to the renewal fee. No license
12 shall be renewed until the total fee is paid.

13 (3) If the application and fee for renewal are not ~~postmarked~~
14 RECEIVED on or before the thirtieth day following the expiration date of
15 the license, the business license shall not be renewed, and the commercial
16 applicator shall apply for a new license.

17 **SECTION 5.** In Colorado Revised Statutes, 35-10-116, **amend**
18 (5) as follows:

19 **35-10-116. Qualified supervisor and certified operator licenses**

20 **- expiration - renewal of licenses - reinstatement.** (5) If the application
21 and fee for renewal of any license issued pursuant to section 35-10-115
22 are not ~~postmarked~~ RECEIVED on or before the thirtieth day following the
23 expiration date of the license, the license shall not be renewed and the
24 licensee shall apply for a new license.

25 **SECTION 6.** In Colorado Revised Statutes, **amend** 35-10-109 as
26 follows:

27 **35-10-109. Limited commercial and public applicators - no**

1 **business license required - training -rules.** (1) ~~No~~ A business license
2 ~~shall be~~ IS NOT required for limited commercial or public applicators;
3 except that the commissioner shall require such applicators that apply
4 restricted-use pesticides to register with the department. The
5 commissioner shall determine the form and manner of the registration, as
6 well as the amount of any administrative fees associated with ~~such~~ THE
7 registration. A limited commercial or public applicator may register
8 voluntarily, regardless of whether ~~such~~ THE applicator applies
9 restricted-use pesticides, by submitting a request in the form and manner
10 specified by the commissioner.

11 (2) (a) A PUBLIC APPLICATOR SHALL NOT ALLOW A PERSON
12 WORKING FOR IT TO APPLY A GENERAL-USE PESTICIDE THAT HAS BEEN
13 LISTED BY THE COMMISSIONER BY RULE UNLESS THE PERSON HAS BEEN
14 TRAINED IN THE CORE ELEMENTS OF PESTICIDE USE AS REQUIRED BY THE
15 COMMISSIONER BY RULE. THE PUBLIC APPLICATOR SHALL MAINTAIN A
16 RECORD OF THE TRAINING AS SPECIFIED BY THE COMMISSIONER BY RULE.

17 (b) THE OWNER OR DESIGNEE OF A LIMITED COMMERCIAL
18 APPLICATOR MUST BE TRAINED IN THE CORE ELEMENTS OF PESTICIDE USE
19 AS REQUIRED BY THE COMMISSIONER BY RULE BEFORE APPLYING A
20 GENERAL-USE PESTICIDE THAT HAS BEEN LISTED BY THE COMMISSIONER
21 BY RULE. THE LIMITED COMMERCIAL APPLICATOR SHALL MAINTAIN A
22 RECORD OF THE TRAINING AS SPECIFIED BY THE COMMISSIONER BY RULE.

23 **SECTION 7.** In Colorado Revised Statutes, **amend** 35-10-124 as
24 follows:

25 **35-10-124. Information.** (1) The commissioner, in cooperation
26 with other agencies of this state or the federal government, may publish
27 information pertaining to the use and handling of pesticides and conduct

1 workshops for the purpose of informing the pesticide applicators of new
2 developments in the field of pesticides.

3 (2) THE COMMISSIONER SHALL PROVIDE INTERNET ACCESS TO
4 FINALIZED ENFORCEMENT ACTION INFORMATION TO THE GENERAL PUBLIC
5 CONSISTING OF, AT A MINIMUM, THE NAME OF THE VIOLATOR, DATE OF THE
6 ACTION, CITY OR COUNTY IN WHICH THE VIOLATION OCCURRED, NEAREST
7 MAJOR INTERSECTION OF ROADS TO WHERE THE VIOLATION OCCURRED,
8 AND FINAL ENFORCEMENT DISPOSITION. THE COMMISSIONER SHALL
9 PUBLISH THE INFORMATION IN A FORM AND MANNER DESIGNATED BY THE
10 COMMISSIONER WITHIN THIRTY DAYS AFTER THE FINAL DISPOSITION.

11 **SECTION 8.** In Colorado Revised Statutes, 35-10-125, **amend**
12 (1), (2) introductory portion, (2) (f), (2) (h), and (2) (i); and **add** (2) (j),
13 (2) (k), and (2) (l) as follows:

14 **35-10-125. Advisory committee - sunset review.** (1) The state
15 agricultural commission created by section 35-1-105 shall appoint an
16 advisory committee of ~~eleven~~ FIFTEEN members to ADVISE THE
17 COMMISSIONER ON AGRICULTURAL, HUMAN HEALTH, ENVIRONMENTAL,
18 WILDLIFE, WORKER SAFETY, AND OTHER MATTERS REGARDING THE USE OF
19 PESTICIDES IN COLORADO AND TO assist the commissioner in
20 promulgating rules ~~and regulations~~ to carry out ~~the provisions of this~~
21 article.

22 (2) The committee ~~shall consist~~ IS A STATE PUBLIC BODY, AS THAT
23 TERM IS DEFINED IN SECTION 24-6-402 (1) (d), C.R.S., AND CONSISTS OF
24 the following members:

25 (f) Two representatives from public applicators registered under
26 this article, each of whom ~~shall~~ MUST be an elected official or a designee
27 thereof, AND AT LEAST ONE OF WHOM MUST BE TRAINED IN INTEGRATED

- 1 PEST MANAGEMENT;
- 2 (h) ~~A representative~~ TWO REPRESENTATIVES from the Colorado
3 department of public health and environment, ~~and~~ BOTH OF WHOM HAVE
4 EXPERTISE IN EITHER:
- 5 (I) HUMAN HEALTH WITH RESPECT TO TOXICOLOGY, PEST-RELATED
6 DISEASE VECTORS, AND EPIDEMIOLOGY;
- 7 (II) HAZARDOUS MATERIALS AND FOOD SAFETY;
- 8 (III) AIR POLLUTION AND HAZARDOUS PESTICIDE AIR POLLUTANTS;
- 9 OR
- 10 (IV) WATER POLLUTION AND AGRICULTURAL ACTIVITIES;
- 11 (i) Two representatives from the general public, one of whom is
12 actively engaged in URBAN agricultural production;
- 13 (j) A MEMBER OF A STATE OR NATIONAL APIARY OR BEEKEEPER
14 ASSOCIATION WHO IS CURRENTLY ACTIVE IN APIARY MANAGEMENT AND
15 WHO IS EITHER AN ELECTED OFFICIAL OF OR A DESIGNEE OF THE
16 ASSOCIATION;
- 17 (k) A REPRESENTATIVE FROM THE AGRICULTURAL SECTOR WHO IS
18 A WORKER, AS THAT TERM IS DEFINED IN 40 CFR 170.3; AND
- 19 (l) A REPRESENTATIVE FROM THE AGRICULTURAL SECTOR WHO IS
20 ACTIVELY ENGAGED IN ORGANIC AGRICULTURAL PRODUCTION.

21 **SECTION 9. Applicability.** This act applies to conduct occurring
22 on or after July 1, 2015.

23 **SECTION 10. Safety clause.** The general assembly hereby finds,
24 determines, and declares that this act is necessary for the immediate
25 preservation of the public peace, health, and safety.