

AGRICULTURE

Agricultural Taxation and Fees

HB 12-1037 (Enacted)
*Classify Certain Agriculture Products
Wholesale Sales*

HB 12-1083 (Enacted)
*Continue Environmental Agriculture
Program Fees*

Colorado Agriculture Promotion

SB 12-048 (Enacted)
Local Foods Local Jobs

HB 12-1027 (Postponed Indefinitely)
*Home Kitchens Used to Prepare
Nonhazardous Foods*

Pest Management

SB 12-169 (Deemed Lost)
County Pest Control Inspector

Animal Cruelty

HB 12-1087 (Postponed Indefinitely)
*On-line Animal Abusers
Registry*

HB 12-1125 (Enacted)
*Modify Procedures Regarding
Impounded Animal Costs*

HB 12-1354 (Deemed Lost)
*Dog Breeder Provide Solid
Flooring for Dogs*

The legislature considered bills on a variety of agricultural issues in 2012 including agricultural taxation and fees, Colorado agriculture promotion, pest management, and animal cruelty.

Agricultural Taxation and Fees

During the 2012 legislative session, the General Assembly considered two bills concerning agricultural taxation and fees. **House Bill 12-1037** classifies the sale of certain agricultural items as wholesale sales rather than retail sales. The effect of this classification change is that the items will not be subject to sales tax. The majority of items identified in HB 12-1037 for use in agricultural production are already exempt from the collection of sales and use tax. The one exception is products used to enhance the activity of a pesticide and intended to be used with a pesticide as an aid to the application or effect of the pesticide. These products, collectively known as adjuvants, include any wetting agent, spreading agent, deposit builder, adhesive emulsifying agent, deflocculating agent, water modifier, or similar agent. Under current law, sales of adjuvants are taxable. Other agricultural items that, under the bill, would be classified as wholesale sales and be exempt from the sales and use tax include:

- sales of agricultural compounds to be consumed by, administered to, or otherwise used in caring for livestock;
- insecticides, fungicides, growth-regulating chemicals, enhancing compounds, vaccines, and hormones;
- drugs that are used for prevention or treatment of livestock disease or injury; and
- animal pharmaceuticals approved by the federal Food and Drug Administration.

Under current law, the Environmental Agriculture Program in the Colorado Department of Public Health and Environment (CDPHE) is substantially supported by a fee that expires on July 1, 2012. To continue the program at its current funding level, **House Bill 12-1083** extends the current fee structure for water quality permits that regulate confined animal feeding operations (CAFOs) and housed commercial swine feeding operations (HCSFOs) until June 30, 2015. The Environmental Agriculture Program is responsible for permitting, inspection, and other regulatory oversight of CAFOs and HCSFOs.

Colorado Agriculture Promotion

The General Assembly considered two bills that promote the sale of locally produced foods during the 2012 session. **Senate Bill 12-048** creates the "Colorado Cottage Foods Act." The act allows producers of nonpotentially hazardous foods to use their home, commercial, or public kitchens to produce foods to sell directly to the ultimate consumers. Nonpotentially hazardous foods are defined in current law as any food or beverage that, when stored under normal conditions without refrigeration, will not support the rapid and progressive growth of microorganisms that cause food infections or food intoxications. The act limits these foods to spices, teas, dehydrated produce, nuts, seeds, honey, jams, jellies, preserves, fruit butter, and baked goods, including candies. Sales must be made on the producer's premises or roadside stand, a farmers' market, community-supported agriculture organization, or similar venue where the product is sold directly to consumers, and are limited to \$5,000 per calendar year from each eligible food product. The act also limits the liability of food banks, schools, and nonprofit organizations.

House Bill 12-1027, postponed indefinitely, would have allowed people to produce nonpotentially hazardous foods in their own home kitchen for sale directly to consumers for off-site consumption. Sales of these foods would have been limited to the producer's property, at a roadside stand, or at a farmers' market. The Department of Public Health and Environment or a county or district public health agency would have been required to register producers and charge a fee up to \$100 per producer per year. Products were to have been labeled and include specific information as well as a statement that the product was produced in a home kitchen that was not subject to state licensure or inspection. Producers would have been required to maintain adequate liability insurance, complete a food safety training course, and keep records regarding recipes and the procurement of ingredients.

Pest Management

During the 2012 legislative session, the General Assembly considered one bill concerning pest management. **Senate Bill 12-169**, which was deemed lost in the House of Representatives, would have granted an agent appointed by the board of county commissioners the powers and duties of a county pest inspector. This includes the authority to conduct inspections for pest infestations and issue findings.

Animal Cruelty

The General Assembly considered three animal cruelty bills during the 2012 legislative session. **House Bill 12-1125** modifies procedural requirements related to the payment of impoundment, care, and provision costs for an animal that has been impounded due to alleged neglect, abuse, or other criminal acts involving animals. Current law allows an animal owner to file a bond with the court to cover the costs of impoundment for at least 30 days. He or she may request a hearing within ten days after impoundment to determine the reasonableness and fairness of the costs. The bill expands the purpose of the hearing to include a determination as to probable cause for the impoundment of the animal and release of the animal to the impounding agency for disposition if the owner elects not to pay the costs associated with impoundment. It specifies that the hearing must be held within ten days after the request is made by the owner.

The act delays the payment of costs to the court until the date of the hearing and describes circumstances under which such costs must be refunded to the owner. Failure to pay impoundment costs will result in forfeiture of the right to contest the costs and any ownership rights to the animal. Finally, the act clarifies that the criminal law procedures governing impoundments do not apply to matters brought solely in an administrative context.

House Bill 12-1354 would have required dog breeders to provide dogs that are kept in the breeders' facilities with access to sanitary, ventilated, solid flooring in their cages. The bill was deemed lost in the House of Representatives.

House Bill 12-1087 would have created an online animal abusers registry within the Department of Public Safety (DPS). Any person over the age of 18 who was convicted of cruelty to animals, cruelty to a service animal, aggravated cruelty to animals, or animal fighting would have been required to register with DPS. Failure to register within five business days of conviction would have been a class 2 misdemeanor. The DPS would have been required to confirm a person's identity and conviction for a relevant offense prior to including information in the registry. Registry details would have been retained for five years, during which time an offender would have been required to notify the department of an address change within three business days. DPS would have been directed to contract with a nonprofit agency for the creation and maintenance of the registry, and to require the nonprofit agency to pay its associated costs. In the event that a nonprofit agency did not enter into a contract with the state, the bill's requirements would not have taken effect. The bill was postponed indefinitely.