

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

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LLS NO. 15-0186.01 Thomas Morris x4218

SUNSET BILL

Sunset Process - Senate Agriculture,
Natural Resources, and Energy Committee

BILL TOPIC: "Sunset Pesticide Applicators"
DEADLINES: Finalize by: 21 JAN 2015 File by: 23 JAN 2015

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

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

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);
- Requiring limited commercial applicators and public applicators to ensure that persons working for them are trained in the core elements of pesticide use, as required by the commissioner of agriculture by rule, before applying general-use pesticides (**sections 3 and 4**);
- 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 5**);
- Reducing the period for which private applicators must maintain records from 3 years to 2 years in keeping with applicable federal requirements (**section 6**); and
- Measuring the deadline for licensing applications by when the application is received rather than by when it is postmarked (**sections 7 and 8**).

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

2 <{**Recommendation 1**}>

3 **SECTION 1.** In Colorado Revised Statutes, 24-34-104, **repeal**
4 (46) (i); and **add** (55) (j) as follows:

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

7 (46) The following agencies, functions, or both shall terminate on July
8 1, 2015:

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

13 (55) The following agencies, functions, or both, terminate on
14 September 1, 2024:

1 (j) THE REGULATION BY THE COMMISSIONER OF AGRICULTURE OF
2 THE APPLICATION OF PESTICIDES PURSUANT TO ARTICLE 10 OF TITLE 35,
3 C.R.S.

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

6 **35-10-128. Repeal of article - termination of functions.**

7 Effective ~~July 1, 2015~~ SEPTEMBER 1, 2024, this article is repealed. ~~The~~
8 ~~regulatory functions of the commissioner of agriculture shall also~~
9 ~~terminate on July 1, 2015.~~ Prior to ~~such~~ THE repeal, ~~and termination, the~~
10 ~~regulatory functions shall be reviewed~~ THE DEPARTMENT OF REGULATORY
11 AGENCIES SHALL REVIEW THE REGULATION BY THE COMMISSIONER OF THE
12 APPLICATION OF PESTICIDES PURSUANT TO THIS ARTICLE as provided for
13 in section 24-34-104, C.R.S., and ~~as part of such review, the department~~
14 ~~of regulatory agencies~~ shall report on the extent of local regulation of
15 pesticides pursuant to section 31-15-707 (1) (b), C.R.S., or under the
16 police power of any political subdivision of the state.

17 <{Recommendation 2}>

18 **SECTION 3.** In Colorado Revised Statutes, **amend** 35-10-109 as
19 follows:

20 **35-10-109. Limited commercial and public applicators - no**

21 **business license required - training -rules.** (1) ~~No~~ A business license
22 ~~shall be~~ IS NOT required for limited commercial or public applicators;
23 except that the commissioner shall require such applicators that apply
24 restricted-use pesticides to register with the department. The
25 commissioner shall determine the form and manner of the registration, as
26 well as the amount of any administrative fees associated with ~~such~~ THE
27 registration. A limited commercial or public applicator may register

1 voluntarily, regardless of whether ~~such~~ THE applicator applies
2 restricted-use pesticides, by submitting a request in the form and manner
3 specified by the commissioner.

4 (2) A LIMITED COMMERCIAL APPLICATOR OR PUBLIC APPLICATOR
5 SHALL NOT ALLOW A PERSON WORKING FOR IT TO APPLY A GENERAL-USE
6 PESTICIDE, AS DETERMINED BY THE COMMISSIONER BY RULE, UNLESS THE
7 PERSON HAS BEEN TRAINED IN THE CORE ELEMENTS OF PESTICIDE USE AS
8 REQUIRED BY THE COMMISSIONER BY RULE. THE LIMITED COMMERCIAL
9 APPLICATOR OR PUBLIC APPLICATOR SHALL MAINTAIN A RECORD OF THE
10 TRAINING AS SPECIFIED BY THE COMMISSIONER BY RULE.

11 **SECTION 4.** In Colorado Revised Statutes, 35-10-117, **add** (7)
12 as follows:

13 **35-10-117. Unlawful acts.** (7) IT IS UNLAWFUL AND A VIOLATION
14 OF THIS ARTICLE FOR A LIMITED COMMERCIAL APPLICATOR OR PUBLIC
15 APPLICATOR TO ALLOW A PERSON WORKING FOR IT TO APPLY A
16 GENERAL-USE PESTICIDE, AS DETERMINED BY THE COMMISSIONER BY
17 RULE, UNLESS THE PERSON HAS BEEN TRAINED IN THE CORE ELEMENTS OF
18 PESTICIDE USE AS REQUIRED BY THE COMMISSIONER BY RULE.

19 <{***Recommendation 3***}>

20 **SECTION 5.** In Colorado Revised Statutes, 35-10-125, **amend**
21 (1), (2) introductory portion, and (2) (h); and **add** (2) (j) and (2) (k) as
22 follows:

23 **35-10-125. Advisory committee.** (1) The state agricultural
24 commission created by section 35-1-105 shall appoint an advisory
25 committee of ~~eleven~~ THIRTEEN members to assist the commissioner in
26 promulgating rules ~~and regulations~~ to carry out ~~the provisions~~ of this
27 article.

1 (2) The committee ~~shall consist~~ CONSISTS of the following
2 members:

3 (h) A representative from the Colorado department of public
4 health and environment; ~~and~~

5 (j) A REPRESENTATIVE FROM THE AGRICULTURAL SECTOR WHO IS
6 ACTIVELY ENGAGED IN AGRICULTURAL PRODUCTION AND IS AFFECTED BY
7 THE FEDERAL WORKER PROTECTION STANDARDS SET FORTH IN 40 CFR
8 PART 170; AND

9 (k) A REPRESENTATIVE FROM THE AGRICULTURAL SECTOR WHO IS
10 ACTIVELY ENGAGED IN ORGANIC AGRICULTURAL PRODUCTION.

11 <{**Recommendation 4**}>

12 **SECTION 6.** In Colorado Revised Statutes, **amend** 35-10-111 as
13 follows:

14 **35-10-111. Record-keeping requirements.** (1) Each
15 commercial, registered limited commercial, licensed private, and
16 registered public applicator shall keep and maintain records of each
17 pesticide application in the form and manner designated by the
18 commissioner. ~~Such~~ THE APPLICATOR SHALL RETAIN THE records ~~shall be~~
19 ~~retained~~ for a ~~period~~ of three years after the date of the pesticide
20 application; ~~and~~ EXCEPT THAT THE RECORD RETENTION PERIOD FOR
21 PRIVATE APPLICATORS IS TWO YEARS.

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

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

26 (b) FOR A registered limited commercial ~~and~~ OR registered public
27 ~~applicators~~ APPLICATOR, at the address specified in the registry authorized

1 in section 35-10-109; or ~~in the case of~~

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

4 <{***Recommendation 5***}>

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

7 **35-10-107. Commercial applicator business license - renewals.**

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

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

16 **SECTION 8.** In Colorado Revised Statutes, 35-10-116, **amend**
17 (5) as follows:

18 **35-10-116. Qualified supervisor and certified operator licenses**

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

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

26 **SECTION 10. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.