

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0815.01 Jery Payne x2157

SENATE BILL 20-101

SENATE SPONSORSHIP

Sonnenberg,

HOUSE SPONSORSHIP

(None),

Senate Committees

Agriculture & Natural Resources

House Committees

A BILL FOR AN ACT

101 CONCERNING THE PROCEDURAL REQUIREMENTS RESULTING FROM THE
102 INITIATION OF AN INVESTIGATION OF A PESTICIDE APPLICATOR.

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>.)

Current law requires certain commercial pesticide applicators to be licensed or registered. The bill requires the commissioner of agriculture (commissioner) to notify such a regulated person within 24 hours after the commissioner or department of agriculture receives a complaint about the person. The notice must include the alleged facts and any statute or rule the person is alleged to have violated. If the notice is

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

not provided:

! The commissioner is prohibited from suspending or revoking the person's license or registration, or imposing civil penalties; and

! The person is immune from a criminal prosecution based on the facts alleged in the complaint.

The bill also requires the following proceedings to be brought within one year after the occurrence of the facts upon which they are based:

! A proceeding to discipline a licensee or registrant;

! A proceeding to impose civil penalties, not including failing to obtain the required license or registration; or

! A criminal prosecution, not including failing to obtain the required license or registration.

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

2 **SECTION 1.** In Colorado Revised Statutes, 35-10-120, **add** (4)

3 as follows:

4 **35-10-120. Enforcement.** (4) (a) WITHIN TWENTY-FOUR HOURS
5 AFTER THE COMMISSIONER OR THE DEPARTMENT RECEIVES A COMPLAINT
6 AGAINST A PERSON WHO IS LICENSED OR REGISTERED UNDER THIS ARTICLE
7 10, THE COMMISSIONER SHALL NOTIFY THE PERSON WHO IS THE SUBJECT
8 OF THE COMPLAINT. THE NOTICE MUST INCLUDE A SUMMARY OF THE
9 ALLEGED FACTS AND ANY STATUTE OR RULE THE PERSON IS ALLEGED TO
10 HAVE VIOLATED. A GENERAL STATEMENT THAT LISTS SUBSTANTIALLY ALL
11 OR MOST OF THIS ARTICLE 10 DOES NOT COMPLY WITH THIS SUBSECTION
12 (4)(a).

13 (b) IF THE COMMISSIONER FAILS TO COMPLY WITH SUBSECTION
14 (4)(a) OF THIS SECTION:

15 (I) THE COMMISSIONER SHALL NOT:

16 (A) SUSPEND OR REVOKE, OR BRING A PROCEEDING TO SUSPEND OR
17 REVOKE, THE PERSON'S LICENSE OR REGISTRATION BASED ON THE FACTS

1 ALLEGED IN THE COMPLAINT; OR

2 (B) IMPOSE, OR BRING A PROCEEDING TO IMPOSE, A CIVIL PENALTY
3 BASED ON THE FACTS ALLEGED IN THE COMPLAINT; AND

4 (II) THE PERSON IS IMMUNE FROM A CRIMINAL PROSECUTION
5 UNDER SECTION 35-10-123 BASED ON THE FACTS ALLEGED IN THE
6 COMPLAINT.

7 **SECTION 2.** In Colorado Revised Statutes, 35-10-121, **add** (5)
8 and (6) as follows:

9 **35-10-121. Disciplinary actions - denial of license.** (5) THIS
10 SECTION IS SUBJECT TO SECTION 35-10-120 (4).

11 (6) NOTWITHSTANDING ARTICLE 80 OF TITLE 13, PROCEEDINGS TO
12 IMPOSE DISCIPLINE UNDER THIS SECTION FOR A VIOLATION OF THIS ARTICLE
13 10 MUST BE COMMENCED WITHIN ONE YEAR AFTER THE OCCURRENCE OF
14 THE FACTS UPON WHICH THE ACTION IS BASED, AND NOT THEREAFTER.

15 **SECTION 3.** In Colorado Revised Statutes, 35-10-122, **add** (5)
16 and (6) as follows:

17 **35-10-122. Civil penalties.** (5) THIS SECTION IS SUBJECT TO
18 SECTION 35-10-120 (4).

19 (6) NOTWITHSTANDING ARTICLE 80 OF TITLE 13, PROCEEDINGS TO
20 IMPOSE CIVIL PENALTIES FOR A VIOLATION OF THIS ARTICLE 10 MUST BE
21 COMMENCED WITHIN ONE YEAR AFTER THE OCCURRENCE OF THE FACTS
22 UPON WHICH THE ACTION IS BASED, AND NOT THEREAFTER; EXCEPT THAT
23 THIS SUBSECTION (6) DOES NOT APPLY TO A PROSECUTION BASED ON A
24 VIOLATION OF SECTION 35-10-117 (1)(a), (1)(b), OR (1)(c).

25 **SECTION 4.** In Colorado Revised Statutes, 35-10-123, **add** (4)
26 as follows:

27 **35-10-123. Criminal penalties.** (4) NOTWITHSTANDING ARTICLE

1 80 OF TITLE 13, A CRIMINAL PROSECUTION OF A VIOLATION OF THIS
2 SECTION MUST BE COMMENCED WITHIN ONE YEAR AFTER THE OCCURRENCE
3 OF THE FACTS UPON WHICH THE ACTION IS BASED, AND NOT THEREAFTER;
4 EXCEPT THAT THIS SUBSECTION (4) DOES NOT APPLY TO A PROSECUTION
5 BASED ON A VIOLATION OF SECTION 35-10-117 (1)(a), (1)(b), OR (1)(c).

6 **SECTION 5. Act subject to petition - effective date -**
7 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
8 the expiration of the ninety-day period after final adjournment of the
9 general assembly (August 5, 2020, if adjournment sine die is on May 6,
10 2020); except that, if a referendum petition is filed pursuant to section 1
11 (3) of article V of the state constitution against this act or an item, section,
12 or part of this act within such period, then the act, item, section, or part
13 will not take effect unless approved by the people at the general election
14 to be held in November 2020 and, in such case, will take effect on the
15 date of the official declaration of the vote thereon by the governor.

16 (2) This act applies to complaints made, investigations begun, or
17 offenses occurring on or after the applicable effective date of this act.