

**First Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 19-0371.01 Jery Payne x2157

**SENATE BILL 19-147**

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**SENATE SPONSORSHIP**

**Hisey and Sonnenberg**, Coram, Donovan, Ginal

**HOUSE SPONSORSHIP**

**Valdez D.**,

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**Senate Committees**

Agriculture & Natural Resources

**House Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING THE CONTINUATION OF THE SEED POTATO ACT, AND, IN**  
102              **CONNECTION THEREWITH, IMPLEMENTING THE**  
103              **RECOMMENDATIONS CONTAINED IN THE 2018 SUNSET REPORT**  
104              **BY THE DEPARTMENT OF REGULATORY AGENCIES.**

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**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/>.)*

**Sunset Process - Senate Agriculture and Natural Resources Committee.** The bill continues the regulation of seed potato growers and implements the recommendations of the 2018 sunset report by:

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.

- ! Extending regulation of seed potato growers until 2028 (**sections 1 and 7** of the bill);
- ! Repealing an obsolete provision authorizing uncertified seed potatoes to be used before January 1, 2012 (**section 2**);
- ! Repealing the option to have an independent auditor perform the review of records required by the seed-potato regulation act (**sections 3 and 4**);
- ! Requiring the committee of area no. 2 to pay the fees that implement seed-potato regulation (**section 5**); and
- ! Repealing the provision that limits the amount of a fine to \$2,500 (**section 6**).

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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 (17)(a)(II); and **add** (29)(a)(V) as follows:

4           **24-34-104. General assembly review of regulatory agencies**  
 5 **and functions for repeal, continuation, or reestablishment - legislative**  
 6 **declaration - repeal.** (17) (a) The following agencies, functions, or both,  
 7 are scheduled for repeal on September 1, 2019:

8           ~~(II) The functions of the commissioner of the department of~~  
 9 ~~agriculture related to seed potatoes specified in article 27.3 of title 35,~~  
 10 ~~C.R.S.;~~

11           (29) (a) The following agencies, functions, or both, are scheduled  
 12 for repeal on September 1, 2028:

13           (V) THE FUNCTIONS OF THE COMMISSIONER OF AGRICULTURE  
 14 RELATED TO SEED POTATOES UNDER ARTICLE 27.3 OF TITLE 35.

15           **SECTION 2.** In Colorado Revised Statutes, 35-27.3-105, **repeal**  
 16 (4) as follows:

17           **35-27.3-105. Minimum standards for planting seed potatoes**  
 18 **- scope - qualified seed potatoes - rules.** (4) ~~Prior to January 1, 2012,~~  
 19 ~~a Colorado potato grower may plant uncertified and untested seed~~

1 ~~potatoes if the seed potatoes have been grown as part of that grower's~~  
2 ~~farming operations.~~

3           **SECTION 3.** In Colorado Revised Statutes, 35-27.3-106, **amend**  
4 (2)(a); and **repeal** (3) as follows:

5           **35-27.3-106. Record-keeping requirements - annual record**  
6 **reviews.** (2) (a) The commissioner shall ~~upon recommendation from the~~  
7 ~~advisory committee,~~ select a qualified department employee ~~or~~  
8 ~~independent auditor~~ to perform a records review on at least ten percent of  
9 potato growers subject to this ~~article~~ ARTICLE 27.3 once every seed potato  
10 crop cycle. The commissioner shall determine a method for the annual  
11 random selection of growers. The area committee for area no. 2,  
12 established in the marketing order regulating the handling of potatoes  
13 grown in the state of Colorado, as amended, issued pursuant to the  
14 "Colorado Agricultural Marketing Act of 1939", article 28 of this title  
15 TITLE 35, shall pay the actual costs of such records reviews.

16           (3) ~~If the independent auditor who conducted the records review~~  
17 ~~believes a violation of this section has occurred, he or she shall notify the~~  
18 ~~commissioner. The commissioner shall then investigate the alleged~~  
19 ~~violation according to section 35-27.3-109.~~

20           **SECTION 4.** In Colorado Revised Statutes, 35-27.3-107, **amend**  
21 (4) as follows:

22           **35-27.3-107. Advisory committee - created - members - terms**  
23 **- duties - sunset review - repeal.** (4) The advisory committee shall  
24 advise the commissioner in establishing rules under this ~~article~~ ARTICLE  
25 27.3, assist in the determination of availability of potatoes, recommend  
26 whether to grant permission to plant uncertified seed potatoes,  
27 ~~recommend independent auditors to perform records reviews pursuant to~~

1 section ~~35-27.3-106(2)~~, and consult with the commissioner regarding the  
2 administration and enforcement of this ~~article~~ ARTICLE 27.3.

3 **SECTION 5.** In Colorado Revised Statutes, 35-27.3-108, **amend**  
4 (1) introductory portion, (1)(b) introductory portion, and (1)(b)(VII) as  
5 follows:

6 **35-27.3-108. Powers and duties of the commissioner - rules.**

7 (1) In addition to any other duties in this ~~article~~ ARTICLE 27.3, the  
8 commissioner shall:

9 (b) Adopt rules necessary for the administration and enforcement  
10 of this ~~article~~ ARTICLE 27.3, including rules that:

11 (VII) Set a schedule of fees for services performed by the  
12 department, which fees ~~shall~~ MUST be billed ~~on a pro rata basis to the area~~  
13 ~~committees for areas~~ TO THE COMMITTEE FOR AREA no. 2, ~~and no. 3,~~  
14 established in the marketing order regulating the handling of potatoes  
15 grown in the state of Colorado, as amended, issued pursuant to the  
16 "Colorado Agricultural Marketing Act of 1939", article 28 of this ~~title~~  
17 TITLE 35.

18 **SECTION 6.** In Colorado Revised Statutes, 35-27.3-110, **amend**  
19 (1)(a) as follows:

20 **35-27.3-110. Violations - civil penalties.** (1) (a) Except as  
21 otherwise provided in this section, the commissioner may impose a civil  
22 penalty on ~~any~~ A person who violates ~~any provision of this article~~  
23 ARTICLE 27.3 or ~~any~~ A rule adopted under this ~~article~~. ~~Such penalty shall~~  
24 ~~not exceed two thousand five hundred dollars per violation~~ ARTICLE 27.3.

25 **SECTION 7.** In Colorado Revised Statutes, **amend** 35-27.3-112  
26 as follows:

27 **35-27.3-112. Repeal of article - termination of functions.** This

1 ~~article~~ ARTICLE 27.3 is repealed, effective September 1, 2019. Prior to  
2 ~~such~~ 2028. BEFORE THE repeal, the certification functions of the  
3 commissioner ~~shall be reviewed as provided for in~~ ARE SCHEDULED FOR  
4 REVIEW IN ACCORDANCE WITH section 24-34-104. ~~C.R.S.~~

5           **SECTION 8. Act subject to petition - effective date -**  
6 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
7 the expiration of the ninety-day period after final adjournment of the  
8 general assembly (August 2, 2019, if adjournment sine die is on May 3,  
9 2019); except that, if a referendum petition is filed pursuant to section 1  
10 (3) of article V of the state constitution against this act or an item, section,  
11 or part of this act within such period, then the act, item, section, or part  
12 will not take effect unless approved by the people at the general election  
13 to be held in November 2020 and, in such case, will take effect on the  
14 date of the official declaration of the vote thereon by the governor.

15           (2) This act applies to offenses committed on or after the  
16 applicable effective date of this act.