

**Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

ENGROSSED

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

LLS NO. 22-0529.02 Bob Lackner x4350

HOUSE BILL 22-1301

HOUSE SPONSORSHIP

Soper and Roberts, Holtorf, McLachlan, Pelton, Rich, Titone, Will

SENATE SPONSORSHIP

(None),

House Committees

Transportation & Local Government

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE TREATMENT OF CONTROLLED ENVIRONMENT**

102 **AGRICULTURAL FACILITIES FOR PROPERTY TAX PURPOSES.**

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>.)

A "controlled environment agricultural facility" (CEA facility) is a structure of not less than 1,000 square feet and related equipment and appurtenances that combines engineering, horticultural science, and computer management techniques to optimize hydroponic plant growing, plant quality, and food production efficiency from the land's water for human or livestock consumption. The primary purpose of growing crops

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.*

HOUSE
Amended 2nd Reading
April 14, 2022

in a CEA facility is to obtain a monetary profit from the wholesale of plant-based food for human or animal consumption.

Commencing January 1, 2023, for property tax purposes:

- The definition of "agricultural and livestock products" includes crops grown within a CEA facility for human or livestock consumption. "Agricultural and livestock products" does not include marijuana and hemp, or any other nonfood agricultural products.
- The definition of "agricultural equipment" includes any personal property used in connection with the operation of a CEA facility for planting, growing, and harvesting crops;
- The definition of "agricultural land" includes any land underlying or integral to the operation of a CEA facility;
- "All other agricultural property" does not include a CEA facility that has been in production for at least 2 years; and
- Agricultural equipment that is used in any CEA facility is exempt from the levy and collection of property tax.

Under the bill, a CEA facility is valued for assessment purposes based on the net operating income derived from the production and sale of the crops grown within the facility and capitalized at the same rate as irrigated agricultural land. The value so determined must be reduced by 25% to determine the actual value of the CEA facility for property tax purposes.

If the primary use of the CEA facility is not the growing of crops for human or livestock consumption, then the property is classified and valued for assessment purposes as other agricultural property.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-1-102, **amend**
3 (1.1), (1.3) introductory portion, and (1.3)(b); and **add** (3.3) and (6.2) as
4 follows:

5 **39-1-102. Definitions.** As used in articles 1 to 13 of this title 39,
6 unless the context otherwise requires:

7 (1.1) (a) "Agricultural and livestock products" means plant or
8 animal products in a raw or unprocessed state that are derived from the
9 science and art of agriculture, regardless of the use of the product after its
10 sale and regardless of the entity that purchases the product. "Agriculture",

1 for the purposes of this subsection (1.1), means farming, ranching, animal
2 husbandry, and horticulture.

3 (b) ON AND AFTER JANUARY 1, 2023, FOR THE PURPOSES OF THIS
4 SUBSECTION (1.1), "AGRICULTURAL AND LIVESTOCK PRODUCTS" INCLUDES
5 CROPS GROWN WITHIN A CONTROLLED ENVIRONMENT AGRICULTURAL
6 FACILITY IN A RAW OR UNPROCESSED STATE FOR HUMAN OR LIVESTOCK
7 CONSUMPTION. FOR THE PURPOSES OF THIS SUBSECTION (1.1)(b),
8 "AGRICULTURAL AND LIVESTOCK PRODUCTS" DOES NOT INCLUDE
9 MARIJUANA, AS DEFINED IN SECTION 18-18-102 (18)(a), OR ANY OTHER
10 NONFOOD CROP AGRICULTURAL PRODUCTS.

11 (1.3) "Agricultural equipment ~~which~~ THAT is used on the farm or
12 ranch OR IN A CEA FACILITY in the production of agricultural products":

13 (b) Includes:

14 (I) Any mechanical system used on the farm or ranch for the
15 conveyance and storage of animal products in a raw or unprocessed state,
16 regardless of whether or not such mechanical system is affixed to real
17 property; and

18 (II) Silviculture personal property that is designed, adapted, and
19 used for the planting, growing, maintenance, or harvesting of trees in a
20 raw or unprocessed state; AND

21 (III) ANY PERSONAL PROPERTY WITHIN A FACILITY, WHETHER
22 ATTACHED TO A BUILDING OR NOT, THAT IS CAPABLE OF BEING REMOVED
23 FROM THE FACILITY, AND IS USED IN DIRECT CONNECTION WITH THE
24 OPERATION OF A CONTROLLED ENVIRONMENT AGRICULTURAL FACILITY,
25 WHICH FACILITY IS USED SOLELY FOR PLANTING, GROWING, OR
26 HARVESTING CROPS IN A RAW OR UNPROCESSED STATE.

27 (3.3) "CONTROLLED ENVIRONMENT AGRICULTURAL FACILITY" OR

1 "CEA FACILITY" MEANS A NONRESIDENTIAL STRUCTURE AND RELATED
2 EQUIPMENT AND APPURTENANCES THAT COMBINES ENGINEERING,
3 HORTICULTURAL SCIENCE, AND COMPUTERIZED MANAGEMENT
4 TECHNIQUES TO OPTIMIZE HYDROPONICS, PLANT QUALITY, AND FOOD
5 PRODUCTION EFFICIENCY FROM THE LAND'S WATER FOR HUMAN OR
6 LIVESTOCK CONSUMPTION. THE SOLE PURPOSE OF GROWING CROPS IN A
7 CEA FACILITY IS TO OBTAIN A MONETARY PROFIT FROM THE WHOLESALE
8 OF PLANT-BASED FOOD FOR HUMAN OR LIVESTOCK CONSUMPTION.

9 (6.2) "HYDROPONICS" MEANS A SYSTEM IN WHICH WATER SOLUBLE
10 PRIMARY OR SECONDARY PLANT NUTRIENTS OR MICRONUTRIENTS, OR A
11 COMBINATION OF SUCH NUTRIENTS, ARE PLACED IN INTIMATE CONTACT
12 WITH A PLANT'S ROOT SYSTEM THAT IS BEING GROWN IN WATER OR AN
13 INERT SUPPORTIVE MEDIUM THAT SUPPLIES PHYSICAL SUPPORT FOR THE
14 ROOTS.

15 SECTION 2. In Colorado Revised Statutes, **amend** 39-3-122 as
16 follows:

17 39-3-122. **Agricultural equipment used in production of**
18 **agricultural products - CEA facilities - exemption.** (1) Agricultural
19 equipment ~~which~~ THAT IS USED ON ANY FARM OR RANCH IN THE PRODUCTION OF
20 agricultural products ~~shall be~~ IS EXEMPT FROM THE LEVY AND COLLECTION OF
21 property tax.

22 (2) ON AND AFTER JANUARY 1, 2023, AGRICULTURAL EQUIPMENT
23 THAT IS USED IN ANY CEA FACILITY IS EXEMPT FROM THE LEVY AND
24 COLLECTION OF PROPERTY TAX.

25 SECTION 3. In Colorado Revised Statutes, **add** 39-5-134 as
26 follows:

27 39-5-134. **Controlled environment agricultural facility -**

1 **valuation - affidavit - definition.** (1) AS USED IN THIS SECTION,
2 "CONTROLLED ENVIRONMENT AGRICULTURAL FACILITY" OR "CEA
3 FACILITY" HAS THE SAME MEANING AS SPECIFIED IN SECTION 39-1-102
4 (3.3).

5 (2) A CEA FACILITY IS VALUED FOR ASSESSMENT PURPOSES AS ALL
6 OTHER AGRICULTURAL PROPERTY USING THE COST, MARKET, AND INCOME
7 APPROACHES TO VALUE.

8 (3) IF THE SOLE USE OF THE CEA FACILITY IS NOT THE GROWING OF
9 CROPS FOR HUMAN OR LIVESTOCK CONSUMPTION, THEN THE PROPERTY IS
10 CLASSIFIED AND VALUED FOR ASSESSMENT PURPOSES BASED ON ACTUAL
11 USE.

12 (4) AS PART OF THE PERSONAL DECLARATION THE OWNER OF A
13 CEA FACILITY SIGNS AND RETURNS TO THE COUNTY ASSESSOR PURSUANT
14 TO SECTIONS 39-5-107 AND 39-5-108, THE OWNER SHALL INCLUDE AN
15 AFFIDAVIT EXECUTED BY THE OWNER IN WHICH THE OWNER AFFIRMS THAT
16 THE CEA FACILITY MEETS THE REQUIREMENTS OF SECTION 39-1-102 (3.3),
17 INCLUDING THE REQUIREMENTS THAT THE FACILITY OPTIMIZES
18 HYDROPONICS AND THAT THE SOLE PURPOSE OF THE CEA FACILITY IS TO
19 OBTAIN A MONETARY PROFIT FROM THE WHOLESALE OF PLANT-BASED
20 FOOD FOR HUMAN OR LIVESTOCK CONSUMPTION. IF THE CROP GROWN IN
21 THE CEA FACILITY IS HEMP, THE OWNER MUST ALSO INCLUDE A COPY OF
22 A LICENSE TO VERIFY TO THE ASSESSOR THAT THE CROP IS NOT
23 MARIJUANA.

24 (5) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A CEA
25 FACILITY SHALL NOT VIOLATE THE TERMS AND CONDITIONS OF ANY
26 APPLICABLE WATER COURT DECREE ISSUED PURSUANT TO ARTICLE 92 OF
27 TITLE 37 AND SHALL NOT MATERIALLY INJURE WATER RIGHTS OR

1 CONDITIONAL WATER RIGHTS GRANTED UNDER ARTICLE 92 OF TITLE 37.

2 **SECTION 4. Act subject to petition - effective date.** This act
3 takes effect at 12:01 a.m. on the day following the expiration of the
4 ninety-day period after final adjournment of the general assembly; except
5 that, if a referendum petition is filed pursuant to section 1 (3) of article V
6 of the state constitution against this act or an item, section, or part of this
7 act within such period, then the act, item, section, or part will not take
8 effect unless approved by the people at the general election to be held in
9 November 2022 and, in such case, will take effect on the date of the
10 official declaration of the vote thereon by the governor.