

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 24-0367.01 Sarah Lozano x3858

SENATE BILL 24-031

SENATE SPONSORSHIP

Roberts, Bridges, Fields, Marchman

HOUSE SPONSORSHIP

Lukens and McLachlan, McCormick

Senate Committees

Agriculture & Natural Resources

House Committees

Agriculture, Water & Natural Resources

A BILL FOR AN ACT

101 **CONCERNING LOCAL AUTHORITY TO ENFORCE VIOLATIONS OF LAWS**
102 **RELATED TO THE PREVENTION OF NOXIOUS WEEDS.**

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/>.)

Water Resources and Agriculture Review Committee. Current law allows the commissioner of agriculture to assess civil penalties for violations of state laws related to the prevention of noxious weeds (violations). The bill:

- Clarifies that a board of county commissioners (board) may allow for the assessment and collection of fines for

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

SENATE
3rd Reading Unamended
January 31, 2024

SENATE
Amended 2nd Reading
January 30, 2024

violations of local laws enacted to enforce the management of noxious weeds in the county;

- Creates a civil infraction for violations;
- Creates a civil penalty for violations that is no less than \$500 and no more than \$1,000;
- Allows a county attorney to issue an injunction to prevent an ongoing violation; and
- Allows a board to appoint a district attorney to enforce violations in the event that the county does not have a county attorney or in any other circumstance that the board deems appropriate.

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

2 **SECTION 1.** In Colorado Revised Statutes, 35-5.5-105, **amend**
3 (1) as follows:

4 **35-5.5-105. Noxious weed management - powers of county**
5 **commissioners.** (1) The board of county commissioners of each county
6 in the state shall adopt a noxious weed management plan for all of the
7 unincorporated lands within the county. ~~Such~~ A NOXIOUS WEED
8 MANAGEMENT plan ~~shall~~ MUST include all of the requirements and duties
9 imposed by this ~~article~~ ARTICLE 5.5. Guidelines may be included that
10 address no pesticide noxious weed management plans. In addition to and
11 not in limitation of the powers delegated to boards of county
12 commissioners in section 30-11-107, ~~and~~ article 15 of title 30, ~~C.R.S.~~,
13 article 5 of this ~~title~~ TITLE 35, and elsewhere as provided by law, the
14 board of county commissioners may adopt and provide for the
15 enforcement, INCLUDING THE ASSESSMENT AND COLLECTION OF FINES, of
16 ~~such~~ ordinances, resolutions, rules, and other regulations as may be
17 necessary and proper to enforce ~~said~~ A NOXIOUS WEED MANAGEMENT plan
18 and otherwise provide for the management of noxious weeds within the
19 county, subject to the following limitation: ~~No~~ A county ordinance, rule,

1 resolution, other regulation, or exercise of power pursuant to this ~~article~~
2 ~~shall~~ ARTICLE 5.5 DOES NOT apply within the corporate limits of any
3 incorporated municipality ~~nor~~ OR to any municipal service, function,
4 facility, or property, whether owned by or leased to the incorporated
5 municipality outside the municipal boundaries, unless the county and
6 municipality agree otherwise pursuant to part 2 of article 1 of title 29
7 ~~C.R.S.~~, or article 20 of title 29. ~~C.R.S.~~

8 **SECTION 2.** In Colorado Revised Statutes, **add** 35-5.5-118.5 as
9 follows:

10 **35-5.5-118.5. Local enforcement - civil infraction - civil**
11 **penalty - injunction - definition.** (1) AS USED IN THIS SECTION, UNLESS
12 THE CONTEXT OTHERWISE REQUIRES, "VIOLATION" MEANS A VIOLATION OF
13 THIS ARTICLE 5.5, ANY RULE PROMULGATED PURSUANT TO THIS ARTICLE
14 5.5, OR ANY COUNTY ORDINANCE, RESOLUTION, RULE, OR OTHER
15 REGULATION IMPLEMENTING THIS ARTICLE 5.5.

16 (2) (a) IN ADDITION TO THE ENFORCEMENT AUTHORITY OF THE
17 COMMISSIONER PURSUANT TO SECTION 35-5.5-118, A PERSON WHO
18 VIOLATES THIS ARTICLE 5.5, ANY RULE PROMULGATED PURSUANT TO THIS
19 ARTICLE 5.5, OR ANY COUNTY ORDINANCE, RESOLUTION, RULE, OR OTHER
20 REGULATION IMPLEMENTING THIS ARTICLE 5.5 COMMITS A CIVIL
21 INFRACTION. THE COUNTY ATTORNEY FOR THE COUNTY WHERE THE
22 VIOLATION OCCURS SHALL ENFORCE CIVIL INFRACTIONS PURSUANT TO THIS
23 SUBSECTION (2)(a) BY PROSECUTION. EACH DAY THAT A VIOLATION
24 CONTINUES IS A SEPARATE OFFENSE.

25 (b) AS USED IN THIS SUBSECTION (2), "PERSON" DOES NOT INCLUDE
26 A STATE AGENCY.

27 (3) (a) (I) IN ADDITION TO THE ENFORCEMENT AUTHORITY OF THE

1 COMMISSIONER PURSUANT TO SECTION 35-5.5-118 AND THE COUNTY
2 ATTORNEY PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION, A COUNTY
3 COURT, UPON A FINDING BY A PREPONDERANCE OF THE EVIDENCE THAT A
4 VIOLATION OCCURRED OR IS OCCURRING, SHALL ORDER THE VIOLATOR TO
5 PAY A CIVIL PENALTY OF NO LESS THAN FIVE HUNDRED DOLLARS AND NO
6 MORE THAN ONE THOUSAND DOLLARS.

7 (II) NOTWITHSTANDING SUBSECTION (3)(a)(I) OF THIS SECTION,
8 EACH DAY THAT A VIOLATION CONTINUES IS A SEPARATE OFFENSE, AND A
9 VIOLATOR IS SUBJECT TO A CONTINUING CIVIL PENALTY OF NO MORE THAN
10 ONE HUNDRED DOLLARS FOR EACH DAY THAT THE VIOLATION CONTINUES.

11 (b) (I) UNTIL THE FILING WITH THE COUNTY COURT OF A RECEIPT
12 ISSUED BY THE COUNTY TREASURER SHOWING PAYMENT IN FULL OF A CIVIL
13 PENALTY ORDERED PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION OR
14 THE GRANTING OF A MOTION OF THE COUNTY ATTORNEY INDICATING THAT
15 THE MATTER HAS BEEN RESOLVED PURSUANT TO SUBSECTION (3)(c)(I) OF
16 THIS SECTION, THE CIVIL PENALTY, AS OF THE DATE OF THE RECORDING OF
17 THE CIVIL PENALTY WITH THE CLERK AND RECORDER OF THE COUNTY
18 WHERE THE VIOLATION OCCURRED OR IS OCCURRING, IS A LIEN AGAINST
19 THE PROPERTY WHERE THE VIOLATION OCCURRED OR IS OCCURRING.

20 (II) IF THE CIVIL PENALTY IS NOT PAID WITHIN THIRTY DAYS AFTER
21 THE ORDER OF THE COUNTY COURT, THE BOARD OF COUNTY
22 COMMISSIONERS MAY CERTIFY THE CIVIL PENALTY TO THE COUNTY
23 TREASURER, WHO SHALL COLLECT THE CIVIL PENALTY AND A TEN PERCENT
24 ADDITIONAL PENALTY FOR THE COST OF COLLECTION IN THE SAME
25 MANNER AS OTHER TAXES ARE COLLECTED.

26 (III) ANY STATE LAWS APPLICABLE TO THE ASSESSMENT AND
27 COLLECTION OF GENERAL TAXES, INCLUDING THE LAWS FOR THE SALE AND

1 REDEMPTION OF PROPERTY FOR TAXES, APPLY TO THE COLLECTION OF
2 CIVIL PENALTIES PURSUANT TO SUBSECTION (3)(b)(II) OF THIS SECTION.

3 (c) (I) UPON THE FILING WITH THE COUNTY COURT OF A RECEIPT
4 ISSUED BY THE COUNTY TREASURER SHOWING PAYMENT IN FULL OF A CIVIL
5 PENALTY ORDERED PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION, THE
6 COUNTY COURT SHALL DISMISS THE ACTION AND ISSUE A SATISFACTION IN
7 FULL OF THE COUNTY COURT'S JUDGMENT. THE COUNTY COURT MAY ALSO
8 DISMISS THE ACTION UPON A MOTION OF THE COUNTY ATTORNEY
9 INDICATING THAT THE MATTER HAS BEEN RESOLVED.

10 (II) IF THE EVENTS DESCRIBED IN SUBSECTION (3)(c)(I) OF THIS
11 SECTION DO NOT OCCUR, THE ACTION CONTINUES. IF A COUNTY ATTORNEY
12 FILES A MOTION IN COUNTY COURT AND PRESENTS PROOF THAT THE
13 VIOLATION HAS NOT BEEN CURED, REMOVED, OR CORRECTED, THE COUNTY
14 COURT SHALL ORDER AN ADDITIONAL CIVIL PENALTY IN AN AMOUNT
15 CONSISTENT WITH SUBSECTION (3)(a) OF THIS SECTION.

16 (4) THE COUNTY ATTORNEY MAY PETITION THE DISTRICT COURT
17 FOR THE JUDICIAL DISTRICT WHERE A VIOLATION OCCURRED TO INSTITUTE
18 AN INJUNCTION, MANDAMUS, ABATEMENT, OR OTHER APPROPRIATE
19 ACTION OR PROCEEDING TO PREVENT, ENJOIN, ABATE, OR REMOVE AN
20 ONGOING VIOLATION.

21 (5) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE
22 CONTRARY, THE BOARD OF COUNTY COMMISSIONERS IN THE COUNTY
23 WHERE A VIOLATION OCCURRED OR IS OCCURRING MAY APPOINT THE
24 DISTRICT ATTORNEY FOR THE JUDICIAL DISTRICT WHERE A VIOLATION
25 OCCURRED OR IS OCCURRING TO CONDUCT AN ENFORCEMENT ACTION
26 PURSUANT TO THIS SECTION:

27 (a) IF THERE IS NO COUNTY ATTORNEY FOR THE COUNTY WHERE

1 THE VIOLATION OCCURRED; OR

2 (b) IN ANY OTHER CIRCUMSTANCE THAT THE BOARD OF COUNTY
3 COMMISSIONERS DEEMS APPROPRIATE.

4 (6) EXCEPT FOR ANY SURCHARGES OR COURT COSTS COLLECTED
5 BY A COURT, ANY FINES, FEES, OR COSTS COLLECTED PURSUANT TO THIS
6 SECTION MUST BE TRANSMITTED TO THE COUNTY TREASURER OF THE
7 COUNTY WHERE THE VIOLATION OCCURRED.

8 (7) NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, IT IS
9 WITHIN THE DISCRETION OF A COUNTY ATTORNEY OR DISTRICT ATTORNEY,
10 AS APPLICABLE, TO DETERMINE WHETHER TO PURSUE AN ENFORCEMENT
11 ACTION PURSUANT TO THIS SECTION OR TO PURSUE ANOTHER REMEDY
12 AVAILABLE UNDER THE LAW.

13 **SECTION 3. Act subject to petition - effective date -**
14 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
15 the expiration of the ninety-day period after final adjournment of the
16 general assembly; except that, if a referendum petition is filed pursuant
17 to section 1 (3) of article V of the state constitution against this act or an
18 item, section, or part of this act within such period, then the act, item,
19 section, or part will not take effect unless approved by the people at the
20 general election to be held in November 2024 and, in such case, will take
21 effect on the date of the official declaration of the vote thereon by the
22 governor.

23 (2) This act applies to conduct occurring on or after the applicable
24 effective date of this act.