

CHAPTER 222

AGRICULTURE

SENATE BILL 93-17

BY SENATORS Ament and Roberts;
also REPRESENTATIVES Owen, Acquafresca, Anderson, Armstrong, Eisenach, and Moellenberg.

AN ACT

CONCERNING ENACTMENT OF THE "COLORADO SEED ACT", AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. Article 27 of title 35, Colorado Revised Statutes, 1984 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

ARTICLE 27
Colorado Seed Act

35-27-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "COLORADO SEED ACT".

35-27-102. Legislative declaration. THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT TRUTH IN THE LABELING OF SEED IS OF PARAMOUNT IMPORTANCE TO THE CITIZENS OF COLORADO BECAUSE THE DISTRIBUTION AND SUBSEQUENT USE OF POOR QUALITY SEED CAUSED BY INACCURATE OR MISLEADING LABELING OF SUCH SEED CAN RESULT IN SEVERE ECONOMIC HARDSHIP DUE TO LOW CROP YIELDS, POOR CROP QUALITY, AND THE SPREAD OF NOXIOUS WEED SEED. IT IS THE INTENT OF THE GENERAL ASSEMBLY IN ENACTING THIS ARTICLE TO PREVENT THE DISTRIBUTION AND USE OF POOR QUALITY SEED THROUGH THE REGULATION OF THE LABELING, THE LABELERS, AND THE SELLERS OF SEED FOR PROPAGATION IN COLORADO.

35-27-103. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

- (1) "ADVERTISEMENT" MEANS ALL REPRESENTATIONS COMMERCIAL AND

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

OTHERWISE, OTHER THAN LABELING, DISSEMINATED IN ANY MANNER OR BY ANY MEANS BY THE SELLER OF SEED AS SUCH REPRESENTATIONS RELATE TO SUCH SEED.

(2) "BEAN" MEANS ALL SPECIES OF GENUS PHASEOLUS, VIGNA, AND CICER.

(3) "CERTIFIED SEED" MEANS SEED CERTIFIED BY A SEED CERTIFYING AGENCY PURSUANT TO THIS ARTICLE AND INCLUDES FOUNDATION AND REGISTERED SEED.

(4) "CERTIFYING AGENCY" MEANS THE SEED CERTIFICATION SERVICE OF THE COLORADO STATE UNIVERSITY AUTHORIZED BY THE STATE BOARD OF AGRICULTURE OR THE AUTHORIZED SEED CERTIFYING AGENCY OF ANOTHER STATE.

(5) "COMMISSIONER" MEANS THE COMMISSIONER OF AGRICULTURE.

(6) "CONDITIONING" MEANS DRYING, CLEANING, SCARIFYING, SIZING, OR ANY OTHER OPERATION WHICH COULD CHANGE THE PURITY OR GERMINATION OF SEED.

(7) "CUSTOM SEED CONDITIONER" MEANS ANY PERSON IN COLORADO WHO ENGAGES IN THE BUSINESS OF CONDITIONING SEED BY EITHER A STATIONARY OR PORTABLE SEED CLEANER, IF OWNERSHIP OF SUCH SEED IS RETAINED BY THE CUSTOMER.

(8) "DEPARTMENT" MEANS THE DEPARTMENT OF AGRICULTURE.

(9) "DISEASE OF BEANS" MEANS A BACTERIAL, VIRAL, OR FUNGAL DISEASE OF BEANS. THE TERM INCLUDES ANY OF THE FOLLOWING DISEASES AND ANY VARIATIONS OR NEW STRAINS OF THE FOLLOWING DISEASES WHICH ARE RECOGNIZED AS PATHOGENIC OR A POTENTIAL THREAT TO SEED BEAN PRODUCTION:

(a) ANTHRACNOSE (COLLECTOTRICHUM LINDEMUTHIANUM);

(b) BEAN BACTERIAL WILT (CORYNEBACTERIUM FLACCUMFACIENS SSP. FLACCUMFACIENS);

(c) STRAINS OF BROWN SPOT (PSEUDOMONAS SYRINGAE PV. SYRINGAE);

(d) COMMON BEAN BLIGHT (XANTHOMONAS CAMPESTRIS PV. PHASEOLI);

(e) HALO BLIGHT (PSEUDOMONAS SYRINGAE PV. PHASEOLICOLA); AND

(f) BCMV (BEAN COMMON MOSAIC VIRUS).

(10) "FARMER SEED LABELER" MEANS ANY PERSON WHO PRODUCES SEED FOR SALE ON PROPERTY OWNED OR RENTED BY SUCH PERSON OR SUCH PERSON'S EMPLOYER IN COLORADO.

(11) "GERMINATION" MEANS THE EMERGENCE AND DEVELOPMENT FROM THE SEED EMBRYO OF THOSE ESSENTIAL STRUCTURES WHICH, FOR THE KIND OF SEED IN QUESTION, ARE INDICATIVE OF THE ABILITY TO PRODUCE A NORMAL PLANT UNDER FAVORABLE CONDITIONS AND INCLUDES LIVE UNGERMINATED SEEDS WHICH ARE DESIGNATED AS DORMANT OR HARD.

(12) "INERT MATTER" MEANS MATTER WHICH IS NOT SEED, INCLUDING BROKEN SEED, STERILE FLORETS, CHAFF, FUNGUS BODIES, AND STONES, AS DEFINED BY THE COMMISSIONER.

(13) "KIND" MEANS ONE OR MORE RELATED SPECIES OR SUBSPECIES WHICH SINGLY OR COLLECTIVELY ARE KNOWN BY ONE COMMON NAME, INCLUDING CORN, OATS, ALFALFA, TIMOTHY, AND WESTERN WHEATGRASS.

(14) "LABELING" MEANS ALL LABELS, TAGS, AND OTHER WRITTEN, PRINTED, OR GRAPHIC REPRESENTATIONS, IN ANY FORM, ACCOMPANYING AND PERTAINING TO SPECIFIC SEED WHETHER IN BULK OR IN CONTAINERS AND INCLUDES INVOICES; EXCEPT THAT LABELING DOES NOT INCLUDE ADVERTISEMENTS AS DEFINED IN THIS SECTION.

(15) "LOT" MEANS A DEFINITE QUANTITY OF SEED IDENTIFIED BY A LOT NUMBER OR OTHER MARK. EVERY PORTION OR BAG OF ANY SUCH LOT SHALL BE UNIFORM WITHIN RECOGNIZED TOLERANCES FOR THE FACTORS WHICH APPEAR IN THE LABELING OF SUCH LOT.

(16) "NOXIOUS WEED SEED" MEANS THE SEED PRODUCED FROM PLANTS WHICH ARE ESPECIALLY TROUBLESOME AND DETRIMENTAL AND WHICH MAY CAUSE DAMAGE OR LOSS TO A CONSIDERABLE PORTION OF THE LAND OR LIVESTOCK OF A COMMUNITY. NOXIOUS WEED SEED ARE DIVIDED INTO TWO CLASSES: "PROHIBITED NOXIOUS WEED SEED" AND "RESTRICTED NOXIOUS WEED SEED" AND ARE DEFINED AS FOLLOWS:

(a) "PROHIBITED NOXIOUS WEED SEED" MEANS THE SEED OF PERENNIAL, BIENNIAL, AND ANNUAL WEEDS WHICH ARE HIGHLY DETRIMENTAL AND ESPECIALLY DIFFICULT TO CONTROL. THE PRESENCE OF PROHIBITED NOXIOUS WEED SEED IN SEED PRECLUDES THE SALE OF SEED FOR PROPAGATION. PROHIBITED NOXIOUS WEED SEED INCLUDES THE SEED OF ANY WEED SO DESIGNATED BY THE COMMISSIONER.

(b) "RESTRICTED NOXIOUS WEED SEED" MEANS THE SEED OF WEEDS WHICH ARE VERY OBJECTIONABLE IN FIELDS, LAWNS, AND GARDENS BUT WHICH CAN BE CONTROLLED BY GOOD CULTURAL PRACTICES. RESTRICTED NOXIOUS WEED SEED INCLUDES THE SEED OF ANY WEED SO DESIGNATED BY THE COMMISSIONER.

(17) "ORIGIN" MEANS THE STATE OR FOREIGN COUNTRY IN WHICH SEED IS GROWN.

(18) "PERSON" MEANS INDIVIDUAL, CORPORATION, GOVERNMENT OR GOVERNMENTAL SUBDIVISION OR AGENCY, BUSINESS TRUST, ESTATE, TRUST, LIMITED LIABILITY COMPANY, PARTNERSHIP, ASSOCIATION, OR OTHER LEGAL ENTITY.

(19) "PESTICIDE" MEANS SUBSTANCE OR MIXTURE OF SUBSTANCES INTENDED FOR PREVENTING, DESTROYING, REPELLING, OR MITIGATING ANY PEST, SUBSTANCE, OR MIXTURE OF SUBSTANCES INTENDED FOR USE AS A PLANT REGULATOR, DEFOLIANT, OR DESICCANT; EXCEPT THAT THE TERM "PESTICIDE" SHALL NOT INCLUDE ANY SUBSTANCE THAT IS A "NEW ANIMAL DRUG" AS DESIGNATED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION.

(20) "RECORD" MEANS ANY INFORMATION WHICH RELATES TO THE ORIGIN, TREATMENT, GERMINATION, PURITY, KIND, AND VARIETY OF EACH LOT OF SEED SOLD IN THIS STATE. SUCH INFORMATION INCLUDES SEED SAMPLES AND DOCUMENTS

SHOWING DECLARATIONS, LABELS, PURCHASES, SALES, CONDITIONING, BULKING, TREATMENT, HANDLING, STORAGE, ANALYSES, TESTS, AND EXAMINATIONS.

(21) "RETAIL SEED DEALER" MEANS ANY PERSON WHO ENGAGES IN THE BUSINESS OF SELLING SEED AT RETAIL IN COLORADO.

(22) "SCREENINGS" MEANS CHAFF, STERILE FLORETS, IMMATURE SEED, WEED SEED, INERT MATTER, AND ANY OTHER MATERIALS REMOVED IN ANY WAY FROM ANY SEED IN ANY KIND OF CLEANING PROCEDURE.

(23) "SEED" MEANS AGRICULTURAL, VEGETABLE, ORNAMENTAL, SHRUB, OR TREE SEED FOR PROPAGATION.

(24) "SEED LABELER" MEANS A PERSON WHO ENGAGES IN THE BUSINESS OF LABELING SEED FOR SALE IN COLORADO AND WHOSE NAME AND ADDRESS APPEARS ON THE LABEL OF SUCH SEED.

(25) "TOLERANCE" MEANS:

(a) FOR "SEED", THE ALLOWABLE DEVIATION, AS PRESCRIBED IN THE RULES AND REGULATIONS ADOPTED PURSUANT TO THIS ARTICLE, FROM ANY FIGURE USED ON A LABEL INCLUDING BUT NOT LIMITED TO THOSE FIGURES USED TO DESIGNATE THE PERCENTAGE OF ANY FRACTION OF THE LOT IN QUESTION, THE PERCENTAGE GERMINATION, OR THE NUMBER OF NOXIOUS WEED SEEDS PRESENT.

(b) FOR "BEAN", IN ADDITION TO THE REQUIREMENTS OF PARAGRAPH (a) OF THIS SUBSECTION (25), THE DEVIATION FROM MINIMUM LEVELS OF SEED-BORNE PATHOGENS AND THE DISEASES OF BEANS ALLOWED BY THE COMMISSIONER.

(26) "TREATED" MEANS THAT THE SEED HAS RECEIVED AN APPLICATION OF A SUBSTANCE OR THAT IT HAS BEEN SUBJECTED TO A PROCEDURE FOR WHICH A CLAIM IS MADE.

(27) (a) "VARIETY" (CULTIVAR) MEANS A DIVISION OF A KIND WHICH IS DISTINCT, STABLE, AND UNIFORM.

(b) FOR PURPOSES OF THIS SUBSECTION (27):

(I) "DISTINCT" MEANS THAT THE VARIETY CAN BE DIFFERENTIATED BY ONE OR MORE IDENTIFIABLE MORPHOLOGICAL, PHYSIOLOGICAL, OR OTHER CHARACTERISTICS FROM ALL OTHER VARIETIES PUBLICLY KNOWN.

(II) "STABLE" MEANS THAT THE VARIETY WILL REMAIN UNCHANGED IN ITS ESSENTIAL AND DISTINCTIVE CHARACTERISTICS AND ITS UNIFORMITY WHEN REPRODUCED OR RECONSTITUTED AS REQUIRED BY THE DIFFERENT CATEGORIES OF VARIETIES.

(III) "UNIFORM" MEANS THAT VARIATIONS IN ESSENTIAL AND DISTINCTIVE CHARACTERISTICS ARE DESCRIBABLE.

(28) "WEED SEED" MEANS THE SEED OF PLANTS DETRIMENTAL TO AGRICULTURE

AND GENERALLY RECOGNIZED AS WEEDS WITHIN THIS STATE AND INCLUDES NOXIOUS WEED SEED.

35-27-104. Scope of article. (1) THE PROVISIONS OF THIS ARTICLE SHALL NOT APPLY TO:

(a) SEED NOT INTENDED FOR PROPAGATION; EXCEPT THAT, SCREENINGS ARE SUBJECT TO THE REQUIREMENTS OF SECTION 35-27-113 (1) (e);

(b) SEED IN STORAGE IN OR CONSIGNED TO A SEED CONDITIONING ESTABLISHMENT FOR CONDITIONING OR FOR SALE OUTSIDE THE STATE; EXCEPT THAT:

(I) DISCLOSURE OF INFORMATION CONCERNING THE HOLDING, SALE, AND TRANSPORTATION OF SUCH SEED SHALL BE PROVIDED:

(A) ON THE LABELS ATTACHED TO SUCH SEED; OR

(B) UPON REQUEST; AND

(II) ALL LABELING AND ADVERTISEMENTS MADE REGARDING SUCH SEED ARE SUBJECT TO THIS ARTICLE.

(c) SEED SOLD OR CONSIGNED TO A MERCHANT, IF SUCH SEED IS TO BE RECLEANED BEFORE IT IS SOLD FOR PROPAGATION; EXCEPT THAT THE SELLER OR CONSIGNOR OF SUCH SEED SHALL BE RESPONSIBLE FOR ANY ADVERTISEMENTS MADE CONCERNING SUCH SEED IN THE COURSE OF THE SALE OF SUCH SEED;

(d) SEED OF A VARIETY NOT PROTECTED BY THE FEDERAL "PLANT VARIETY PROTECTION ACT", 7 U.S.C.A. SECS. 2323 TO 2583, AS AMENDED, SOLD ON A GROWER'S PREMISES AND DELIVERED TO A PURCHASER, IF SUCH SEED IS: GROWN ON SUCH GROWER'S PREMISES, NOT DELIVERED BY COMMON CARRIER OR BY MAIL, AND NOT COMMERCIALY ADVERTISED IN ANY WAY; EXCEPT THAT SUCH SEED SHALL BE SUBJECT TO THE NOXIOUS WEED PROVISIONS OF SECTION 35-27-113 (2), AND THE GROWER OF SUCH SEED SHALL BE RESPONSIBLE FOR ANY ADVERTISEMENTS MADE CONCERNING SUCH SEED IN THE COURSE OF THE SALE OF SUCH SEED;

(e) SEED BROUGHT INTO THE STATE BY THE COLORADO AGRICULTURAL EXPERIMENT STATION FOR EXPERIMENTAL PURPOSES OR FOR STORAGE IN THE NATIONAL SEED STORAGE LABORATORY;

(f) ANY PERSON WHO PRODUCES SEED FOR SUCH PERSON'S OWN USE ON PROPERTY OWNED OR RENTED BY SUCH PERSON OR SUCH PERSON'S EMPLOYER;

(g) SEED HELD FOR WHOLESALE TRANSACTIONS; EXCEPT THAT SUCH SEED SHALL BE SUBJECT TO THE LABELING REQUIREMENTS OF SECTION 35-27-105.

(2) ANY PERSON WHO ACTS AS A CUSTOM SEED CONDITIONER, FARMER SEED LABELER, RETAIL SEED DEALER, OR SEED LABELER IN THIS STATE SHALL BE SUBJECT TO THIS ARTICLE.

35-27-105. Label requirements. (1) (a) EXCEPT AS OTHERWISE PROVIDED IN

THIS ARTICLE, EVERY CONTAINER OF SEED WHICH IS SOLD, OFFERED OR EXPOSED FOR SALE, BARTERED, OR DISTRIBUTED WITHIN THIS STATE FOR PROPAGATION SHALL CONSPICUOUSLY BEAR A LEGIBLE AND PLAINLY WRITTEN OR PRINTED LABEL OR TAG IN ENGLISH WHICH SHALL PROVIDE ALL INFORMATION REQUIRED BY THE COMMISSIONER. A LABEL SHALL NOT BEAR FALSE OR MISLEADING INFORMATION.

(b) FOR PURPOSES OF THIS SUBSECTION (1), A LOT OF SEED SOLD AT WHOLESALE OR AT BULK SHALL BE CATEGORIZED AS A SALE IN A SINGLE CONTAINER.

(2) ALL LABELS MADE PURSUANT TO THIS SECTION SHALL INCLUDE ARBITRATION INFORMATION REQUIRED PURSUANT TO SECTION 35-27-123.

35-27-106. Tolerances. (1) TOLERANCES SHALL BE RECOGNIZED BETWEEN:

(a) THE PERCENTAGES OR RATES OF OCCURRENCE FOUND BY ANALYSIS, TEST, OR EXAMINATION; AND

(b) THE PERCENTAGES OR RATES OF OCCURRENCE PRESCRIBED BY THE COMMISSIONER.

(2) IN PRESCRIBING TOLERANCES THE COMMISSIONER SHALL USE AS GUIDES:

(a) THE TOLERANCES DEFINED IN THE "FEDERAL SEED ACT", 7 U.S.C.A. SECS. 1551 TO 1610, AS AMENDED; AND

(b) RULES FOR TESTING SEED ADOPTED BY THE ASSOCIATION OF OFFICIAL SEED ANALYSTS.

35-27-107. Sales from bulk lots. (1) IF SEED IS SOLD, OFFERED OR EXPOSED FOR SALE, BARTERED, OR DISTRIBUTED IN OR FROM A BULK LOT, A LABEL REQUIRED PURSUANT TO SECTION 35-27-105 SHALL BE FURNISHED TO EACH PURCHASER OF SUCH SEED; EXCEPT THAT SUCH LABEL SHALL NOT BE REQUIRED TO BE FURNISHED FOR SALES OTHERWISE EXEMPTED.

(2) NO LABEL REQUIRED PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL BE REQUIRED FOR BULK LOT SEED IF SUCH SEED IS:

(a) SOLD, OFFERED OR EXPOSED FOR SALE, BARTERED, OR DISTRIBUTED IN A LOT OF LESS THAN FIVE POUNDS DIRECTLY TO A CONSUMER; AND

(b) TAKEN FROM A CONTAINER IN SUCH CONSUMER'S PRESENCE.

35-27-108. Seed shipped into state. (1) NO SEED SHALL BE BROUGHT INTO THE STATE UNLESS SUCH SEED:

(a) HAS BEEN TESTED AND HAS PASSED ALL SUCH REQUIRED TESTS AS REQUIRED BY THE COMMISSIONER PURSUANT TO RULE AND REGULATION; AND

(b) IS IN A CONTAINER WHICH MEETS THE LABELING REQUIREMENTS OF SECTION 35-27-105; AND

(c) MEETS ALL OTHER REQUIREMENTS OF THIS ARTICLE.

(2) TESTS REQUIRED PURSUANT TO PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION SHALL BE DEVELOPED BY THE COMMISSIONER THROUGH RULE AND REGULATION.

35-27-109. Seed beans - approval. (1) (a) FOR SEED BEANS, THE COMMISSIONER SHALL ESTABLISH TOLERANCES OF SEED-BORNE PATHOGENS, INSPECTION PROCEDURES AND STANDARDS, AND APPROVAL PROCEDURES FOR THOSE SEED BEANS WHICH ARE FOUND TO BE WITHIN ALLOWABLE TOLERANCES.

(b) THE COMMISSIONER MAY DESIGNATE THOSE AREAS OF THE STATE IN WHICH THE PROVISIONS OF THIS SECTION SHALL APPLY.

(2) (a) THE COMMISSIONER SHALL ESTABLISH REASONABLE FEES FOR INSPECTIONS PERFORMED PURSUANT TO THIS SECTION.

(b) FEES ESTABLISHED PURSUANT TO THIS SUBSECTION (2) SHALL BE:

(I) SUFFICIENT TO OFFSET THE ACTUAL DIRECT AND INDIRECT COSTS INCURRED BY THE COMMISSIONER IN ADMINISTERING THE PROVISIONS OF THIS SECTION; AND

(II) PAID BY THE PERSON SELLING, BARTERING, OR DISTRIBUTING SEED BEANS.

(3) THE COMMISSIONER MAY, BY CONTRACTUAL AGREEMENT, RETAIN QUALIFIED PERSONS TO ACT AS AGENTS OF THE COMMISSIONER FOR THE PERFORMANCE OF INSPECTIONS PURSUANT TO SUBSECTION (1) OF THIS SECTION.

35-27-110. Seed records and samples. EACH PERSON WHOSE NAME APPEARS ON A LABEL ON A SEED CONTAINER AS A HANDLER OF THE SEED IN SUCH CONTAINER SHALL KEEP COMPLETE RECORDS AS PRESCRIBED BY THE COMMISSIONER CONCERNING THE ORIGIN, SALE, SHIPPING, AND DISPOSITION OF SUCH SEED AND SHALL KEEP OR ARRANGE TO HAVE KEPT A FILE SAMPLE OF SUCH SEED FOR A PERIOD OF AT LEAST TWO YEARS AFTER FINAL DISPOSITION OF SUCH SEED. ALL SUCH RECORDS AND SAMPLES SHALL BE ACCESSIBLE FOR INSPECTION BY THE COMMISSIONER OR THE COMMISSIONER'S AGENT DURING CUSTOMARY BUSINESS HOURS. RECORDS REQUIRED PURSUANT TO THIS SECTION SHALL BE IN ADDITION TO ANY RECORD KEPT PURSUANT TO SECTION 35-27-112.

35-27-111. Registration of custom seed conditioners, farmer seed labelers, retail seed dealers, and seed labelers - form - fees - renewal. (1) AFTER JANUARY 1, 1994, NO PERSON SHALL ACT AS A CUSTOM SEED CONDITIONER, FARMER SEED LABELER, RETAIL SEED DEALER, OR SEED LABELER IN THIS STATE, EXCEPT AS PROVIDED IN THIS ARTICLE, IF SUCH PERSON IS NOT REGISTERED WITH THE DEPARTMENT.

(2) (a) A PERSON MAY REGISTER AS A CUSTOM SEED CONDITIONER, FARMER SEED LABELER, RETAIL SEED DEALER, OR SEED LABELER BY SUBMITTING INFORMATION ON THE FORM AND WITH THE REGISTRATION FEE PRESCRIBED BY THE COMMISSIONER.

(b) EACH REGISTRATION COMPLETED PURSUANT TO THIS SECTION SHALL BE

EFFECTIVE ON THE FIRST DAY OF THE MONTH FOLLOWING THE MONTH IT WAS SUBMITTED TO THE DEPARTMENT AND SHALL EXPIRE ON THE LAST DAY OF THE MONTH TWELVE MONTHS FROM THE DATE IT BECAME EFFECTIVE.

(c) A REGISTRANT SHALL REPORT ANY CHANGE IN THE INFORMATION PROVIDED IN SUCH REGISTRANT'S REGISTRATION FORM OR IN ANY REPORT SUBMITTED TO THE DEPARTMENT PURSUANT TO THIS ARTICLE WITHIN FIFTEEN DAYS OF SUCH CHANGE IN THE MANNER PRESCRIBED BY THE COMMISSIONER.

(3) THE FOLLOWING PERSONS SHALL BE EXEMPT FROM THE PROVISIONS OF SUBSECTIONS (1) AND (2) OF THIS SECTION:

(a) ANY PERSON REGISTERED AS A CUSTOM SEED CONDITIONER, FARMER LABELER, OR SEED LABELER, SHALL NOT BE REQUIRED TO REGISTER AS A RETAIL SEED DEALER TO SELL SEED AT RETAIL IN COLORADO;

(b) ANY PERSON REGISTERED AS A SEED LABELER SHALL NOT BE REQUIRED TO REGISTER AS A CUSTOM SEED CONDITIONER IN COLORADO;

(c) ANY PERSON REGISTERED AS A FARMER LABELER SHALL NOT BE REQUIRED TO REGISTER AS A CUSTOM SEED CONDITIONER IF SUCH PERSON IS ONLY CLEANING OR CONDITIONING SUCH PERSON'S OWN SEED; AND

(d) ANY PERSON ACTING AS A RETAIL SEED DEALER SELLING ONLY PREPACKAGED SEED IN CONTAINERS OF ONE POUND OR LESS SHALL NOT BE REQUIRED TO REGISTER AS A RETAIL SEED DEALER IF THE SEED LABELER SUPPLYING SUCH PREPACKAGED SEED IS PROPERLY REGISTERED.

(4) (a) THE COMMISSIONER SHALL ESTABLISH REGISTRATION FEES; EXCEPT THAT REGISTRATION FEES FOR:

(I) CUSTOM SEED CONDITIONERS AND SEED LABELERS SHALL NOT EXCEED THREE HUNDRED DOLLARS; AND

(II) FARMER SEED LABELERS AND RETAIL SEED DEALERS SHALL NOT EXCEED SEVENTY-FIVE DOLLARS.

(b) THE COMMISSIONER SHALL ESTABLISH FEES FOR EACH ADDITIONAL SEPARATE REGISTRATION LOCATION ACCORDING TO THE CLASS OF REGISTRANT; EXCEPT THAT THE FEE FOR:

(I) CUSTOM SEED CONDITIONERS AND SEED LABELERS SHALL NOT EXCEED SEVENTY-FIVE DOLLARS FOR EACH SUCH ADDITIONAL SEPARATE LOCATION; AND

(II) FARMER SEED LABELERS AND RETAIL SEED DEALERS SHALL NOT EXCEED TWENTY-FIVE DOLLARS FOR EACH SUCH ADDITIONAL SEPARATE LOCATION.

(5) (a) ANY PERSON REGISTERED PURSUANT TO THIS ARTICLE MAY RENEW SUCH PERSON'S REGISTRATION WITHIN ONE YEAR OF ITS EXPIRATION. NO REGISTRATION SHALL BE RENEWED IF IT IS NOT RENEWED WITHIN ONE YEAR OF EXPIRATION.

(b) A REGISTRATION MAY BE RENEWED BY A REGISTRANT BY SUBMITTING A COMPLETED REGISTRATION RENEWAL FORM AND THE REQUISITE RENEWAL FEE BEFORE SUCH REGISTRANT'S CURRENT REGISTRATION EXPIRES. SUCH RENEWAL FORMS AND FEES SHALL BE PRESCRIBED BY THE COMMISSIONER.

(c) IF A REGISTRANT DOES NOT COMPLETE THE RENEWAL PROCESS IN COMPLIANCE WITH PARAGRAPH (b) OF THIS SUBSECTION (5) SUCH REGISTRANT SHALL BE REQUIRED TO PAY A FEE OF AN AMOUNT DOUBLE THE PRESCRIBED RENEWAL FEE.

(d) NO RENEWAL SHALL BE EFFECTIVE UNTIL THE REQUISITE FEE IS RECEIVED BY THE DEPARTMENT.

35-27-112. Record-keeping requirements. EVERY PERSON ACTING AS A CUSTOM SEED CONDITIONER, FARMER SEED LABELER, RETAIL SEED DEALER, OR SEED LABELER IN THIS STATE REGISTERED PURSUANT TO THIS ARTICLE SHALL KEEP AND MAINTAIN CERTAIN RECORDS. RECORDS SHALL BE MAINTAINED AS SPECIFIED BY THE COMMISSIONER FOR A PERIOD OF TWO YEARS AT THE REGISTRANT'S ADDRESS. RECORDS REQUIRED PURSUANT TO THIS SECTION SHALL BE IN ADDITION TO ANY RECORD KEPT PURSUANT TO SECTION 35-27-110.

35-27-113. Prohibitions. (1) IT IS UNLAWFUL AND A VIOLATION OF THIS ARTICLE FOR ANY PERSON TO SELL, OFFER OR EXPOSE FOR SALE, BARTER, OR DISTRIBUTE ANY SEED WITHIN THIS STATE, IF SUCH SEED:

(a) HAS NOT BEEN TESTED TO DETERMINE THE PERCENTAGE OF GERMINATION OF SUCH SEED WITHIN THE PREVIOUS THIRTEEN MONTHS; EXCEPT THAT FOR SEED STORED IN HERMETICALLY SEALED CONTAINERS, IF SUCH SEED HAS NOT BEEN TESTED WITHIN THE PREVIOUS TWENTY-FOUR MONTHS;

(b) HAS BEEN TREATED WITH A MATERIAL WHICH IS POISONOUS TO HUMANS OR LIVESTOCK UNLESS THERE IS A CONSPICUOUS WARNING IN THE LABELING WHICH GIVES THE COMMONLY ACCEPTED OR ABBREVIATED CHEMICAL NAME OF THE POISONOUS SUBSTANCE;

(c) IS NOT LABELED IN ACCORDANCE WITH THIS ARTICLE;

(d) IS OR HAS BEEN THE SUBJECT OF FALSE OR MISLEADING ADVERTISEMENTS OR STATEMENTS BY THE PERSON, OR SUCH PERSON'S AGENT, WHO IS SELLING, EXPOSING OR OFFERING FOR SALE, BARTERING, OR DISTRIBUTING SUCH SEED;

(e) IS SOLD IN THE FORM OF SCREENINGS, BUT IS NOT LABELED AND INVOICED AS "SCREENINGS FOR PROCESSING, NOT FOR SEEDING";

(f) IS OFFICIALLY LABELED OR ADVERTISED, AS CERTIFIED OR REGISTERED, AND IF SUCH SEED HAS NOT BEEN PRODUCED, CONDITIONED, AND PACKAGED IN CONFORMITY WITH THE STANDARDS OF PURITY AS TO KIND AND VARIETY IN COMPLIANCE WITH THE RULES AND REGULATIONS OF THE CERTIFYING AGENCY. FOR PURPOSES OF THIS PARAGRAPH (f), LABELING OR ADVERTISING GUARANTEES THAT SEED IS CERTIFIED IF SUCH LABELING OR ADVERTISING USES THE WORD "CERTIFIED", "FOUNDATION", OR "REGISTERED" IN ANY MANNER.

(g) IS SOLD BY A VARIETY NAME NOT CERTIFIED BY A CERTIFYING AGENCY AND IF SUCH SEED IS OF A VARIETY FOR WHICH A CERTIFICATE OR APPLICATION FOR CERTIFICATE OF PLANT VARIETY PROTECTION UNDER THE FEDERAL "PLANT VARIETY PROTECTION ACT", 7 U.S.C.A. SECS. 2323 TO 2583, AS AMENDED, REQUIRES SALE ONLY AS A CLASS OF CERTIFIED SEED; OR

(h) IS SOLD BY VARIETY NAME WHEN SUCH SEED IS OF A VARIETY FOR WHICH A CERTIFICATE OR APPLICATION FOR CERTIFICATE OF PLANT VARIETY PROTECTION UNDER THE FEDERAL "PLANT VARIETY PROTECTION ACT", 7 U.S.C.A. SECS. 2323 TO 2583, AS AMENDED, HAS BEEN GRANTED OR FOR WHICH AN APPLICATION FOR A CERTIFICATE OF PLANT VARIETY PROTECTION HAS BEEN SOUGHT.

(2) (a) IT IS A CIVIL VIOLATION OF THIS ARTICLE FOR ANY PERSON TO SELL, OFFER OR EXPOSE FOR SALE, BARTER, OR DISTRIBUTE ANY SEED WITHIN THIS STATE IF SUCH SEED CONTAINS:

(I) MORE THAN TWO PERCENT OF WEED SEED BY WEIGHT OR SUCH OTHER STANDARD ESTABLISHED BY THE COMMISSIONER;

(II) PROHIBITED NOXIOUS WEED SEED; OR

(III) (A) MORE RESTRICTED NOXIOUS WEED SEED PER POUND THAN THE AMOUNT DECLARED ON THE LABEL ATTACHED TO THE CONTAINER OF SUCH SEED, IF THE AMOUNT DECLARED MEETS THE STANDARDS ESTABLISHED BY THE COMMISSIONER; OR

(B) MORE RESTRICTED NOXIOUS WEED SEED PER POUND THAN THE AMOUNT ALLOWED BY THE STANDARDS ESTABLISHED BY THE COMMISSIONER.

(b) ANY PERSON WHO VIOLATES PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL BE SUBJECT TO A CIVIL PENALTY PURSUANT TO SECTION 35-27-118.

(3) IT IS UNLAWFUL AND A VIOLATION OF THIS ARTICLE FOR ANY PERSON WITHIN THIS STATE TO:

(a) DETACH, ALTER, DEFACE, OR DESTROY ANY LABEL OR TAG COMPLETED PURSUANT TO SECTION 35-27-105, IF SUCH PERSON IS NOT THE ULTIMATE CONSUMER;

(b) ALTER OR SUBSTITUTE SEED OR OTHER MATERIAL IN A MANNER THAT MAY DEFEAT THE PURPOSES OF THIS ARTICLE;

(c) DISSEMINATE ANY FALSE OR MISLEADING ADVERTISEMENT CONCERNING A SPECIFIC LOT OF SEED IN ANY MANNER OR BY ANY MEANS;

(d) INTENTIONALLY HINDER OR OBSTRUCT IN ANY WAY ANY AUTHORIZED PERSON IN THE PERFORMANCE OF SUCH PERSON'S OFFICIAL DUTIES AS SUCH DUTIES PERTAIN TO THIS ARTICLE;

(e) PERFORM, OR HOLD ONESELF OUT AS BEING AUTHORIZED TO PERFORM, ANY OF THE ACTS FOR WHICH REGISTRATION IS REQUIRED WITHOUT REGISTERING PURSUANT TO SECTION 35-27-111;

(f) SOLICIT, ADVERTISE, OR OFFER TO PERFORM ANY OF THE ACTS FOR WHICH REGISTRATION IS REQUIRED WITHOUT BEING REGISTERED;

(g) REFUSE OR FAIL TO COMPLY WITH A CEASE AND DESIST ORDER ISSUED PURSUANT TO SECTION 35-27-116;

(h) REFUSE OR FAIL TO COMPLY WITH THE PROVISIONS OF THIS ARTICLE;

(i) MAKE FALSE, MISLEADING, DECEPTIVE, OR FRAUDULENT ADVERTISEMENTS CONCERNING A SPECIFIC LOT OF SEED;

(j) IMPERSONATE ANY STATE, COUNTY, CITY AND COUNTY, OR MUNICIPAL OFFICIAL OR INSPECTOR AUTHORIZED PURSUANT TO THIS ARTICLE;

(k) REFUSE OR FAIL TO COMPLY WITH ANY RULES OR REGULATIONS ADOPTED BY THE COMMISSIONER PURSUANT TO THIS ARTICLE OR TO ANY LAWFUL ORDER ISSUED BY THE COMMISSIONER.

(4) IT IS UNLAWFUL AND A VIOLATION OF THIS ARTICLE FOR ANY PERSON TO SELL, OFFER OR EXPOSE FOR SALE, BARTER, OR DISTRIBUTE, FOR OTHER THAN PROPAGATION PURPOSES, WITHIN THE STATE, ANY SEED THAT HAS BEEN TREATED UNLESS IT IS SOLD SEPARATELY FROM UNTREATED SEED OR GRAIN AND IS ACCOMPANIED BY AN AFFIDAVIT, CERTIFICATE, LABEL, OR TAG STATING THAT THE SEED HAS BEEN CHEMICALLY TREATED AND CANNOT BE USED FOR FOOD, FEED, OR OIL PURPOSES.

(5) IT IS UNLAWFUL AND A VIOLATION OF THIS ARTICLE FOR ANY PERSON ACTING AS A CUSTOM SEED CONDITIONER, FARMER SEED LABELER, RETAIL SEED DEALER, OR SEED LABELER TO:

(a) MAKE FALSE OR MISLEADING REPRESENTATIONS OR STATEMENTS OF FACT IN ANY APPLICATION, RECORD, OR REPORT SUBMITTED TO THE DEPARTMENT PURSUANT TO THIS ARTICLE;

(b) FAIL TO MAINTAIN OR SUBMIT ANY RECORDS OR REPORTS REQUIRED BY THIS ARTICLE;

(c) PERMIT THE USE OF A REGISTRATION BY ANY PERSON OTHER THAN THE REGISTRANT.

(6) A PERSON COMMITS A CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S., WHEN SUCH PERSON:

(a) SELLS, OFFERS OR EXPOSES FOR SALE, BARTERS, OR DISTRIBUTES WITHIN THE STATE:

(I) ANY SEED BEANS WHICH HAVE NOT BEEN APPROVED IN ACCORDANCE WITH SECTION 35-27-109;

(II) ANY SEED SUBJECT TO THE PROVISIONS OF THIS ARTICLE IF SUCH PERSON FAILS TO COMPLY WITH OR VIOLATES THE PROVISIONS OF THIS ARTICLE;

(b) (I) REMOVES OR DISPOSES OF ANY DETAINED OR EMBARGOED SEED WITHOUT PRIOR PERMISSION FROM THE COMMISSIONER OR A COURT OF COMPETENT JURISDICTION OR REMOVES OR ALTERS ANY LABELING ON SUCH SEED.

(II) ANY PERSON VIOLATING THIS PARAGRAPH (b) MAY BE SUBJECT TO CIVIL PENALTIES ASSESSED IN ACCORDANCE WITH SECTION 35-27-118.

(7) THE FAILURE BY ANY PERSON TO COMPLY WITH THE PROVISIONS OF SUBSECTION (3) (e), (3) (f), OR (3) (i) OF THIS SECTION IS A DECEPTIVE TRADE PRACTICE AND IS SUBJECT TO THE PROVISIONS OF THE "COLORADO CONSUMER PROTECTION ACT", ARTICLE 1 OF TITLE 6, C.R.S.

(8) IT IS THE DUTY OF THE SEVERAL DISTRICT ATTORNEYS OF THE STATE TO PROSECUTE ALL PERSONS CHARGED WITH THE VIOLATION OF ANY OF THE PROVISIONS OF THIS ARTICLE. IT IS THE DUTY OF THE ATTORNEY GENERAL TO ADVISE THE COMMISSIONER IN ALL LEGAL MATTERS AND TO REPRESENT THE COMMISSIONER OR THE COMMISSIONER'S AGENTS IN ALL ACTIONS BROUGHT BY OR AGAINST THE COMMISSIONER OR THE COMMISSIONER'S AGENTS.

35-27-114. Powers and duties of commissioner. (1) IN ADDITION TO ANY OTHER DUTIES IN THIS ARTICLE, THE COMMISSIONER SHALL:

(a) ADMINISTER AND ENFORCE THE PROVISIONS OF THIS ARTICLE;

(b) ADOPT RULES AND REGULATIONS NECESSARY FOR THE ADMINISTRATION AND ENFORCEMENT OF THIS ARTICLE INCLUDING BUT NOT LIMITED TO RULES AND REGULATIONS WHICH:

(I) SET FORTH THE METHODS TO INSPECT, SAMPLE, ANALYZE, AND TEST SEED, INCLUDING DEFINING THE TOLERANCES TO BE FOLLOWED DURING SUCH PROCESSES PURSUANT TO SECTION 35-27-106;

(II) AMEND THE LISTS OF PROHIBITED AND RESTRICTED NOXIOUS WEED SEED;

(III) ESTABLISH PROCEDURES AND STANDARDS INCLUDING DEFINING ALLOWABLE TOLERANCES TO BE USED FOR THE INSPECTION AND APPROVAL OF SEED BEANS THAT ARE WITHIN ALLOWABLE TOLERANCES PURSUANT TO SECTION 35-27-109;

(IV) ESTABLISH STANDARDS FOR THE SALE OF ANY SEED INCLUDING BUT NOT LIMITED TO STANDARDS FOR THE ACCEPTABLE CONTENT OF PATHOGENS, BIOTIC CONTAMINANT, INSECTS, PLANT PESTS, AND ENDOPHYTES IN SUCH SEEDS;

(V) ESTABLISH PROCEDURES AND STANDARDS TO EMBARGO SEED PURSUANT TO SECTION 35-27-119;

(VI) ESTABLISH PROCEDURES FOR THE REINSTATEMENT OF ANY REGISTRATION AUTHORIZED PURSUANT TO THIS ARTICLE;

(VII) ENFORCE ANY DISCIPLINARY ACTIONS AUTHORIZED PURSUANT TO THIS ARTICLE INCLUDING BUT NOT LIMITED TO LETTERS OF ADMONITION OR THE DENIAL, SUSPENSION, OR REVOCATION OF ANY REGISTRATION;

(VIII) ESTABLISH THE AMOUNTS OF THE REGISTRATION FEES PURSUANT TO SECTION 35-27-111;

(c) PROMPTLY NOTIFY ANY PERSON WHO TRANSPORTED, SOLD, BARTERED, OR DISTRIBUTED THE SEED OR OFFERED OR EXPOSED THE SEED FOR SALE WHICH DOES NOT TEST IN COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE;

(d) INSPECT, SAMPLE, ANALYZE, AND TEST SEED PURSUANT TO THIS ARTICLE.

(2) IN ADDITION TO ANY OTHER POWERS CONFERRED IN THIS ARTICLE, THE COMMISSIONER MAY:

(a) INSPECT, SAMPLE, ANALYZE, AND TEST SEED PURSUANT TO PARAGRAPH (d) OF SUBSECTION (1) OF THIS SECTION AT SUCH TIME AND PLACE AND TO SUCH EXTENT AS THE COMMISSIONER DEEMS NECESSARY TO DETERMINE COMPLIANCE WITH THIS ARTICLE;

(b) APPOINT SUCH QUALIFIED EMPLOYEES OF THE DEPARTMENT AS NECESSARY TO CARRY OUT THE PROVISIONS OF THIS ARTICLE;

(c) COOPERATE WITH THE UNITED STATES DEPARTMENT OF AGRICULTURE TO ENFORCE FEDERAL SEED LAW;

(d) (I) CONDUCT ANY HEARINGS REQUIRED BY THIS ARTICLE PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S.; OR

(II) DELEGATE TO THE ARBITRATION COUNCIL CREATED IN SECTION 35-27-122 THE POWER TO CONDUCT SUCH HEARINGS; OR

(III) SUBJECT TO APPROPRIATIONS MADE TO THE DEPARTMENT, TO EMPLOY ADMINISTRATIVE LAW JUDGES ON A FULL- OR PART-TIME BASIS TO CONDUCT SUCH HEARINGS;

(e) CONDUCT INVESTIGATIONS PURSUANT TO SECTION 35-27-115;

(f) REQUEST, PURSUANT TO SECTION 35-27-122 (1) (d), THAT THE ARBITRATION COUNCIL ASSIST IN DETERMINING CIVIL PENALTIES ASSESSED PURSUANT TO SECTION 35-27-118.

35-27-115. Inspections - access - investigations - subpoena. (1) THE COMMISSIONER, UPON THE COMMISSIONER'S OWN MOTION OR UPON THE COMPLAINT OF ANY PERSON, MAY MAKE AN INVESTIGATION NECESSARY TO DETERMINE COMPLIANCE WITH THIS ARTICLE.

(2) (a) FOR INSPECTION PURPOSES PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE COMMISSIONER SHALL HAVE FREE AND UNIMPEDED ACCESS DURING REGULAR BUSINESS HOURS, EITHER UPON CONSENT OF THE OWNER OR UPON OBTAINING AN ADMINISTRATIVE SEARCH WARRANT, TO:

(I) ENTER ANY BUILDING, YARD, WAREHOUSE, OR STORAGE FACILITIES IN WHICH SEED OR ANY OTHER RELATED MATERIAL IS KEPT, USED, STORED, HANDLED,

CONDITIONED, DISPOSED OF, OR TRANSPORTED; AND

(II) INSPECT ANY RECORDS REQUIRED TO BE KEPT PURSUANT TO THIS ARTICLE.

(b) THE COMMISSIONER IS AUTHORIZED TO MAKE COPIES OF ANY RECORD INSPECTED PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (2).

(3) (a) THE COMMISSIONER HAS FULL AUTHORITY TO ADMINISTER OATHS, TAKE STATEMENTS, ISSUE SUBPOENAS TO COMPEL THE APPEARANCE OF WITNESSES BEFORE THE COMMISSIONER, ISSUE SUBPOENAS DUCES TECUM FOR THE PRODUCTION OF ANY BOOKS, MEMORANDA, PAPERS, OR OTHER DOCUMENTS, ARTICLES, OR INSTRUMENTS, AND COMPEL DISCLOSURE BY WITNESSES OF ALL FACTS KNOWN TO SUCH WITNESSES RELATIVE TO ANY MATTER UNDER INVESTIGATION.

(b) UPON FAILURE OR REFUSAL OF ANY PERSON TO OBEY ANY SUBPOENA ISSUED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3), THE COMMISSIONER MAY PETITION THE DISTRICT COURT TO ENTER AN ORDER COMPELLING SUCH PERSON TO COMPLY WITH THE SUBPOENA.

(c) FAILURE TO OBEY AN ORDER OF THE COURT ENTERED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (3) IS CONTEMPT OF COURT.

(4) COMPLAINTS OF RECORD MADE TO THE COMMISSIONER AND THE RESULTS OF THE COMMISSIONER'S INVESTIGATIONS SHALL BE CLOSED TO PUBLIC INSPECTION, EXCEPT TO THE PERSON IN INTEREST AS DEFINED IN SECTION 24-72-202 (4), C.R.S., OR PURSUANT TO COURT ORDER, DURING THE INVESTIGATORY PERIOD AND UNTIL DISMISSED OR NOTICE OF HEARING AND CHARGES ARE SERVED.

35-27-116. Enforcement. (1) THE COMMISSIONER, PURSUANT TO THE PROVISIONS OF THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S., SHALL ENFORCE THE PROVISIONS OF THIS ARTICLE. AFTER AN INVESTIGATION, THE COMMISSIONER MAY, THROUGH THE ATTORNEY GENERAL, ENFORCE ANY OF THE PROVISIONS OF THIS ARTICLE, INCLUDING RECOVERING ANY MONEY DUE THE DEPARTMENT OR ANY PENALTY ASSESSED PURSUANT TO THIS ARTICLE, AND DEFEND ANY SUIT OR ACTION BROUGHT AGAINST THE COMMISSIONER OR THE DEPARTMENT UNDER THIS ARTICLE.

(2) (a) IF THE COMMISSIONER HAS REASONABLE CAUSE TO BELIEVE A VIOLATION OF THIS ARTICLE IS OCCURRING AND DETERMINES THAT IMMEDIATE ACTION IS NECESSARY, THE COMMISSIONER MAY ISSUE A CEASE AND DESIST ORDER. SUCH CEASE AND DESIST ORDER SHALL BE ISSUED TO THE ALLEGED VIOLATOR AND SHALL SET FORTH THE ALLEGED VIOLATION, THE FACTS WHICH CONSTITUTE SUCH VIOLATION, AND AN ORDER THAT ALL SUCH VIOLATIVE CONDUCT IMMEDIATELY CEASE.

(b) IF A PERSON FAILS TO COMPLY WITH A CEASE AND DESIST ORDER WITHIN TWENTY-FOUR HOURS AFTER BEING SERVED WITH SUCH ORDER, THE COMMISSIONER MAY BRING A SUIT FOR A TEMPORARY RESTRAINING ORDER AND INJUNCTIVE RELIEF TO PREVENT ANY FURTHER VIOLATION OF SUCH ORDER.

(c) NO STAY OF A CEASE AND DESIST ORDER SHALL BE ISSUED BEFORE A HEARING

HAS BEEN HELD AT WHICH BOTH PARTIES HAVE HAD AN OPPORTUNITY TO APPEAR.

(d) MATTERS BROUGHT BEFORE A COURT PURSUANT TO THIS SECTION SHALL HAVE PREFERENCE OVER OTHER MATTERS ON THE CALENDAR OF THE COURT.

(3) (a) IF THE COMMISSIONER DETERMINES THAT A PERSON HAS ENGAGED IN OR IS ABOUT TO ENGAGE IN ANY ACT OR PRACTICE VIOLATING ANY PROVISION OF THIS ARTICLE, ANY RULE OR REGULATION, OR ANY ORDER ISSUED UNDER THIS ARTICLE, THE COMMISSIONER MAY APPLY TO A COURT OF COMPETENT JURISDICTION TO TEMPORARILY OR PERMANENTLY RESTRAIN SUCH PERSON OR ENJOIN THE VIOLATIVE PRACTICE.

(b) IN ANY ACTION TAKEN PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3), THE COURT SHALL NOT REQUIRE THE COMMISSIONER TO:

(I) PLEAD OR PROVE IRREPARABLE INJURY OR INADEQUACY OF A REMEDY AT LAW;
OR

(II) POST A BOND.

(4) (a) ANY LOT OF SEED WHICH IS SOLD, OFFERED OR EXPOSED FOR SALE, BARTERED, OR DISTRIBUTED IN VIOLATION OF THIS ARTICLE SHALL BE SUBJECT TO EMBARGO ON COMPLAINT OF THE COMMISSIONER TO A COURT OF COMPETENT JURISDICTION FOR THE AREA IN WHICH SUCH LOT OF SEED IS LOCATED.

(b) IF THE COURT FINDS, PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (4), SEED TO BE IN VIOLATION OF THIS ARTICLE AND ORDERS THE EMBARGO AND CONDEMNATION OF SUCH SEED, SUCH SEED SHALL BE, PURSUANT TO COURT ORDER, CONDITIONED, DENATURED, DESTROYED, RELABELED, OR OTHERWISE DISPOSED OF IN A MANNER CONSISTENT WITH THE QUALITY OF SUCH SEED.

35-27-117. Disciplinary actions - denial of registration. (1) THE COMMISSIONER, PURSUANT TO THE PROVISIONS OF ARTICLE 4 OF TITLE 24, C.R.S., MAY ISSUE LETTERS OF ADMONITION OR DENY, SUSPEND, REFUSE TO RENEW, OR REVOKE ANY REGISTRATION AUTHORIZED UNDER THIS ARTICLE IF THE REGISTRANT:

(a) REFUSES OR FAILS TO COMPLY WITH ANY PROVISION OF THIS ARTICLE, ANY RULE OR REGULATION ADOPTED UNDER THIS ARTICLE, OR ANY LAWFUL ORDER OF THE COMMISSIONER;

(b) IS CONVICTED OF A FELONY FOR AN OFFENSE RELATED TO THE CONDUCT REGULATED BY THIS ARTICLE;

(c) HAS A REGISTRATION OR LICENSE OF EQUIVALENT STATUS DENIED, REVOKED, OR SUSPENDED BY ANY REGISTERING OR LICENSING AUTHORITY OF ANY STATE OR FOREIGN COUNTRY;

(d) REFUSES TO PROVIDE THE COMMISSIONER WITH REASONABLE, COMPLETE, AND ACCURATE INFORMATION REGARDING SUCH PERSON'S BUSINESS, IF REQUESTED TO DO SO BY THE COMMISSIONER; OR

(e) FALSIFIES ANY INFORMATION REQUESTED BY THE COMMISSIONER.

(2) IN ANY PROCEEDING HELD UNDER THIS SECTION, THE COMMISSIONER MAY ACCEPT AS PRIMA FACIE EVIDENCE OF GROUNDS FOR DISCIPLINARY ACTION ANY DISCIPLINARY ACTION TAKEN AGAINST A REGISTRANT IN ANOTHER JURISDICTION, EITHER FOREIGN OR DOMESTIC, IF THE VIOLATION WHICH PROMPTED THE DISCIPLINARY ACTION IN THAT JURISDICTION WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER THIS SECTION.

(3) (a) ALL DISCIPLINARY ACTIONS TAKEN BY THE COMMISSIONER PURSUANT TO THIS ARTICLE SHALL BE DEEMED FINAL FOR PURPOSES OF JUDICIAL REVIEW.

(b) ANY PERSON AGGRIEVED BY ANY DISCIPLINARY ACTION TAKEN BY THE COMMISSIONER SHALL APPEAL TO THE COLORADO COURT OF APPEALS.

(4) NO REGISTRANT WHOSE REGISTRATION HAS BEEN REVOKED MAY APPLY OR REAPPLY FOR REGISTRATION UNDER THIS ARTICLE WITHIN TWO YEARS AFTER THE DATE OF SUCH REVOCATION.

35-27-118. Civil penalties. (1) (a) ANY PERSON WHO VIOLATES ANY PROVISION OF THIS ARTICLE OR ANY RULE OR REGULATION ADOPTED PURSUANT TO THIS ARTICLE IS SUBJECT TO A CIVIL PENALTY, AS DETERMINED BY THE COMMISSIONER.

(b) (I) BEFORE IMPOSING ANY CIVIL PENALTY, THE COMMISSIONER SHALL CONSIDER THE SEVERITY OF THE VIOLATION, THE AMOUNT OF HARM CAUSED BY SUCH VIOLATION, THE PRESENCE OR ABSENCE OF A PATTERN OF SIMILAR VIOLATIONS BY THE REGISTRANT, THE EFFECT OF THE PROPOSED PENALTY ON THE ABILITY OF THE REGISTRANT TO CONTINUE TO CONDUCT BUSINESS, AND ANY OTHER FACTORS DEEMED RELEVANT.

(II) THE COMMISSIONER MAY REQUEST ADVICE FROM THE ARBITRATION COUNCIL IN ASSESSING A FINE PURSUANT TO THIS SECTION.

(c) THE MAXIMUM PENALTY IMPOSED BY THE COMMISSIONER SHALL NOT EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS PER VIOLATION.

(2) NO CIVIL PENALTY SHALL BE IMPOSED UNLESS THE PERSON CHARGED IS GIVEN NOTICE AND AN OPPORTUNITY FOR A HEARING PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S.

(3) IF THE COMMISSIONER IS UNABLE TO COLLECT A CIVIL PENALTY OR IF ANY PERSON FAILS TO PAY ALL OR A SET PORTION OF SUCH CIVIL PENALTY, THE COMMISSIONER IS AUTHORIZED TO RETAIN THE ATTORNEY GENERAL PURSUANT TO SECTION 35-27-116 TO BRING SUIT TO RECOVER SUCH PENALTY. IN ANY ACTION BROUGHT PURSUANT TO THIS SECTION THE COMMISSIONER SHALL BE ENTITLED TO RECOVER COSTS AND REASONABLE ATTORNEY FEES.

35-27-119. Embargo. (1) (a) THIS SECTION SHALL APPLY IF THE COMMISSIONER FINDS OR HAS REASONABLE CAUSE TO BELIEVE THAT ANY SEED IS:

(I) (A) ADULTERATED OR MISBRANDED; OR

(B) NOT LABELED PURSUANT TO THIS ARTICLE; AND

(II) (A) IN VIOLATION OF ANY PROVISION OF THIS ARTICLE OR ANY RULE OR REGULATION ADOPTED PURSUANT TO THIS ARTICLE;

(B) FROM AN UNREGISTERED SEED LABELER;

(C) FOR SALE OR HAS BEEN SOLD BY AN UNREGISTERED RETAIL SEED DEALER; OR

(D) HAS BEEN DISTRIBUTED BY AN UNREGISTERED CUSTOM SEED CONDITIONER.

(b) THE COMMISSIONER SHALL CONDUCT AN INVESTIGATION TO DETERMINE IF A VIOLATION OF PARAGRAPH (a) OF THIS SUBSECTION (1) HAS OCCURRED.

(2) IF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION APPLIES, THE COMMISSIONER SHALL AFFIX TO THE SEED IN QUESTION LABELING TO GIVE NOTICE THAT:

(a) THE SEED VIOLATES THIS ARTICLE; AND

(b) THE SEED IS EMBARGOED; AND

(c) NO PERSON MAY REMOVE OR DISPOSE OF SUCH SEED BY SALE OR OTHERWISE UNTIL PERMISSION FOR REMOVAL OR DISPOSAL IS GIVEN BY THE COMMISSIONER OR A COURT OF COMPETENT JURISDICTION.

(3) IF THE COMMISSIONER DETERMINES THAT EMBARGOED SEED IS NOT ADULTERATED OR MISLABELED, THE COMMISSIONER SHALL REMOVE THE LABELING ATTACHED PURSUANT TO SUBSECTION (2) OF THIS SECTION.

(4) THE OWNER OF SEED EMBARGOED UNDER THIS SECTION MAY CORRECT ANY VIOLATION FOUND BY THE COMMISSIONER WITHIN THIRTY DAYS AFTER THE EMBARGO OF SUCH SEED. IF THE VIOLATION IS NOT CORRECTED WITHIN THIRTY DAYS, THE COMMISSIONER MAY PETITION A COURT OF COMPETENT JURISDICTION TO CONDEMN SUCH SEED.

(5) (a) IF A COURT FINDS THAT EMBARGOED SEED IS IN VIOLATION OF THIS ARTICLE, SUCH SEED SHALL, AFTER ENTRY OF SUCH COURT'S DECREE, BE DESTROYED AT THE EXPENSE OF THE OWNER, CLAIMANT, OR CUSTODIAN THEREOF, UNDER THE SUPERVISION OF THE COMMISSIONER, AND ALL COURT COSTS, ATTORNEY FEES, STORAGE FEES, AND OTHER REASONABLE AND PROPER EXPENSES SHALL BE ASSESSED AGAINST THE OWNER, CLAIMANT, OR CUSTODIAN OF SUCH SEED.

(b) IF ADULTERATION OR MISLABELING OF EMBARGOED SEED MAY BE CORRECTED BY PROPER CONDITIONING OR LABELING, THE COURT, AFTER ENTRY OF SUCH COURT'S DECREE AND IF COSTS, ATTORNEY FEES, STORAGE FEES, AND EXPENSES ARE PAID AND A GOOD AND SUFFICIENT BOND IS SECURED BY THE OWNER, CLAIMANT, OR CUSTODIAN OF SUCH SEED, MAY ORDER THAT SUCH SEED BE DELIVERED TO THE OWNER, CLAIMANT, OR CUSTODIAN FOR CORRECTIVE LABELING OR CONDITIONING. ANY SUCH CORRECTIVE LABELING OR CONDITIONING SHALL BE CONDUCTED UNDER THE SUPERVISION OF THE COMMISSIONER. THE EXPENSE OF SUCH SUPERVISION SHALL BE

PAID BY SUCH OWNER, CLAIMANT, OR CUSTODIAN. THE SEED SHALL BE RETURNED TO ITS OWNER, CLAIMANT, OR CUSTODIAN WHEN THE SEED NO LONGER VIOLATES THIS ARTICLE AND THE EXPENSES OF SUCH SUPERVISION HAVE BEEN PAID. THE COMMISSIONER SHALL INFORM THE COURT OF COMPLIANCE BY THE OWNER, CLAIMANT, OR CUSTODIAN OF THE SEED.

35-27-120. Reports - bulletins. EXCEPT AS PROVIDED FOR IN SECTION 35-27-115 (4), THE COMMISSIONER MAY PUBLISH BULLETINS OR PRESS REPORTS SETTING FORTH RESULTS OF ANY EXAMINATION, ANALYSIS, OR TEST CONDUCTED PURSUANT TO THIS ARTICLE. BULLETINS MAY INCLUDE THE NAMES OF PERSONS WHO HAVE HAD SEED LOTS EXAMINED, ANALYZED, OR TESTED. THE COMMISSIONER MAY ALSO PUBLISH BULLETINS OR PRESS REPORTS WHICH SET FORTH INFORMATION ON SEED. ANY SUCH REPORT OR PUBLICATIONS INTENDED FOR CIRCULATION OUTSIDE THE EXECUTIVE BRANCH SHALL BE PUBLISHED AND CIRCULATED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 24-1-136, C.R.S.

35-27-121. Advisory committee. (1) (a) THE COMMISSIONER SHALL APPOINT FOUR MEMBERS OF A SIX MEMBER SEED ADVISORY COMMITTEE TO TERMS OF THREE YEARS TO ADVISE IN FORMULATING RULES AND REGULATIONS FOR CARRYING OUT THE PROVISIONS OF THIS ARTICLE. SUCH ADVISORY COMMITTEE SHALL HAVE TWO PERMANENT MEMBERS AS FOLLOWS: A SEED SCIENTIST AT COLORADO STATE UNIVERSITY AND THE MANAGER OF THE COLORADO SEED GROWERS ASSOCIATION.

(b) THE OTHER FOUR COMMITTEE MEMBERS SHALL BE APPOINTED AS FOLLOWS:

(I) A MEMBER OF THE COLORADO SEEDSMEN'S ASSOCIATION; EXCEPT THAT THE FIRST SUCH APPOINTEE SHALL SERVE A TERM THAT TERMINATES ON JULY 1, 1994;

(II) A FARMER MEMBER OF THE COLORADO SEED GROWERS ASSOCIATION; EXCEPT THAT THE FIRST SUCH APPOINTEE SHALL SERVE A TERM THAT TERMINATES ON JULY 1, 1995; AND

(III) (A) TWO MEMBERS OF WHICH ONE SHALL BE FROM THE EAST SLOPE AND ONE FROM THE WEST SLOPE OR SAN LUIS VALLEY.

(B) THE INITIAL APPOINTEES APPOINTED PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (III) SHALL BE APPOINTED TO TERMS THAT TERMINATE ON JULY 1, 1996.

(c) NO APPOINTED MEMBER SHALL SERVE MORE THAN TWO CONSECUTIVE TERMS.

(2) MEMBERS OF THE COMMITTEE SHALL RECEIVE NO COMPENSATION, BUT SHALL BE REIMBURSED FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES AS MEMBERS OF THE COMMITTEE.

(3) (a) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 1999.

(b) PRIOR TO SAID REPEAL, THE SEED ADVISORY COMMITTEE SHALL BE REVIEWED AS PROVIDED FOR IN SECTION 2-3-1203, C.R.S.

35-27-122. Arbitration council - procedures. (1) (a) THE COMMISSIONER SHALL

APPOINT AN ARBITRATION COUNCIL COMPOSED OF FIVE STANDING MEMBERS AND FIVE ALTERNATE MEMBERS. THE FOLLOWING SHALL EACH RECOMMEND ONE STANDING AND ONE ALTERNATE MEMBER:

(I) THE DIRECTORS OF THE COLORADO STATE UNIVERSITY COOPERATIVE EXTENSION AND EXPERIMENT STATION;

(II) THE DEAN OF THE COLLEGE OF AGRICULTURE, COLORADO STATE UNIVERSITY;

(III) THE PRESIDENT OF THE COLORADO SEEDSMEN'S ASSOCIATION;

(IV) THE PRESIDENT OF ANY ORGANIZATION OF FARMERS IN THE STATE AS THE COMMISSIONER DETERMINES TO BE APPROPRIATE; AND

(V) THE AGRICULTURAL COMMISSION.

(b) EACH ALTERNATE MEMBER SHALL SERVE ONLY IN THE ABSENCE OF THE MEMBER FOR WHOM SUCH MEMBER IS AN ALTERNATE.

(c) THE COUNCIL SHALL ELECT A CHAIR AND A SECRETARY FROM ITS MEMBERSHIP. THE CHAIR SHALL CONDUCT MEETINGS AND DELIBERATIONS OF THE COUNCIL AND SHALL DIRECT ALL OF ITS OTHER ACTIVITIES. THE SECRETARY SHALL KEEP ACCURATE RECORDS OF ALL SUCH MEETINGS AND DELIBERATIONS AND SHALL PERFORM SUCH OTHER DUTIES FOR THE COUNCIL AS THE CHAIR DIRECTS.

(d) THE COUNCIL SHALL CONDUCT ARBITRATIONS. THE COUNCIL MAY ALSO BE CALLED INTO SESSION BY OR AT THE DIRECTION OF THE COMMISSIONER OR UPON DIRECTION OF THE CHAIR TO CONSIDER MATTERS REFERRED TO IT BY THE COMMISSIONER OR SUCH CHAIR.

(2) (a) A BUYER OF SEED SHALL REQUEST ARBITRATION BY FILING A VERIFIED COMPLAINT WITH THE COMMISSIONER TOGETHER WITH A FILING FEE OF TEN DOLLARS. SUCH BUYER SHALL SERVE A COPY OF THE COMPLAINT UPON THE SELLER OF SUCH SEED BY CERTIFIED MAIL OR PERSONAL SERVICE. IF THE SEED HAS BEEN PLANTED, THE COMPLAINT SHALL BE FILED IN TIME TO ALLOW INSPECTION OF THE PLANTS UNDER FIELD CONDITIONS.

(b) WITHIN FIVE WORKING DAYS AFTER RECEIPT OF A COPY OF THE COMPLAINT, THE SELLER SHALL FILE A VERIFIED ANSWER TO THE COMPLAINT WITH THE COMMISSIONER AND SHALL SERVE A COPY OF THE ANSWER UPON THE BUYER BY CERTIFIED MAIL.

(c) THE COMMISSIONER SHALL REFER THE COMPLAINT AND ANSWER TO THE COUNCIL FOR INVESTIGATION, FINDINGS, AND RECOMMENDATIONS.

(d) UPON REFERRAL OF A COMPLAINT FOR INVESTIGATION, THE COUNCIL SHALL MAKE A PROMPT AND FULL INVESTIGATION OF THE ALLEGATIONS IN THE COMPLAINT AND SHALL REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE COMMISSIONER IN AN ARBITRATION REPORT. SUCH ARBITRATION REPORT SHALL BE FILED WITH THE COMMISSIONER WITHIN SIXTY DAYS AFTER SUCH REFERRAL OR A LATER DATE IF THE PARTIES AGREE.

(e) THE ARBITRATION REPORT OF THE COUNCIL SHALL INCLUDE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATIONS AS TO COSTS, IF ANY, INCLUDING BUT NOT LIMITED TO COSTS OF ANY INVESTIGATION CONDUCTED.

(f) IN THE COURSE OF ITS INVESTIGATION, THE COUNCIL OR ANY OF ITS MEMBERS MAY:

(I) EXAMINE THE BUYER AND THE SELLER ON ALL RELEVANT MATTERS;

(II) GROW A REPRESENTATIVE SAMPLE OF THE SEED THROUGH THE FACILITIES OF COLORADO STATE UNIVERSITY TO PRODUCTION; AND

(III) HOLD INFORMAL HEARINGS AT SUCH TIME AND PLACE AS THE CHAIRMAN MAY DIRECT AFTER REASONABLE NOTICE TO ALL PARTIES.

(g) THE COUNCIL MAY DELEGATE ALL OR ANY PART OF AN INVESTIGATION TO ONE OR MORE OF ITS MEMBERS. ANY SUCH DELEGATED INVESTIGATION SHALL BE SUMMARIZED IN A REPORT BY SUCH MEMBER AND SHALL BE CONSIDERED AND ADDRESSED BY THE COUNCIL IN ITS ARBITRATION REPORT.

(h) THE MEMBERS OF THE COUNCIL SHALL RECEIVE NO COMPENSATION FOR THE PERFORMANCE OF THEIR DUTIES BUT SHALL BE REIMBURSED FOR ACTUAL AND NECESSARY EXPENSES.

(i) AFTER THE COUNCIL HAS FILED ITS ARBITRATION REPORT WITH THE COMMISSIONER, THE COMMISSIONER SHALL PROMPTLY TRANSMIT SUCH ARBITRATION REPORT BY CERTIFIED MAIL TO ALL PARTIES.

35-27-123. Requirement and effect of arbitration. (1) (a) IF A BUYER OF SEED SUFFERS DAMAGE BECAUSE SUCH SEED DOES NOT PRODUCE OR PERFORM IN CONFORMANCE WITH THE LABELING OR WARRANTY OR BECAUSE OF NEGLIGENCE BY THE SELLER, THE BUYER SHALL SUBMIT SUCH BUYER'S CLAIM TO ARBITRATION PURSUANT TO THIS SECTION AND SECTION 35-27-122. SUCH SUBMITTAL SHALL BE A PREREQUISITE TO SUCH BUYER'S RIGHT TO MAINTAIN ANY LEGAL ACTION AGAINST THE SELLER OF SUCH SEED. ANY STATUTE OF LIMITATIONS SHALL BE TOLLED UNTIL TEN DAYS AFTER THE FILING OF THE ARBITRATION REPORT.

(b) NO CLAIM MAY BE ASSERTED AS A COUNTERCLAIM OR DEFENSE IN ANY ACTION BROUGHT PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) BY A SELLER AGAINST A BUYER, IF THE BUYER HAS NOT SUBMITTED SUCH CLAIM TO ARBITRATION. AFTER THE BUYER FILES A WRITTEN NOTICE OF INTENTION TO ASSERT A CLAIM AS A COUNTERCLAIM OR DEFENSE IN SUCH ACTION, ACCOMPANIED BY A COPY OF THE BUYER'S COMPLAINT FILED UNDER SECTION 35-27-122 (2) (a), THE STATUTE OF LIMITATIONS SHALL BE TOLLED FOR SUCH CLAIM UNTIL TEN DAYS AFTER THE FILING OF THE ARBITRATION REPORT PURSUANT TO SECTION 35-27-122 (2) (d).

(2) (a) EVERY LABEL REQUIRED PURSUANT TO SECTION 35-27-105 SHALL INCLUDE CLEAR LANGUAGE THAT ARBITRATION IS REQUIRED FOR CLAIMS ARISING OUT OF THE SALE OF SEED; EXCEPT THAT ARBITRATION SHALL NOT BE REQUIRED IF THE NOTICE REQUIRED PURSUANT TO THIS PARAGRAPH (a) IS NOT INCLUDED.

(b) A NOTICE IN THE FOLLOWING FORM OR EQUIVALENT LANGUAGE, SHALL BE SUFFICIENT TO COMPLY WITH PARAGRAPH (a) OF THIS SUBSECTION (2):

"NOTICE OF REQUIRED ARBITRATION

UNDER THE "COLORADO SEED ACT", ARTICLE 27 OF TITLE 35, COLORADO REVISED STATUTES, ARBITRATION IS REQUIRED AS A PREREQUISITE TO CERTAIN LEGAL ACTIONS, COUNTERCLAIMS, OR DEFENSES AGAINST A SELLER OF SEED. INFORMATION ABOUT THIS REQUIREMENT MAY BE OBTAINED FROM THE COLORADO COMMISSIONER OF AGRICULTURE."

(3) (a) AN ARBITRATION REPORT FILED PURSUANT TO SECTION 35-27-122 (2) (d) SHALL BE BINDING UPON ALL PARTIES TO THE EXTENT AGREED UPON IN ANY CONTRACT GOVERNING THE SALE WHICH WAS THE SUBJECT OF THE ARBITRATION.

(b) IN THE ABSENCE OF AN AGREEMENT TO BE BOUND BY ARBITRATION, A BUYER MAY BRING LEGAL ACTION AGAINST A SELLER OR ASSERT SUCH CLAIM AS A COUNTERCLAIM OR DEFENSE IN ANY ACTION BROUGHT BY THE SELLER AT ANY TIME AFTER THE ARBITRATION REPORT HAS BEEN FILED.

(c) DURING LITIGATION INVOLVING A COMPLAINT WHICH HAS BEEN ARBITRATED PURSUANT TO THIS SECTION, ANY PARTY WHO WAS SUBJECT TO SUCH ARBITRATION MAY INTRODUCE THE ARBITRATION REPORT AS EVIDENCE OF THE FACTS FOUND IN THE REPORT IF THE PARTY AGAINST WHOM THE REPORT IS OFFERED WAS ALSO SUBJECT TO THE ARBITRATION. THE COURT MAY GIVE SUCH WEIGHT TO THE COUNCIL'S FINDINGS AND CONCLUSIONS OF LAW AND RECOMMENDATIONS AS TO DAMAGES AND COSTS AS THE COURT SEES FIT BASED UPON ALL THE EVIDENCE BEFORE THE COURT. THE COURT MAY ALSO TAKE INTO ACCOUNT ANY FINDING OF THE ARBITRATION COUNCIL OF ANY FAILURE OF ANY PARTY TO COOPERATE IN SUCH ARBITRATION PROCEEDINGS, INCLUDING ANY FINDING AS TO THE EFFECT OF DELAY IN FILING THE ARBITRATION CLAIM OR ANSWER UPON THE ABILITY OF THE ARBITRATION COUNCIL TO DETERMINE THE FACTS OF THE CASE.

35-27-124. Seed cash fund - fees. ALL FEES AND CIVIL FINES COLLECTED PURSUANT TO THIS ARTICLE SHALL BE TRANSMITTED TO THE STATE TREASURER WHO SHALL CREDIT THE SAME TO THE SEED CASH FUND, WHICH FUND IS HEREBY CREATED. THE SEED CASH FUND IS CREATED TO SUPPLEMENT ANY GENERAL FUND APPROPRIATION. ALL MONEYS CREDITED TO THE FUND AND ALL INTEREST EARNED ON THE INVESTMENT OF MONEYS IN THE FUND SHALL BE A PART OF THE FUND AND SHALL NOT BE TRANSFERRED OR CREDITED TO THE GENERAL FUND OR TO ANY OTHER FUND EXCEPT AS DIRECTED BY THE GENERAL ASSEMBLY ACTING BY BILL. IN ADDITION TO ANY APPROPRIATION FROM THE GENERAL FUND, THE GENERAL ASSEMBLY SHALL MAKE ANNUAL APPROPRIATIONS FROM THE SEED CASH FUND TO THE DEPARTMENT TO CARRY OUT THE PURPOSES OF THIS ARTICLE.

35-27-127. Repeal of article - termination of functions. THIS ARTICLE IS REPEALED, EFFECTIVE JULY 1, 1999. PRIOR TO SUCH REPEAL, THE REGISTRATION FUNCTIONS OF THE COMMISSIONER OF AGRICULTURE SHALL BE REVIEWED AS PROVIDED FOR IN SECTION 24-34-104, C.R.S.

SECTION 2. 2-3-1203 (3) (l), Colorado Revised Statutes, 1980 Repl. Vol., as amended, is amended to read:

2-3-1203. Sunset review of advisory committees. (3) The following dates are the dates for which the statutory authorization for the designated advisory committees is scheduled for repeal:

(l) July 1, 1999:

(I) The Colorado natural areas council, an advisory council to the board of parks and outdoor recreation, appointed pursuant to section 33-33-106, C.R.S.;

(II) THE SEED ADVISORY COMMITTEE, APPOINTED PURSUANT TO SECTION 35-27-121, C.R.S.

SECTION 3. 6-1-105 (1), Colorado Revised Statutes, 1992 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

6-1-105. Deceptive trade practices. (1) A person engages in a deceptive trade practice when, in the course of such person's business, vocation, or occupation, such person:

(II) VIOLATES SECTION 35-27-113 (3) (e), (3) (f), OR (3) (i), C.R.S.

SECTION 4. 24-34-104 (28), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (28) (c) THE FOLLOWING FUNCTIONS OF THE SPECIFIED AGENCY SHALL TERMINATE ON JULY 1, 1999: THE REGISTRATION FUNCTION OF THE COMMISSIONER OF AGRICULTURE PURSUANT TO ARTICLE 27 OF TITLE 35, C.R.S.

SECTION 5. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the seed cash fund created pursuant to section 35-27-124, Colorado Revised Statutes, not otherwise appropriated, to the department of agriculture, for the fiscal year beginning July 1, 1993, the sum of forty-six thousand seven hundred forty-nine dollars (\$46,749), or so much thereof as may be necessary, for the implementation of this act.

SECTION 6. Effective date. This act shall take effect July 1, 1993; except that section 35-27-111, Colorado Revised Statutes, of section 1 of this act shall take effect January 1, 1994.

SECTION 7. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 2, 1993