

CHAPTER 192

AGRICULTURE

HOUSE BILL 08-1236

BY REPRESENTATIVE(S) Curry, Gallegos, Hodge, McFadyen, McGihon, Roberts, Scanlan, Sonnenberg, Stafford, Looper, and Rose;
also SENATOR(S) Isgar, Gibbs, Schwartz, Taylor, and Wiens.

AN ACT

CONCERNING THE DUTY OF THE COMMISSIONER OF AGRICULTURE TO KEEP LIVESTOCK INFORMATION CONFIDENTIAL.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds, determines, and declares that:

(a) The department of agriculture generates, receives, and stores information in the course of regulating agriculture in this state, much of which is related to the livestock industry.

(b) As modern technologies, software, and systems are implemented by the department, it has become necessary to digitally convert and compile data related to the functions of the department, including livestock-related information. Additionally, the development of an all-hazards system of data management by the department will depend on modern electronic technology to integrate and store vast amounts of livestock information from varied sources in a central location.

(c) Much of the information related to livestock is of a highly sensitive or personal nature, such as the numbers and types of livestock in a location, purchase and sale information, the logistics of intrastate and interstate livestock movements, and the personal information of persons involved with the livestock industry, including, but not limited to, names, addresses, and social security numbers.

(d) It is the intent of the general assembly to prevent misuse of information that could damage the health, safety, and financial well-being of individuals, the agricultural industry, the state, and the nation.

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

(e) In order to protect sensitive livestock-related information, assure persons giving such information to the department that their records will be secure, and encourage persons to participate in programs that manage livestock data, it is the intent of article 57.9 of title 35, Colorado Revised Statutes, to bestow on the commissioner of agriculture the affirmative duty and authority to protect the confidentiality of livestock information to the greatest extent possible.

SECTION 2. Title 35, Colorado Revised Statutes, is amended BY THE ADDITION A NEW ARTICLE to read:

ARTICLE 57.9
Confidentiality of Livestock Information

35-57.9-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "LIVESTOCK INFORMATION SECURITY ACT".

35-57.9-102. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ALL-HAZARDS SECURITY SYSTEM" MEANS A COMPREHENSIVE DATA MANAGEMENT SYSTEM ADMINISTERED BY THE DEPARTMENT IN ORDER TO PREVENT, DETECT, RESPOND TO, MITIGATE, AND MANAGE THE RECOVERY OF ANY LIVESTOCK HEALTH AND SAFETY ISSUES INCLUDING, BUT NOT LIMITED TO, OUTBREAKS OF DISEASE AND INJURY SUSTAINED AS A RESULT OF NATURAL DISASTERS. THE SYSTEM MAY COMPILE AND USE DATA FROM SOURCES INCLUDING, BUT NOT LIMITED TO, THE UNITED STATES DEPARTMENT OF AGRICULTURE, GEOGRAPHIC INFORMATION SYSTEMS AND SPATIAL MODELING, THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY, THE STATE BOARD OF STOCK INSPECTION COMMISSIONERS, THE STATE VETERINARIAN, THE LIVESTOCK INDUSTRY, AND LABORATORY TESTS PERFORMED BY THE DEPARTMENT OR EXTERNAL ENTITIES.

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

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

(4) "LIVESTOCK" MEANS CATTLE, SHEEP, GOATS, BISON, SWINE, MULES, POULTRY, HORSES, DONKEYS, ALTERNATIVE LIVESTOCK AS DEFINED IN SECTION 35-41.5-102, AND ALL OTHER BOVINE, CAMELID, CAPRINE, EQUINE, OVINE, AVIAN, AND PORCINE ANIMALS RAISED OR KEPT FOR PROFIT.

(5) "PERSON IN INTEREST" HAS THE MEANING SET FORTH IN SECTION 24-72-202, C.R.S.

35-57.9-103. Authority of commissioner to deny access to information - redaction - exceptions. (1) THE COMMISSIONER MAY DENY ACCESS TO PERSONAL INFORMATION ABOUT PERSONS INVOLVED WITH THE LIVESTOCK INDUSTRY IF THE COMMISSIONER REASONABLY BELIEVES DISSEMINATION OF SUCH INFORMATION WILL CAUSE HARM TO SUCH PERSONS.

(2) ON THE GROUNDS THAT DISCLOSURE WOULD BE CONTRARY TO THE PUBLIC

INTEREST, THE COMMISSIONER MAY DENY ACCESS TO THE FOLLOWING:

(a) SPECIFIC OPERATIONAL DETAILS OF LIVESTOCK OPERATIONS THAT CONSTITUTE CONFIDENTIAL COMMERCIAL DATA PURSUANT TO SECTION 24-72-204, C.R.S. SUCH OPERATIONAL DETAILS INCLUDE OWNERSHIP, NUMBERS, LOCATIONS, AND MOVEMENTS OF LIVESTOCK; FINANCIAL INFORMATION; THE PURCHASE AND SALE OF LIVESTOCK; ACCOUNT NUMBERS OR UNIQUE IDENTIFIERS ISSUED BY GOVERNMENT OR PRIVATE ENTITIES; OPERATIONAL PROTOCOLS; AND PARTICIPATION IN AN ALL-HAZARDS SECURITY SYSTEM.

(b) INFORMATION RELATED TO LIVESTOCK DISEASE OR INJURY:

(I) THAT WOULD IDENTIFY A PERSON OR LOCATION; OR

(II) THAT CONTAINS CONFIDENTIAL DATA PURSUANT TO THE VETERINARY-PATIENT-CLIENT PRIVILEGE DESCRIBED IN SECTION 24-72-204 (3) (a) (XIV), C.R.S.;

(c) RECORDS OF ONGOING INVESTIGATIONS THAT PERTAIN TO LIVESTOCK; HOWEVER, SUCH RECORDS SHALL NOT BE WITHHELD IF THE INVESTIGATION HAS CONCLUDED AND THE PERSON BEING INVESTIGATED IS FOUND BY THE COMMISSIONER TO HAVE VIOLATED ANY PROVISION OF THIS TITLE THAT PERTAINS TO LIVESTOCK.

(3) IF THE COMMISSIONER DENIES ACCESS TO INFORMATION PURSUANT TO PARAGRAPH (a) OR (b) OF SUBSECTION (2) OF THIS SECTION, THE COMMISSIONER SHALL REDACT THE CONFIDENTIAL INFORMATION AND MAKE THE REMAINING PORTIONS OF SUCH RECORD AVAILABLE FOR DISCLOSURE. IF THE COMMISSIONER IS UNABLE TO REDACT THE RECORD WITHIN THE TIME LIMITS ESTABLISHED IN SECTION 24-72-203 (3) C.R.S., SUCH TIME LIMITS SHALL BE WAIVED AND THE COMMISSIONER SHALL REDACT THE INFORMATION AND PROVIDE THE REDACTED RECORD AS SOON AS IS PRACTICABLE.

(4) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO AUTHORIZE THE COMMISSIONER TO OBTAIN INFORMATION NOT OTHERWISE PERMITTED BY LAW.

(5) NOTHING IN THIS ARTICLE SHALL:

(a) PRECLUDE A PERSON IN INTEREST FROM ACCESSING HIS OR HER OWN INFORMATION;

(b) PREVENT THE COMMISSIONER FROM RELEASING BIOLOGICAL LIVESTOCK SAMPLES TO AUTHORIZED EXTERNAL ENTITIES FOR SCIENTIFIC TESTING, SO LONG AS THE TESTING ENTITY AGREES TO MAINTAIN THE CONFIDENTIALITY OF THE INFORMATION IT RECEIVES;

(c) PREVENT THE COMMISSIONER FROM DISCLOSING INFORMATION THAT IS OTHERWISE PERMITTED OR REQUIRED TO BE DISCLOSED; OR

(d) APPLY WHEN THE COMMISSIONER DETERMINES THAT DISCLOSURE OF LIVESTOCK INFORMATION IS NECESSARY TO PREVENT OR ADDRESS AN IMMEDIATE THREAT TO THE HEALTH AND SAFETY OF A PERSON OR ANIMAL.

(6) WHEN DISCLOSING INFORMATION PURSUANT TO SUBSECTION (5) OF THIS SECTION, THE COMMISSIONER SHALL RELEASE ONLY AS MUCH INFORMATION AS IS NECESSARY TO ADDRESS THE SITUATION.

SECTION 3. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: April 25, 2008