

CHAPTER 155

AGRICULTURE

HOUSE BILL 26-1111

BY REPRESENTATIVE(S) Mauro and McCormick, Brown, Carter, Clifford, Duran, Froelich, Goldstein, Joseph, Lindsay, Nguyen, Phillips, Rutinel, Smith, Stewart K., Valdez, McCluskie, Jackson, Lukens, Marshall;
also SENATOR(S) Kipp and Roberts, Amabile, Cutter, Jodeh, Kolker, Marchman, Simpson, Wallace, Coleman.

AN ACT

CONCERNING THE CREATION OF A PROGRAM FOR THE END-OF-LIFE MANAGEMENT OF PESTICIDE PRODUCTS, AND, IN CONNECTION THEREWITH, CREATING THE PESTICIDE PRODUCT DISPOSAL AND CONTAINER RECYCLING ENTERPRISE TO DEVELOP AND ADMINISTER THE PROGRAM AND MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, **add** article 10.5 to title 35 as follows:

ARTICLE 10.5
Pesticide Product Disposal and
Container Recycling Enterprise

35-10.5-101. Legislative declaration.

(1) THE GENERAL ASSEMBLY FINDS THAT:

(a) THE ACCUMULATION OF EXCESS OR UNWANTED PESTICIDE PRODUCTS MAY POSE A RISK TO HUMAN HEALTH OR THE ENVIRONMENT BECAUSE:

(I) PESTICIDE PRODUCT CONTAINERS MAY BE COMPROMISED BY LENGTHY OR IMPROPER STORAGE, LEADING TO AN INCREASED POTENTIAL FOR RELEASE INTO THE ENVIRONMENT; AND

(II) THE ACCUMULATION OF EXCESS OR UNWANTED PESTICIDE PRODUCTS MAY INCREASE THE POTENTIAL FOR IMPROPER DISPOSAL OF THOSE PRODUCTS OR THEIR CONTAINERS WHEN SUITABLE AND SAFE DISPOSAL OPTIONS ARE LACKING AND MAY

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CAUSE THOSE PRODUCTS OR THE CONTENTS OF THEIR CONTAINERS TO SEEP INTO SOIL, LEACH INTO GROUNDWATER, OR COME INTO CONTACT WITH HUMANS OR OTHER ORGANISMS, WHICH INCREASES THE POTENTIAL FOR ENVIRONMENTAL CONTAMINATION OR HUMAN HEALTH RISK; AND

(b) THE ESTABLISHMENT OF A PROGRAM THAT REDUCES THE POTENTIAL RISKS ASSOCIATED WITH THE INCORRECT OR OTHERWISE UNLAWFUL DISPOSAL OF ELIGIBLE PESTICIDE PRODUCTS AND RECYCLING OF PESTICIDE PRODUCT CONTAINERS SUPPORTS PUBLIC HEALTH AND THE ENVIRONMENT.

(2) THE GENERAL ASSEMBLY FURTHER FINDS THAT:

(a) A COMMERCIAL APPLICATOR OR PRIVATE APPLICATOR MAY LACK RELIABLE OPPORTUNITIES FOR THE DISPOSAL OF PESTICIDE PRODUCTS OR THE RECYCLING OF PESTICIDE PRODUCT CONTAINERS BECAUSE:

(I) A COMMERCIAL APPLICATOR OR PRIVATE APPLICATOR CANNOT DISPOSE OF OR RECYCLE PESTICIDE PRODUCTS IN HOUSEHOLD OR RESIDENTIAL WASTE PROGRAMS BECAUSE THE APPLICATORS POSSESS TOO HIGH OF A VOLUME OF EXCESS OR UNWANTED PESTICIDE PRODUCTS OR OTHERWISE POSSESS RESTRICTED-USE PESTICIDE PRODUCTS THAT REQUIRE SPECIAL HANDLING BEYOND WHAT A HOUSEHOLD OR RESIDENTIAL WASTE PROGRAM CAN PROVIDE; AND

(II) THERE ARE A LIMITED NUMBER OF DISPOSAL FACILITIES AVAILABLE TO COMMERCIAL APPLICATORS AND PRIVATE APPLICATORS. THESE FACILITIES ARE GEOGRAPHICALLY DISPERSED AND THUS INCONVENIENT OR COST PROHIBITIVE TO ACCESS OR USE FOR COMMERCIAL APPLICATORS AND PRIVATE APPLICATORS THAT ARE NOT LOCATED NEAR THE FACILITIES.

(b) THE ESTABLISHMENT OF A DISPOSAL AND RECYCLING PROGRAM WOULD INCENTIVIZE A COMMERCIAL APPLICATOR'S OR PRIVATE APPLICATOR'S PROPER AND TIMELY MANAGEMENT OF EXCESS OR UNWANTED PESTICIDE PRODUCTS BY PROVIDING A PREDICTABLE, CONVENIENT, COST-EFFECTIVE, AND LAWFUL OPPORTUNITY FOR A COMMERCIAL APPLICATOR OR PRIVATE APPLICATOR TO DISPOSAL OF ELIGIBLE PESTICIDE PRODUCTS OR RECYCLE PESTICIDE PRODUCT CONTAINERS; AND

(c) MANUFACTURERS OR DISTRIBUTORS OF ELIGIBLE PESTICIDE PRODUCTS THAT REGISTER THEIR PRODUCTS FOR SALE OR DISTRIBUTION IN THE STATE ALSO BENEFIT FROM A PESTICIDE DISPOSAL PROGRAM BECAUSE THE PROGRAM:

(I) REDUCES A REGISTRANT'S ENVIRONMENTAL FOOTPRINT BY PROMOTING THE SUSTAINABLE AND SAFE USE OF THAT REGISTRANT'S ELIGIBLE PESTICIDE PRODUCT THROUGHOUT THE PRODUCT'S ENTIRE LIFE CYCLE;

(II) LESSENS THE REGISTRANT'S BURDEN OF INDEPENDENTLY MANAGING THE DISPOSAL OF ELIGIBLE PESTICIDE PRODUCTS; AND

(III) ALIGNS WITH PRODUCT STEWARDSHIP AND SUSTAINABILITY GOALS SHARED ACROSS THE PESTICIDE INDUSTRY AND SUPPORTED BY THE REQUIREMENT IN THE "FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT", 7 U.S.C. SEC. 136 ET

SEQ., THAT, IN ORDER TO BE REGISTERED AS A PESTICIDE PRODUCT, THE PRODUCT'S LABEL INCLUDE DIRECTIONS FOR SAFE STORAGE, USE, AND DISPOSAL AND FURTHER SUPPORTED BY THE REQUIREMENT THAT REFILLABLE AND NONREFILLABLE PESTICIDE PRODUCT CONTAINERS MEET SPECIFIC DESIGN AND CONSTRUCTION STANDARDS.

(3) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT:

(a) TO PROMOTE PUBLIC HEALTH AND THE ENVIRONMENT AND TO PROVIDE PROTECTION FROM THE POTENTIAL RISKS POSED BY THE IMPROPER DISPOSAL OF ELIGIBLE PESTICIDE PRODUCTS OR RECYCLING OF PESTICIDE PRODUCT CONTAINERS, COMMERCIAL APPLICATORS AND PRIVATE APPLICATORS THAT USE THE BUSINESS SERVICES DESCRIBED IN SECTION 35-10.5-105 (1)(a)(I) AND APPLICANTS THAT REGISTER AN ELIGIBLE PESTICIDE PRODUCT WITH THE COMMISSIONER FOR SALE OR DISTRIBUTION IN THE STATE SHOULD SUPPORT THE DEVELOPMENT AND ADMINISTRATION OF A PESTICIDE PRODUCT DISPOSAL AND CONTAINER RECYCLING PROGRAM CREATED AS AN ENTERPRISE IN THE DEPARTMENT;

(b) THE ACTIVITIES OF THE ENTERPRISE SHOULD BE FUNDED BY REVENUE GENERATED FROM:

(I) PESTICIDE PRODUCT DISPOSAL FEES PAID BY COMMERCIAL APPLICATORS AND PRIVATE APPLICATORS THAT USE THE BUSINESS SERVICES DESCRIBED IN SECTION 35-10.5-105 (1)(a)(I); AND

(II) PESTICIDE REGISTRATION PRODUCT DISPOSAL FEES PAID ANNUALLY BY APPLICANTS THAT REGISTER AN ELIGIBLE PESTICIDE PRODUCT WITH THE COMMISSIONER FOR SALE OR DISTRIBUTION IN THE STATE;

(c) IT IS APPROPRIATE FOR COMMERCIAL APPLICATORS AND PRIVATE APPLICATORS THAT DISPOSE OF ELIGIBLE PESTICIDE PRODUCTS THROUGH THE PROGRAM TO PAY THE PESTICIDE PRODUCT DISPOSAL FEE IMPOSED BY THE ENTERPRISE, AS THESE APPLICATORS ARE THE DIRECT BENEFICIARIES OF THE BUSINESS SERVICES PROVIDED BY THE ENTERPRISE;

(d) IT IS ALSO APPROPRIATE FOR APPLICANTS THAT REGISTER AN ELIGIBLE PESTICIDE PRODUCT WITH THE COMMISSIONER FOR SALE OR DISTRIBUTION IN THE STATE TO PAY THE PESTICIDE REGISTRATION PRODUCT DISPOSAL FEE IMPOSED BY THE ENTERPRISE, AS THESE APPLICANTS BENEFIT FROM A PROGRAM THAT PROVIDES FOR THE DISPOSAL OF MANY OF THE ELIGIBLE PESTICIDE PRODUCTS THAT THESE APPLICANTS SELL OR DISTRIBUTE IN THE STATE;

(e) CONSISTENT WITH THE DETERMINATION OF THE COLORADO SUPREME COURT IN *NICHOLL V. E-470 PUBLIC HIGHWAY AUTHORITY*, 896 P.2d 859 (COLO. 1995), THAT THE POWER TO IMPOSE TAXES IS INCONSISTENT WITH ENTERPRISE STATUS UNDER SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, THE GENERAL ASSEMBLY CONCLUDES THAT THE PESTICIDE PRODUCT DISPOSAL FEE AND THE PESTICIDE REGISTRATION PRODUCT DISPOSAL FEE ARE FEES, NOT TAXES, AND THE ENTERPRISE OPERATES AS A BUSINESS BECAUSE THE PESTICIDE PRODUCT DISPOSAL FEE AND THE PESTICIDE REGISTRATION PRODUCT DISPOSAL FEE ARE:

(I) IMPOSED FOR THE SPECIFIC BUSINESS PURPOSE OF DEVELOPING AND

ADMINISTERING THE PESTICIDE PRODUCT DISPOSAL AND CONTAINER RECYCLING PROGRAM; AND

(II) COLLECTED AT A RATE THAT IS REASONABLY RELATED TO THE OVERALL COST OF THE BUSINESS SERVICES BEING PROVIDED; AND

(f) SO LONG AS THE ENTERPRISE QUALIFIES AS AN ENTERPRISE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, THE REVENUE FROM THE PESTICIDE PRODUCT DISPOSAL FEES AND THE PESTICIDE REGISTRATION PRODUCT DISPOSAL FEES IMPOSED, COLLECTED, AND ADMINISTERED BY THE ENTERPRISE IS NOT STATE FISCAL YEAR SPENDING, AS DEFINED IN SECTION 24-77-102 (17), OR STATE REVENUES, AS DEFINED IN SECTION 24-77-103.6 (6)(c), AND DOES NOT COUNT AGAINST EITHER THE STATE FISCAL YEAR SPENDING LIMIT IMPOSED BY SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION OR THE EXCESS STATE REVENUES CAP, AS DEFINED IN SECTION 24-77-103.6 (6)(b)(I)(G).

35-10.5-102. Definitions.

AS USED IN THIS ARTICLE 10.5, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE ENTERPRISE CREATED IN SECTION 35-10.5-104 (1)(a).

(2) "COMMERCIAL APPLICATOR" HAS THE MEANING SET FORTH IN SECTION 35-10-103 (2).

(3) "COMMISSION" MEANS THE STATE AGRICULTURAL COMMISSION.

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

(5) (a) "CONTAINER" MEANS A PACKAGE, CAN, BOTTLE, BAG, BARREL, DRUM, TANK, OR OTHER CONTAINING DEVICE, EXCLUDING AN APPLICATION TANK, THAT IS USED TO ENCLOSE A PESTICIDE PRODUCT.

(b) "CONTAINER" INCLUDES A CONTAINER THAT IS USED TO SELL OR DISTRIBUTE A PESTICIDE PRODUCT AND THAT ALSO FUNCTIONS IN APPLYING THE PESTICIDE PRODUCT, SUCH AS A SPRAY BOTTLE, AN AEROSOL CAN, AND A CONTAINER THAT BECOMES PART OF A DIRECT INJECTION SYSTEM.

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

(7) "ELIGIBLE PESTICIDE PRODUCT" MEANS ALL PESTICIDE PRODUCTS REGISTERED IN COLORADO, EXCEPT FOR THOSE THAT HAVE BEEN IDENTIFIED AS EXEMPT FROM THE PROGRAM BY THE BOARD PURSUANT TO SECTION 35-10.5-104 (2)(b).

(8) "ENTERPRISE" MEANS THE PESTICIDE PRODUCT DISPOSAL AND CONTAINER RECYCLING ENTERPRISE CREATED IN SECTION 35-10.5-103 (1).

(9) "FUND" MEANS THE PESTICIDE PRODUCT DISPOSAL AND CONTAINER RECYCLING ENTERPRISE CASH FUND CREATED IN SECTION 35-10.5-106 (1).

(10) (a) "PESTICIDE" HAS THE MEANING SET FORTH IN SECTION 35-9-103 (11) BUT INCLUDES ONLY PESTICIDES THAT ARE REGISTERED WITH THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER THE "FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT", 7 U.S.C. SEC. 136 ET SEQ., OR WITH THE DEPARTMENT UNDER ARTICLE 9 OF THIS TITLE 35.

(b) "PESTICIDE" DOES NOT INCLUDE PESTICIDE RINSATE, SPILLED MATERIAL, OR AFFECTED MEDIA.

(11) "PESTICIDE PRODUCT" MEANS A PESTICIDE IN THE PARTICULAR FORM, INCLUDING PACKAGING, COMPOSITION, AND LABELING, IN WHICH THE PESTICIDE IS INTENDED TO BE DISTRIBUTED OR SOLD.

(12) "PESTICIDE PRODUCT DISPOSAL AND CONTAINER RECYCLING PROGRAM" OR "PROGRAM" MEANS THE PESTICIDE PRODUCT DISPOSAL AND CONTAINER RECYCLING PROGRAM DESCRIBED IN SECTION 35-10.5-105 (1).

(13) "PESTICIDE PRODUCT DISPOSAL FEE" MEANS THE FEE IMPOSED BY THE ENTERPRISE PURSUANT TO SECTION 35-10.5-105 (2)(a).

(14) "PESTICIDE REGISTRATION PRODUCT DISPOSAL FEE" MEANS THE ANNUAL FEE IMPOSED BY THE ENTERPRISE PURSUANT TO SECTION 35-10.5-105 (3)(a).

(15) "PRIVATE APPLICATOR" HAS THE MEANING SET FORTH IN SECTION 35-10-103 (11.5).

35-10.5-103. Enterprise created.

(1) THE PESTICIDE PRODUCT DISPOSAL AND CONTAINER RECYCLING ENTERPRISE IS CREATED IN THE DEPARTMENT AND EXERCISES ITS POWERS AND PERFORMS ITS DUTIES AND FUNCTIONS AS A GOVERNMENT-OWNED BUSINESS IN THE DEPARTMENT TO EXECUTE THE BUSINESS PURPOSES SET FORTH IN THIS SECTION. THE ENTERPRISE IS CREATED FOR THE PURPOSES OF:

(a) DEVELOPING AND ADMINISTERING THE PESTICIDE PRODUCT DISPOSAL AND CONTAINER RECYCLING PROGRAM; AND

(b) IMPOSING THE PESTICIDE PRODUCT DISPOSAL FEE AND THE PESTICIDE REGISTRATION PRODUCT DISPOSAL FEE.

(2) THE BOARD, IN CONSULTATION WITH THE DEPARTMENT, SHALL ADMINISTER THE ENTERPRISE IN ACCORDANCE WITH THIS SECTION.

(3) (a) THE ENTERPRISE CONSTITUTES AN ENTERPRISE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION SO LONG AS IT RETAINS THE AUTHORITY TO ISSUE REVENUE BONDS AND RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL REVENUES IN GRANTS, AS DEFINED IN SECTION 24-77-102 (7), FROM ALL COLORADO STATE AND LOCAL GOVERNMENTS COMBINED. SO LONG AS IT CONSTITUTES AN ENTERPRISE, THE ENTERPRISE IS NOT SUBJECT TO SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

(b) THE ENTERPRISE IS AUTHORIZED TO ISSUE REVENUE BONDS FOR THE EXPENSES OF THE ENTERPRISE, SECURED BY REVENUE OF THE ENTERPRISE.

35-10.5-104. Board of directors created - powers and duties - rules.

(1) (a) THE ENTERPRISE BOARD OF DIRECTORS IS CREATED TO ADMINISTER THE ENTERPRISE. THE BOARD CONSISTS OF THE MEMBERS OF THE COMMISSION.

(b) BOARD MEMBERS SERVE WITHOUT COMPENSATION AND ARE NOT ENTITLED TO RECEIVE REIMBURSEMENT FOR TRAVEL EXPENSES INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES.

(2) IN ADDITION TO THE PURPOSE DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION AND ANY OTHER POWERS AND DUTIES SPECIFIED IN THIS ARTICLE 10.5, THE BOARD HAS THE FOLLOWING POWERS AND DUTIES ON BEHALF OF THE ENTERPRISE:

(a) TO ADOPT PROCEDURES FOR CONDUCTING THE BOARD'S AFFAIRS;

(b) TO ADOPT RULES AS NECESSARY AND NOT INCONSISTENT WITH LAW FOR THE ADMINISTRATION AND IMPLEMENTATION OF THIS ARTICLE 10.5, INCLUDING:

(I) IDENTIFYING THE PESTICIDE PRODUCTS THAT ARE EXEMPT FROM THE PROGRAM BASED ON FACTORS ESTABLISHED BY THE BOARD;

(II) SETTING THE AMOUNT OF THE PESTICIDE PRODUCT DISPOSAL FEE;

(III) SETTING THE AMOUNT OF THE PESTICIDE REGISTRATION PRODUCT DISPOSAL FEE; AND

(IV) ANY OTHER RULES NECESSARY FOR THE ADMINISTRATION AND IMPLEMENTATION OF THE PROGRAM;

(c) TO ENGAGE THE SERVICES OF CONTRACTORS AND CONSULTANTS, INCLUDING THE DEPARTMENT, FOR PROFESSIONAL AND TECHNICAL ASSISTANCE AND ADVICE AND TO SUPPLY OTHER SERVICES RELATED TO THE CONDUCT OF THE AFFAIRS OF THE ENTERPRISE, WITHOUT REGARD TO THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24; AND

(d) TO HAVE AND EXERCISE THE RIGHTS AND POWERS NECESSARY OR INCIDENTAL TO OR IMPLIED FROM THE SPECIFIC POWERS AND DUTIES GRANTED BY THIS SECTION.

(3) (a) THE ENTERPRISE MAY CONTRACT WITH THE DEPARTMENT FOR THE PROVISION OF OFFICE SPACE AND ADMINISTRATIVE STAFF TO THE ENTERPRISE AT A FAIR MARKET RATE.

(b) THE ENTERPRISE SHALL ENGAGE THE ATTORNEY GENERAL'S OFFICE FOR LEGAL SERVICES.

35-10.5-105. Pesticide product disposal and container recycling program - fees.

(1) ON AND AFTER JANUARY 1, 2027, THE BOARD SHALL DEVELOP AND ADMINISTER A PROGRAM FOR THE DISPOSAL OF ELIGIBLE PESTICIDE PRODUCTS AND TO COORDINATE THE RECYCLING OF PESTICIDE PRODUCT CONTAINERS, WHICH PROGRAM MUST:

(a) PROVIDE THE FOLLOWING BUSINESS SERVICES TO COMMERCIAL APPLICATORS AND PRIVATE APPLICATORS IN THE STATE:

(I) ELIGIBLE PESTICIDE PRODUCT DISPOSAL SERVICES TO COMMERCIAL APPLICATORS AND PRIVATE APPLICATORS THAT PAY THE PESTICIDE PRODUCT DISPOSAL FEE;

(II) OUTREACH AND EDUCATION TO COMMERCIAL APPLICATORS AND PRIVATE APPLICATORS ON THE PROPER AND SAFE DISPOSAL OF ELIGIBLE PESTICIDE PRODUCTS AND RECYCLING OF THEIR CONTAINERS AND ON THE BUSINESS SERVICES PROVIDED BY THE PROGRAM;

(III) ESTABLISHING ELIGIBLE PESTICIDE PRODUCT DISPOSAL EVENTS FOR COMMERCIAL APPLICATORS AND PRIVATE APPLICATORS, WHICH EVENTS MUST BE SCHEDULED AT A PREDICTABLE FREQUENCY AND IN DIVERSE GEOGRAPHIC LOCATIONS ACROSS THE STATE, AND THE ENTERPRISE MAY CONTRACT WITH THIRD PARTIES TO HOST, MANAGE, OR OVERSEE THE ELIGIBLE PESTICIDE PRODUCT DISPOSAL EVENTS; AND

(IV) PROVIDING A COST-EFFECTIVE MEANS FOR COMMERCIAL APPLICATORS AND PRIVATE APPLICATORS TO DISPOSE OF ELIGIBLE PESTICIDE PRODUCTS OR RECYCLE PESTICIDE PRODUCT CONTAINERS BY ALLOWING COMMERCIAL APPLICATORS AND PRIVATE APPLICATORS THAT PARTICIPATE IN THE PROGRAM TO SHARE THE COSTS OF THE DISPOSAL SERVICES; AND

(b) PROVIDE THE FOLLOWING BUSINESS SERVICES TO APPLICANTS THAT REGISTER AN ELIGIBLE PESTICIDE PRODUCT WITH THE COMMISSIONER FOR SALE OR DISTRIBUTION IN THE STATE:

(I) DECREASING COSTS BORNE BY AN APPLICANT WHEN THE APPLICANT MUST DISPOSE OF AN ELIGIBLE PESTICIDE PRODUCT INDEPENDENT OF A CONVENIENT, LOCAL, AND ESTABLISHED PROGRAM;

(II) SUPPORTING AN APPLICANT'S PRODUCT STEWARDSHIP GOALS BY PROVIDING A SAFE, RELIABLE, AND CONVENIENT OPPORTUNITY FOR ELIGIBLE PESTICIDE PRODUCT DISPOSAL;

(III) DECREASING THE FINANCIAL AND ENVIRONMENTAL FOOTPRINT OF AN APPLICANT'S PESTICIDE PRODUCT BY ENSURING PROPER DISPOSAL OF THE ELIGIBLE PESTICIDE PRODUCT AT THE END-OF-LIFE STAGE; AND

(IV) DECREASING AN APPLICANT'S LIABILITY FOR CONSEQUENCES ASSOCIATED WITH THE IMPROPER DISPOSAL OF UNWANTED OR EXCESS ELIGIBLE PESTICIDE PRODUCTS BY PROVIDING AN OPPORTUNITY FOR LAWFUL DISPOSAL.

(2) (a) BEGINNING IN STATE FISCAL YEAR 2026-27, THE BOARD SHALL IMPOSE A

PESTICIDE PRODUCT DISPOSAL FEE FOR AN ELIGIBLE PESTICIDE PRODUCT THAT IS DISPOSED OF THROUGH THE PROGRAM.

(b) ON AND AFTER JANUARY 1, 2027, A COMMERCIAL APPLICATOR OR PRIVATE APPLICATOR THAT DISPOSES OF AN ELIGIBLE PESTICIDE PRODUCT THROUGH THE PROGRAM SHALL PAY A PESTICIDE PRODUCT DISPOSAL FEE IN AN AMOUNT DETERMINED BY THE BOARD TO THE DEPARTMENT, WHICH SHALL COLLECT THE PESTICIDE PRODUCT DISPOSAL FEE ON BEHALF OF THE ENTERPRISE.

(c) THE DEPARTMENT SHALL COLLECT A PESTICIDE PRODUCT DISPOSAL FEE FROM A COMMERCIAL APPLICATOR OR PRIVATE APPLICATOR ONLY IF THE APPLICATOR DISPOSES OF AN ELIGIBLE PESTICIDE PRODUCT THROUGH THE PROGRAM. NOTHING IN THIS ARTICLE 10.5 REQUIRES A COMMERCIAL APPLICATOR OR PRIVATE APPLICATOR TO DISPOSE OF AN ELIGIBLE PESTICIDE PRODUCT OR RECYCLE A PESTICIDE PRODUCT CONTAINER THROUGH THE PROGRAM.

(3)(a) BEGINNING IN STATE FISCAL YEAR 2026-27, THE BOARD SHALL IMPOSE AN ANNUAL PESTICIDE REGISTRATION PRODUCT DISPOSAL FEE ON EACH APPLICANT THAT REGISTERS AN ELIGIBLE PESTICIDE PRODUCT WITH THE COMMISSIONER FOR SALE OR DISTRIBUTION IN THE STATE, WHICH PESTICIDE REGISTRATION PRODUCT DISPOSAL FEE MUST BE NO MORE THAN FIFTY DOLLARS PER ELIGIBLE PESTICIDE PRODUCT, AS ANNUALLY ADJUSTED FOR INFLATION. INFLATION IS MEASURED BY THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX, OR A SUCCESSOR INDEX, FOR DENVER-AURORA-LAKEWOOD FOR ALL ITEMS PAID FOR BY URBAN CONSUMERS.

(b) ON AND AFTER NOVEMBER 1, 2026, AN APPLICANT THAT REGISTERS AN ELIGIBLE PESTICIDE PRODUCT WITH THE COMMISSIONER FOR SALE OR DISTRIBUTION IN THE STATE SHALL PAY AN ANNUAL PESTICIDE REGISTRATION PRODUCT DISPOSAL FEE IN AN AMOUNT DETERMINED BY THE BOARD TO THE DEPARTMENT, WHICH SHALL COLLECT THE PESTICIDE REGISTRATION PRODUCT DISPOSAL FEE ON BEHALF OF THE ENTERPRISE.

(4)(a) THE STATE TREASURER SHALL CREDIT THE MONEY COLLECTED PURSUANT TO THIS SECTION TO THE FUND.

(b) MONEY COLLECTED PURSUANT TO THIS SECTION AND CREDITED TO THE FUND PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION:

(I) IS COLLECTED FOR THE ENTERPRISE;

(II) IS CUSTODIAL MONEY INTENDED FOR THE ENTERPRISE AND HELD TEMPORARILY BY THE DEPARTMENT AND THE STATE TREASURER SOLELY FOR THE PURPOSE OF TRANSFERRING THE MONEY TO THE FUND FOR USE BY THE ENTERPRISE; AND

(III) BASED ON THE ENTERPRISE'S STATUS AS AN ENTERPRISE, IS NOT SUBJECT TO SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION AT ANY TIME DURING THE MONEY'S COLLECTION, TRANSFER, AND USE.

35-10.5-106. Cash fund - creation - gifts, grants, or donations - repeal.

(1) THE PESTICIDE PRODUCT DISPOSAL AND CONTAINER RECYCLING ENTERPRISE CASH FUND IS CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF:

(a) MONEY RECEIVED AS A PESTICIDE PRODUCT DISPOSAL FEE OR A PESTICIDE REGISTRATION PRODUCT DISPOSAL FEE PURSUANT TO SECTION 35-10.5-105;

(b) ANY MONEY RECEIVED FROM THE ISSUANCE OF REVENUE BONDS, AS DESCRIBED IN SECTION 35-10.5-103 (3)(b);

(c) ANY GIFTS, GRANTS, OR DONATIONS MADE TO THE ENTERPRISE FOR THE PURPOSES OF THIS SECTION; AND

(d) ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND.

(2) (a) SECTION 24-77-108 DOES NOT APPLY TO THE ENTERPRISE BECAUSE THE TOTAL AMOUNT OF MONEY CREDITED OR APPROPRIATED TO THE FUND AS PESTICIDE PRODUCT DISPOSAL FEES AND PESTICIDE REGISTRATION PRODUCT DISPOSAL FEES DOES NOT EXCEED ONE HUNDRED MILLION DOLLARS IN THE FIRST FIVE YEARS OF THE ENTERPRISE'S EXISTENCE.

(b) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2031.

(3) MONEY CREDITED TO THE FUND IS CONTINUOUSLY APPROPRIATED TO THE ENTERPRISE FOR THE PURPOSES SET FORTH IN THIS ARTICLE 10.5 AND TO PAY THE ENTERPRISE'S REASONABLE AND NECESSARY ADMINISTRATIVE AND OPERATING EXPENSES. THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND.

(4) ANY UNEXPENDED AND UNENCUMBERED MONEY REMAINING IN THE FUND AT THE END OF A STATE FISCAL YEAR REMAINS IN THE FUND AND IS NOT CREDITED OR TRANSFERRED TO THE GENERAL FUND.

(5) THE ENTERPRISE MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF THIS SECTION. THE STATE TREASURER SHALL CREDIT THE GIFTS, GRANTS, OR DONATIONS TO THE FUND.

35-10.5-107. Reporting.

(1) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), NO LATER THAN APRIL 1, 2028, AND NO LATER THAN EACH APRIL 1 THEREAFTER, THE ENTERPRISE SHALL REPORT TO THE AGRICULTURE, WATER, AND NATURAL RESOURCES COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE AGRICULTURE AND NATURAL RESOURCES COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, THE FOLLOWING INFORMATION FOR THE PRIOR CALENDAR YEAR:

(a) THE AMOUNT OF PESTICIDE PRODUCT DISPOSAL FEES COLLECTED BY THE DEPARTMENT ON BEHALF OF THE ENTERPRISE;

(b) THE AMOUNT OF PESTICIDE REGISTRATION PRODUCT DISPOSAL FEES COLLECTED BY THE DEPARTMENT ON BEHALF OF THE ENTERPRISE;

(c) THE TOTAL REVENUE GENERATED ON BEHALF OF OR BY THE ENTERPRISE;

(d) A DESCRIPTION OF THE LOCATIONS AND TIMES OF THE PESTICIDE PRODUCT DISPOSAL EVENTS FOR COMMERCIAL APPLICATORS AND PRIVATE APPLICATORS PURSUANT TO SECTION 35-10.5-105 (1)(a)(III);

(e) A SUMMARY OF THE AMOUNT AND TYPES OF ELIGIBLE PESTICIDE PRODUCTS THAT WERE DISPOSED OF THROUGH THE BUSINESS SERVICES DESCRIBED IN SECTION 35-10.5-105 (1)(a)(I); AND

(f) A DESCRIPTION OF THE OUTREACH AND EDUCATION ACTIVITIES CONDUCTED BY THE ENTERPRISE PURSUANT TO SECTION 35-10.5-105 (1)(a)(II).

SECTION 2. In Colorado Revised Statutes, 35-9-107, **amend** (2) as follows:

35-9-107. Pesticide registration - application - fees - expiration - rules.

(2) Each applicant shall pay, at the time the application is submitted:

(a) An annual application fee in an amount to be determined by the commissioner; AND

(b) ON AND AFTER NOVEMBER 1, 2026, A PESTICIDE REGISTRATION PRODUCT DISPOSAL FEE, AS DEFINED IN SECTION 35-10.5-102 (14).

SECTION 3. Appropriation. For the 2026-27 state fiscal year, \$19,875 is appropriated to the department of law. This appropriation is from the legal services cash fund created in section 24-31-108 (4), C.R.S., from revenue received from the department of agriculture that is continuously appropriated to the department of agriculture from the pesticide product disposal and container recycling enterprise cash fund created in section 35-10.5-106 (1), C.R.S. The appropriation to the department of law is based on an assumption that the department of law will require an additional 0.1 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of agriculture.

SECTION 4. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

Approved: May 26, 2026