

CHAPTER 106

GOVERNMENT - LOCAL

HOUSE BILL 19-1191

BY REPRESENTATIVE(S) Arndt, Bockenfeld, Buckner, Buentello, Carver, Duran, Esgar, Exum, Gray, Hansen, Kipp, Liston, Lontine, McCluskie, McLachlan, Mullica, Ransom, Roberts, Saine, Sandridge, Singer, Snyder, Tipper, Titone, Valdez A., Valdez D., Becker, Baisley, Bird, Froelich, Herod, Kraft-Tharp, Michaelson Jenet, Sullivan;
also SENATOR(S) Donovan, Bridges, Cooke, Crowder, Fields, Gardner, Ginal, Hisey, Lundeen, Marble, Moreno, Priola, Scott, Smallwood, Sonnenberg, Tate, Woodward, Garcia.

AN ACT

CONCERNING THE ABILITY OF A FARM STAND TO BE OPERATED ON A PRINCIPAL USE SITE OF ANY SIZED LAND AREA REGARDLESS OF WHETHER THE SITE HAS BEEN ZONED BY A LOCAL GOVERNMENT FOR AGRICULTURAL OPERATIONS.

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

SECTION 1. In Colorado Revised Statutes, **add** article 31 to title 29 as follows:

ARTICLE 31
Farm Stands

29-31-101. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS, DECLARES, AND DETERMINES THAT:

(a) THE DIRECT MARKETING OF AGRICULTURAL PRODUCTS TO THE PUBLIC THROUGH FARM STANDS BENEFITS THE AGRICULTURAL COMMUNITY AND THE CONSUMER BY, AMONG OTHER BENEFITS, PROVIDING AN ALTERNATIVE METHOD FOR AGRICULTURAL PRODUCERS TO SELL THEIR PRODUCTS WHILE SUPPLYING QUALITY AGRICULTURAL PRODUCTS AT REASONABLE PRICES;

(b) THE DIRECT MARKETING OF AGRICULTURAL PRODUCTS BENEFITS THE AGRICULTURE INDUSTRY BY BRINGING PRODUCERS OF AGRICULTURAL GOODS FACE-TO-FACE WITH CONSUMERS;

(c) THE STATE HAS A COMPELLING INTEREST IN MAXIMIZING THE PROMOTION OF AGRICULTURAL GOODS PRODUCED OR GROWN IN COLORADO AND IN PROMOTING

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

ACCESS TO A WIDE VARIETY OF COLORADO-PRODUCED AGRICULTURAL PRODUCTS;

(d) FARM STANDS ALLOW FARMERS AND OTHER AGRICULTURAL PRODUCERS TO SELL FRESH AGRICULTURAL PRODUCE AND OTHER AGRICULTURAL GOODS GROWN ON THE PRINCIPAL USE SITE ON WHICH THE FARM STAND IS LOCATED AS WELL AS OTHER FOOD PRODUCTS MADE WITH INGREDIENTS PRODUCED ON OR NEAR THE PRINCIPAL USE SITE; AND

(e) IN MANY JURISDICTIONS ACROSS THE STATE, A FARM STAND IS NOT PERMITTED TO OPERATE IF LOCATED ON A PRINCIPAL USE SITE THAT IS SMALLER THAN A CERTAIN ACREAGE SIZE. THESE RESTRICTIONS OPERATE IN THIS MANNER BECAUSE, IN MANY JURISDICTIONS ACROSS THE STATE, A PRINCIPAL USE SITE CANNOT BE CLASSIFIED AS A FARM THAT IS ABLE TO CONDUCT AGRICULTURAL OPERATIONS UNLESS THE SITE EXCEEDS A CERTAIN MINIMUM ACREAGE REQUIREMENT.

(2) BY ENACTING THIS ARTICLE 31 THE GENERAL ASSEMBLY INTENDS TO PROVIDE A UNIFORM AND CONSISTENT PERMISSION ACROSS THE STATE FOR FARM STANDS TO UNDERTAKE AGRICULTURAL OPERATIONS ON PRINCIPAL USE SITES THAT ARE SMALLER THAN A CERTAIN ACREAGE SIZE. SUCH UNIFORMITY IN THE LAW PREVENTS INCONSISTENT APPLICATION OF THE LAW, DEPENDING UPON THE POLITICAL SUBDIVISION IN WHICH A FARM STAND MAY BE OPERATED, AND ASSISTS WITH THE STATE'S EFFORTS TO SUPPORT TO THE GREATEST EXTENT POSSIBLE THE MARKETING OF AGRICULTURAL GOODS PRODUCED OR GROWN IN COLORADO AND THE PROMOTION OF A WIDE VARIETY OF COLORADO-PRODUCED AGRICULTURAL PRODUCTS. TOWARD THIS END, THE GENERAL ASSEMBLY FURTHER DECLARES THAT THE MATTERS ADDRESSED IN THIS ARTICLE 31 ARE MATTERS OF STATEWIDE CONCERN.

29-31-102. Definitions. AS USED IN THIS ARTICLE 31, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AGRICULTURAL OPERATIONS" HAS THE SAME MEANING AS SPECIFIED IN SECTION 35-3.5-102 (4).

(2) "FARM STAND" MEANS A TEMPORARY OR PERMANENT STRUCTURE USED FOR THE SALE AND DISPLAY OF AGRICULTURAL PRODUCTS RESULTING FROM AGRICULTURAL OPERATIONS THAT ARE CONDUCTED ON THE PRINCIPAL USE SITE ON WHICH THE FARM STAND IS LOCATED. A FARM STAND MAY SELL AND DISPLAY AGRICULTURAL PRODUCTS RESULTING FROM AGRICULTURAL OPERATIONS NOT CONDUCTED ON THE PRINCIPAL USE SITE TO THE EXTENT PERMITTED BY THE APPLICABLE LOCAL GOVERNMENT.

(3) "LOCAL GOVERNMENT" MEANS A MUNICIPALITY, COUNTY, HOME RULE COUNTY, OR CITY AND COUNTY.

(4) "PRINCIPAL USE" MEANS THE PRIMARY PURPOSE FOR WHICH A STRUCTURE OR LOT IS DESIGNED, ARRANGED, OR INTENDED.

(5) "PRINCIPAL USE SITE" MEANS THE PARCEL OF REAL PROPERTY ON WHICH A BUSINESS UNDERTAKES ITS PRINCIPAL USE OF THE PROPERTY.

29-31-103. Farm stands. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A FARM STAND MAY BE LOCATED ON A PARCEL OF ANY SIZE. THE RETAIL SALE OF GOODS TO THE PUBLIC BY A FARM STAND MUST INCLUDE GOODS OR OTHER AGRICULTURAL PRODUCTS THAT ARE GROWN OR PRODUCED ON THE PRINCIPAL USE SITE ON WHICH THE FARM STAND IS LOCATED OR MAY INCLUDE AGRICULTURAL PRODUCTS RESULTING FROM AGRICULTURAL OPERATIONS THAT ARE NOT CONDUCTED ON THE PRINCIPAL USE SITE TO THE EXTENT PERMITTED BY THE APPLICABLE LOCAL GOVERNMENT. NOTHING IN THIS ARTICLE 31 PROHIBITS A LOCAL GOVERNMENT FROM REQUIRING THE OPERATOR OF A FARM STAND TO OBTAIN A VALID LICENSE OR PERMIT OR TO COMPLY WITH ANY OTHER APPLICABLE LAWS PRIOR TO OPERATING THE FARM STAND BUT IN NO WAY SHALL SUCH LOCAL PERMITTING, LICENSING, OR OTHER APPLICABLE LEGAL REQUIREMENTS DENY THE USE OF THE SITE AS DESCRIBED IN THIS SECTION.

SECTION 2. Effective date. This act takes effect July 1, 2019.

SECTION 3. 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: April 12, 2019