SECOND REGULAR SESSION
SEVENTY-FOURTH GENERAL ASSEMBLY
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0217.02 Sarah Lozano x3858

HOUSE BILL 24-1178

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A BILL FOR AN ACT

CONCERNING LOCAL GOVERNMENT AUTHORITY TO REGULATE PESTICIDES.

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.)

Current law prohibits a local government from creating laws that regulate the use of pesticides by pesticide applicators regulated by state or federal law. The bill allows a local government to create and enforce laws regulating the sale or use of pesticides to protect the health and safety of the community with certain exceptions.
Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 29-20-110, add (1.5), (2)(c), (2)(d), (2)(e), and (2)(f) as follows:

29-20-110. Local government regulation of the sale or use of pesticides - definitions. (1.5)(a) Notwithstanding section 35-10-112 (3) or 35-10-112.5 (2)(b), nothing in section 35-10-112 or 35-10-112.5 limits the ability of a local government to enact or enforce an ordinance, resolution, regulation, or other law regulating the sale or use of pesticides to protect the health and safety of the community; except that a local government shall not enact or enforce an ordinance, resolution, regulation, or other law pursuant to this section that limits the use of pesticides:

(I) For the production of agricultural products, including the use of pesticides for:

(A) Agricultural products grown for human consumption;
(B) Growing feed for livestock;
(C) Management of livestock; and
(D) Maintenance of agricultural water supply facilities, including irrigation ditches and other water infrastructure;

(II) For accomplishing the dry-up, revegetation, or noxious weed management of land that is enrolled in a water conservation program, including:

(A) A federal land conservation program;
(B) A water conservation program, including a pilot program, approved in advance by a water conservation district, water district, water authority, or water conservancy district
FOR LAND THAT IS WITHIN THE ENTITY'S JURISDICTIONAL BOUNDARIES OR BY A STATE AGENCY WITH EXPLICIT STATUTORY JURISDICTION OVER WATER CONSERVATION OR WATER RIGHTS;

(C) A WATER CONSERVATION PROGRAM, INCLUDING A PILOT PROGRAM, ESTABLISHED THROUGH FORMAL WRITTEN ACTION OR ORDINANCE BY A WATER DISTRICT, WATER AUTHORITY, OR MUNICIPALITY, OR THE MUNICIPALITY'S WATER SUPPLIER, FOR LAND THAT IS WITHIN THE ENTITY'S JURISDICTIONAL BOUNDARIES;

(D) AN APPROVED LAND FALLOWING PROGRAM AS PROVIDED BY LAW IN ORDER TO CONSERVE WATER OR TO PROVIDE WATER FOR INTERSTATE COMPACT COMPLIANCE; AND

(E) A WATER BANKING PROGRAM AS PROVIDED BY LAW;

(III) FOR ACCOMPLISHING THE DRY-UP, REVEGETATION, OR NOXIOUS WEED MANAGEMENT OF LAND FROM WHICH IRRIGATION WATER IS REMOVED AS:

(A) REQUIRED TO COMPLY WITH A TEMPORARY OR PERMANENT CHANGE OF WATER RIGHT OR OTHER DECREE OF A WATER COURT; OR

(B) DETERMINED BY THE STATE ENGINEER OR A DIVISION ENGINEER TO BE NECESSARY FOR COMPLIANCE WITH AN INTERSTATE COMPACT;

(IV) BY A PUBLIC UTILITY ON PROPERTY OWNED OR CONTROLLED BY THE PUBLIC UTILITY TO PROTECT THE PUBLIC UTILITY'S INFRASTRUCTURE OR TO MANAGE VEGETATION FOR THE OPERATION OF THE PUBLIC UTILITY'S INFRASTRUCTURE;

(V) FOR THE OPERATION AND MAINTENANCE OF A WATER SUPPLY COLLECTION OR DISTRIBUTION FACILITY OR A WATER SUPPLY CONVEYANCE THAT WHOLLY OR PARTIALLY SUPPLIES WATER FOR AN
AGRICULTURAL, INDUSTRIAL, OR MUNICIPAL USE BY:

(A) A WATER CONSERVANCY DISTRICT;

(B) A WATER CONSERVATION DISTRICT;

(C) A MUNICIPAL WATER SERVICE PROVIDER;

(D) AN IRRIGATION DISTRICT CREATED PURSUANT TO ARTICLES 41 TO 43 OF TITLE 37;

(E) A WATER USERS' ASSOCIATION FORMED PURSUANT TO SECTION 7-44-103; OR

(F) A DITCH OR RESERVOIR COMPANY; OR

(VI) FOR THE CULTIVATION OF MARIJUANA.

(b) NOTWITHSTANDING ANY PROVISION IN THIS SECTION TO THE CONTRARY, A LOCAL GOVERNMENT SHALL NOT ENACT OR ENFORCE AN ORDINANCE, RESOLUTION, REGULATION, OR OTHER LAW REGULATING THE SALE OR USE OF PESTICIDES THAT IS:

(I) NOT GUIDED BY PEER-REVIEWED SCIENCE; OR

(II) INCONSISTENT WITH FEDERAL LAW OR PART 10 OF ARTICLE 12 OF TITLE 38.

(c) NOTHING IN SUBSECTION (1.5)(a) OR (1.5)(b) OF THIS SECTION LIMITS THE AUTHORITY OF A LOCAL GOVERNMENT TO TAKE ANY ACTION SPECIFICALLY AUTHORIZED OR REQUIRED BY A FEDERAL OR STATE LAW CONCERNING PESTICIDES.

(2) As used in this section, unless the context otherwise requires:

(c) "PUBLIC UTILITY" HAS THE MEANING SET FORTH IN SECTION 40-1-103 (1)(a)(I).

(d) "USE" HAS THE MEANING SET FORTH IN SECTION 35-10-103 (18).

(e) "WATER CONSERVANCY DISTRICT" MEANS A WATER
CONSERVANCY DISTRICT CREATED PURSUANT TO ARTICLE 45 OF TITLE 37.

(f) "WATER CONSERVATION DISTRICT" MEANS A WATER CONSERVATION DISTRICT CREATED PURSUANT TO ARTICLES 46 TO 50 OF TITLE 37.

SECTION 2. In Colorado Revised Statutes, 30-11-131, add (1.5) as follows:

30-11-131. Regulation of the sale or use of pesticides - definitions. (1.5) A BOARD OF COUNTY COMMISSIONERS MAY REGULATE THE SALE OR USE OF PESTICIDES IN ACCORDANCE WITH SECTION 29-20-110 (1.5).

SECTION 3. In Colorado Revised Statutes, 31-15-905, add (1.5) as follows:

31-15-905. Regulation of the sale or use of pesticides - definitions. (1.5) A GOVERNING BODY OF A MUNICIPALITY MAY REGULATE THE SALE OR USE OF PESTICIDES IN ACCORDANCE WITH SECTION 29-20-110 (1.5).

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.