

CHAPTER 329

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**AGRICULTURE**

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**HOUSE BILL 93-1056**

BY REPRESENTATIVES Moellenberg, Acquafresca, Armstrong, Chlouber, Dyer, Eisenach, Entz, Fleming, George, Gordon, Jerke, Martin, Owen, Ratterree, Salaz, Shoemaker, and Taylor;  
also SENATORS Ament, Groff, Norton, Peterson, Rizzuto, Roberts, Tebedo, and Wattenberg.

**AN ACT**

**CONCERNING CERTIFICATION OF FORAGE CROPS AS WEED FREE, AND MAKING AN APPROPRIATION  
IN CONNECTION THEREWITH.**

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

**SECTION 1.** Title 35, Colorado Revised Statutes, 1984 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

**ARTICLE 27.5  
Forage Crop Certification**

**35-27.5-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "WEED FREE FORAGE CROP CERTIFICATION ACT".

**35-27.5-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AUTHORIZED INSPECTOR" MEANS A PERSON QUALIFIED TO IDENTIFY NOXIOUS WEEDS ACCORDING TO STANDARDS ADOPTED BY THE COMMISSIONER PURSUANT TO SECTION 35-27.5-103.

(2) "BOARD" MEANS THE WEED FREE CERTIFICATION ADVISORY BOARD APPOINTED BY THE COMMISSIONER PURSUANT TO SECTION 35-27.5-107.

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

(4) "CROP" MEANS ANY AGRICULTURAL FORAGE CROP PRODUCT WHETHER

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

CULTIVATED OR NOT CULTIVATED, IRRIGATED OR NONIRRIGATED, PLANTED OR NATURALLY OCCURRING.

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

(6) "NOXIOUS WEEDS" MEANS THOSE WEEDS, INCLUDING ANY WEED SEED OR PROPAGATIVE PLANT PARTS, DESIGNATED BY THE COMMISSIONER AS NOXIOUS AND WHICH ARE PROHIBITED PURSUANT TO SECTION 35-27.5-103.

(7) "PERSON" MEANS ANY ASSOCIATION, CORPORATION, FIRM, INDIVIDUAL OR COMBINATION OF INDIVIDUALS, PARTNERSHIP, OR SOCIETY.

(8) "QUALIFIED EMPLOYEE" MEANS AN EMPLOYEE OF THE DEPARTMENT DESIGNATED AS QUALIFIED WHO IS TRAINED TO IDENTIFY NOXIOUS WEEDS IN ACCORDANCE WITH STANDARDS ADOPTED BY THE COMMISSIONER PURSUANT TO SECTION 35-27.5-103.

(9) "WEED FREE" MEANS ANY CROP CERTIFIED AS FREE OF NOXIOUS WEEDS BY THE COMMISSIONER PURSUANT TO THIS ARTICLE.

(10) "WEED FREE CERTIFICATION" MEANS CROPS INSPECTED AND CERTIFIED AS FREE OF NOXIOUS WEEDS BY THE COMMISSIONER PURSUANT TO THIS ARTICLE.

**35-27.5-103. Rules and regulations.** (1) THE COMMISSIONER SHALL ADOPT REASONABLE AND NECESSARY RULES AND REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS ARTICLE IN COMPLIANCE WITH SECTION 24-4-103, C.R.S., AND SUBJECT TO THE REQUIREMENTS OF SECTION 35-27.5-107.

(2) RULES AND REGULATIONS ADOPTED PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL INCLUDE BUT SHALL NOT BE LIMITED TO RULES AND REGULATIONS CONCERNING THE FOLLOWING:

(a) DESIGNATION OF WEEDS AS NOXIOUS AND PROHIBITED;

(b) PROCEDURES FOR CERTIFICATION OF WEED FREE CROPS;

(c) QUALIFICATION STANDARDS FOR PERSONS SEEKING DESIGNATION AS AUTHORIZED INSPECTORS OR AS QUALIFIED EMPLOYEES;

(d) CROP INSPECTION PROCEDURES;

(e) TREATMENT PROCEDURES FOR THE ERADICATION OF VIABLE NOXIOUS WEEDS FROM CROPS; AND

(f) PROCEDURES FOR IDENTIFYING AND TRACKING CERTIFIED WEED FREE CROPS.

**35-27.5-104. Delegation of duties - cooperative agreements.** (1) (a) THE COMMISSIONER MAY DELEGATE ANY POWERS VESTED IN THE COMMISSIONER PURSUANT TO THIS ARTICLE TO QUALIFIED EMPLOYEES OF THE DEPARTMENT WHO ARE DESIGNATED AS QUALIFIED EMPLOYEES PURSUANT TO STANDARDS ADOPTED IN ACCORDANCE WITH SECTION 35-27.5-103.

(b) THE COMMISSIONER MAY DELEGATE ANY POWERS VESTED IN THE COMMISSIONER PURSUANT TO THIS ARTICLE THAT ARE RELATED TO THE DUTIES OF AUTHORIZED INSPECTORS TO PERSONS WHO ARE DESIGNATED AS AUTHORIZED INSPECTORS PURSUANT TO STANDARDS ADOPTED IN ACCORDANCE WITH SECTION 35-27.5-103.

(2) THE COMMISSIONER MAY ENTER INTO COOPERATIVE AGREEMENTS WITH COLORADO STATE UNIVERSITY FOR THE PURPOSE OF TRAINING AUTHORIZED EMPLOYEES AND QUALIFIED INSPECTORS IN THE IDENTIFICATION OF THOSE PLANTS DESIGNATED AS NOXIOUS WEEDS BY THE COMMISSIONER PURSUANT TO SECTION 35-27.5-103.

(3) FOR PURPOSES OF CARRYING OUT THE PROVISIONS OF THIS ARTICLE AND SUBJECT TO ANY OTHER LAW OF THIS STATE, THE COMMISSIONER MAY ACCEPT GRANTS-IN-AID FROM ANY AGENCY OF THE FEDERAL GOVERNMENT AND MAY COOPERATE AND ENTER INTO AGREEMENTS WITH ANY FEDERAL AGENCY, ANY AGENCY OF ANY OTHER STATE, AND ANY AGENCY OF THIS STATE OR ITS POLITICAL SUBDIVISIONS.

**35-27.5-105. Administration and enforcement.** (1) THE COMMISSIONER SHALL ADMINISTER AND ENFORCE THE PROVISIONS OF THIS ARTICLE.

(2) UPON THE MOTION OF THE COMMISSIONER OR UPON THE MOTION OF ANY OTHER PERSON, THE COMMISSIONER MAY MAKE ANY INVESTIGATIONS NECESSARY TO ENSURE COMPLIANCE WITH OR DETERMINE WHETHER THERE HAS BEEN A VIOLATION OF THIS ARTICLE.

(3) THE COMMISSIONER SHALL HAVE REASONABLE ACCESS DURING REGULAR BUSINESS HOURS TO ALL PERTINENT DOCUMENTS CONCERNING ANY PERSON WHO HAS REQUESTED THAT A CROP BE INSPECTED FOR PURPOSES OF CERTIFICATION OF SUCH CROP OR WHO HAS HAD A CROP CERTIFIED AS WEED FREE.

(4) (a) THE COMMISSIONER MAY, AFTER NOTICE AND A HEARING IN COMPLIANCE WITH THE PROVISIONS OF ARTICLE 4 OF TITLE 24, C.R.S., RESULTING IN A FINDING OF A VIOLATION OF THIS ARTICLE OR ANY RULE OR REGULATION PROMULGATED PURSUANT TO THIS ARTICLE, RESCIND ANY WEED FREE CERTIFICATION OF A CROP.

(b) FOR PURPOSES OF PARAGRAPH (a) OF THIS SUBSECTION (4), ANY ACTION TAKEN BY THE COMMISSIONER FOLLOWING A HEARING SHALL BE DEEMED FINAL.

(c) A PERSON AGGRIEVED BY A FINAL DECISION MADE BY THE COMMISSIONER PURSUANT TO THIS SUBSECTION (4) MAY APPEAL SUCH DECISION TO THE COLORADO COURT OF APPEALS PURSUANT TO SECTION 24-4-106 (11), C.R.S.

(d) THE COMMISSIONER MAY EMPLOY ADMINISTRATIVE LAW JUDGES APPOINTED PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., TO CONDUCT HEARINGS.

**35-27.5-106. Inspections.** (1) ANY CROP FOR WHICH WEED FREE CERTIFICATION IS SOUGHT SHALL BE INSPECTED IN THE FIELD OF ORIGIN AND SUCH INSPECTION SHALL INCLUDE AN INSPECTION OF ANY DITCHES, FENCE ROWS, ROADS, EASEMENTS, RIGHTS-OF-WAY, AND BUFFER ZONES, AS APPLICABLE, SURROUNDING SUCH FIELD OF

ORIGIN.

(2) CROPS WHICH CONTAIN ANY WEEDS WHICH HAVE BEEN DESIGNATED AS NOXIOUS PURSUANT TO SECTION 35-27.5-103, MAY BE CERTIFIED IF CERTAIN CONDITIONS ESTABLISHED PURSUANT TO SECTION 35-27.5-103 ARE MET.

**35-27.5-107. Penalties.** ANY PERSON WHO INTENTIONALLY VIOLATES ANY PROVISION OF THIS ARTICLE OR THE RULES OR REGULATIONS PROMULGATED PURSUANT TO SECTION 35-27.5-103, COMMITS A CLASS 3 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S.

**35-27.5-108. Fees.** (1) THE COMMISSIONER SHALL SET FEES FOR THE CERTIFICATION OF WEED FREE CROPS PURSUANT TO THIS ARTICLE IN AMOUNTS ADEQUATE TO COVER ALL COSTS, DIRECT AND INDIRECT, OF THE DEPARTMENT IN THE ADMINISTRATION AND ENFORCEMENT OF THIS ARTICLE.

(2) ALL FEES COLLECTED PURSUANT TO THIS ARTICLE SHALL BE TRANSMITTED TO THE STATE TREASURER WHO SHALL CREDIT SUCH FEES TO THE COLORADO WEED FREE CROP CERTIFICATION FUND, WHICH FUND IS HEREBY CREATED IN THE STATE TREASURY. THE GENERAL ASSEMBLY SHALL MAKE ANNUAL APPROPRIATIONS FROM SUCH FUND TO THE DEPARTMENT FOR THE DIRECT AND INDIRECT COSTS OF CARRYING OUT THE PROVISIONS OF THIS ARTICLE. ALL MONEYS IN THE FUND AT THE END OF ANY FISCAL YEAR SHALL NOT REVERT TO THE GENERAL FUND BUT SHALL REMAIN IN THE FUND AND SHALL REMAIN AVAILABLE FOR APPROPRIATION TO THE DEPARTMENT TO CARRY OUT THE PROVISIONS OF THIS ARTICLE.

**SECTION 2. Appropriation.** (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the weed free crop certification cash fund not otherwise appropriated, to the department of agriculture, for the fiscal year beginning July 1, 1993, the sum of thirty-two thousand five hundred fifty-five dollars (\$32,555), or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is appropriated, to the department of law, for the fiscal year beginning July 1, 1993, the sum of two thousand eighty-five dollars (\$2,085), or so much thereof as may be necessary, for the implementation of this act. Such appropriation shall be from cash funds received by the department of agriculture from the weed free crop certification cash fund.

**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: June 9, 1993