

CHAPTER 164

**AGRICULTURE**

**HOUSE BILL 94-1168**

BY REPRESENTATIVES Acquafresca, Eisenach, Entz, George, Jerke and Moellenberg;  
also SENATORS Ament, Norton, R. Powers, and Roberts.

**AN ACT**

**CONCERNING THE UNIFORM APPLICATION OF STATE LAWS RELATING TO AGRICULTURAL CHEMICALS.**

*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 1.5  
Preemption**

**35-1.5-101. Scope of article.** (1) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO LIMIT THE AUTHORITY OF A LOCAL GOVERNMENT TO:

(a) ZONE FOR THE SALE OR STORAGE OF ANY AGRICULTURAL CHEMICAL, PROVIDE OR DESIGNATE SITES FOR DISPOSAL OF ANY AGRICULTURAL CHEMICAL OR CONTAINER, REGULATE THE DISCHARGE OF ANY AGRICULTURAL CHEMICAL INTO SANITARY SEWER SYSTEMS, ADOPT REGULATIONS PURSUANT TO A STORM WATER MANAGEMENT PROGRAM THAT IS CONSISTENT WITH FEDERAL OR STATE REGULATION, ADOPT OR ENFORCE BUILDING AND FIRE CODE REQUIREMENTS, OR TO PROTECT SURFACE OR GROUND WATER DRINKING WATER SUPPLIES IN ACCORDANCE WITH CURRENT STATE OR FEDERAL APPLICABLE LAW;

(b) COMPLY WITH ANY FEDERAL OR STATE LAW OR REGULATION OR TAKE ANY ACTION OTHERWISE PROHIBITED BY THIS ARTICLE IN ORDER TO COMPLY WITH ANY FEDERAL OR STATE REQUIREMENT OR AVOID A FINE OR OTHER PENALTY UNDER FEDERAL OR STATE LAW;

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

(c) IMPLEMENT A COOPERATIVE AGREEMENT WITH ANY FEDERAL OR STATE AGENCY;

(d) REGULATE THE USE OF AGRICULTURAL CHEMICALS ON PROPERTY IN WHICH THE LOCAL GOVERNMENT HAS A FEE SIMPLE ABSOLUTE OWNERSHIP INTEREST;

(e) ISSUE LOCAL OCCUPATIONAL LICENSES.

(2) THE LACK OF A PROVISION IN THIS ARTICLE EXPLICITLY PREEMPTING LOCAL GOVERNMENT REGULATION OF ANY PARTICULAR AGRICULTURAL CHEMICAL NOT LISTED IN SECTION 35-1.5-102 (2) SHALL NOT BE CONSTRUED AS AN IMPLICIT GRANT OF AUTHORITY TO A LOCAL GOVERNMENT PURSUANT TO THIS ARTICLE TO REGULATE ON THAT SUBJECT.

**35-1.5-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ADJUVANT" MEANS A MATERIAL ADDED TO AN AGRICHEMICAL SOLUTION TO IMPROVE PERFORMANCE.

(2) "AGRICULTURAL CHEMICAL" MEANS ANY DEVICE, PLANT NUTRIENT, ANIMAL NUTRIENT, OR ADJUVANT AND ANY TREATED, ALTERED, OR ENGINEERED PLANT OR ANIMAL MATERIAL.

(3) "ANIMAL NUTRIENT" MEANS ANY FEED SUBJECT TO ARTICLE 60 OF THIS TITLE AND ANY MATERIAL FOR THE MAINTENANCE, GROWTH, OR PRODUCTION OF ANIMALS.

(4) "DEVICE" MEANS A DEVICE AS DEFINED IN SECTION 35-9-103 (5).

(5) "LOCAL GOVERNMENT" MEANS A COUNTY, HOME RULE COUNTY, CITY AND COUNTY, CITY, HOME RULE CITY, SPECIAL DISTRICT, OR OTHER POLITICAL SUBDIVISION OF THE STATE.

(6) "PLANT NUTRIENT" MEANS:

(a) AN AGRICULTURAL LIMING MATERIAL AS DEFINED IN SECTION 35-12-103 (1);

(b) A PLANT AMENDMENT AS DEFINED IN SECTION 35-12-103 (27);

(c) A PLANT NUTRIENT AS DEFINED IN SECTION 35-12-103 (28);

(d) A SOIL CONDITIONER AS DEFINED IN SECTION 35-12-103 (31);

(e) ANHYDROUS AMMONIA AS DEFINED IN SECTION 35-13-102 (1);

(f) A COMMERCIAL FERTILIZER AS DEFINED IN SECTION 35-12-103 (7);

(g) TREATED OR UNTREATED MANURE;

(h) WATER RUNOFF FROM A CONFINED ANIMAL FEEDING OPERATION THAT IS

CAPTURED AND THEN APPLIED TO A FIELD; AND

(i) A PLANT GROWTH REGULATOR.

(7) "USE" MEANS ALL ASPECTS OF THE HANDLING OF AGRICULTURAL CHEMICALS, INCLUDING, WITHOUT LIMITATION, THE MIXING, LOADING, APPLICATION OR ADMINISTRATION, SPILL CONTROL, AND DISPOSAL OF AN AGRICULTURAL CHEMICAL OR ITS CONTAINER.

**35-1.5-103. Preemption.** (1) NO LOCAL GOVERNMENT SHALL ADOPT OR CONTINUE IN EFFECT ANY ORDINANCE, RULE, CHARTER PROVISION, OR STATUTE REGARDING THE USE OF ANY AGRICULTURAL CHEMICAL AND PERTAINING TO:

(a) THE NAME OF THE PRODUCT, NAME AND ADDRESS OF THE MANUFACTURER, AND APPLICABLE REGISTRATION NUMBERS;

(b) DIRECTIONS FOR USE, USE CLASSIFICATION (GENERAL OR RESTRICTED), MIXING AND LOADING, SITE OF APPLICATION, TARGET PEST, DOSAGE RATE, METHOD OF APPLICATION, APPLICATION EQUIPMENT, FREQUENCY AND TIMING OF APPLICATIONS, APPLICATION RATE, REENTRY INTERVALS, WORKER PROTECTION STANDARDS, APPLICATION AND STORAGE CONTAINER SPECIFICATIONS, STORAGE AND DISPOSAL OF THE AGRICULTURAL CHEMICAL OR CONTAINER, OR LIMITATIONS TO PREVENT UNREASONABLE ADVERSE EFFECTS SUCH AS REQUIRED INTERVALS BETWEEN APPLICATION AND HARVEST OF FOOD OR FEED CROPS, ROTATIONAL CROP RESTRICTIONS, WARNINGS AGAINST USE ON CERTAIN CROPS, ANIMALS, OBJECTS, OR IN OR ADJACENT TO CERTAIN AREAS;

(c) WARNINGS AND PRECAUTIONARY STATEMENTS, HAZARDS TO HUMANS, CHILDREN, DOMESTIC ANIMALS, OR THE ENVIRONMENT, PHYSICAL OR CHEMICAL HAZARDS, OR STATEMENTS OF PRACTICAL TREATMENT; OR

(d) RECORDKEEPING REQUIREMENTS.

**SECTION 2. Safety clause.** The general assembly hereby yinds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 28, 1994