

CHAPTER 2

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**AGRICULTURE**

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**HOUSE BILL 01-1020**

BY REPRESENTATIVE(S) Hoppe, Alexander, Mace, Plant, and Webster;  
also SENATOR(S) Hillman, Chlouber, Dyer (Durango), Evans, Hernandez, Owen, and Taylor.

**AN ACT**

CONCERNING CHANGES TO THE "COLORADO AGRICULTURAL MARKETING ACT OF 1939" TO PERMIT ASSESSMENTS ON CERTAIN CROPS PRODUCED OUTSIDE OF COLORADO FOR SALE IN COLORADO, AND, IN CONNECTION THEREWITH, CLARIFYING WHO IS REQUIRED TO COLLECT ASSESSMENTS AND DEFINING "HANDLER" TO INCLUDE PRODUCERS WHO SHIP AGRICULTURAL COMMODITIES, PURCHASERS OF AGRICULTURAL COMMODITIES, AND GOVERNMENTAL ENTITIES THAT ACQUIRE INTERESTS IN AGRICULTURAL COMMODITIES UNDER GOVERNMENTAL AGRICULTURAL COMMODITY PROGRAMS.

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

**SECTION 1.** 35-28-104 (5), Colorado Revised Statutes, is amended to read:

**35-28-104. Definitions.** As used in this article, unless the context otherwise requires:

(5) "Handler" means any person engaged in the operation of PURCHASING, packing, grading, selling, offering for sale, or marketing any marketable agricultural product; or ANY PERSON who, as THE PRODUCER, owner, agent, or otherwise, ships or causes an agricultural product to be shipped; OR ANY GOVERNMENTAL ENTITY THAT OBTAINS FROM A PRODUCER ANY INTEREST IN AN AGRICULTURAL COMMODITY COVERED BY A MARKETING AGREEMENT OR ORDER IN CONNECTION WITH A GOVERNMENTAL AGRICULTURAL COMMODITY PROGRAM. THE COMMISSIONER SHALL HAVE THE POWER TO DETERMINE OR SPECIFY WHO IS A "HANDLER" WITH RESPECT TO AN AGRICULTURAL COMMODITY UNDER A MARKETING AGREEMENT OR ORDER.

**SECTION 2.** 35-28-113 (1) and (2), Colorado Revised Statutes, are amended, and the said 35-28-113 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

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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.*

**35-28-113. Budgeting and collection of fees.** (1) For the purpose of providing funds to defray necessary expenses, the board of control shall prepare a budget for the administration and operating costs and expenses, including advertising and sales promotion when same are requested in any marketing agreement or order executed under this article, which budget shall be approved by the commissioner. The collection of such necessary fees and the times and conditions of payment, in no case to exceed five percent of the gross dollar volume of such sales, or FIVE PERCENT OF THE GROSS dollar volume of purchases or amounts handled, DISTRIBUTED, OR PROCESSED, shall become a part of any marketing order upon adoption as provided in this article.

(2) Every person engaged in the production, processing, distributing, or ~~the~~ handling of any marketable agricultural product produced, SOLD, OR MARKETED in this state and directly affected by any marketing order issued pursuant to this article for such commodity shall pay, OR COLLECT AND PAY, to the commissioner at such time and in such manner as prescribed by the order as adopted an assessment covering the budget provided by this article, ~~such~~ WHICH ASSESSMENT SHALL BE THE percentage of the gross dollar volume OR AMOUNT PER UNIT of such sales, OR PERCENTAGE OF THE GROSS dollar volume of ~~purchase~~ PURCHASES or amounts handled, ~~or distribution~~ DISTRIBUTED, OR PROCESSED, of any commodity affected by such marketing order, as is necessary to defray the expenses of the enforcement of this article, but in no case to exceed five percent of the gross dollar volume.

(5) (a) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, IF REQUESTED BY A BOARD OF CONTROL AFFECTING WHEAT, CORN, OR DRY EDIBLE BEANS, THE COMMISSIONER MAY AMEND A MARKETING ORDER AS DESCRIBED IN THIS ARTICLE TO REQUIRE THE FIRST HANDLER OF SUCH COMMODITY OR PRODUCT IN THIS STATE TO PAY, OR COLLECT AND PAY, TO THE COMMISSIONER AN ASSESSMENT AT SUCH TIME AND IN SUCH MANNER AS SHALL BE PRESCRIBED BY THE COMMISSIONER IF THE COMMISSIONER, WITH THE APPROVAL OF THE GOVERNOR, DETERMINES THAT:

(I) WHEAT, CORN, OR DRY EDIBLE BEANS PRODUCED IN ANOTHER STATE AND SHIPPED INTO THIS STATE FOR SALE OR DISTRIBUTION TENDS TO PREVENT THE EFFECTUATION OF THE DECLARED POLICY OF THIS ARTICLE WITH RESPECT TO SUCH COMMODITY OR PRODUCT PRODUCED IN THIS STATE; AND

(II) THE EFFECTUATION OF THE DECLARED POLICY OF THIS ARTICLE WOULD BE FURTHERED BY COLLECTION OF ASSESSMENTS ON SUCH COMMODITY OR PRODUCT SHIPPED INTO THIS STATE.

(b) ANY ASSESSMENT AUTHORIZED PURSUANT TO THIS SUBSECTION (5) SHALL BE EQUIVALENT TO THE ASSESSMENT REQUIRED BY THE PROVISIONS OF THE MARKETING ORDER.

**SECTION 3. Effective date.** This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: February 12, 2001