

## CHAPTER 19

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**AGRICULTURE**

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**HOUSE BILL 04-1059**

BY REPRESENTATIVE(S) Hoppe, McFadyen, Rippy, Salazar, Spradley, Wiens, and Williams T.;  
also SENATOR(S) Hillman, Entz, Isgar, and Taylor.

**AN ACT****CONCERNING ADDITIONAL ENFORCEMENT AUTHORITY REGARDING MARKETING ORDERS ISSUED BY  
THE COMMISSIONER OF AGRICULTURE.**

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

**SECTION 1.** 35-28-116 (7) (a), (8) (b), and (8) (c), Colorado Revised Statutes, are amended to read:

**35-28-116. Administration and enforcement.** (7) (a) Any person who violates any provision of this article or of any MARKETING ORDER OR rule adopted pursuant to this article is subject to a civil penalty as determined by a court of competent jurisdiction or by the commissioner. The penalty shall not exceed one thousand dollars per violation; except that such penalty may be doubled if it is determined, after notice and an opportunity for hearing, that the person has violated the provision, MARKETING ORDER, or rule on at least one prior occasion occurring after March 23, 1995.

(8) (b) Whenever the commissioner has reasonable cause to believe a violation of any provision of this article or any MARKETING ORDER OR rule ~~made~~ ISSUED pursuant to this article has occurred and immediate enforcement is deemed necessary, the commissioner may issue an order requiring any person to cease and desist from such violation. Such cease and desist order shall set forth the provisions alleged to have been violated, the facts alleged to have constituted the violation, and the requirement that all actions cease immediately. At any time after service of the order to cease and desist, the person may request a prompt hearing to determine whether or not such violation has occurred. Such hearing shall be conducted pursuant to the provisions of article 4 of title 24, C.R.S., and shall be determined promptly.

(c) Whenever the commissioner possesses evidence satisfactory to the

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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.*

commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this article or of any MARKETING ORDER OR rule ~~adopted~~ ISSUED under this article, the commissioner may apply to a court of competent jurisdiction to temporarily or permanently restrain or enjoin the act or practice in question and to enforce compliance with this article or any MARKETING ORDER, rule, or order under this article. In any such action, the commissioner shall not be required to plead or prove irreparable injury or the inadequacy of the remedy at law. Under no circumstances shall the court require the commissioner to post a bond.

**SECTION 2. Applicability.** This act shall apply to marketing orders issued before, on, or after the effective date of this act.

**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: March 8, 2004