

## CHAPTER 387

---

**NATURAL RESOURCES**


---

**SENATE BILL 09-158**

BY SENATOR(S) Isgar, Boyd, Gibbs, Hodge, Kester, Penry, Romer, Sandoval, Schwartz, Tapia, Tochtrop, White;  
also REPRESENTATIVE(S) Baumgardner, Curry, Kerr J., McNulty, Roberts, Stephens, Vigil.

**AN ACT**

**CONCERNING ANALYSIS BY THE DEPARTMENT OF NATURAL RESOURCES OF CONSERVATION  
PROGRAMS IMPLEMENTED ON PRIVATE LANDS.**

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

**SECTION 1.** Article 33 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**24-33-113. Landowner incentive conservation programs - report.** (1) THE GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT CURRENT FEDERAL PROGRAMS EXIST IN WHICH COLORADO LANDOWNERS, IN EXCHANGE FOR MONETARY COMPENSATION OR OTHER FINANCIAL ASSISTANCE, ABIDE BY VARIOUS PRACTICES RELATED TO CONSERVATION FOR LANDS ENROLLED IN THE PROGRAMS. THE GENERAL ASSEMBLY FURTHER DECLARES THAT LANDS, WATERS, AND WILDLIFE IN COLORADO HAVE DERIVED ENORMOUS BENEFITS AS A RESULT OF SUCH PROGRAMS. HOWEVER, SUCH FEDERAL PROGRAMS MAY BE REDUCED OR ELIMINATED, AND SIMILAR FEDERAL OR STATE PROGRAMS MAY EXIST OR BE CREATED, IN THE NEAR FUTURE. THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT A STUDY CONDUCTED BY THE DEPARTMENT OF NATURAL RESOURCES CONCERNING SUCH PROGRAMS, INCLUDING THE TYPES OF LANDS DESIRABLE FOR THE PROGRAMS, THE COST TO ADMINISTER THE PROGRAMS, AND THE VALUE OF THE PROGRAMS TO PUBLIC AND PRIVATE INTERESTS, WOULD ASSIST THE GENERAL ASSEMBLY IN ASSESSING WHETHER AND HOW THE IMPLEMENTATION OF SUCH PROGRAMS IN COLORADO CAN BE IMPROVED AND, WHERE POSSIBLE, SUPPLEMENTED THROUGH NEW FEDERAL OR STATE PROGRAMS.

(2) (a) THE DEPARTMENT SHALL COMPILE INFORMATION REGARDING PARTICIPATION BY COLORADO LANDOWNERS IN LANDOWNER INCENTIVE CONSERVATION PROGRAMS. AS USED IN THIS SECTION, "LANDOWNER INCENTIVE

---

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

CONSERVATION PROGRAM", ALSO REFERRED TO IN THIS SECTION AS A "PROGRAM", MEANS ANY FEDERAL OR STATE PROGRAM THAT PROVIDES MONETARY COMPENSATION TO LANDOWNERS WHO AGREE TO SET ASIDE LANDS OR APPLY LAND MANAGEMENT STRATEGIES OR CONSERVATION PRACTICES TO LANDS ENROLLED IN THE PROGRAM. A PROGRAM MAY ALSO DIRECTLY OR INCIDENTALLY PROTECT, ENHANCE, OR OTHERWISE PROVIDE BENEFITS TO THE ENVIRONMENT, WILDLIFE, OR WILDLIFE HABITAT. IN GATHERING INFORMATION PURSUANT TO THIS PARAGRAPH (a), THE DEPARTMENT SHALL REVIEW ANY FEDERAL OR STATE PROGRAMS THAT CURRENTLY EXIST OR ARE CREATED PRIOR TO FEBRUARY 1, 2010. THE INFORMATION GATHERED BY THE DEPARTMENT SHALL INCLUDE DATA REGARDING THE AMOUNT AND TYPES OF COLORADO LANDS ENROLLED IN A PROGRAM, METHODS AND COSTS TO ADMINISTER THE PROGRAMS, AND THE BENEFITS TO LANDS, THE ENVIRONMENT, OR WILDLIFE REALIZED THROUGH THE PROGRAMS.

(b) THE DEPARTMENT SHALL STUDY THE INFORMATION OBTAINED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) IN ORDER TO ASSESS THE FEASIBILITY OF ADMINISTERING SUCH A PROGRAM IN COLORADO IF THE FEDERAL PROGRAMS ARE ELIMINATED OR REDUCED. IN ASSEMBLING THIS INFORMATION, THE DEPARTMENT SHALL CONSULT WITH ANY POTENTIALLY AFFECTED GROUPS OR ENTITIES, INCLUDING:

(I) FEDERAL AGENCIES THAT ADMINISTER PROGRAMS;

(II) ANY POTENTIALLY AFFECTED STATE AGENCIES;

(III) LANDOWNERS OR ENTITIES REPRESENTING LANDOWNER INTERESTS;

(IV) GROUPS ORGANIZED FOR THE PURPOSE OF WILDLIFE CONSERVATION; AND

(V) THE AGRICULTURE INDUSTRY TASK FORCE CREATED PURSUANT TO SECTION 35-1-107 (8), C.R.S.

(c) THE DATA COMPILATION AND STUDY EFFORTS REQUIRED BY THIS SUBSECTION (2) SHALL BE FUNDED WITH MONEYS APPROPRIATED TO THE DEPARTMENT FROM THE OPERATION AND MAINTENANCE ACCOUNT OF THE SPECIES CONSERVATION TRUST FUND CREATED IN SECTION 24-33-111 (2) FOR THE FISCAL YEAR BEGINNING JULY 1, 2009.

(3) ON OR BEFORE FEBRUARY 1, 2010, THE DEPARTMENT SHALL REPORT TO THE HOUSE OF REPRESENTATIVES COMMITTEE ON AGRICULTURE, LIVESTOCK, AND NATURAL RESOURCES AND THE SENATE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES, OR THEIR SUCCESSOR COMMITTEES, REGARDING THE FEASIBILITY OF ADMINISTERING A LANDOWNER INCENTIVE CONSERVATION PROGRAM IN COLORADO. IF POSSIBLE, SUCH REPORT SHALL BE MADE AT THE SAME TIME AS THE REPORT DESCRIBED IN SECTION 24-33-111 (3) (a).

(4) INFORMATION GATHERED BY THE DEPARTMENT PURSUANT TO THIS SECTION THAT ALLOWS ANY COLORADO LANDOWNER OR LAND TO BE SPECIFICALLY IDENTIFIED SHALL BE EXEMPT FROM INSPECTION PURSUANT TO SECTION 24-72-204 (3) (a) (XXI), PROVIDED, HOWEVER, THAT SUMMARY OR AGGREGATE DATA THAT DOES NOT SPECIFICALLY IDENTIFY INDIVIDUAL LANDOWNERS OR SPECIFIC PARCELS

OF LAND SHALL NOT BE SUBJECT TO SUCH EXEMPTION.

**SECTION 2.** 35-1-107, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**35-1-107. Commissioner of agriculture - report - publications - deputy commissioner - repeal.** (8) (a) THE COMMISSIONER SHALL ORGANIZE A TASK FORCE FOR THE PURPOSE OF CONSULTING WITH THE DEPARTMENT OF NATURAL RESOURCES REGARDING LANDOWNER INCENTIVE CONSERVATION PROGRAMS PURSUANT TO SECTION 24-33-113, C.R.S. THE SIZE AND COMPOSITION OF THE TASK FORCE SHALL BE WITHIN THE DISCRETION OF THE COMMISSIONER, WHO SHALL APPOINT PERSONS REPRESENTATIVE OF AGRICULTURAL INTERESTS IN THE STATE. THE TASK FORCE SHALL BE CREATED AS SOON AS POSSIBLE, AND NO LATER THAN OCTOBER 1, 2009. THE TASK FORCE SHALL MEET AT LEAST ONCE WITH THE DEPARTMENT OF NATURAL RESOURCES IN ORDER TO PROVIDE INPUT REGARDING HOW A STATE-ADMINISTERED LANDOWNER INCENTIVE CONSERVATION PROGRAM WOULD AFFECT AGRICULTURE IN COLORADO. ANY SUCH CONSULTATIVE MEETINGS SHALL OCCUR PRIOR TO THE REPORT REQUIRED BY SECTION 24-33-113 (3), C.R.S.

(b) THIS SUBSECTION (8) IS REPEALED, EFFECTIVE FEBRUARY 1, 2010.

**SECTION 3.** 24-72-204 (3) (a), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

**24-72-204. Allowance or denial of inspection - grounds - procedure - appeal - definitions.** (3) (a) The custodian shall deny the right of inspection of the following records, unless otherwise provided by law; except that any of the following records, other than letters of reference concerning employment, licensing, or issuance of permits, shall be available to the person in interest under this subsection (3):

(XXI) ALL RECORDS, INCLUDING, BUT NOT LIMITED TO, ANALYSES AND MAPS, COMPILED OR MAINTAINED PURSUANT TO STATUTE OR RULE BY THE DEPARTMENT OF NATURAL RESOURCES OR ITS DIVISIONS THAT ARE BASED ON INFORMATION RELATED TO PRIVATE LANDS AND IDENTIFY OR ALLOW TO BE IDENTIFIED ANY SPECIFIC COLORADO LANDOWNERS OR LANDS; EXCEPT THAT SUMMARY OR AGGREGATED DATA THAT DO NOT SPECIFICALLY IDENTIFY INDIVIDUAL LANDOWNERS OR SPECIFIC PARCELS OF LAND SHALL NOT BE SUBJECT TO THIS SUBPARAGRAPH (XXI).

**SECTION 4. Appropriation.** In addition to any other appropriation, there is hereby appropriated, out of any moneys in the operation and maintenance account of the species conservation trust fund created in section 24-33-111 (2) (a) (I), Colorado Revised Statutes, not otherwise appropriated, to the department of natural resources, executive director's office, for personal services, for the fiscal year beginning July 1, 2009, the sum of fifty thousand dollars (\$50,000), or so much thereof as may be necessary, for the implementation of this act.

**SECTION 5. Act subject to petition - effective date.** (1) Except as otherwise provided in subsection (2), 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, (August 5, 2009, if adjournment sine die is on May 6, 2009); 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.

(2) This act shall only take effect if House Bill 09-1289 is enacted and becomes law, and this act shall take effect either upon the applicable effective date of this act or upon the applicable effective date of House Bill 09-1289, whichever is later.

Approved: June 2, 2009