

CHAPTER 95

AGRICULTURE

HOUSE BILL 11-1159

BY REPRESENTATIVE(S) Coram, Barker, Brown, Sonnenberg, Fischer, Looper, Scott, Vigil, Wilson;
also SENATOR(S) Schwartz.

AN ACT

CONCERNING A REQUIREMENT THAT THE COMMISSIONER OF AGRICULTURE LICENSE GRAIN PROTEIN ANALYZERS PRIOR TO COMMERCIAL USE, AND, IN CONNECTION THEREWITH, EXEMPTING GRAIN PROTEIN ANALYZERS FROM THE REQUIREMENT THAT A CERTIFICATE OF CONFORMANCE BE ISSUED PRIOR TO USE FOR COMMERCIAL OR LAW ENFORCEMENT PURPOSES, AND MAKING AN APPROPRIATION.

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

SECTION 1. 35-14-102, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

35-14-102. Definitions. As used in this article, unless the context otherwise requires:

(9.5) "GRAIN PROTEIN ANALYZER" MEANS THE EQUIPMENT AND ACCESSORIES USED TO DETERMINE THE PROTEIN CONTENT OF GRAIN.

SECTION 2. 35-14-105, Colorado Revised Statutes, is amended to read:

35-14-105. Technical requirements for weighing and measuring devices - certificate required - exception. (1) The specifications, tolerances, and other technical requirements, including user requirements, for commercial, law enforcement, data gathering, and other weighing and measuring devices ~~as~~ adopted by the national conference on weights and measures and published in the national institute of standards and technology handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Commercial Weighing and Measuring Devices", and supplements ~~thereto~~ or revisions ~~thereof, shall~~ TO THAT HANDBOOK, apply to weighing and measuring devices in this state, except as modified or rejected or as otherwise specified by this article or any rule promulgated pursuant to this article.

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

EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, any weight or measure or any weighing or measuring instrument or device shall be issued a certificate of conformance from the national type evaluation program prior to use for commercial or law enforcement purposes.

(2) A CERTIFICATE OF CONFORMANCE IS NOT REQUIRED FOR A GRAIN PROTEIN ANALYZER.

SECTION 3. 35-14-127 (5), (12.5) (b) (I), and (12.5) (b) (II) (A), Colorado Revised Statutes, are amended to read:

35-14-127. Licenses - fees - rules - stickers - certificates - repeal. (5) The COMMISSION SHALL DETERMINE THE annual license fee for textile meters, cordage meters, moisture meters, GRAIN PROTEIN ANALYZERS, certified weighers, persons who sell or install weighing and measuring devices, and persons who service weighing and measuring devices. ~~shall be as determined by the commission.~~

(12.5) (b) (I) Except as provided in subparagraph (II) of this paragraph (b), for each fiscal year, commencing on July 1, twenty-five percent of the direct and indirect costs associated with the licensing, testing, inspection, and regulation of certified weighers, scales with a capacity of greater than one thousand pounds, belt conveyers, in-motion railroad scales, ~~and~~ moisture testing devices, ~~shall~~ AND GRAIN PROTEIN ANALYZERS MUST be funded from the general fund. The commission shall establish a fee schedule to cover any direct and indirect costs not funded from the general fund.

(II) (A) For the fiscal years commencing July 1, 2010, and July 1, 2011, one hundred percent of the direct and indirect costs associated with the licensing, testing, inspection, and regulation of certified weighers, scales with a capacity of greater than one thousand pounds, belt conveyers, in-motion railroad scales, ~~and~~ moisture testing devices, ~~shall~~ AND GRAIN PROTEIN ANALYZERS MUST be covered by fees established by the commission.

SECTION 4. 35-14-129 (1), Colorado Revised Statutes, is amended to read:

35-14-129. Moisture-testing devices and grain protein analyzers - specifications. (1) Before OPERATING any moisture-testing device ~~is operated~~ OR GRAIN PROTEIN ANALYZER for commercial use, THE OWNER OF THE DEVICE OR ANALYZER SHALL FIRST PROCURE a license ~~shall be obtained~~ FOR OPERATION OF THE DEVICE OR ANALYZER from the commissioner. An application for ~~such~~ THE license ~~shall~~ MUST be made upon a form furnished by the commissioner. A moisture-testing device ~~shall be~~ OR A GRAIN PROTEIN ANALYZER IS considered in commercial use if the results of the device OR ANALYZER are a factor in determining:

(a) The price of the commodity tested; ~~for moisture content;~~ or

(b) FOR A MOISTURE-TESTING DEVICE, THE drying or other processing charge based upon moisture content of the commodity.

SECTION 5. Appropriation - adjustments in 2011 long bill. For the implementation of this act, the cash funds appropriation made in the annual general

appropriation act for the fiscal year beginning July 1, 2011, to the department of agriculture, agricultural services division, for inspection and consumer services, is increased by six hundred dollars (\$600). Said sum shall be from the inspection and consumer services cash fund created in section 35-1-106.5 (1), Colorado Revised Statutes.

SECTION 6. Act subject to petition - effective date - applicability. (1) 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 (August 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2012 and shall take effect on the date of the official declaration of the vote thereon by the governor.

(2) The provisions of this act shall apply to grain protein analyzers operated for commercial use on or after the applicable effective date of this act.

Approved: April 8, 2011