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Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

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LLS NO. 20-0523.01 Jery Payne x2157 **SUNSET BILL**

Sunset Process - House Rural Affairs and Agriculture Committee

BILL TOPIC: "Sunset Regulation Of Egg Dealers"
DEADLINES: Finalize by: JAN 27, 2020 File by: JAN 29, 2020

A BILL FOR AN ACT

101 CONCERNING THE CONTINUATION OF THE LICENSING OF EGG DEALERS,
102 AND, IN CONNECTION THEREWITH, IMPLEMENTING THE
103 RECOMMENDATIONS CONTAINED IN THE **2019** SUNSET REPORT
104 BY THE DEPARTMENT OF REGULATORY AGENCIES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov/.)

Sunset Process - House Rural Affairs and Agriculture Committee. The bill implements the recommendations of the department of regulatory agencies' sunset review and report of the licensing of egg

dealers by:

- Extending the program for 11 years, until September 1, 2031 (*recommendation 1*, **sections 1 and 2** of the bill);
- Adding the regulation of nonpoultry eggs from avian species and authorizing the commissioner of agriculture to adopt rules specifying how nonpoultry eggs will be regulated (*recommendation 2*, **sections 3 to 6**); and
- Changing the fund where civil penalties are deposited from the inspection and consumer services cash fund to the general fund (*recommendation 3*, **section 7**).

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

Recommendation 1

SECTION 1. In Colorado Revised Statutes, 24-34-104, **repeal** (18)(a)(II); and **add** (32) as follows:

24-34-104. General assembly review of regulatory agencies and functions for repeal, continuation, or reestablishment - legislative declaration - repeal. (18) (a) The following agencies, functions, or both, are scheduled to repeal on July 1, 2020:

(II) ~~The regulation of poultry eggs in accordance with article 21 of title 35, C.R.S.;~~

(32) (a) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, ARE SCHEDULED FOR REPEAL ON SEPTEMBER 1, 2031:

(I) THE LICENSING OF EGG DEALERS IN ACCORDANCE WITH ARTICLE 21 OF TITLE 35.

(b) THIS SUBSECTION (32) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2033.

SECTION 2. In Colorado Revised Statutes, **amend** 35-21-108 as follows:

35-21-108. Repeal of sections - review of functions. Sections 35-21-104, ~~and~~ 35-21-107 (2), AND THIS SECTION are repealed, effective

~~July 1, 2020. Prior to such~~ SEPTEMBER 1, 2031. BEFORE THE repeal, the licensing functions of the department ~~shall be reviewed as provided for in~~ ARE SCHEDULED FOR REVIEW IN ACCORDANCE WITH section 24-34-104. ~~C.R.S.~~

Recommendation 2

SECTION 3. In Colorado Revised Statutes, 35-21-101, **amend** the introductory portion, (6), and (16); and **add** (13.5) as follows:

35-21-101. Definitions - rules. As used in this ~~article~~ ARTICLE 21, unless the context otherwise requires:

(6) "Dealer" means any person who is engaged in selling POULTRY eggs OR OTHER EGGS.

(13.5) "OTHER EGGS" MEANS THE EGGS WITH A SHELL OF ANY AVIAN SPECIES, AS DESIGNATED BY THE COMMISSIONER BY RULE, OTHER THAN THE DOMESTICATED CHICKEN.

(16) "Producer" means any person engaged in producing POULTRY eggs OR OTHER EGGS in this state.

SECTION 4. In Colorado Revised Statutes, 35-21-104, **amend** (1), (4)(b)(I), and (4)(b)(IV) as follows:

35-21-104. Licenses - application - fees - rules. (1) Every person selling poultry eggs OR OTHER EGGS within this state shall obtain from the department a dealer's license for each place where ~~such~~ THE business is conducted. A license is not transferable. The license ~~shall expire~~ EXPIRES and may be renewed in accordance with rules promulgated by the commissioner. No reduction of license fee may be made for a fractional part of a year.

(4) (b) (I) The license categories shall be established by rule by the commissioner based on the average number of cases of POULTRY eggs

(thirty dozen per case) OR OTHER EGGS sold per week during the previous twelve months.

(IV) The applicant for a license shall keep such records as may be necessary to indicate accurately the quantity of POULTRY eggs OR OTHER EGGS sold per week during the year and shall allow the commissioner to examine these records in determining the quantity of POULTRY eggs OR OTHER EGGS sold. A licensee shall retain ~~such~~ THE records of quantity sold for ~~a period of~~ two years.

SECTION 5. In Colorado Revised Statutes, 35-21-105, **amend** (1) as follows:

35-21-105. Exemption - rules. (1) (a) Except as provided in subsection (2) of this section, a person who produces and sells only on the premises at which the POULTRY eggs were produced, at a farmers' market, or through a community-supported agricultural organization, less than two hundred fifty dozen POULTRY eggs per month is exempt from this ~~article~~ ARTICLE 21; except that such a producer may apply for a dealer's license and, ~~upon~~ IF IN compliance with this ~~article~~ ARTICLE 21, be issued a dealer's license.

(b) THE COMMISSIONER MAY PROMULGATE RULES EXEMPTING SMALL PRODUCERS OF OTHER EGGS OR DEALERS OF OTHER EGGS FROM ANY PROVISION OF THIS ARTICLE 21 AND SETTING THE CONDITIONS FOR THE EXEMPTION; EXCEPT THAT SUCH A PRODUCER MAY APPLY FOR A DEALER'S LICENSE AND, IF IN COMPLIANCE WITH THIS ARTICLE 21, BE ISSUED A DEALER'S LICENSE.

SECTION 6. In Colorado Revised Statutes, 35-21-106, **amend** (1), (2)(b), and (3) as follows:

35-21-106. Rules - commissioner to enforce - procedure.

(1) The commissioner ~~is authorized to~~ MAY formulate rules ~~relating to~~ CONCERNING licensing, transporting, processing, labeling, sale, storage, inspection, and record keeping ~~as the commissioner may deem proper and necessary~~ for the furtherance and enforcement of this ~~article. Such~~ ARTICLE 21 FOR BOTH POULTRY EGGS AND OTHER EGGS. THE COMMISSIONER SHALL PROMULGATE THE rules ~~shall be promulgated~~ in accordance with article 4 of title 24. ~~C.R.S.~~

(2) (b) If the commissioner determines that ~~the provisions of~~ this ~~article~~ ARTICLE 21 or the rules promulgated for ~~its~~ THE enforcement OF THIS ARTICLE 21 are being violated, the commissioner may cause "stop sale notices" to be placed on all POULTRY eggs OR OTHER EGGS being sold or offered for sale in violation of this ~~article~~ ARTICLE 21 or ~~said~~ THE rules. ~~No~~ A person ~~may~~ SHALL NOT sell or otherwise dispose of POULTRY eggs OR OTHER EGGS upon which a "stop sale notice" has been issued until ~~such~~ THE "stop sale notice" has been cancelled by the commissioner or a duly authorized agent.

(3) (a) IF AN AUTHORIZED PERSON FROM THE DEPARTMENT REQUESTS TO INSPECT POULTRY EGGS OR OTHER EGGS, it is unlawful for ~~any~~ A person to refuse to submit ~~any~~ FOR INSPECTION THE FOLLOWING OR TO REFUSE TO STOP A VEHICLE TRANSPORTING THE FOLLOWING:

(I) POULTRY eggs; ~~or~~

(II) OTHER EGGS;

(III) POULTRY egg products; or

(IV) ~~to refuse to stop any vehicle transporting eggs or egg products for inspection by any authorized person of the department~~ OTHER EGG PRODUCTS.

(b) Any authorized agent of the department may, while enforcing

~~the provisions of~~ this ~~article~~ ARTICLE 21, seize and hold as evidence any carton or container of POULTRY eggs OR OTHER EGGS received, packed, stored, delivered for shipment, loaded, or in transit in violation ~~of any provisions~~ of this ~~article~~ ARTICLE 21.

Recommendation 3

SECTION 7. In Colorado Revised Statutes, 35-21-107.5, **amend** (4) as follows:

35-21-107.5. Civil penalties. (4) ~~All moneys collected pursuant to this section shall be transmitted~~ THE COMMISSIONER SHALL TRANSMIT CIVIL PENALTIES COLLECTED UNDER THIS SECTION to the state treasurer, ~~and credited to the inspection and consumer services cash fund created in section 35-1-106.5~~ WHO SHALL CREDIT THE MONEY TO THE GENERAL FUND.

SECTION 8. In Colorado Revised Statutes, 35-1-106.5, **amend** (1) as follows:

35-1-106.5. Inspection and consumer services cash fund - creation. (1) All fees, fines, and penalties collected ~~pursuant to~~ UNDER articles 12, 13, 14, 21, 33, 36, 37, and 60 of this title 35 and part 2 of article 43 of this title 35, OTHER THAN CIVIL PENALTIES COLLECTED UNDER SECTION 35-21-107.5, shall be transmitted to the state treasurer, who shall credit the same to the inspection and consumer services cash fund, which fund is hereby created in the state treasury. All interest derived from the deposit and investment of money in the fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered money in the fund ~~shall remain~~ REMAINS in the fund and shall not be credited or transferred to the general fund or any other fund or used for any purpose other than to offset the costs of implementing, administering, and

enforcing the provisions of articles 12, 13, 14, 21, 33, 36, 37, and 60 of this title 35 and part 2 of article 43 of this title 35. Money in the fund is subject to annual appropriation to the department for such purposes.

SECTION 9. Applicability. This act applies to offenses committed on or after the effective date of this act.

SECTION 10. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.