

First Regular Session Sixty-seventh
General Assembly STATE OF
COLORADO

DRAFT

LLS NO. 09-0228.01 Jery Payne

SUNSET BILL

Sunset Process - Senate Agriculture and Natural Resources Committee .

SHORT TITLE: "Sunset Egg Regulation"

A BILL FOR AN ACT

101 CONCERNING THE CONTINUATION OF THE REGULATION OF EGG
102 QUALITY.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Sunset Process - Senate Agriculture and Natural Resources Committee. Implements the recommendations of the department of regulatory agencies in its sunset review of the regulation of egg quality by the state agricultural commission as follows:

☐ *Recommendation 1. Continues the regulation of eggs until July 1, 2020.*

☐ *Recommendation 2. Replaces the wholesaler and retailer*

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

licenses with a dealer license.

- *Recommendation 3. Authorizes the commissioner of agriculture (commissioner) to set the license classification structure by rule.*
- *Recommendation 4. Allows a small egg producer to opt to be licensed.*
- *Recommendation 5. Repeals obsolete provisions.*
- *Recommendation 6. Expands the requirement that eggs be refrigerated to include all stages in the delivery process.*
- *Recommendation 7. Authorizes the commissioner to set the license renewal dates by rule.*
- *Recommendation 8. Authorizes the commissioner to request additional information for licensing purposes.*
- *Recommendation 9. Transfers rule-making authority from the state agricultural commission to the commissioner concerning labeling, sale, storage, inspection, and record-keeping.*
- *Recommendation 10. Clarifies that the commissioner is authorized to access vehicles used to transport eggs.*
- *Recommendation 11. Authorizes the commissioner to establish a late fee for late license renewals.*

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

2 *<{**Recommendation 1**}>*

3 ***SECTION 1. Repeal.*** *24-34-104 (40) (j) (IV), Colorado Revised*
4 *Statutes, is repealed as follows:*

5 ***24-34-104. General assembly review of regulatory agencies***
6 ***and functions for termination, continuation, or reestablishment.***

7 *(40) The following agencies, functions, or both, shall terminate on July*
8 *1, 2009:*

9 *(j) The following functions of the commissioner of the department*
10 *of agriculture:*

11 *(IV) ~~The issuance of licenses relating to poultry eggs in~~*
12 *~~accordance with article 21 of title 35, C.R.S.,~~*

13 ***SECTION 2.*** *24-34-104 (51), Colorado Revised Statutes, is*

1 amended to read: _____

2 **24-34-104. General assembly review of regulatory agencies**
3 **and functions for termination, continuation, or reestablishment.**

4 (51) The following agencies, functions, or both, shall terminate on July
5 1, 2020:

6 (a) The regulation of persons working in coal mines by the
7 department of natural resources through the coal mine board of examiners
8 in accordance with article 22 of title 34, C.R.S.; AND

9 (b) THE REGULATION OF POULTRY EGGS PURSUANT TO ARTICLE 21
10 OF TITLE 35, C.R.S.

11 **SECTION 3.** 35-21-108, Colorado Revised Statutes, is amended
12 to read:

13 **35-21-108. Repeal of sections - review of functions.** Sections
14 35-21-104 and 35-21-107 (2) are repealed, effective July 1, 2009 2020.
15 Prior to such repeal, the licensing functions of the department shall be
16 reviewed as provided for in section 24-34-104, C.R.S.

17 <{**Recommendations 2, 3, 7, & 11**}>

18 **SECTION 4. Repeal.** 35-21-101 (12), (18), and (19), Colorado
19 Revised Statutes, are repealed as follows:

20 **35-21-101. Definitions.** As used in this article, unless the context
21 otherwise requires:

22 (12) ~~The terms "gross sales" and "total annual gross sales of the~~
23 ~~establishment" are synonymous and when used for license fee~~
24 ~~classification purposes mean the gross sales of all items including poultry~~
25 ~~eggs, sold annually as reported to the department of revenue, but does not~~
26 ~~include gasoline sales.~~

27 (18) ~~"Retailer" means any person buying eggs and selling directly~~

1 ~~to consumers.~~

2 ~~(19) "Wholesaler" means any person buying eggs from producers,~~
3 ~~truckers, or other wholesalers and selling to retailers, restaurants,~~
4 ~~manufacturers, or other wholesalers.~~

5 **SECTION 5.** ~~35-21-104 (1), (4) (a), and (4) (b), Colorado~~
6 ~~Revised Statutes, are amended to read:~~

7 **35-21-104. Licenses - application - fees - rules.** ~~(1) Every~~
8 ~~person buying poultry eggs for resale or selling poultry eggs within this~~
9 ~~state shall obtain on or before July 1 of each year, from the department a~~
10 ~~retailer's or wholesaler's-DEALER'S license for each place where such~~
11 ~~business is conducted. A license is not transferable. and expires on June~~
12 ~~30 of each year THE LICENSE SHALL EXPIRE AND MAY BE RENEWED IN~~
13 ~~ACCORDANCE WITH RULES PROMULGATED BY THE COMMISSIONER. No~~
14 ~~reduction of license fee may be made for a fractional part of a year.~~

15 ~~(4) (a) The license categories for retailers are based on the total~~
16 ~~annual gross sales, excluding the sale of gasoline, of the establishment for~~
17 ~~the previous calendar year, as reported to the department of revenue. In~~
18 ~~the case of chain stores, the license category is based on total annual gross~~
19 ~~sales, excluding the sale of gasoline, of individual stores for the previous~~
20 ~~calendar year as reported by the home office of such chain to the~~
21 ~~department. Notwithstanding any provision of this paragraph (a) to the~~
22 ~~contrary, a retailer who has not been engaged in business during the~~
23 ~~previous calendar year shall obtain a Class I retailer license during the~~
24 ~~calendar year in which it begins or resumes operation. Fees for each~~
25 ~~license category shall be as established by the agricultural commission.~~
26 ~~Retail classes are as follows:~~

27 ~~Class I. Retailer - Gross sales up to and including \$50,000.~~

1 ~~Class II. Retailer - Over \$50,000 to and including \$100,000 gross~~
2 ~~sales.~~

3 ~~Class III. Retailer - Over \$100,000 to and including \$200,000~~
4 ~~gross sales.~~

5 ~~Class IV. Retailer - Over \$200,000 to and including \$500,000~~
6 ~~gross sales.~~

7 ~~Class V. Retailer - Over \$500,000 gross sales.~~

8 ~~(b) (I) The license categories for wholesalers are SHALL BE~~
9 ~~ESTABLISHED BY RULE BY THE COMMISSION based on the average number~~
10 ~~of cases of eggs (thirty dozen per case) sold per week during the previous~~
11 ~~year; except that a wholesaler who has not been engaged in business~~
12 ~~during the previous calendar year shall obtain a Class I wholesaler license~~
13 ~~during the calendar year in which it begins or resumes operation-TWELVE~~
14 ~~MONTHS.~~

15 ~~(II) THE COMMISSIONER MAY PROMULGATE RULES ESTABLISHING~~
16 ~~A LATE FEE FOR A LICENSE RENEWED AFTER IT HAS EXPIRED.~~

17 ~~(III) Fees for each license category shall be as established by the~~
18 ~~agricultural commission.~~

19 ~~(IV) The applicant for a wholesale license shall keep such records~~
20 ~~as may be necessary to indicate accurately the quantity of eggs sold per~~
21 ~~week during the year and shall allow the commissioner to examine these~~
22 ~~records in determining the quantity of eggs sold. A wholesaler LICENSEE~~
23 ~~shall retain such records of quantity sold for a period of two years. The~~
24 ~~wholesale classes are as follows:~~

25 ~~Class I. Wholesaler - Up to and including 50 cases per week.~~

26 ~~Class II. Wholesaler - Over 50 cases to and including 100 cases~~
27 ~~per week.~~

1 ~~Class III. Wholesaler - Over 100 cases to and including 250 cases~~
2 ~~per week.~~

3 ~~Class IV. Wholesaler - Over 250 cases to and including 750 cases~~
4 ~~per week.~~

5 ~~Class V. Wholesaler - Over 750 cases per week.~~

6 <{**Recommendation 4**}>

7 **SECTION 6.** 35-21-105, Colorado Revised Statutes, is amended
8 to read:

9 **35-21-105. Exemption.** Any person who produces and sells only
10 at retail less than two hundred fifty dozen eggs per month shall be
11 exempted from all provisions of this article; EXCEPT THAT SUCH A
12 PRODUCER MAY APPLY FOR A DEALER'S LICENSE AND, UPON COMPLIANCE
13 WITH THIS ARTICLE, BE ISSUED A DEALER'S LICENSE.

14 <{**Recommendation 5**}>

15 **SECTION 7.** 35-21-101 (1), (4), (6), (10), and (11), Colorado
16 Revised Statutes, are amended to read:

17 **35-21-101. Definitions.** As used in this article, unless the context
18 otherwise requires:

19 (1) "Candling" means examining the interior of an egg by use of
20 transmitted light ~~using a standard commercial candler~~ SUFFICIENT TO
21 VIEW THE INTERIOR OF THE EGG.

22 (4) ~~"Consignment receiver" means any person receiving eggs from~~
23 ~~producers for the account of the first receiver.~~

24 (6) "Dealer" means any person who is not a producer and who is
25 engaged in ~~buying, selling, or buying and selling~~ eggs.

26 (10) ~~"First receiver" means the first person who pays the producer~~
27 ~~for eggs.~~

1 ~~(1) "Frozen eggs" means egg meats in solid frozen state, in~~
2 ~~whole, yolks, whites, or any mixture thereof, or in combination with other~~
3 ~~edible products.~~

4 **SECTION 8.** ~~35-21-102 (1) and (3), Colorado Revised Statutes,~~
5 ~~are amended to read:~~

6 **35-21-102. Importation, classification, and grades.** ~~(1) With~~
7 ~~the exception of those eggs consigned from the producer of the eggs~~
8 ~~directly to a first receiver in Colorado for candling and grading, All shell~~
9 ~~eggs transported into this state shall first be candled and shall be edible~~
10 ~~as defined in section 35-21-101, and all such eggs shall be accompanied~~
11 ~~by an invoice or bill of lading certifying that this candling has been done.~~
12 ~~Before being sold in Colorado, all eggs, AND shall be CANDLED AND~~
13 ~~graded into Colorado consumer grades.~~

14 ~~(3) The department is authorized to inspect all frozen eggs, egg~~
15 ~~solids, or any egg products imported into this state. The regulations~~
16 ~~governing the grading and inspection of frozen eggs, egg solids, and egg~~
17 ~~products, adopted by the United States department of agriculture, are~~
18 ~~adopted as the regulations governing the grading and inspection of frozen~~
19 ~~eggs, egg solids, and egg products sold in this state.~~

20 **SECTION 9.** ~~35-21-103 (2), Colorado Revised Statutes, is~~
21 ~~amended to read:~~

22 **35-21-103. Eggs to be candled - refrigeration - transportation.**

23 ~~(2) All eggs shall be kept under adequate refrigeration. from the time~~
24 ~~they are first received from the producer until sold to the consumer. This~~
25 ~~THE refrigeration shall be such that the temperature of the eggs does not~~
26 ~~exceed the temperature established in rules adopted by the commission~~
27 ~~COMMISSIONER pursuant to section 35-21-106 (1).~~

1 **SECTION 10. Repeal.** 35-21-104 (4) (e), Colorado Revised
2 Statutes, is repealed as follows:

3 **35-21-104. Licenses - application - fees.** (4) (e) ~~Any person~~
4 ~~operating retail delivery trucks or other vehicles and selling eggs from~~
5 ~~such trucks or vehicles to the consumer shall obtain a Class I retailer~~
6 ~~license for each vehicle so used.~~

7 **SECTION 11. Repeal.** 35-21-103 (1), Colorado Revised
8 Statutes, is repealed as follows:

9 **35-21-103. Refrigeration - transportation.** (1) ~~Every person~~
10 ~~buying shell eggs from producers for resale shall candle and grade the~~
11 ~~eggs according to United States department of agriculture standards,~~
12 ~~grades, and weight classes for shell eggs. The candling and grading~~
13 ~~required by this subsection (1) shall be done in the presence of the~~
14 ~~producer if the producer so requests. In buying eggs for resale or selling~~
15 ~~eggs, no person shall give or take a greater or less deduction for eggs~~
16 ~~rejected as unfit for food or a lower grade than the actual loss or grade~~
17 ~~which has been determined by the careful examination of the same.~~

18 <{**Recommendation 6**}>

19 **SECTION 12.** 35-21-103 (3), Colorado Revised Statutes, is
20 amended to read:

21 **35-21-103. Eggs to be candled - refrigeration - transportation.**
22 (3) ~~Every vehicle used to transport eggs from a producer to any dealer,~~
23 ~~processing plant, or retailer shall be maintained in a sanitary condition~~
24 ~~and shall be enclosed to protect eggs from extreme heat or cold.~~

25 <{**Recommendation 8**}>

26 **SECTION 13.** 35-21-104 (3) (d) and (3) (e), Colorado Revised
27 Statutes, are amended, and the said 35-21-104 (3) is further amended BY

1 THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to
2 read:

3 **35-21-104. Licenses - application - fees.** (3) An application for
4 a license shall state:

5 (d) The location of the business;~~and~~

6 (e) The telephone number ~~if any.~~ OF THE BUSINESS;

7 (f) ANY OWNERSHIP INFORMATION CONCERNING THE APPLICATION
8 THAT THE COMMISSIONER MAY REQUIRE; AND

9 (g) ANY CONTACT INFORMATION THAT THE COMMISSIONER MAY
10 REQUIRE.

11 <{**Recommendation 9**}>

12 **SECTION 14.** 35-21-106 (1), Colorado Revised Statutes, is
13 amended to read:

14 **35-21-106. Rules - commissioner to enforce - procedure.**

15 (1) ~~The commission~~ COMMISSIONER is authorized to formulate such rules
16 relating to TRANSPORTING, PROCESSING, labeling, sale, storage,
17 inspection, and record-keeping as ~~it~~ THE COMMISSIONER may deem proper
18 and necessary for the furtherance and enforcement of this article. Such
19 rules shall be promulgated in accordance with article 4 of title 24, C.R.S.

20 <{**Recommendation 10**}>

21 **SECTION 15.** 35-21-106 (2) (a), Colorado Revised Statutes, is
22 amended to read:

23 **35-21-106. Rules - commissioner to enforce - procedure.**

24 (2) (a) The commissioner is responsible for enforcing this article. The
25 commissioner or the commissioner's designee shall have access during
26 regular business hours to ~~those places of business and those business~~
27 PREMISES, FACILITIES, VEHICLES, AND records pertinent to activities

regulated under this article. _____

SECTION 16. Effective date - applicability. *This act shall take effect July 1, 2009, and shall apply to applications made and licenses issued or renewed on or after said date.*

SECTION 17. 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.*

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