

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 23-0929.01 Yelana Love x2295

HOUSE BILL 23-1264

HOUSE SPONSORSHIP

McCormick and Catlin,

SENATE SPONSORSHIP

Pelton R. and Marchman,

House Committees

Agriculture, Water & Natural Resources

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE AUTHORITY OF THE COMMISSIONER OF**
102 **AGRICULTURE TO ACT IN INSTANCES INVOLVING THE HEALTH OF**
103 **LIVESTOCK.**

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>.)

Current law authorizes the inspection, testing, quarantine, condemnation, and destruction of livestock when there is an outbreak of an infectious or contagious disease. The bill:

- Removes the requirement that the inspection, testing, and quarantine of livestock occur pursuant to rules promulgated

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.*

- by the commissioner of agriculture (commissioner);
- Moves the authority to condemn and destroy livestock from the state agricultural commission to the commissioner and only when the commissioner, state veterinarian, and governor agree that the condemnation and destruction is justified and necessary for the safety and protection of the livestock of the state; and
- Changes the appraisal process that is required before livestock may be condemned and destroyed.

The bill gives the commissioner the authority to investigate all buildings, yards, pens, pastures, and other areas in which any animals are kept, handled, or transported to ensure compliance with the "Livestock Health Act". The commissioner may:

- Administer oaths and take statements;
- Issue administrative subpoenas requiring the attendance of witnesses and the production of all books, memoranda, papers, and other documents, articles, or instruments; and
- Compel the disclosure by witnesses of all facts known to them that are relevant to the matters under investigation.

Under current law, it is an unlawful act to alter or falsify a health certificate issued for the import of livestock into the state. The bill makes it an unlawful act to alter or falsify a health certificate issued for the export of livestock out of the state.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 35-50-107 as
 3 follows:

4 **35-50-107. Disease detection and prevention.** Whenever the
 5 commissioner reasonably suspects that livestock are in or from an area of
 6 concentration or point of distribution where there is a potential for the
 7 spread of disease or that the livestock may have been exposed to or are
 8 suffering from an infectious or contagious disease, the commissioner
 9 may, as a sanitary measure, conduct surveillance or otherwise inspect the
 10 suspected livestock. ~~under such rules as the commissioner may adopt.~~

11 **SECTION 2.** In Colorado Revised Statutes, 35-50-109, **amend**
 12 (1), (2), and (5) as follows:

1 **35-50-109. Inspection and testing.** (1) Whenever it becomes
2 known to the commissioner that an infectious or contagious disease exists
3 among livestock of the state, the commissioner may inspect all livestock
4 in the state. ~~under such rules as the commissioner may adopt.~~

5 (2) Whenever it becomes known to the commissioner that an
6 infectious or contagious disease exists among livestock of the state, the
7 commissioner may compel the testing of all livestock in the state. ~~under~~
8 ~~such rules as the commissioner may adopt.~~

9 (5) Whenever any livestock are tested, the livestock shall be
10 individually identified, as specified by the commissioner. ~~in such rules as~~
11 ~~the commissioner may adopt.~~ Official identification shall not be removed
12 from such livestock or altered in any fashion.

13 **SECTION 3.** In Colorado Revised Statutes, **add** 35-50-109.5 as
14 follows:

15 **35-50-109.5. Investigations - access - administrative subpoena.**

16 (1) THE COMMISSIONER MAY INVESTIGATE AS NECESSARY TO ENSURE
17 COMPLIANCE WITH THIS ARTICLE 50.

18 (2) (a) AT ANY REASONABLE TIME DURING REGULAR BUSINESS
19 HOURS, UPON CONSENT OR UPON OBTAINING AN ADMINISTRATIVE SEARCH
20 WARRANT, THE COMMISSIONER SHALL HAVE ACCESS TO ALL BUILDINGS,
21 YARDS, PENS, PASTURES, AND OTHER AREAS IN WHICH ANY ANIMALS ARE
22 KEPT, HANDLED, OR TRANSPORTED FOR THE PURPOSE OF CARRYING OUT
23 THIS ARTICLE 50 OR ANY RULE PROMULGATED PURSUANT TO THIS ARTICLE
24 50.

- 25 (b) (I) THE COMMISSIONER IS AUTHORIZED TO:
- 26 (A) ADMINISTER OATHS AND TAKE STATEMENTS;
- 27 (B) ISSUE ADMINISTRATIVE SUBPOENAS REQUIRING THE

1 ATTENDANCE OF WITNESSES AND THE PRODUCTION OF ALL BOOKS,
2 MEMORANDA, PAPERS, AND OTHER DOCUMENTS, ARTICLES, OR
3 INSTRUMENTS; AND

4 (C) COMPEL THE DISCLOSURE BY WITNESSES OF ALL FACTS KNOWN
5 TO THEM THAT ARE RELEVANT TO THE MATTERS UNDER INVESTIGATION.

6 (II) UPON THE FAILURE OR REFUSAL OF ANY WITNESS TO OBEY ANY
7 SUBPOENA, THE COMMISSIONER MAY PETITION THE DISTRICT COURT TO
8 COMPEL, AND, UPON A PROPER SHOWING, THE COURT MAY ENTER AN
9 ORDER COMPELLING, THE WITNESS TO APPEAR AND TESTIFY OR TO
10 PRODUCE DOCUMENTARY EVIDENCE. FAILURE TO OBEY SUCH AN ORDER OF
11 THE COURT IS PUNISHABLE AS A CONTEMPT OF COURT.

12 (3) COMPLAINTS OF RECORD MADE TO THE COMMISSIONER AND
13 THE RESULTS OF THE COMMISSIONER'S INVESTIGATIONS MAY, IN THE
14 DISCRETION OF THE COMMISSIONER, BE CLOSED TO PUBLIC INSPECTION
15 DURING THE INVESTIGATORY PERIOD, EXCEPT AS PROVIDED BY COURT
16 ORDER.

17 **SECTION 4.** In Colorado Revised Statutes, **amend** 35-50-110 as
18 follows:

19 **35-50-110. State livestock disease diagnostic laboratories.** The
20 ~~rocky mountain regional~~ animal health laboratory IN THE DEPARTMENT
21 and the Colorado state university veterinary diagnostic laboratories,
22 collectively known as the state livestock disease diagnostic laboratories,
23 shall function to provide disease testing to support the department's
24 livestock disease programs. The laboratories shall be scaled to provide
25 testing of such volume as to meet the potential disease control, protection,
26 and surveillance needs of the livestock industry of the state.

27 **SECTION 5.** In Colorado Revised Statutes, 35-50-111, **amend**

1 (3) as follows:

2 **35-50-111. Quarantine.** (3) Once testing has confirmed the
3 presence of an infectious or contagious disease, the commissioner may
4 quarantine any specific livestock, premises, county, district, or section of
5 the state for the purpose of preventing the spread of any infectious or
6 contagious disease within the state. ~~under such rules as the commissioner~~
7 ~~may adopt.~~

8 **SECTION 6.** In Colorado Revised Statutes, 35-50-113, **amend**
9 (1) and (2) as follows:

10 **35-50-113. Condemnation of livestock.** (1) (a) Whenever the
11 state veterinarian reports to the ~~commission~~ COMMISSIONER that there
12 exists an outbreak of contagious or infectious disease among livestock of
13 this state of such a character as to endanger and imperil the livestock of
14 the state, the ~~commission, upon approval of~~ COMMISSIONER, AFTER
15 CONSULTATION WITH the governor, may issue an order of condemnation
16 to condemn and destroy:

17 (I) Any livestock so infected or any livestock that has been
18 exposed to or is deemed by the ~~commission~~ COMMISSIONER capable of
19 communicating ~~such~~ THE contagious or infectious disease to other
20 livestock; and ~~to condemn and destroy~~

21 (II) Any barns, sheds, corrals, pens, or other property that the
22 ~~commission~~ COMMISSIONER may determine is necessary to be destroyed
23 in order to prevent the spread of ~~such~~ THE contagion or infection. ~~Such~~

24 (b) THE condemnation and destruction ~~shall~~ MAY take place only
25 when, in the opinion of the ~~commission~~ COMMISSIONER, THE STATE
26 VETERINARIAN, and the governor, an emergency exists and ~~such~~ THE
27 action is justified and necessary for the safety and protection of the

1 livestock of this state.

2 (2) Whenever the ~~state agricultural commission~~ COMMISSIONER
3 finds it necessary to condemn and destroy any animals or property within
4 this state because of any contagious or infectious disease, ~~such~~ THE
5 animals or property shall not be destroyed until after AN INDEPENDENT
6 APPRAISER APPOINTED BY THE COMMISSIONER MAKES a fair appraisal ~~has~~
7 ~~been made~~ of the value of ~~such~~ THE animals or property ~~by three~~
8 ~~appraisers, one to be appointed by the state agricultural commission, one~~
9 ~~by the owner of the property to be destroyed, and the third to be selected~~
10 ~~by these two. Such appraisers~~ THE APPRAISER shall make a report to the
11 ~~commission~~ COMMISSIONER under oath as to ~~their~~ THE appraisal, and the
12 ~~commission~~ COMMISSIONER shall forward ~~such~~ THE appraisal to the
13 governor with ~~such~~ THE recommendation ~~as to the proportion of such~~
14 ~~appraisement to~~ THAT THE APPRAISAL be considered a just bill against the
15 state of Colorado. ~~as the commission may think right.~~

16 **SECTION 7.** In Colorado Revised Statutes, 35-50-116, **amend**
17 (1) introductory portion and (1)(m) as follows:

18 **35-50-116. Unlawful acts.** (1) Unless otherwise authorized by
19 law, it is unlawful and a violation of this ~~article~~ ARTICLE 50 for any
20 person:

21 (m) To alter or falsify any health certificate issued ~~pursuant to~~
22 ~~section 35-50-112~~ FOR THE IMPORT OR EXPORT OF ANIMALS INTO OR OUT
23 OF THE STATE.

24 **SECTION 8. Safety clause.** The general assembly hereby finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, or safety.