

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 26-0535.02 Yelana Love x2295

HOUSE BILL 26-1033

HOUSE SPONSORSHIP

Gonzalez R. and Duran,

SENATE SPONSORSHIP

(None),

House Committees

Agriculture, Water & Natural Resources
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING EXPANDING THE SCOPE OF THE "COLORADO COTTAGE**
102 **FOODS ACT".**

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>.)

The bill expands the "Colorado Cottage Foods Act" (CCFA) by allowing for the sale of homemade foods that require refrigeration and foods that include meat and meat products. A producer of a food (producer) that requires time and temperature control must take a food safety course that includes food handling training concerning time and temperature control and acquire and maintain proof of course completion.

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.*

The bill authorizes a county, district, or regional health agency that inspects or investigates homemade food products produced pursuant to the CCFA to impose a fine for a violation of the requirements of the CCFA and to recover the cost of the inspection or investigation.

The bill removes the \$10,000 cap on net revenues that a producer can earn under the CCFA.

The bill specifies that the CCFA does not apply to the sale of certain food products.

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

2 **SECTION 1. Short title.** The short title of this act is the "Tamale
3 Act".

4 **SECTION 2.** In Colorado Revised Statutes, 25-4-1614, **amend**
5 (2)(a), (2)(b), (2)(c), (2)(e), (3)(a)(II), (4), (8), (9)(b), and (9)(c)
6 introductory portion; and **add** (8.5) as follows:

7 **25-4-1614. Home kitchens - exemption - food inspection - short**
8 **title - applicability - definitions - rules.**

9 (2) (a) (I) A producer may use ~~his or her~~ THEIR home kitchen or
10 a commercial, private, or public kitchen to produce NONPOTENTIALLY
11 HAZARDOUS foods for sale ~~only if the producer sells the foods~~ directly to
12 informed end consumers. THESE FOODS INCLUDE PICKLED FRUITS AND
13 VEGETABLES, SPICES, TEAS, DEHYDRATED PRODUCE, NUTS, SEEDS, HONEY,
14 JAMS, JELLIES, PRESERVES, FRUIT BUTTER, FLOUR, BAKED GOODS, CANDIES,
15 FRUIT EMPANADAS, TORTILLAS, AND OTHER NONPOTENTIALLY HAZARDOUS
16 FOODS.

17 (II) A PRODUCER MAY USE THEIR HOME KITCHEN TO PRODUCE AND
18 SELL PACKAGED FOODS THAT REQUIRE TIME AND TEMPERATURE CONTROL
19 FOR SAFETY, INCLUDING TAMALES, BURRITOS, AND TORTAS. A PRODUCER
20 MAY SELL UP TO FIVE INDIVIDUAL FOOD PRODUCTS OF ONE TYPE OF FOOD
21 THAT REQUIRES TIME AND TEMPERATURE CONTROL FOR SAFETY. THE

1 PRODUCER MUST SPECIFY THE INDIVIDUAL FOOD PRODUCTS THAT REQUIRE
2 TIME AND TEMPERATURE CONTROL FOR SAFETY AND PROVIDE A LIST OF
3 SUCH FOOD PRODUCTS TO THE DEPARTMENT OR A COUNTY, DISTRICT, OR
4 REGIONAL HEALTH AGENCY UPON REQUEST. A PRODUCER MAY CHANGE
5 THE FOOD PRODUCTS THAT REQUIRE TIME AND TEMPERATURE CONTROL
6 FOR SAFETY, AS LONG AS THE PRODUCER IS NOT SELLING MORE THAN FIVE
7 FOOD PRODUCTS THAT REQUIRE TIME AND TEMPERATURE CONTROL FOR
8 SAFETY AT ANY GIVEN TIME. THE PRODUCER MUST PACKAGE FOOD
9 PRODUCTS REQUIRING TIME AND TEMPERATURE CONTROL IN THE
10 PRODUCER'S HOME KITCHEN OR A COMMERCIAL, PRIVATE, OR PUBLIC
11 KITCHEN.

12 (III) A PERSON MAY SELL WHOLE EGGS UNDER THIS SECTION;
13 EXCEPT THAT A PERSON MAY NOT SELL MORE THAN TWO HUNDRED FIFTY
14 DOZEN WHOLE EGGS PER MONTH UNDER THIS SECTION. A PERSON SELLING
15 WHOLE EGGS MUST MEET THE REQUIREMENTS OF SECTION 35-21-105.

16 (IV) THE FINAL FOOD PRODUCT SHALL NOT BE COOLED AND
17 REHEATED BEFORE BEING SOLD.

18 ~~(b) (I) A producer is permitted under this section to sell only a~~
19 ~~limited range of foods that have been produced, processed, or packaged~~
20 ~~that are nonpotentially hazardous and do not require refrigeration. These~~
21 ~~foods include pickled fruits and vegetables, spices, teas, dehydrated~~
22 ~~produce, nuts, seeds, honey, jams, jellies, preserves, fruit butter, flour,~~
23 ~~and baked goods, including candies, fruit empanadas, and tortillas, and~~
24 ~~other nonpotentially hazardous foods.~~ THAT SELLS FOOD THAT REQUIRES
25 TIME AND TEMPERATURE CONTROL FOR SAFETY SHALL ENSURE THAT ANY
26 MEAT OR MEAT PRODUCT USED IN THE PRODUCTION OF FOOD UNDER THIS
27 SECTION SATISFIES AN EXEMPTION FROM INSPECTION, SUCH AS THE

1 FEDERAL EXEMPTIONS FOR POULTRY PRODUCERS THAT PROCESS FEWER
2 THAN TWENTY THOUSAND POULTRY OR A FEDERAL MEAT PROCESSING
3 EXEMPTION.

4 (II) ~~A person may sell whole eggs under this section; except that~~
5 ~~a person may not sell more than two hundred fifty dozen whole eggs per~~
6 ~~month under this section. A person selling whole eggs must meet the~~
7 ~~requirements of section 35-21-105, C.R.S.~~ IF A FOOD PRODUCT REQUIRES
8 TIME AND TEMPERATURE CONTROL FOR SAFETY, THE PRODUCER SHALL
9 FOLLOW ALL COOKING, COOLING, AND HOLDING TEMPERATURES AS
10 SPECIFIED IN RULES ADOPTED BY THE DEPARTMENT PURSUANT TO SECTION
11 25-4-1604 (1)(b) TO PROTECT FOOD SAFETY UNTIL THE TIME OF SALE.

12 (III) IF A PRODUCER TRANSPORTS A FOOD PRODUCT THAT REQUIRES
13 TIME AND TEMPERATURE CONTROL FOR SAFETY BEFORE FINAL DELIVERY
14 TO AN INFORMED END CONSUMER, THE PRODUCER SHALL MAINTAIN THE
15 FOOD PRODUCT AT AN APPROPRIATE HOLDING TEMPERATURE TO PROTECT
16 FOOD SAFETY DURING TRANSPORT, SHALL NOT TRANSPORT THE FOOD
17 PRODUCT MORE THAN ONCE, AND SHALL NOT TRANSPORT THE FOOD
18 PRODUCT FOR LONGER THAN TWO HOURS.

19 (IV) A PRODUCER SHALL NOT MAKE BARE-HAND CONTACT WITH
20 READY-TO-EAT FOODS SOLD UNDER THIS SECTION.

21 (c) (I) A producer ~~must~~ SHALL take a food safety course that
22 includes basic food handling training and is comparable to, or is, a course
23 given by the Colorado state university extension service or a state, county,
24 or district public health agency and ~~must~~ SHALL maintain a status of good
25 standing in accordance with the course requirements, including attending
26 ~~any~~ additional classes if necessary.

27 (II) A PRODUCER THAT SELLS FOOD PRODUCTS THAT REQUIRE TIME

1 AND TEMPERATURE CONTROL FOR SAFETY SHALL TAKE A FOOD SAFETY
2 COURSE THAT INCLUDES FOOD HANDLING TRAINING CONCERNING TIME
3 AND TEMPERATURE CONTROL AND ACQUIRE AND MAINTAIN PROOF OF
4 COURSE COMPLETION AND A STATUS OF GOOD STANDING IN ACCORDANCE
5 WITH THE COURSE REQUIREMENTS, INCLUDING ATTENDING ADDITIONAL
6 CLASSES IF NECESSARY. THE DEPARTMENT MAY APPROVE COURSES THAT
7 PROVIDE THE TRAINING SPECIFIED IN THIS SUBSECTION (2)(c)(II).

8 (e) This section applies only to producers ~~who~~ THAT earn net
9 GROSS revenues of ~~ten~~ ONE HUNDRED FIFTY thousand dollars or less per
10 calendar year from the sale of ~~each eligible food product produced in the~~
11 ~~producer's home kitchen or a commercial, private, or public kitchen~~ FOOD
12 PERMITTED UNDER THIS SECTION. THE DEPARTMENT SHALL ANNUALLY
13 ADJUST THE CAP FOR INFLATION. THE DEPARTMENT MAY ROUND THE
14 ADJUSTED AMOUNT UPWARD TO THE NEAREST DOLLAR. INFLATION IS
15 MEASURED BY THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES
16 DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS CONSUMER PRICE
17 INDEX, OR A SUCCESSOR INDEX, FOR DENVER-AURORA-LAKEWOOD FOR
18 ALL ITEMS PAID FOR BY URBAN CONSUMERS. A PRODUCER SHALL NOT
19 ESTABLISH, REORGANIZE, OR OPERATE MULTIPLE ENTITIES OR
20 CONTRACTUAL ARRANGEMENTS FOR THE PURPOSE OF CIRCUMVENTING
21 THIS REVENUE CAP.

22 (3) (a) A food product sold under this section must have an
23 affixed label that includes at least:

24 (II) The producer's name, DEPARTMENT-ISSUED REGISTRATION
25 NUMBER, the ~~address at~~ COUNTY IN which the food was prepared, and the
26 producer's current telephone number or electronic mail address;

27 (4) (a) A food product produced pursuant to this section is subject

1 to food sampling and inspection by the department or a county, district,
2 or regional health agency pursuant to section 25-5-406 if it is determined
3 that the food product is misbranded pursuant to subsection (3) of this
4 section or if a consumer complaint has been received or if the product is
5 suspected in an injury or food-borne illness outbreak.

6 (b) IF THE DEPARTMENT OR A COUNTY, DISTRICT, OR REGIONAL
7 HEALTH AGENCY INSPECTS A FOOD PRODUCT PRODUCED PURSUANT TO
8 THIS SECTION AND DETERMINES THAT THE FOOD PRODUCT IS MISBRANDED
9 OR MAY CAUSE AN INJURY OR FOOD-BORNE ILLNESS OUTBREAK, THE
10 DEPARTMENT OR HEALTH AGENCY MAY:

11 (I) IMPOSE A FINE FOR A VIOLATION OF THIS SECTION, WHICH FINE
12 MUST NOT EXCEED A TOTAL OF ONE HUNDRED DOLLARS FOR THE
13 VIOLATION; AND

14 (II) RECOVER FROM THE PRODUCER THE COST OF THE
15 INVESTIGATION OR INSPECTION, WHICH COST MUST NOT EXCEED ONE
16 THOUSAND DOLLARS.

17 (c) IF THE DEPARTMENT OR A COUNTY, DISTRICT, OR REGIONAL
18 HEALTH AGENCY DETERMINES THAT, ON THREE SEPARATE OCCASIONS
19 WITHIN TWELVE MONTHS, A PRODUCER HAS MISBRANDED FOOD THAT
20 REQUIRES TIME AND TEMPERATURE CONTROL FOR SAFETY OR FAILED TO
21 COMPLY WITH REQUIREMENTS RELATED TO FOOD THAT REQUIRES TIME
22 AND TEMPERATURE CONTROL FOR SAFETY, THE PRODUCER SHALL NOT
23 SELL FOODS THAT REQUIRE TIME AND TEMPERATURE CONTROL PURSUANT
24 TO THIS SECTION.

25 (8) (a) ON AND AFTER JANUARY 1, 2027, A PRODUCER SHALL
26 REGISTER WITH THE DEPARTMENT BEFORE SELLING ANY FOOD UNDER THIS
27 SECTION. THE REGISTRATION MUST INDICATE THE TYPES OF FOOD THE

1 PRODUCER ANTICIPATES SELLING UNDER THIS SECTION. THE DEPARTMENT
2 SHALL ISSUE A REGISTRATION NUMBER TO EACH PRODUCER.

3 (b) The department ~~or a county, district, or regional health agency~~
4 ~~may~~ SHALL create a ~~voluntary~~ AND MAINTAIN AN electronic registry of
5 producers ~~if it determines that a registry would be of value to producers~~
6 ~~and consumers~~ AND MAKE THE REGISTRY AVAILABLE ON THE
7 DEPARTMENT'S PUBLIC-FACING WEBSITE.

8 (8.5) THIS SECTION DOES NOT APPLY TO THE SALE OF RAW MILK;
9 LOW-ACID CANNED FOOD PRODUCTS; FERMENTED OR ACIDIFIED FOOD
10 PRODUCTS THAT REQUIRE TIME AND TEMPERATURE CONTROL FOR SAFETY;
11 FOOD PRODUCTS THAT ARE ALCOHOL BEVERAGES OR THAT CONTAIN
12 CANNABINOIDS; OR FOOD PRODUCTS THAT ARE PRODUCED WITH SMOKING
13 USED AS A PRESERVATION METHOD AND NOT FOR FLAVOR, REDUCED
14 OXYGEN PROCESSING, OR CURING.

15 (9) As used in this section:

16 (b) ~~"Nonpotentially hazardous" has the meaning set forth in~~
17 ~~section 25-4-1602 (12)~~ "MEAT OR MEAT PRODUCTS" HAS THE MEANING
18 SET FORTH IN SECTION 35-33-103 (8).

19 (c) "Producer" means a person ~~who~~ THAT prepares ~~nonpotentially~~
20 ~~hazardous~~ foods in a home kitchen or similar venue for sale directly to
21 consumers pursuant to this section and includes that person's designated
22 representative. A producer may only be:

23 **SECTION 3.** In Colorado Revised Statutes, 35-36-102, **amend**
24 (8)(b)(II) and (12)(b)(II) as follows:

25 **35-36-102. Definitions.**

26 As used in this article 36, unless the context otherwise requires:

27 (8) (b) "Commodity handler" does not include:

1 (II) A producer as defined in the "Colorado Cottage Foods Act",
2 section 25-4-1614 (9)(c), ~~who~~ THAT earns ~~net~~ GROSS revenues of ~~ten~~
3 ~~thousand dollars or less per calendar year from the sale of each eligible~~
4 ~~food product~~ LESS THAN THE AMOUNT PERMITTED PURSUANT TO SECTION
5 25-4-1614 (2)(e).

6 (12) (b) "Dealer" does not include:

7 (II) A producer as defined in the "Colorado Cottage Foods Act",
8 section 25-4-1614 (9)(c), ~~who~~ THAT earns ~~net~~ GROSS revenues of ~~ten~~
9 ~~thousand dollars or less per calendar year from the sale of each eligible~~
10 ~~food product~~ LESS THAN THE AMOUNT PERMITTED PURSUANT TO SECTION
11 25-4-1614 (2)(e).

12 **SECTION 4. Act subject to petition - effective date -**
13 **applicability.** (1) This act takes effect January 1, 2027; except that, if a
14 referendum petition is filed pursuant to section 1 (3) of article V of the
15 state constitution against this act or an item, section, or part of this act
16 within the ninety-day period after final adjournment of the general
17 assembly, then the act, item, section, or part will not take effect unless
18 approved by the people at the general election to be held in November
19 2026 and, in such case, will take effect January 1, 2027, or on the date of
20 the official declaration of the vote thereon by the governor, whichever is
21 later.

22 (2) This act applies to conduct occurring on or after the applicable
23 effective date of this act.