

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted  
on Second Reading in the Second House*

LLS NO. 16-0149.01 Yelana Love x2295

SENATE BILL 16-058

SENATE SPONSORSHIP

Hill,

HOUSE SPONSORSHIP

Becker K.,

Senate Committees

Business, Labor, & Technology  
Appropriations

House Committees

Business Affairs and Labor  
Appropriations

A BILL FOR AN ACT

101 CONCERNING THE REGULATION OF CERTAIN FOODS, AND, IN  
102 CONNECTION THEREWITH, EXEMPTING CERTAIN FOOD  
103 PRODUCERS FROM LICENSURE, INSPECTION, AND OTHER  
104 REGULATION, AND MAKING AN APPROPRIATION.

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://www.leg.state.co.us/billsummaries>.)*

**Section 1** of the bill exempts certain food producers from licensure, inspection, and other regulation for transactions that:

! Occur directly between the producer and an informed end

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

*Capital letters indicate new material to be added to existing statute.*

*Dashes through the words indicate deletions from existing statute.*

HOUSE  
Amended 2nd Reading  
April 12, 2016

SENATE  
3rd Reading Unamended  
March 9, 2016

SENATE  
Amended 2nd Reading  
March 8, 2016

- consumer;
- ! Occur only in Colorado; and
- ! Do not involve interstate commerce.

An informed end consumer assumes the risks inherent in the purchase, use, or ingestion of the food or food products purchased under this exemption and is legally responsible for all damage, injury, or death that may result from those inherent risks. The bill preserves negligence actions that are not based on these inherent risks.

**Section 2** of the bill exempts certain producers from the requirements of the "Colorado Cottage Foods Act".

**Section 3** of the bill creates 2 exemptions from federal inspection for producers who slaughter no more than 20,000 poultry per calendar year. The department of agriculture must license and inspect producers operating under this exemption. The bill requires the department of agriculture to develop rules pertaining to producers who slaughter more than 1,000 but not more than 20,000 poultry and sell to grocery stores.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25-4-1614, **amend**  
3 **(1), (2), and (9) (c) introductory portion; repeal (10); and add (9) (a.5)**  
4 **and (9) (a.7)" as follows:**

5 **25-4-1614. Home kitchens - exemption - food inspection - short**  
6 **title - definitions - rules. (1) This section shall be known and may be**  
7 **cited as the "Colorado Cottage Foods Act". THE PURPOSES OF THIS**  
8 **SECTION ARE TO ALLOW FOR THE SALE AND CONSUMPTION OF HOMEMADE**  
9 **FOODS AND TO ENCOURAGE THE EXPANSION OF AGRICULTURAL SALES BY**  
10 **FARMERS' MARKETS, FARMS, AND HOME-BASED PRODUCERS AND**  
11 **ACCESSIBILITY OF THESE RESOURCES TO INFORMED END CONSUMERS BY:**

12 **(a) FACILITATING THE PURCHASE AND CONSUMPTION OF FRESH**  
13 **AND LOCAL AGRICULTURAL PRODUCTS;**

14 **(b) ENHANCING THE AGRICULTURAL ECONOMY; AND**

15 **(c) PROVIDING COLORADO CITIZENS WITH UNIMPEDED ACCESS TO**  
16 **HEALTHY FOOD FROM KNOWN SOURCES.**

1           (2) (a) A producer may use his or her home kitchen or a  
2 commercial, private, or public kitchen to produce foods for sale only if  
3 the producer sells the foods directly to ultimate INFORMED END  
4 consumers.

5           (b) (I) A producer is permitted under this section to sell only a  
6 limited range of foods that have been produced, processed, or packaged  
7 that are nonpotentially hazardous and do not require refrigeration. These  
8 foods are divided into two tiers:

9           (A) Tier one foods are limited to INCLUDE PICKLED FRUITS AND  
10 VEGETABLES, spices, teas, dehydrated produce, nuts, seeds, honey, jams,  
11 jellies, preserves, fruit butter, flour, and baked goods, including candies,  
12 fruit empanadas, and tortillas, and OTHER NONPOTENTIALLY HAZARDOUS  
13 FOODS;

14           (B) Tier two foods are limited to pickled vegetables that have an  
15 equilibrium pH value of 4.6 or lower.

16           (II) A person may sell whole eggs under this section; except that  
17 a person may not sell more than two hundred fifty dozen whole eggs per  
18 month under this section. A person selling whole eggs must meet the  
19 requirements of section 35-21-105, C.R.S.

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

26           (d) The foods produced under this section must: be sold only

27           (I) to ultimate consumers and not to grocery stores or restaurants;

1 and BE DELIVERED DIRECTLY FROM A PRODUCER TO AN INFORMED END  
2 CONSUMER;

3 (II) On the producer's premises, at the producer's roadside stand,  
4 or at a farmers' market, community-supported agriculture organization,  
5 or similar venue where the product is sold directly to consumers. BE SOLD  
6 ONLY IN COLORADO; AND

7 (III) NOT INVOLVE INTERSTATE COMMERCE.

8 (e) This section applies only to producers who earn net revenues  
9 of ten thousand dollars or less per calendar year from the sale of each  
10 eligible food product produced in the producer's home kitchen or a  
11 commercial, private, or public kitchen.

12 (9) As used in this section:

13 (a.5) "HOMEMADE" MEANS FOOD THAT IS PREPARED IN A PRIVATE  
14 HOME KITCHEN, OR A COMMERCIAL, PRIVATE, OR PUBLIC KITCHEN, WHEN  
15 THE KITCHEN IS NOT LICENSED, INSPECTED, OR REGULATED.

16 (a.7) "INFORMED END CONSUMER" MEANS A PERSON WHO IS THE  
17 LAST PERSON TO PURCHASE ANY PRODUCT, WHO DOES NOT RESELL THE  
18 PRODUCT, AND WHO HAS BEEN INFORMED THAT THE PRODUCT IS NOT  
19 LICENSED, REGULATED, OR INSPECTED.

20 (c) "Producer" means a person who prepares nonpotentially  
21 hazardous foods in a home kitchen or similar venue for sale directly to  
22 consumers pursuant to this section, AND INCLUDES THAT PERSON'S  
23 DESIGNATED REPRESENTATIVE. A producer may only be:

24 (10) The state board of health shall promulgate rules, including  
25 enforcement provisions, necessary to provide for the production and sale  
26 of tier two foods:

27 SECTION 2. In Colorado Revised Statutes, 35-33-103, amend

1 (8) and (9); and add (8.5) as follows:

2 **35-33-103. Definitions.** As used in this article, unless the context  
3 otherwise requires:

4 (8) "Meat or meat products" means carcasses or parts of carcasses  
5 derived from any animals used for food. "MEAT OR MEAT PRODUCTS"  
6 INCLUDES POULTRY.

7 (8.5) "POULTRY" MEANS ANY DOMESTICATED BIRD, INCLUDING  
8 CHICKENS, TURKEYS, DUCKS, GEESE, GUINEAS, OR SQUABS, WHETHER LIVE  
9 OR DEAD.

10 (9) "Premises" means the back, front, and side yard of property  
11 occupied by a custom processing facility; docks and areas where vehicles  
12 are loaded or unloaded; driveways, approaches, pens, and alleys; and  
13 buildings or portions of buildings that are part of any facility even though  
14 not used for custom processing.

15 **SECTION 3.** In Colorado Revised Statutes, 35-33-104, **amend**  
16 (1) as follows:

17 **35-33-104. Commissioner of agriculture - powers and duties.**

18 (1) The commissioner is hereby authorized to formulate reasonable rules  
19 and standards of construction, LABELING, operation, record keeping, and  
20 sanitation for all custom processing facilities and shall establish rules and  
21 standards pertaining to containers, packaging materials, mobile slaughter  
22 units, slaughter rooms, processing rooms, chill rooms, storage and locker  
23 rooms, sharp freezing facilities, and premises of custom processing  
24 facilities, with respect to the service of slaughtering, cutting, preparing,  
25 wrapping, and packaging meat and meat products necessary for the proper  
26 preservation of food.

27 **SECTION 4.** In Colorado Revised Statutes, 35-33-107, **add (6)**

1 as follows:

2 **35-33-107. Exemptions. (6) A PRODUCER WHO RAISES AND**  
3 **SLAUGHTERS NO MORE THAN ONE THOUSAND POULTRY DURING EACH**  
4 **CALENDAR YEAR IS EXEMPT FROM THE PROVISIONS OF THIS ARTICLE OTHER**  
5 **THAN THE RECORD KEEPING REQUIREMENT IN SECTION 35-33-202 AND THE**  
6 **LABELING REQUIREMENTS IN SECTION 35-33-301 IF:**

7 **(a) THE PRODUCER DOES NOT BUY OR SELL POULTRY PRODUCTS**  
8 **OTHER THAN THOSE PRODUCED FROM POULTRY RAISED ON THE**  
9 **PRODUCER'S OWN FARM;**

10 **(b) THE POULTRY DO NOT MOVE IN INTERSTATE COMMERCE;**

11 **(c) THE POULTRY ARE PROPERLY LABELED; AND**

12 **(d) THE POULTRY ARE HEALTHY WHEN SLAUGHTERED AND THE**  
13 **SLAUGHTER AND PROCESSING ARE CONDUCTED UNDER SANITARY**  
14 **STANDARDS, PRACTICES, AND PROCEDURES THAT PRODUCE POULTRY**  
15 **PRODUCTS THAT ARE SOUND, CLEAN, AND FIT FOR USE AS HUMAN FOOD**  
16 **WHEN DISTRIBUTED BY THE PRODUCER.**

17 **SECTION 5. In Colorado Revised Statutes, 35-33-201, amend**  
18 **(1) and (10) introductory portion; and add (11) as follows:**

19 **35-33-201. Processing facilities - operation - rules. (1) Each**  
20 **custom processing facility licensed under this article must be operated**  
21 **and maintained in a manner sufficient to prevent the creation of**  
22 **unsanitary conditions and to ensure that meat or meat products are not**  
23 **adulterated.**

24 **(10) All meat and meat products, EXCEPT POULTRY, resulting from**  
25 **the custom processing or slaughter of uninspected animals:**

26 **(11) ALL POULTRY AND POULTRY PRODUCTS MUST BE MARKED AS**  
27 **REQUIRED BY THE COMMISSIONER BY RULE.**

1           **SECTION 6.** In Colorado Revised Statutes, 35-33-202, **amend**  
2           (1) (a) introductory portion as follows:

3           **35-33-202. Record-keeping requirements.** (1)(a) Every custom  
4           processor shall maintain records of each customer transaction, including,  
5           at a minimum:

6           **SECTION 7.** In Colorado Revised Statutes, 35-33-203, **amend**  
7           (1) as follows:

8           **35-33-203. Slaughter methods.** (1) ~~No custom~~ A processor shall  
9           NOT shackle, hoist, or otherwise bring animals into position for slaughter,  
10           or ~~shall~~ slaughter or bleed animals, except by humane methods.

11           **SECTION 8.** In Colorado Revised Statutes, 35-33-206, **add (1.5)**  
12           as follows:

13           **35-33-206. License required - application - inspection -**  
14           **issuance.** (1.5) ANY PERSON WHO DESIRES TO SLAUGHTER AND PROCESS  
15           MORE THAN ONE THOUSAND, BUT FEWER THAN TWENTY THOUSAND,  
16           POULTRY SHALL FIRST OBTAIN A LICENSE FROM THE DEPARTMENT. A  
17           SEPARATE LICENSE IS REQUIRED FOR EACH POULTRY PROCESSING FACILITY.  
18           THE APPLICATION MUST BE IN WRITING ON FORMS SUPPLIED BY THE  
19           DEPARTMENT, SETTING FORTH ANY INFORMATION REQUIRED BY THE  
20           DEPARTMENT, AND MUST BE ACCOMPANIED BY ALL REQUIRED FEES.

21           **SECTION 9.** In Colorado Revised Statutes, **recreate and**  
22           **reenact, with amendments,** part 3 of article 33 of title 35 as follows:

23           **35-33-301. Sale of poultry - labeling - rules.** (1) A POULTRY  
24           PRODUCER LICENSED OR EXEMPTED UNDER THIS ARTICLE MAY SELL  
25           POULTRY TO INDIVIDUALS.

26           (2) THE DEPARTMENT SHALL CONSULT WITH THE DEPARTMENT OF  
27           PUBLIC HEALTH AND ENVIRONMENT TO PROMULGATE RULES REGARDING

1 THE LABELING OF POULTRY SOLD PURSUANT TO THIS SECTION.

2 (3) (a) THE COMMISSIONER OR HIS OR HER DESIGNEE SHALL  
3 CONVENE A STAKEHOLDER GROUP, INCLUDING REPRESENTATIVES FROM  
4 THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT,  
5 RETAIL FOOD ESTABLISHMENTS, LIABILITY INSURANCE COMPANIES,  
6 POULTRY FARMERS, POULTRY SUPPLIERS, PROCESSORS OPERATING UNDER  
7 THIS ARTICLE, AND ANY OTHER INTERESTED PARTY.

8 (b) THE DEPARTMENT SHALL KEEP AND MAINTAIN A LIST OF  
9 STAKEHOLDERS.

10 (c) THE DEPARTMENT SHALL CONVENE THE FIRST MEETING WITH  
11 THE STAKEHOLDERS NO LATER THAN JULY 1, 2016, AND AS NEEDED  
12 THEREAFTER.

13 (d) THE DEPARTMENT SHALL MEET WITH THE STAKEHOLDERS TO  
14 DEVELOP A REGULATORY FRAMEWORK FOR THE PROCESSING OF POULTRY  
15 THAT IS SOLD TO RETAIL FOOD ESTABLISHMENTS, AS DEFINED IN SECTION  
16 25-4-1602 (14), C.R.S.

17 (e) ON OR BEFORE NOVEMBER 30, 2016, THE COMMISSIONER OR  
18 HIS OR HER DESIGNEE SHALL PREPARE A REPORT OF THE FINDINGS AND  
19 CONCLUSIONS OF THE STUDY AND SHALL PRESENT THE REPORT TO ALL  
20 STAKEHOLDERS AND OTHERS UPON REQUEST.

21 **SECTION 10. Appropriation.** (1) For the 2016-17 state fiscal  
22 year, \$3,800 is appropriated to the department of agriculture. This  
23 appropriation is from the inspection and consumer services cash fund  
24 created in section 35-1-106.5 (1), C.R.S. To implement this act, the  
25 department may use this appropriation for the purchase of legal services.

26 (2) For the 2016-17 state fiscal year, \$3,800 is appropriated to the  
27 department of law. This appropriation is from reappropriated funds

1 received from the department of agriculture under subsection (1) of this  
2 section. To implement this act, the department of law may use this  
3 appropriation to provide legal services for the department of agriculture.

4 **SECTION 11. Safety clause.** The general assembly hereby finds,  
5 determines, and declares that this act is necessary for the immediate  
6 preservation of the public peace, health, and safety.