



Legislative Council Staff
Research Note

Version: Second Reading
Date: 4/7/2016

Bill Number

Senate Bill 16-058

Sponsors

Senator Hill
Representative

Short Title

CO Farm To Consumer Sales

Research Analyst

Elizabeth Burger (x6272)

Status

The bill is currently pending before the House on second reading. This research note reflects the reengrossed bill.

Summary

The bill amends the "Colorado Cottage Foods Act," which allows homemade food producers to sell certain food products directly to consumers. Current law divides the types of products that may be sold by producers into two tiers and specifies the foods that comprise each tier. The bill eliminates the tiered system and the State Board of Health's authority to make rules governing the production of tier two foods, which currently consist of pickled vegetables. The bill expands the types of foods that may be sold by producers under the Colorado Cottage Foods Act to include other nonpotentially hazardous foods. The bill defines an informed end consumer as the last purchaser of a product, and who has been informed that the product is not licensed, regulated, or inspected.

The bill expands the provisions of the Custom Processing of Meat Animals Act, which regulates the slaughter and processing of certain animals for human consumption, to include the processing of poultry, and exempts producers who raise and slaughter up to 1,000 poultry each calendar year from the provisions of the act. Poultry producers exempted from the Custom Processing of Meat Animals Act must continue to comply with the act's requirements related to record keeping and labeling. In order to qualify for the exemption, the producer must not buy or sell poultry products other than those produced on the producer's own farm, the poultry must be properly labeled, be healthy when slaughtered, be slaughtered under sanitary practices, and can only be sold in Colorado.

The bill requires any person who wishes to slaughter more than 1,000 but fewer than 20,000

This research note was prepared by Legislative Council Staff, the nonpartisan research staff for the Colorado General Assembly. The research note is provided for informational purposes only and should not be relied upon as an official record of action by the General Assembly. Legislative Council Staff are not attorneys, and the research note is not a legal opinion. If you have legal questions about the bill, including questions about the meaning of the bill language or amendments, please contact the drafter.

poultry to obtain a license from the Colorado Department of Agriculture (CDA). Both licensed and exempted poultry producers may sell poultry to individuals. The CDA must consult with the Colorado Department of Public Health and Environment (CDPHE) regarding labeling of poultry sold under the Custom Processing of Meat Animals Act. The CDA must further develop a stakeholder group to develop a regulatory framework for the processing of poultry that is sold to retail food establishments. The commissioner of the CDA must present a report of the findings of the study by November 30, 2016. All poultry and poultry products must be marked as required by the Agriculture Commissioner by rule.

Background

Colorado Cottage Foods Act. The Colorado Cottage Foods Act was enacted in 2012. It allows a food producer to use his or her home kitchen to produce foods for sale if the producer meets specific requirements. Only nonpotentially hazardous foods that do not require refrigeration may be produced in a home kitchen, including spices, teas, dehydrated produce, nuts, seeds, honey, jams, jellies, preserves, fruit butter, candies, and baked goods. In 2015, House Bill 15-1102 expanded the act to include the sale of flour, fruit empanadas, tortillas, and pickled vegetables. The bill divided the sale of cottage foods into two tiers and required the State Board of Health to promulgate rules regarding the production and sale of tier two foods, which consists of pickled vegetables. Producers are also permitted to sell a limited number of whole eggs per month.

Producers must take a food safety course, and may only sell the products directly to the ultimate consumer at a roadside stand, farmers market, or similar venue. Food products produced and sold under the act must have a label identifying the producer's name and contact information, a complete list of ingredients, and a disclaimer stating the food was produced in a home kitchen that may also process common food allergens. A producer selling foods under the act must conspicuously display a placard or sign at the point of sale with a disclaimer that the product was produced in a home kitchen and is not intended for resale.

Custom processing of meat animals. The CDA administers the Custom Processing of Meat Animals program. This program inspects custom processing facilities that process domestic livestock and wild game animals for the animal's owners, but does not inspect the individual animals that are processed. Custom facilities are exempt from the U.S. Department of Agriculture's (USDA) inspection programs, but are inspected by the CDA for proper sanitation, record keeping, and compliance with USDA regulations. Meat processed by custom processors may not be sold and may only be consumed by the animal's owners and household.

Poultry processing in Colorado. Under the federal Poultry Products Inspection Act, the Food Safety Inspection Service (FSIS) of the USDA inspects facilities that process poultry. In Colorado, the processing of poultry for sale must occur in a federally inspected facility. During slaughter operations, FSIS inspectors conduct a continuous inspection of the poultry that is processed to ensure humane and sanitary procedures are being followed. Poultry processors cannot conduct both federally inspected and custom processing operations in one facility.

Senate Action

Senate Business, Labor, and Technology Committee (February 17, 2016). At the hearing Representatives of the Colorado Restaurant Association, Natural Grocers, the Colorado Farm Bureau, and one private citizen gave testimony regarding the bill. A representative of Western Daughters Butcher Shoppe spoke in support of the bill, and a representative of the Colorado Department of Agriculture responded to questions regarding the bill. The committee adopted

amendments L.005, L.006, L.007, and L.009, and referred the bill to the Senate Appropriations Committee, as amended. The amendments made the following changes to the bill:

- Amendment L.006 struck everything below the enacting clause, and substituted provisions amending the Colorado Cottage Foods Act and the Custom Processing of Meat Animal Act. The provisions of this amendment are described in the bill summary on pages 1 and 2 of this research note.
- Amendment L.005 amended L.006 to specify that poultry producers licensed or exempted under the bill may sell poultry to individuals, but not to retail food establishments. The amendment also required the Commissioner of Agriculture to convene a stakeholder group to develop a regulatory framework for the processing of poultry that is sold to retail food establishments. The commissioner must report the findings of the stakeholder group by November 30, 2016. Finally, the amendment replaced the bill's effective date clause with a safety clause.
- Amendment L.007 amended L.006 to remove the provisions of L.006 specifying that an informed end customer purchasing food or food products under the Colorado Cottage Foods Acts assumes the inherent risks associated with the food and that a producer is not required to eliminate, alter, or control the inherent risk related to the food.
- Amendment L.009 amended L.006 to eliminate L.006's provisions expanding the Colorado Cottage Foods Act to include producers who earn net revenues between \$10,000 and \$50,000 annually.

Senate Appropriations Committee (March 4, 2016). The committee adopted amendment J.001, and referred the bill to the Senate Committee of the Whole. The amendment added an appropriations clause to the bill.

Senate second reading (March 8, 2016). The Senate adopted the Senate Business, Labor, and Technology and Appropriations committee reports and passed the bill on second reading, as amended.

Senate third reading (March 9, 2016). The Senate passed the bill on third reading with no amendments.

House Action

House Business Affairs and Labor Committee (March 24, 2016). At the hearing, representatives of Natural Grocers by Vitamin Cottage, Western Daughters Butcher Shoppe, and Rocky Mountain Farmers Union testified in support of the bill. A representative of the Colorado Farm Bureau testified on the bill from a neutral position. The committee adopted amendment L.011 and referred the bill, as amended, to the House Appropriations Committee. The amendment reinstated the requirement that a producer take a food safety course and made other technical changes.

House Appropriations Committee (April 7, 2016). The committee referred the bill to the House Committee of the Whole, unamended.