

## CHAPTER 206

---

**HEALTH AND ENVIRONMENT**

---

**SENATE BILL 03-260**

BY SENATOR(S) Teck, Owen, and Reeves;  
also REPRESENTATIVE(S) Plant, Witwer, Young, and Paccione.

**AN ACT**

**CONCERNING THE REGISTRATION OF WHOLESALE FOOD MANUFACTURERS, AND, IN CONNECTION THEREWITH, ASSESSING A WHOLESALE FOOD MANUFACTURING AND STORAGE FEE AND MAKING AN APPROPRIATION.**

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

**SECTION 1.** Part 4 of article 5 of title 25, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**25-5-426. Wholesale food manufacturing and storage - definitions - legislative declaration - fees - cash fund.** (1) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT THE REGISTRATION OF WHOLESALE FOOD MANUFACTURERS AND THE REGULATION OF PREMISES OR PLACES WHEREIN MANUFACTURED FOODS ARE PRODUCED, MANUFACTURED, PACKED, PROCESSED, PREPARED, TREATED, PACKAGED, TRANSPORTED, OR HELD FOR DISTRIBUTION IN ACCORDANCE WITH THE "COLORADO FOOD AND DRUG ACT", THE "SHELLFISH DEALER CERTIFICATION ACT", AND THE SANITARY REGULATIONS ADMINISTERED BY THE DEPARTMENT PURSUANT TO PART 1 OF ARTICLE 4 OF THIS TITLE AND ANY RULES PROMULGATED THEREUNDER:

- (a) IS NECESSARY TO PROTECT THE PUBLIC HEALTH;
- (b) WILL BENEFIT CONSUMERS BY ENSURING THAT THE SALE AND DISTRIBUTION OF MANUFACTURED FOOD IS FROM SAFE SOURCES;
- (c) WILL ASSIST RETAILERS BY ENSURING THAT MANUFACTURED FOODS HAVE NOT BEEN ADULTERATED DURING MANUFACTURING, PACKING, PROCESSING, PREPARING, TREATING, PACKAGING, TRANSPORTING, AND STORAGE; AND

---

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(d) WILL CONTRIBUTE TO THE ECONOMIC HEALTH OF THE STATE BY ASSURING THAT COLORADO WHOLESALE FOOD MANUFACTURERS ARE PERMITTED TO SHIP THEIR PRODUCT IN INTERSTATE COMMERCE.

(2) AS USED IN THIS SECTION:

(a) "DIETARY INGREDIENT" MEANS ONE OR ANY COMBINATION OF A VITAMIN, MINERAL, HERB OR OTHER BOTANICAL, AMINO ACID, AND A SUBSTANCE SUCH AS AN ENZYME, ORGAN TISSUE, GLANDULAR, OR METABOLITE.

(b) "DIETARY SUPPLEMENT" MEANS A PRODUCT TAKEN BY MOUTH THAT CONTAINS A DIETARY INGREDIENT OR A NEW DIETARY INGREDIENT INTENDED TO SUPPLEMENT THE DIET.

(c) "MEDIUM TO LARGE WHOLESALE FOOD MANUFACTURER OR STORAGE FACILITY" MEANS A WHOLESALE FOOD MANUFACTURER OR STORAGE FACILITY WITH GROSS ANNUAL SALES OF FIFTY THOUSAND ONE DOLLARS OR MORE.

(d) "NEW DIETARY INGREDIENT" MEANS A DIETARY INGREDIENT THAT WAS NOT SOLD IN THE UNITED STATES AS A DIETARY SUPPLEMENT BEFORE OCTOBER 15, 1994.

(e) "SMALL WHOLESALE FOOD MANUFACTURER OR STORAGE FACILITY" MEANS A WHOLESALE FOOD MANUFACTURER OR STORAGE FACILITY WITH GROSS ANNUAL SALES OF FIFTY THOUSAND DOLLARS OR LESS.

(f) "WHOLESALE FOOD MANUFACTURER" AND "STORAGE FACILITY" MEAN A FACILITY THAT MANUFACTURES, PRODUCES, PACKS, PROCESSES, TREATS, PACKAGES, TRANSPORTS, OR HOLDS HUMAN FOOD, INCLUDING DIETARY SUPPLEMENTS. THESE TERMS INCLUDE, WITHOUT LIMITATION, ANY REPACKER, RESHIPPER, SHELL STOCK SHIPPER, AND SHUCKER-PACKER, AS DEFINED IN SECTION 25-4-1803 (8), (9), (12), AND (13), RESPECTIVELY.

(3) THE DEPARTMENT HAS THE FOLLOWING POWERS AND DUTIES:

(a) TO GRANT OR REFUSE TO GRANT REGISTRATION PURSUANT TO SUBSECTION (4) OF THIS SECTION AND TO GRANT OR REFUSE TO GRANT THE ANNUAL RENEWAL OF A REGISTRATION;

(b) TO DENY, SUSPEND, OR REVOKE A REGISTRATION;

(c) TO ISSUE A CERTIFICATE OF FREE SALE; AND

(d) TO REVIEW ANY RECORDS OF A WHOLESALE FOOD MANUFACTURER OR STORAGE FACILITY NECESSARY TO VERIFY COMPLIANCE WITH THE PROVISIONS OF THIS SECTION.

(4) (a) BEGINNING JULY 1, 2003, AND ON OR BEFORE JULY 1 OF EACH YEAR THEREAFTER, THE OWNER OF ANY WHOLESALE FOOD MANUFACTURING OR STORAGE FACILITY SHALL REGISTER SUCH FACILITY WITH THE DEPARTMENT. THE REGISTRATION OF EACH WHOLESALE FOOD MANUFACTURING OR STORAGE FACILITY SHALL BE ACCOMPANIED BY AN ANNUAL REGISTRATION FEE AS SET FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (4). SUCH REGISTRATION SHALL BE VALID FOR

ONE YEAR OR FOR THE PORTION OF THE FISCAL YEAR THAT REMAINS IF A REGISTRATION IS GRANTED AFTER JULY 1 OF ANY FISCAL YEAR. IF A REGISTRATION IS VALID FOR ONLY A PORTION OF A FISCAL YEAR, THERE SHALL BE NO REDUCTION OF ANY FEE REQUIRED BY THIS SECTION. EACH REGISTRATION SHALL EXPIRE ON JUNE 30 OF THE STATE FISCAL YEAR IN WHICH THE REGISTRATION IS GRANTED.

(b) (I) UPON REGISTRATION OF A SMALL WHOLESALE FOOD MANUFACTURER OR STORAGE FACILITY, THE DEPARTMENT SHALL COLLECT A FEE OF ONE HUNDRED SEVENTY-FIVE DOLLARS.

(II) UPON REGISTRATION OF A MEDIUM TO LARGE WHOLESALE FOOD MANUFACTURER OR STORAGE FACILITY, THE DEPARTMENT SHALL COLLECT A FEE OF TWO HUNDRED FORTY-FIVE DOLLARS.

(III) THE DEPARTMENT SHALL COLLECT A FEE OF THREE HUNDRED DOLLARS FOR THE ISSUANCE OF A CERTIFICATE OF FREE SALE.

(5) FEES COLLECTED BY THE DEPARTMENT PURSUANT TO SUBSECTION (4) OF THIS SECTION SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT SUCH FEES TO THE WHOLESALE FOOD MANUFACTURING AND STORAGE PROTECTION CASH FUND, WHICH IS HEREBY CREATED IN THE STATE TREASURY. THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE THE MONEYS IN SUCH FUND TO THE DEPARTMENT FOR THE PAYMENT OF EXPENSES NECESSARY FOR THE ADMINISTRATION OF THIS SECTION. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF ANY FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND.

**SECTION 2.** 25-4-1806 (8), Colorado Revised Statutes, is amended to read:

**25-4-1806. Shellfish dealers - certificate required - application - fees.** (8) All fees collected pursuant to this section shall be transmitted to the state treasurer, who shall credit the same to the WHOLESALE food MANUFACTURING AND STORAGE protection cash fund created in ~~section 25-4-1605~~ SECTION 25-5-426.

**SECTION 3. Appropriation - adjustments in 2003 long bill.** (1) For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 2003, shall be adjusted as follows:

(a) The general fund appropriation to the department of public health and environment, consumer protection division, is decreased by one hundred sixty thousand nine hundred six dollars (\$160,906).

(b) The cash fund appropriation to the department of public health and environment, consumer protection division, is increased by one hundred ninety-six thousand seven hundred eighty-eight dollars (\$196,788). Such sum shall be from the wholesale food manufacturing and storage protection cash fund created in section 25-5-426, Colorado Revised Statutes.

**SECTION 4. 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.

Approved: May 1, 2003