

CHAPTER 198

HEALTH AND ENVIRONMENT

HOUSE BILL 04-1298

BY REPRESENTATIVE(S) Madden, Young, Cadman, Marshall, McFadyen, Rippey, Spradley, Hodge, Paccione, and Salazar;
also SENATOR(S) Hillman, Kester, and Groff.

AN ACT

CONCERNING ADJUSTMENTS TO THE FEES DEPOSITED INTO THE WHOLESALE FOOD MANUFACTURING AND STORAGE PROTECTION CASH FUND.

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

SECTION 1. 25-5-426 (2), (4) (a), and (4) (b), Colorado Revised Statutes, are amended, and the said 25-5-426 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

25-5-426. Wholesale food manufacturing and storage - definitions - legislative declaration - fees - cash fund - repeal. (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.

(b.2) "GRAIN" MEANS A SMALL HARD FRUIT OR SEED PRODUCED BY A CEREAL GRASS AND THE SEEDS OF SUCH PLANTS AS A WHOLE.

(b.3) "GRAIN STORAGE FACILITY" MEANS ANY ESTABLISHMENT, STRUCTURE, OR STRUCTURES UNDER ONE MANAGEMENT AT ONE GENERAL PHYSICAL LOCATION THAT HOLDS GRAIN WITHOUT FURTHER MANUFACTURING OR PROCESSING AFTER HARVEST.

(b.5) "LARGE WHOLESALE FOOD MANUFACTURER OR STORAGE FACILITY" MEANS A WHOLESALE FOOD MANUFACTURER OR STORAGE FACILITY WITH GROSS ANNUAL SALES OF MORE THAN ONE HUNDRED FIFTY THOUSAND DOLLARS.

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

(b.7) "MANUFACTURING OR PROCESSING" MEANS MAKING FOOD FROM ONE OR MORE INGREDIENTS, OR SYNTHESIZING, PREPARING, TREATING, MODIFYING, OR MANIPULATING FOOD, INCLUDING FOOD CROPS OR INGREDIENTS. EXAMPLES INCLUDE, BUT ARE NOT LIMITED TO: CUTTING, PEELING, TRIMMING, WASHING, WAXING, EVISCERATING, RENDERING, COOKING, BAKING, FREEZING, COOLING, PASTEURIZING, HOMOGENIZING, MIXING, FORMULATING, BOTTLING, MILLING, GRINDING, EXTRACTING JUICES, DISTILLING, LABELING, OR PACKAGING.

(c) "Medium ~~to large~~ wholesale food manufacturer or storage facility" means a wholesale food manufacturer or storage facility with gross annual sales of BETWEEN fifty thousand one dollars ~~or more~~ AND ONE HUNDRED FIFTY THOUSAND DOLLARS.

(d) "New dietary ingredient" means a dietary ingredient that was not sold in the United States as a dietary supplement before October 15, 1994.

(d.5) "NONPROFIT FACILITY" MEANS A CHARITABLE ENTITY THAT PROVIDES FOOD TO THE PUBLIC, INCLUDING, BUT NOT LIMITED TO, FOOD BANKS AND NONPROFIT FOOD FACILITIES. TO QUALIFY AS A NONPROFIT FACILITY, THE ENTITY SHALL BE EXEMPT FROM PAYING FEDERAL INCOME TAX UNDER THE FEDERAL INTERNAL REVENUE CODE.

(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.

(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); EXCEPT THAT AN OWNER WHOSE GROSS INCOME IS LESS THAN FIFTEEN THOUSAND DOLLARS PER YEAR, A NONPROFIT FACILITY, AND A GRAIN STORAGE FACILITY SHALL REGISTER BUT SHALL NOT BE REQUIRED TO PAY THE FEE. 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) SUBJECT TO PARAGRAPH (a) OF THIS SUBSECTION (4):

(I) Upon registration of a small wholesale food manufacturer or storage facility, the department shall collect a fee of one hundred ~~seventy-five~~ FORTY-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~~ FORTY dollars.

(III) UPON REGISTRATION OF A LARGE WHOLESALE FOOD MANUFACTURER OR STORAGE FACILITY, THE DEPARTMENT SHALL COLLECT A FEE OF THREE HUNDRED FIVE DOLLARS.

~~(III)~~ (IV) The department shall collect a fee of ~~three~~ ONE hundred dollars for the issuance of a certificate of free sale.

(V) THE DEPARTMENT SHALL REFUND ANY FEE PAID BY A GRAIN STORAGE FACILITY BEFORE JULY 1, 2004, TO THE GRAIN STORAGE FACILITY.

(6) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2007.

SECTION 2. 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: April 23, 2004