

CHAPTER 123

AGRICULTURE

SENATE BILL 09-117

BY SENATOR(S) Isgar, Hodge;
also REPRESENTATIVE(S) Vigil, Curry, Fischer, Labuda, Loper, Priola, Ryden, Schafer S., Sonnenberg, Stephens.

AN ACT

CONCERNING THE CONTINUATION OF THE REGULATION BY THE DEPARTMENT OF AGRICULTURE OF PERSONS SELLING PROCESSED MEAT, AND, IN CONNECTION THEREWITH, CLARIFYING THE STATUTORY DISTINCTION BETWEEN CUSTOM MEAT PROCESSORS AND THE SELLERS OF HOME FOOD SERVICE PLANS, AMENDING TERMS TO COMPORT WITH CURRENT BUSINESS PRACTICES, AND INCREASING CONSUMER PROTECTIONS.

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

SECTION 1. Repeal. 24-34-104 (40) (j) (I), Colorado Revised Statutes, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (40) The following agencies, functions, or both, shall terminate on July 1, 2009:

(j) The following functions of the commissioner of the department of agriculture:

(I) ~~The issuance of licenses relating to slaughter, processing, and sale of meat in accordance with article 33 of title 35, C.R.S.;~~

SECTION 2. 24-34-104 (49), Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (49) The following agencies, functions, or both, shall terminate on July 1, 2018:

(d) THE REGULATION BY THE DEPARTMENT OF AGRICULTURE OF THE CUSTOM PROCESSING OF MEAT ANIMALS IN ACCORDANCE WITH ARTICLE 33 OF TITLE 35,

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

C.R.S.

(e) THE REGULATION BY THE DEPARTMENT OF AGRICULTURE OF HOME FOOD SERVICE PLANS IN ACCORDANCE WITH ARTICLE 33.5 OF TITLE 35, C.R.S.

SECTION 3. 35-33-101, Colorado Revised Statutes, is amended to read:

35-33-101. Short title. This article shall be known and may be cited as the "~~Slaughter~~; CUSTOM Processing ~~and Sale~~ of Meat Animals Act".

SECTION 4. 35-33-102, Colorado Revised Statutes, is amended to read:

35-33-102. Legislative declaration. The general assembly declares that the purpose of this article is to regulate the slaughter AND processing ~~and sale~~ of certain animals intended for human consumption. The general assembly finds that the production, processing, ~~sale~~; and consumption of meat animals plays an important part in the economy of this state and that to maintain the integrity of this industry and to protect the public health and welfare it is essential that the slaughter AND processing ~~and sale~~ of these animals occur in a safe, sanitary, and nondeceptive manner. It is therefore necessary to provide for the regulation of the slaughter AND processing ~~and sale~~ of meat animals.

SECTION 5. 35-33-103, Colorado Revised Statutes, is amended to read:

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

(1) ~~"Advertisement" includes the attempt by publication, dissemination, solicitation, or circulation, to induce directly or indirectly through visual, oral, or written means, any person to enter into any obligation or to acquire any title or interest in any property~~ "ADULTERATED" HAS THE MEANING SET FORTH IN SECTION 25-5-410, C.R.S.

(2) ~~"Bulk meat" means meat consisting of whole carcasses, sides, or primal cuts and sold by hanging weight.~~

(3) ~~"Bundle" means individually wrapped cuts of meat packaged together for sale as a single unit.~~

(4) (2) "Commission" means the state agricultural commission.

(5) (3) "Commissioner" means the commissioner of agriculture or his OR HER authorized agent.

(6) (4) "Custom processing" means the slaughter or ~~processing for a fee or other remuneration of an animal delivered to the processor by the owner of such animal~~ PROCESSING, FOR A FEE OR OTHER COMPENSATION, OF MEAT OR MEAT PRODUCTS OF AN ANIMAL NOT OWNED BY THE PERSON PERFORMING THE SLAUGHTER OR PROCESSING AND NOT INTENDED FOR SALE BY THE OWNER OF THE ANIMAL.

(7) (5) "Department" means the department of agriculture.

~~(8) "Diseased meat" includes meat that is stale, emaciated, brown, tainted, putrid, measly, or contaminated so as to render it unfit for human consumption.~~

~~(9) (6) "Food" and "food products" means all articles used for food, drink, confectionery, or condiment by humans, whether simple, mixed, or compound, and any substance used as a constituent in the manufacture thereof.~~

~~(10) "Food plan" means soliciting, negotiating, or making sales of meat or meat products and frozen foods to consumers, which products are sold or delivered as a package or to be delivered over a specified time for storage in a locker box, home freezer, or any other freezer unit or facility. "Food plan" includes the sale, lease, or rental of any freezer unit in conjunction with the sale of food.~~

~~(11) "Food plan operator" means any person, firm, or corporation, other than a processor or a locker plant operator, engaged in the business of soliciting, negotiating, or making sales of food plans.~~

~~(12) "Freezer unit" means any compartment used for the storage of frozen meats or food, including any locker box or home freezer unit, that has a capacity not to exceed two hundred fifty pounds.~~

~~(13) "Frozen foods" means any food or food products that have been preserved by freezing or have been subjected to a process of refrigeration sufficient to reduce every portion thereof to a frozen state.~~

~~(14) "Humane method" means:~~

~~(a) A method whereby an animal is rendered insensible to pain by a mechanical, electrical, chemical, or other means that is rapid and effective, before being shackled, hoisted, thrown, cast, or cut, but does not include any use of a manually operated hammer, sledge, or poleax;~~

~~(b) A method employed in connection with the ritual requirements of any religious faith whereby an animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument.~~

~~(15) "Inspection" means an actual on-site investigation or examination by the department of agriculture to see that a processing facility conforms with the requirements of this article and the rules and regulations of the department.~~

~~(16) "Livestock" means cattle, calves, sheep, swine, horses, mules, goats, and any other animal which may be used in and for the preparation of meat or meat products.~~

~~(17) "Locker box" means the individual sections or compartments of a capacity not to exceed thirty-five cubic feet in the locker room of a locker plant.~~

~~(18) "Locker plant" means a location or establishment in which space in individual lockers is rented for the storage of frozen food.~~

(7) "INEDIBLE MEAT" MEANS MEAT OR MEAT PRODUCTS DERIVED FROM DEAD,

DYING, DISABLED, DISEASED, OR CONDEMNED ANIMALS OR FROM ANIMALS WHOSE MEAT OR MEAT PRODUCTS ARE OTHERWISE UNSUITABLE FOR HUMAN CONSUMPTION. "INEDIBLE MEAT" INCLUDES MEAT OR MEAT PRODUCTS, REGARDLESS OF ORIGIN, THAT HAVE DETERIORATED SO FAR AS TO BE UNFIT FOR HUMAN CONSUMPTION.

~~(19)~~ (8) "Meat or meat ~~product~~ PRODUCTS" means carcasses or parts of carcasses derived from ~~cattle, calves, sheep, swine, goats, large game animals, and other food animals, including rabbits and poultry~~ ANY ANIMALS USED FOR FOOD.

(20) "Meat processing facility" or "processing facility" means any establishment where meat is slaughtered, dressed, processed, cut, trimmed, wrapped, or packaged for delivery to consumers:

~~(21) "Misrepresent" means the use of any untrue, misleading, or deceptive oral or written statement, advertisement, label, display, picture, illustration, or sample.~~

~~(22) "Packaging materials" means cartons, wrapping materials, or any other container of any kind used for the packaging of meat or meat products or food or food products.~~

~~(23) "Packer" means any person engaged in the business of slaughtering, or of manufacturing or preparing meat or meat products for sale, either by such person or others, or of manufacturing or preparing livestock products for sale by such person or others.~~

~~(24) "Poultry" means any domesticated bird, live or dead, including but not limited to chickens, turkeys, ducks, and geese.~~

~~(25)~~ (9) "Premises" means the back, front, and side yard of property occupied by a CUSTOM processing ~~establishment~~ FACILITY; docks and areas where vehicles are loaded or unloaded; driveways, approaches, pens, and alleys; and buildings or portions of buildings ~~which~~ THAT are part of any ~~establishment~~ FACILITY even though not used for CUSTOM processing.

~~(26) "Primal cuts" includes:~~

~~(a) Side of beef: One-half of a split beef, comprising the forequarter and hindquarter;~~

~~(b) Forequarter of beef: The forward portion of a side, back to and including the twelfth rib;~~

~~(c) Back of beef: The chuck and rib with plate and brisket removed;~~

~~(d) Arm chuck of beef: With brisket removed, the back portion to and including the fifth rib;~~

~~(e) Rib of beef: That portion from the sixth rib to the twelfth rib inclusive, not to exceed ten inches from tip of chine bone to top of rib without plate;~~

~~(f) Hindquarter of beef: The rear portion of a side from and including the~~

~~thirteenth rib, consisting of round, loin, and flank;~~

~~(g) Trimmed loin of beef: Without flank or kidney, that portion consisting of the short loin and hip section of hindquarter including the thirteenth rib and separated one to two inches below the aitch bone;~~

~~(h) Full loin of beef: The trimmed loin, flank, and kidney;~~

~~(i) Round of beef: That portion of hindquarter separated from the loin one to two inches below the aitch bone back to the chine bone.~~

~~(27) "Processor" means any person, firm, or corporation which sells, cuts up, processes, slaughters, packages, wraps, stores, or freezes meat or meat products or food and food products for storage in a locker box, a home freezer, or any other freezer unit, and includes any location or establishment that has any one or more of the following facilities: A processing room, a chill room, a storage room, or a sharp freezing facility, and equipment used in conjunction therewith.~~

~~(10) "PROCESSING" MEANS THE SLAUGHTERING, DRESSING, CUTTING, PREPARING, TRIMMING, WRAPPING, OR PACKAGING OF AN ANIMAL OR OF MEAT OR MEAT PRODUCTS FROM AN ANIMAL.~~

~~(11) "PROCESSING FACILITY" MEANS ANY ESTABLISHMENT WHERE MEAT IS SLAUGHTERED, DRESSED, PROCESSED, CUT, TRIMMED, WRAPPED, OR PACKAGED FOR DELIVERY TO CONSUMERS.~~

~~(28) "Rabbit" means domesticated rabbit, either fryer or young rabbit or roaster or mature rabbit.~~

~~(29) "Regulated product" means any meat or meat product sold as a wholesale cut or as a variety or bundle; of cuts and broken down and wrapped for storage in a locker box, home freezer, or any other freezer unit; any food which is sold or given away as an incentive or bonus connected with the sale of meat or meat products; any food product intended for human consumption which is sold or given away as a part of any food plan; any meat or meat product or poultry or poultry product which requires inspection by the U.S. department of agriculture before sale; or any meat or meat product, poultry or poultry product, or rabbit or rabbit product which is intended for human consumption or has been determined to be unfit for human consumption.~~

~~(30) "Remodel" or "renovate" means to reconstruct after any demolition or removal of existing structures or parts thereof beyond the scope of ordinary repairs.~~

~~(31) "Represent" means the use of any oral or written statement, advertisement, label, display, picture, illustration, or sample.~~

~~(32) "Retail" or "retail sale" means a sale to an ultimate consumer not intended for resale. For purposes of this article, sales to hotels, restaurants, or institutions are not retail sales.~~

~~(33)~~ (12) "Sharp freezing facility" means a facility capable of maintaining a

temperature of ten degrees below zero Fahrenheit or lower on still air or contact or a temperature of zero degrees Fahrenheit or lower by forced air circulation, within a tolerance of five degrees Fahrenheit for a minimum of twelve hours after fresh food is put in such facility for freezing.

~~(34)~~ (13) "Sharp frozen" means the process of refrigeration sufficient to reduce every portion of any meat or meat product to a temperature of zero degrees Fahrenheit or less in five hours or less.

~~(35)~~ "Slaughterer" means any person regularly engaged in the slaughter of livestock.

~~(36)~~ "Stockyard" means any place, establishment, or facility commonly known as a stockyard, conducted or operated for compensation or profit as a public market, consisting of pens or other enclosures and their appurtenances for the handling, keeping, and holding of livestock for the purpose of sale or shipment.

~~(37)~~ "Wholesale" means the selling of goods in gross to other wholesalers, to retail dealers, or to anyone who intends to resell; "wholesale" does not include the selling of goods to household consumers of such goods.

~~(38)~~ "Wholesale cut" means a whole carcass of beef, swine, or sheep, or any part thereof customarily classified as being of commercial size and usually requiring further cutting into cuts of retail size for use by consumers. Wholesale cuts shall be cut to standards as dictated by uniform industry standards for meat cutting and purveyors.

(14) "SLAUGHTER" MEANS ANY PROCESS, OR THE USE OF ANY PROCESS, INCLUDING WITHOUT LIMITATION THE PROCESS OF BLEEDING, THAT CAUSES THE DEATH OF ANY ANIMAL INTENDED FOR FOOD.

(15) "UNINSPECTED", IN REFERENCE TO ANY ANIMAL, MEAT, OR MEAT PRODUCT, MEANS NOT INSPECTED AND PASSED BY THE UNITED STATES DEPARTMENT OF AGRICULTURE OR ANOTHER AUTHORIZED GOVERNMENT AGENCY.

SECTION 6. 35-33-104 (1), (3), (4), (5), and (6), Colorado Revised Statutes, are amended to read:

35-33-104. Commissioner of agriculture - powers and duties. (1) The ~~department~~ COMMISSIONER is hereby authorized to formulate reasonable rules and standards of construction, operation, RECORD-KEEPING, and sanitation for all ~~meat~~ CUSTOM processing facilities and shall establish rules and standards pertaining to containers, packaging materials, mobile slaughter units, slaughter rooms, processing rooms, chill rooms, storage and locker rooms, sharp freezing facilities, and premises of ~~meat~~ CUSTOM processing facilities, with respect to the service of slaughtering, cutting, preparing, wrapping, and packaging meat and meat products necessary for the proper preservation of food. ~~and shall establish rules and standards pertaining to the sale of meat or meat products and for food plan operators to the end of protecting the public health and protecting the public from deception, fraud, or unethical sales practices.~~

(3) ~~The commission is authorized and instructed to adopt applicable rules and regulations of the United States department of agriculture insofar as they relate to the inspection of live animals and the manufacture, labeling, and marking of meat or meat products from meat processing facilities insofar as they can be applied to the meat and meat products manufactured and offered for sale in this state.~~

(4) (a) The ~~department~~ COMMISSIONER, UPON CONSENT OR UPON OBTAINING AN ADMINISTRATIVE SEARCH WARRANT, shall have the right of access ~~at any reasonable time, during regular working hours,~~ to any premises for the purpose of any examination or inspection necessary to enforce ~~any of the provisions of~~ this article or the rules ~~or regulations~~ promulgated thereunder, INCLUDING INSPECTION AND COPYING OF ANY RELEVANT RECORDS.

(b) THE COMMISSIONER MAY ADMINISTER OATHS AND TAKE STATEMENTS, ISSUE SUBPOENAS REQUIRING THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF BOOKS, MEMORANDA, PAPERS, AND OTHER DOCUMENTS, ARTICLES, OR INSTRUMENTS, AND COMPEL THE DISCLOSURE BY SUCH WITNESSES OF ALL FACTS KNOWN TO THEM RELATIVE TO THE MATTERS UNDER INVESTIGATION. UPON THE FAILURE OR REFUSAL OF ANY WITNESS TO OBEY ANY SUBPOENA, THE COMMISSIONER MAY PETITION THE DISTRICT COURT, AND, UPON A PROPER SHOWING, THE COURT MAY ENTER AN ORDER COMPELLING THE WITNESS TO APPEAR AND TESTIFY OR PRODUCE DOCUMENTARY EVIDENCE. FAILURE TO OBEY SUCH AN ORDER OF THE COURT SHALL BE PUNISHABLE AS A CONTEMPT OF COURT.

(5) The commissioner may, whenever immediate enforcement of any of the provisions of this article is deemed necessary for the protection of the public health or welfare, issue and enforce a written cease-and-desist order to any person found in violation of any of the provisions of this article or the rules ~~and regulations~~ promulgated thereunder. ~~The commissioner shall rescind such cease-and-desist order when any matter complained of has been fully corrected. The rescission of any order shall not operate to prevent the commissioner from taking any other action in accordance with the applicable provisions of article 4 of title 24, C.R.S.~~

(6) When the commissioner has reasonable cause to believe that any meat or meat product ~~or regulated product~~ is being held, slaughtered, OR processed ~~or sold~~ in violation of this article or the rules ~~and regulations~~ promulgated under this article, and when such product endangers the public health, safety, or welfare, he OR SHE may issue and enforce a written retention order, prohibiting any person from moving ~~selling,~~ or otherwise disposing of the retained product in any manner without written permission of the commissioner. Within five days ~~of~~ AFTER the issuance of any ~~such~~ retention order, the commissioner shall hold a hearing to determine whether the retained product should be condemned or released ~~for sale as food~~ TO THE OWNER. If the product is found to be ~~diseased or otherwise unfit for human consumption~~ ADULTERATED, and ~~such~~ THE product cannot be brought into compliance with this article, the commissioner shall order that the retained product is inedible meat ~~as defined in article 59 of this title~~ and shall be disposed of in accordance with ~~the provisions of said article 59 OF THIS TITLE.~~

SECTION 7. 35-33-105, Colorado Revised Statutes, is amended to read:

35-33-105. Injunctive relief. ~~Violations of any of the provisions of this article~~

~~or any rules and regulations promulgated pursuant to this article or any order of the commissioner issued under the authority of this article may be restrained or enjoined by any court of competent jurisdiction when all administrative remedies have been exhausted or when the commissioner determines that immediate and irreparable injury, loss, or damage will result from continued violation. The attorney general or the district attorney of the judicial district in which a cause of action arises pursuant to this section, at the request of the commissioner, shall bring an action seeking an order or injunction pursuant to this section~~ WHENEVER THE COMMISSIONER POSSESSES SUFFICIENT EVIDENCE SATISFACTORY TO HIM OR HER INDICATING THAT ANY PERSON HAS ENGAGED IN OR IS ABOUT TO ENGAGE IN ANY ACT OR PRACTICE CONSTITUTING A VIOLATION OF ANY PROVISION OF THIS ARTICLE OR OF ANY RULE PROMULGATED UNDER THIS ARTICLE, THE COMMISSIONER MAY APPLY TO ANY COURT OF COMPETENT JURISDICTION TO TEMPORARILY OR PERMANENTLY RESTRAIN OR ENJOIN THE ACT OR PRACTICE IN QUESTION AND TO ENFORCE COMPLIANCE WITH THIS ARTICLE OR ANY RULE OR ORDER UNDER THIS ARTICLE. IN ANY SUCH ACTION, THE COMMISSIONER SHALL NOT BE REQUIRED TO PLEAD OR PROVE IRREPARABLE INJURY OR THE INADEQUACY OF THE REMEDY AT LAW. UNDER NO CIRCUMSTANCES SHALL THE COURT REQUIRE THE COMMISSIONER TO POST A BOND.

SECTION 8. 35-33-107 (2) and (3), Colorado Revised Statutes, are amended to read:

35-33-107. Exemptions. (2) ~~Any retail grocery store in which seventy-five percent or more of the business results from retail sales of products other than bulk meat shall be exempt from the licensing requirements of this article; however, all other provisions of this article relating to advertising and sale of meat or meat products shall apply.~~

(3) Any person who holds an establishment number issued by the United States department of agriculture for purposes of inspection and does not ~~sell meat or meat products at retail or~~ engage in the custom processing of meat animals shall be exempt from the requirements of this article. ~~except that any such person shall be subject to the requirements of section 35-33-204.~~

SECTION 9. Repeal. 35-33-108, Colorado Revised Statutes, is repealed as follows:

35-33-108. Operators not warehousemen. ~~Operators of locker plants or processors or any establishment which processes meat or meat products or food products for frozen storage shall not be construed to be warehousemen.~~

SECTION 10. 35-33-201 (1), (2), (4), (5), (6), (7), (8), (9), and (10), Colorado Revised Statutes, are amended to read:

35-33-201. Custom processing facilities - operation. (1) ~~The meat~~ EACH CUSTOM processing activities of any facility licensed under this article ~~or under article 11 of title 12, C.R.S., shall be conducted in a safe and sanitary manner~~ MUST BE OPERATED AND MAINTAINED IN A MANNER SUFFICIENT TO PREVENT THE CREATION OF UNSANITARY CONDITIONS AND TO ENSURE THAT MEAT OR MEAT PRODUCTS ARE NOT ADULTERATED.

~~(2) Only employees of such facility shall be allowed in the processing area while processing is underway. In no case shall anyone other than an employee be allowed or required to assist in any processing, wrapping, or labeling operation.~~

~~(4) Poultry shall be slaughtered in accordance with good commercial practices and in a manner that will result in thorough bleeding and assure that breathing has stopped prior to scalding. Rabbits shall be stunned before killing.~~

~~(5) Eviscerating shall be conducted in a sanitary manner.~~

~~(6) Unpackaged or uncovered regulated MEAT OR MEAT products shall not be moved through the slaughter, holding, or refuse rooms or areas.~~

~~(7) All poultry and rabbits shall be chilled immediately after processing so that the internal temperature is reduced to a temperature established by the department by rule and sufficient to protect the public health.~~

~~(8) Chilling and draining practices shall be such that moisture absorption and retention are minimized.~~

~~(9) (a) Carcasses or parts of carcasses found to be affected with any disease or condition rendering them unfit for human consumption ADULTERATED OR INEDIBLE MEAT shall be condemned; decharacterized SO AS TO UNEQUIVOCALLY PRECLUDE ITS USE FOR HUMAN FOOD and SHALL BE disposed of by methods approved by the commissioner.~~

~~(b) Decharacterization of adulterated contaminated, decomposed; or diseased INEDIBLE meat shall be accomplished by freely slashing and covering all exposed surfaces with an edible green dye, charcoal, or such other methods as may be approved by the commissioner.~~

~~(10) All meat and meat products resulting from the custom processing or slaughter of uninspected animals:~~

~~(a) Shall, AS SOON AS IS PRACTICABLE, be MARKED OR CODED WITH THE OWNER'S NAME AND marked "NOT FOR SALE" in letters not less than three-eighths of an inch in height;~~

~~(b) Each uninspected carcass, half, or quarter, must be marked "NOT FOR SALE" with an ink brand before being placed in a freezer unit. Livers, hearts, and tongues must be marked "NOT FOR SALE" with an ink brand before they leave the kill floor. Each package of meat or meat products custom slaughtered or processed Shall, WHEN PACKAGED, be marked or coded with the owner's name, the date of wrapping of the package, and the package contents, and shall be labeled "NOT FOR SALE"; AND~~

~~(c) SHALL BE RETURNED TO THE OWNER OR DECHARACTERIZED AND DISPOSED OF BY METHODS APPROVED BY THE COMMISSIONER, EXCEPT FOR UNCLAIMED MEAT FROM WILDLIFE SUBJECT TO THE JURISDICTION OF THE COLORADO DIVISION OF WILDLIFE, WHICH SHALL BE DONATED OR DISPOSED OF IN ACCORDANCE WITH ANY APPLICABLE STATE OR FEDERAL HEALTH OR WILDLIFE LAWS.~~

SECTION 11. 35-33-202, Colorado Revised Statutes, is amended to read:

35-33-202. Record-keeping requirements. (1) (a) Every CUSTOM processor of ~~five poultry or rabbits~~ shall maintain records of ~~their purchase and slaughter, including~~ EACH CUSTOMER TRANSACTION, INCLUDING, AT A MINIMUM:

(I) The date of ~~any~~ THE transaction;

(II) ~~the number purchased,~~ A DESCRIPTION OF THE MEAT OR MEAT PRODUCTS processed, ~~or slaughtered, and~~ INCLUDING SPECIES AND QUANTITY;

(III) The name and address of the ~~seller~~ OWNER; AND

(IV) SUCH OTHER INFORMATION AS MAY BE REQUIRED BY RULE OF THE COMMISSIONER.

(b) ~~Such~~ THE records MAINTAINED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) shall be KEPT FOR AT LEAST TWO YEARS AND made available to the commissioner on demand.

(2) Every person operating a facility engaging in the custom processing of meat animals other than poultry and rabbits shall maintain records of all animals processed, the name and address of the seller or owner, and whether the animal processed was inspected by the United States department of agriculture or was exempt from inspection.

SECTION 12. 35-33-203, Colorado Revised Statutes, is amended to read:

35-33-203. Slaughter methods. (1) No CUSTOM processor shall shackle, hoist, or otherwise bring ~~livestock~~ ANIMALS into position for slaughter or shall slaughter or bleed ~~livestock~~ ANIMALS except by humane methods.

(2) The commissioner ~~shall~~ MAY promulgate rules that conform substantially to the rules ~~and regulations~~ of the secretary of agriculture of the United States pursuant to the federal "Humane Methods of Slaughter Act of 1958", as amended; but the use of a manually operated hammer, sledge, or poleax shall not be permitted.

SECTION 13. Repeal. 35-33-204, Colorado Revised Statutes, is repealed as follows:

35-33-204. Sale of adulterated or diseased meat. (1) ~~Notwithstanding any other provision of this article, it is unlawful for any person to receive for the purpose of slaughter, slaughter, sell, expose for sale, can or pack for the purposes of transportation or sale, or give away for use as human food, any meat which such person knows or has reason to know is:~~

(a) ~~Adulterated, as defined in section 25-5-410, C.R.S., or~~

(b) ~~Diseased or came from the carcass of an animal that died from disease or exposure or was not slaughtered for the purpose of human consumption.~~

~~(2) (a) Any person who violates paragraph (a) of subsection (1) of this section commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.~~

~~(b) Any person who violates paragraph (b) of subsection (1) of this section commits a class 5 felony and shall be punished as provided in section 18-1.3-401, C.R.S.~~

SECTION 14. Part 2 of article 33 of title 35, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

35-33-203.5. Freezing prior to delivery. UNLESS OTHERWISE REQUESTED BY THE OWNER, ALL MEAT OR MEAT PRODUCTS SHALL BE SHARP FROZEN BEFORE DELIVERY.

35-33-206. License required - application - inspection - issuance. (1) ANY PERSON WHO DESIRES TO OPERATE A CUSTOM PROCESSING FACILITY SHALL FIRST OBTAIN A LICENSE FROM THE DEPARTMENT. A SEPARATE LICENSE SHALL BE REQUIRED FOR EACH CUSTOM PROCESSING FACILITY. THE APPLICATION SHALL BE IN WRITING ON FORMS SUPPLIED BY THE DEPARTMENT, SHALL SET FORTH SUCH INFORMATION AS MAY BE REQUIRED BY THE DEPARTMENT, AND SHALL BE ACCOMPANIED BY ANY REQUIRED FEES.

(2) UPON THE APPLICANT'S SUBMISSION OF AN APPLICATION FOR A LICENSE AND PAYMENT OF THE REQUIRED FEES, THE DEPARTMENT SHALL INSPECT FACILITIES AND PREMISES AT THE LOCATION TO BE LICENSED AND, IF IT FINDS THAT THE EQUIPMENT, FACILITIES, SURROUNDING PREMISES, AND OPERATION OF SUCH ESTABLISHMENT COMPLY WITH THIS ARTICLE AND THE RULES ESTABLISHED PURSUANT THERETO, THE DEPARTMENT SHALL ISSUE A LICENSE TO OPERATE UNLESS THE DEPARTMENT FINDS THAT THERE ARE GROUNDS FOR DENIAL OR REFUSAL TO RENEW A LICENSE PURSUANT TO SECTION 35-33-208.

(3) THE LICENSE SHALL BE VALID FOR THE PERIOD FROM THE DATE OF ISSUANCE UNTIL THE EXPIRATION DATE ESTABLISHED BY THE COMMISSIONER BY RULE AND, EXCEPT FOR GOOD CAUSE SHOWN, SHALL BE RENEWED ANNUALLY THEREAFTER.

(4) A LICENSE SHALL NOT BE TRANSFERABLE TO A NEW OWNER OR LOCATION.

(5) ANY PERSON WHO OPERATES A CUSTOM PROCESSING FACILITY WITHOUT A VALID LICENSE THEREFOR COMMITS A CLASS 2 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S.

35-33-207. License fees. (1) THE FEE FOR EACH LICENSE UNDER THIS ARTICLE SHALL BE ESTABLISHED BY THE COMMISSION. THERE SHALL BE NO REDUCTION OF A LICENSE FEE FOR ANY FRACTIONAL PART OF A YEAR. THE FEE SCHEDULE SHALL COVER ALL DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE LICENSING, INSPECTION, AND REGULATION OF CUSTOM PROCESSORS.

(2) ANY PERSON WHO FAILS TO RENEW A LICENSE ON OR BEFORE THE EXPIRATION DATE OF THE LICENSE SHALL PAY A LATE FEE, AS ESTABLISHED BY THE COMMISSION, IN ADDITION TO THE LICENSE FEE.

(3) ALL FEES COLLECTED PURSUANT TO THIS SECTION SHALL BE DEPOSITED IN THE STATE TREASURY AND CREDITED TO THE INSPECTION AND CONSUMER SERVICES CASH FUND CREATED IN SECTION 35-1-106.5.

35-33-208. Disciplinary actions - grounds. (1) IN ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S., THE COMMISSIONER MAY DENY, SUSPEND, REVOKE, RESTRICT, REFUSE TO RENEW, OR PLACE ON PROBATION THE LICENSE OF ANY APPLICANT OR LICENSEE WHO:

(a) MAKES A FALSE STATEMENT OR MISREPRESENTATION ON AN APPLICATION FOR A LICENSE OR RENEWAL;

(b) HAS HAD A PREVIOUS LICENSE OR ANY EQUIVALENT AUTHORIZATION TO ENGAGE IN ACTIVITIES REGULATED UNDER THIS ARTICLE REVOKED, SUSPENDED, OR DENIED BY ANY AUTHORITY AUTHORIZED TO GRANT SUCH LICENSE OR AUTHORIZATION IN THIS OR ANY OTHER STATE;

(c) HAS FAILED TO COMPLY WITH OR VIOLATED ANY PROVISION OF THIS ARTICLE OR ANY RULE PROMULGATED BY THE COMMISSIONER PURSUANT TO THIS ARTICLE; OR

(d) FAILS TO OBEY ANY LAWFUL ORDER OF THE COMMISSIONER.

SECTION 15. Repeal. Part 3 of article 33 of title 35, Colorado Revised Statutes, is repealed.

SECTION 16. Repeal. 35-33-401, 35-33-402, 35-33-403, and 35-33-404, Colorado Revised Statutes, are repealed.

SECTION 17. 35-33-405, Colorado Revised Statutes, is amended to read:

35-33-405. Violations - civil penalties - disposition. (1) In addition to the criminal ~~penalties~~ PENALTY prescribed in ~~sections 35-33-204(2) and 35-33-302(12)~~ SECTION 35-33-406, any person who violates ~~any provision of~~ this article OR ANY RULE PROMULGATED UNDER THIS ARTICLE shall also be subject to a civil penalty of not more than seven hundred fifty dollars per violation for each day of violation.

~~(2) The assessment and amount of any penalty under this section shall be left to the discretion of the commissioner, but shall be subject to judicial review at the instance of the party against whom the penalty is assessed. In reviewing any penalty assessed under this section the court shall consider the appropriateness of the penalty to the infraction. Any penalty assessed under this section may be collected by the department in an action instituted in any court of competent jurisdiction.~~

(2) ANY PERSON WHO VIOLATES THIS ARTICLE OR ANY RULE PROMULGATED UNDER THIS ARTICLE IS SUBJECT TO A CIVIL PENALTY, AS DETERMINED BY THE COMMISSIONER OR A COURT OF COMPETENT JURISDICTION. THE MAXIMUM PENALTY SHALL NOT EXCEED SEVEN HUNDRED FIFTY DOLLARS PER VIOLATION; EXCEPT THAT SUCH PENALTY MAY BE DOUBLED IF IT IS DETERMINED, AFTER NOTICE AND AN OPPORTUNITY FOR HEARING, THAT THE PERSON HAS VIOLATED THE PROVISION OR RULE FOR THE SECOND TIME. EACH DAY THE VIOLATION OCCURS SHALL CONSTITUTE

A SEPARATE VIOLATION.

(3) NO CIVIL PENALTY MAY BE IMPOSED BY THE COMMISSIONER UNLESS THE PERSON CHARGED IS GIVEN NOTICE AND OPPORTUNITY FOR A HEARING PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S.

(4) IF THE COMMISSIONER IS UNABLE TO COLLECT SUCH CIVIL PENALTY OR IF ANY PERSON FAILS TO PAY ALL OR A SET PORTION OF THE CIVIL PENALTY AS DETERMINED BY THE COMMISSIONER, THE COMMISSIONER MAY BRING SUIT TO RECOVER SUCH AMOUNT PLUS COSTS AND ATTORNEY FEES BY ACTION IN ANY COURT OF COMPETENT JURISDICTION.

(5) BEFORE IMPOSING ANY CIVIL PENALTY, THE COMMISSIONER OR A COURT OF COMPETENT JURISDICTION MAY CONSIDER THE EFFECT OF SUCH PENALTY ON THE BUSINESS.

(6) Any penalty collected under this section shall be transmitted to the state treasurer, who shall credit the same to the inspection and consumer services cash fund created in section 35-1-106.5.

SECTION 18. 35-33-406, Colorado Revised Statutes, is amended to read:

35-33-406. Violations - criminal penalty. Any person who violates ~~the provisions of~~ this article or any rule or regulation promulgated under this article commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.

SECTION 19. 35-33-407, Colorado Revised Statutes, is amended to read:

35-33-407. Repeal of article. This article is repealed, effective July 1, 2009 2018. Prior to such repeal, the licensing functions of the department shall be reviewed as provided for in section 24-34-104, C.R.S.

SECTION 20. Title 35, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 33.5
Sale of Meat

PART 1
GENERAL PROVISIONS

35-33.5-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "SALE OF MEAT ACT".

35-33.5-102. Legislative declaration. THE GENERAL ASSEMBLY DECLARES THAT THE PURPOSE OF THIS ARTICLE IS TO REGULATE THE SALE OF MEAT INTENDED FOR HUMAN CONSUMPTION. THE GENERAL ASSEMBLY FINDS THAT THE SALE OF MEAT PLAYS AN IMPORTANT PART IN THE ECONOMY OF THIS STATE AND THAT TO MAINTAIN THE INTEGRITY OF THIS INDUSTRY AND TO PROTECT THE PUBLIC WELFARE IT IS ESSENTIAL THAT THE SALE OF MEAT OCCURS IN A NONDECEPTIVE MANNER. IT IS

THEREFORE NECESSARY TO PROVIDE FOR THE REGULATION OF THE SALE OF MEAT.

35-33.5-103. Scope - applicability. (1) THIS ARTICLE SHALL APPLY TO ALL SALES OF REGULATED PRODUCTS OR ADVERTISEMENTS CONTAINING AN OFFER TO SELL REGULATED PRODUCTS:

(a) IN BULK OR AS A BUNDLE; OR

(b) ON CREDIT, OR SUBJECT TO AN INSTALLMENT OR OTHER PAYMENT PLAN OR AS PART OF A HOME FOOD SERVICE PLAN INCLUDING CUT AND PACKAGED MEATS INTENDED FOR STORAGE IN A HOME FREEZER OR OTHER COLD STORAGE FACILITY.

35-33.5-104. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ADVERTISEMENT" MEANS A COMMUNICATION, BY OR THROUGH ANY MEDIUM, INTENDED TO SOLICIT OR PROMOTE THE SALE OF ANY PRODUCT OR SERVICE:

(a) REGULATED BY THIS ARTICLE;

(b) PRODUCED OR PROVIDED BY ANY PERSON REGULATED BY THIS ARTICLE; OR

(c) THE PRODUCTION OR PROVISION OF WHICH IS REGULATED BY THIS ARTICLE.

(2) "BULK MEAT" MEANS MEAT CONSISTING OF WHOLE CARCASSES, OR PARTS THEREOF, OF COMMERCIAL SIZE AND REQUIRING FURTHER CUTTING INTO CUTS OF RETAIL SIZE FOR INDIVIDUAL CONSUMPTION.

(3) "BUNDLE" MEANS INDIVIDUALLY WRAPPED CUTS OF MEAT PACKAGED TOGETHER FOR SALE AS A SINGLE UNIT.

(4) "COMMISSION" MEANS THE STATE AGRICULTURAL COMMISSION.

(5) "COMMISSIONER" MEANS THE COMMISSIONER OF AGRICULTURE OR HIS OR HER AUTHORIZED AGENT.

(6) "DEPARTMENT" MEANS THE DEPARTMENT OF AGRICULTURE.

(7) "FOOD" AND "FOOD PRODUCTS" MEANS ALL ARTICLES USED FOR FOOD, DRINK, CONFECTIONERY, OR CONDIMENT BY HUMANS, WHETHER SIMPLE, MIXED, OR COMPOUND, AND ANY SUBSTANCE USED AS A CONSTITUENT IN THE MANUFACTURE THEREOF.

(8) "HOME FOOD SERVICE PLAN" MEANS AN ARRANGEMENT FOR THE SALE AND DELIVERY OF FOOD TO A CONSUMER, WHETHER OR NOT THE CONSUMER IS REQUIRED TO PAY A MEMBERSHIP FEE OR SIMILAR CHARGE AND WHETHER OR NOT ANY NONFOOD ITEM, INCLUDING DURABLE CONSUMER GOODS OR SERVICES, IS INCLUDED WITH THE FOOD, IF:

(a) THE ARRANGEMENT IS MADE BY MEANS OF A PERSONAL MEETING AT THE CONSUMER'S HOME; AND

(b) THE FOOD CONSISTS OF OR INCLUDES ANY MEAT OR MEAT PRODUCTS.

(9) "MEAT OR MEAT PRODUCTS" MEANS CARCASSES OR PARTS OF CARCASSES DERIVED FROM ANY ANIMALS USED FOR FOOD.

(10) "REGULATED PRODUCT" MEANS ANY MEAT OR MEAT PRODUCTS SOLD AS BULK MEAT OR IN A BUNDLE; ANY FOOD THAT IS SOLD OR GIVEN AWAY AS AN INCENTIVE OR BONUS CONNECTED WITH THE SALE OF MEAT OR MEAT PRODUCTS; ANY FOOD PRODUCT INTENDED FOR HUMAN CONSUMPTION THAT IS SOLD OR GIVEN AWAY AS A PART OF ANY HOME FOOD SERVICE PLAN.

(11) "REPRESENT" OR "REPRESENTATION" REFERS TO THE USE OF ANY ORAL OR WRITTEN STATEMENT, ADVERTISEMENT, LABEL, DISPLAY, PICTURE, ILLUSTRATION, OR SAMPLE.

(12) "SHARP FROZEN" MEANS THE PROCESS OF REFRIGERATION SUFFICIENT TO REDUCE EVERY PORTION OF ANY MEAT OR MEAT PRODUCT TO A TEMPERATURE OF ZERO DEGREES FAHRENHEIT OR LESS IN FIVE HOURS OR LESS.

35-33.5-105. Commissioner of agriculture - powers and duties. (1) THE COMMISSIONER IS HEREBY AUTHORIZED TO ESTABLISH RULES AND STANDARDS PERTAINING TO THE SALE OF MEAT OR MEAT PRODUCTS AND FOR HOME FOOD SERVICE PLANS TO THE END OF PROTECTING THE PUBLIC FROM DECEPTION, FRAUD, OR UNETHICAL SALES PRACTICES AND RECORD-KEEPING REQUIREMENTS.

(2) IT IS THE DUTY OF THE DEPARTMENT TO ENFORCE THIS ARTICLE AND THE RULES AND STANDARDS ESTABLISHED IN ACCORDANCE WITH THIS ARTICLE.

(3) (a) THE COMMISSIONER, UPON CONSENT OR UPON OBTAINING AN ADMINISTRATIVE SEARCH WARRANT, SHALL HAVE THE RIGHT OF ACCESS TO ANY PREMISES FOR THE PURPOSE OF ANY EXAMINATION OR INSPECTION NECESSARY TO ENFORCE THIS ARTICLE OR THE RULES PROMULGATED THEREUNDER, INCLUDING INSPECTION AND COPYING OF ANY RELEVANT RECORDS.

(b) THE COMMISSIONER MAY ADMINISTER OATHS AND TAKE STATEMENTS, ISSUE SUBPOENAS REQUIRING THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF BOOKS, MEMORANDA, PAPERS, AND OTHER DOCUMENTS, ARTICLES, OR INSTRUMENTS, AND COMPEL THE DISCLOSURE BY SUCH WITNESSES OF ALL FACTS KNOWN TO THEM RELATIVE TO THE MATTERS UNDER INVESTIGATION. UPON THE FAILURE OR REFUSAL OF ANY WITNESS TO OBEY ANY SUBPOENA, THE COMMISSIONER MAY PETITION THE DISTRICT COURT, AND, UPON A PROPER SHOWING, THE COURT MAY ENTER AN ORDER COMPELLING THE WITNESS TO APPEAR AND TESTIFY OR PRODUCE DOCUMENTARY EVIDENCE. FAILURE TO OBEY SUCH AN ORDER OF THE COURT SHALL BE PUNISHABLE AS A CONTEMPT OF COURT.

(4) THE COMMISSIONER MAY, WHENEVER IMMEDIATE ENFORCEMENT OF ANY OF THE PROVISIONS OF THIS ARTICLE IS DEEMED NECESSARY FOR THE PROTECTION OF THE PUBLIC HEALTH OR WELFARE, ISSUE AND ENFORCE A WRITTEN CEASE-AND-DESIST ORDER WITH RESPECT TO ANY PERSON FOUND IN VIOLATION OF ANY OF THE PROVISIONS OF THIS ARTICLE OR THE RULES PROMULGATED THEREUNDER.

35-33.5-106. Injunctive relief. WHENEVER THE COMMISSIONER POSSESSES SUFFICIENT EVIDENCE SATISFACTORY TO HIM OR HER INDICATING THAT ANY PERSON HAS ENGAGED IN OR IS ABOUT TO ENGAGE IN ANY ACT OR PRACTICE CONSTITUTING A VIOLATION OF ANY PROVISION OF THIS ARTICLE OR OF ANY RULE PROMULGATED UNDER THIS ARTICLE, THE COMMISSIONER MAY APPLY TO ANY COURT OF COMPETENT JURISDICTION TO TEMPORARILY OR PERMANENTLY RESTRAIN OR ENJOIN THE ACT OR PRACTICE IN QUESTION AND TO ENFORCE COMPLIANCE WITH THIS ARTICLE OR ANY RULE OR ORDER UNDER THIS ARTICLE. IN ANY SUCH ACTION, THE COMMISSIONER SHALL NOT BE REQUIRED TO PLEAD OR PROVE IRREPARABLE INJURY OR THE INADEQUACY OF THE REMEDY AT LAW. UNDER NO CIRCUMSTANCES SHALL THE COURT REQUIRE THE COMMISSIONER TO POST A BOND.

PART 2
SALES PRACTICES

35-33.5-201. Method of sale. ALL REGULATED PRODUCTS SHALL BE SOLD, AS SPECIFIED IN RULES OF THE COMMISSIONER.

35-33.5-202. Advertisements. (1) NO ADVERTISEMENT SHALL BE SUBJECT TO CHANGE WITHOUT NOTICE UNLESS SO STATED IN THE ADVERTISEMENT.

(2) ANY COMPARISON WITH PRODUCTS OTHER THAN THOSE ADVERTISED SHALL BE WITH PRODUCTS OF THE SAME GRADE OR QUALITY.

(3) THE PRICE OF ANY BULK MEAT SHALL BE QUOTED PER POUND.

(4) ANY SERVICE CHARGE INCIDENTAL TO THE PREPARATION OF A REGULATED PRODUCT FOR SALE THAT IS NOT INCLUDED IN THE PRICE PER POUND OF THE PRODUCT SHALL BE CLEARLY IDENTIFIED AS AN EXTRA AND SEPARATE CHARGE. THIS SHALL APPLY, WITHOUT LIMITATION, TO ANY MEMBERSHIP FEE OR ANY CHARGE OR FEE FOR CUTTING, FREEZING, WRAPPING, STORAGE, OR DELIVERY.

(5) NO ADVERTISEMENT SHALL REPRESENT THAT ANY PERSON EMPLOYED BY OR ACTING FOR OR ON BEHALF OF THE SELLER IS A NUTRITIONIST OR HOME ECONOMIST UNLESS SUCH PERSON HAS OBTAINED ANY APPLICABLE GOVERNMENT CERTIFICATION OR LICENSE, OR, WHERE NO CERTIFICATION OR LICENSE IS APPLICABLE, HAS COMPLETED SPECIALIZED TRAINING IN SUCH FIELDS OR IS OTHERWISE TECHNICALLY QUALIFIED BY EXPERIENCE OR TRAINING.

(6) NO ADVERTISEMENT SHALL REPRESENT THAT ANY TYPE OR QUANTITY OF ANY REGULATED PRODUCT OFFERED FOR SALE IS SUFFICIENT TO MEET ANY NUTRITIONAL OR DIETARY REQUIREMENTS WITHOUT DISCLOSING THE SOURCE OF THE STANDARDS ACCORDING TO WHICH SUCH REGULATED PRODUCT IS DETERMINED TO BE SUFFICIENT.

(7) NO ADVERTISEMENT SHALL REPRESENT THAT ANY REGULATED PRODUCT OR SERVICE HAS BEEN APPROVED BY ANY BETTER BUSINESS BUREAU, CHAMBER OF COMMERCE, SERVICE CLUB, FINANCIAL INSTITUTION, GOVERNMENT AGENCY, OR ANY OTHER CIVIC ORGANIZATION OR ANY OFFICIAL OR EMPLOYEE THEREOF OR THAT THE SELLER IS A MEMBER OF SUCH ORGANIZATION, UNLESS THE SELLER HAS WRITTEN DOCUMENTATION TO SUBSTANTIATE THE CLAIM, WHICH DOCUMENTATION SHALL BE

MADE AVAILABLE UPON DEMAND TO ANY BUYER OR TO ANY AGENT OF THE DEPARTMENT.

(8) ANY REPRESENTATION IN ANY ADVERTISEMENT OF THE GRADE OR YIELD OF ANY REGULATED PRODUCT OFFERED FOR SALE SHALL CONFORM TO UNITED STATES DEPARTMENT OF AGRICULTURE STANDARDS FOR THE DESIGNATION OF MEAT GRADES. THE DESIGNATION "U.S." SHALL NOT BE USED WITH REFERENCE TO ANY PRODUCT NOT GRADED BY THE UNITED STATES DEPARTMENT OF AGRICULTURE; EXCEPT THAT THE TERM "U.S. INSPECTED" MAY BE USED WHEN THE PRODUCT HAS BEEN SO INSPECTED.

(9) ANY ADVERTISEMENT OFFERING TO SELL MEAT AS A "SIDE", "HALF", "QUARTER", OR SIMILAR UNIT SHALL CONTAIN THE FOLLOWING WARNING IN CAPITAL LETTERS: "MEAT SOLD BY WEIGHT DETERMINED BEFORE PROCESSING. ACTUAL YIELD WILL BE LESS."

(10) ANY ADVERTISEMENT OFFERING FOR SALE A "SIDE", "QUARTER", OR "HALF" OF BEEF AND CONTAINING A LIST OF CUTS PURPORTEDLY FROM SUCH "SIDE", "QUARTER", OR "HALF" SHALL LIST ONLY CUTS THAT ARE ANATOMICALLY CORRECT COMPONENTS OF THE INDICATED PART OF THE CARCASS.

(11) A PERSON SHALL NOT USE AN ADVERTISEMENT THAT CONSTITUTES ALL OR PART OF A DECEPTIVE TRADE PRACTICE AS DEFINED IN SECTION 6-1-105 (1) (e), (1) (i), (1) (j), (1) (l), OR (1) (n), C.R.S., IN CONNECTION WITH REGULATED PRODUCTS OR SERVICES SUBJECT TO THIS ARTICLE.

(12) ANY PERSON VIOLATING THIS SECTION COMMITS A CLASS 2 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S.

(13) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT OR PREEMPT THE APPLICATION OF ARTICLE 1 OF TITLE 6, C.R.S.

35-33.5-203. Documentation of sales. (1) ANY SALE OF BULK MEAT OR A HOME FOOD SERVICE PLAN SHALL BE DOCUMENTED IN A WRITTEN CONTRACT, WHICH SHALL CONTAIN, AT A MINIMUM:

(a) THE FULL NAME AND ADDRESS OF THE SELLER;

(b) THE NAME AND ADDRESS OF THE BUYER;

(c) THE DATE OF THE SALE;

(d) WEIGHT AND PRICING INFORMATION AS REQUIRED BY RULE;

(e) THE TOTAL PRICE TO BE PAID BY THE BUYER, INCLUDING, WITHOUT LIMITATION, ANY APPLICABLE CHARGES FOR CUTTING, FREEZING, WRAPPING, PACKAGING, DELIVERY, FREEZER OR LOCKER RENTAL, INSURANCE, AND ANY INTEREST, FINANCE CHARGE, SERVICE CHARGE, OR MEMBERSHIP CHARGE;

(f) THE TOTAL WEIGHT OF ALL REGULATED PRODUCTS, INCLUDING SEPARATELY ITEMIZED WEIGHTS FOR EACH REGULATED PRODUCT;

(g) A SEPARATE ITEMIZATION OF ALL NONFOOD CHARGES;

(h) THE MAKE, MODEL NUMBER, AND CUBIC-FOOT CAPACITY OF ANY LOCKER, FREEZER, OR OTHER APPLIANCE OR FACILITY SOLD OR RENTED UNDER THE CONTRACT;

(i) THE SIGNATURE OF THE BUYER; AND

(j) SUCH OTHER INFORMATION AS MAY BE REQUIRED BY RULE OF THE COMMISSIONER; AND

(2) EVERY PERSON WHO SELLS BULK MEAT OR A HOME FOOD SERVICE PLAN SHALL MAINTAIN A COPY OF EACH CONTRACT REQUIRED BY SUBSECTION (1) OF THIS SECTION FOR AT LEAST TWO YEARS.

(3) ANY SALE OF A REGULATED PRODUCT NOT SUBJECT TO SUBSECTION (1) OF THIS SECTION SHALL BE DOCUMENTED IN A WRITING THAT CONTAINS, AT A MINIMUM:

(a) THE FULL NAME AND ADDRESS OF THE SELLER;

(b) THE TOTAL PRICE PAID, OR TO BE PAID, BY THE BUYER;

(c) WEIGHT AND PRICING INFORMATION AS REQUIRED BY RULE;

(d) A SEPARATE ITEMIZATION OF ALL NONFOOD CHARGES;

(e) SUCH OTHER INFORMATION AS MAY BE REQUIRED BY RULE OF THE COMMISSIONER; AND

(f) THE DATE OF THE SALE.

35-33.5-204. Limitations on contract - delivery. (1) UPON EXECUTION OF A SALES CONTRACT, THE SELLER SHALL DELIVER TO THE BUYER A FULL AND COMPLETE COPY OF SUCH CONTRACT TOGETHER WITH COPIES OF ANY WARRANTY, RENTAL, INSURANCE, OR OTHER COLLATERAL AGREEMENT INCORPORATED BY REFERENCE INTO THE SALES CONTRACT AND A COMPLETE WRITTEN STATEMENT OF THE RULES, TERMS, OR CONDITIONS APPLICABLE TO ANY MEMBERSHIP ACQUIRED OR TO ANY GIFT OR PRIZE FOR WHICH THE BUYER HAS QUALIFIED OR MAY IN THE FUTURE QUALIFY BY VIRTUE OF HIS OR HER EXECUTION OF THE SALES CONTRACT.

(2) NO CONTRACT SHALL USE THE TERMS "SIDE", "QUARTER", "HALF", OR ANY SIMILAR TERM TO DESCRIBE MEAT DELIVERED UNDER THE CONTRACT UNLESS ALL THE MEAT DELIVERED IS FROM THE INDICATED PORTION OF THE SAME CARCASS OR THE CONTRACT EXPRESSLY PROVIDES THAT MEAT PURCHASED IN SUCH A UNIT WILL NOT BE CUT FROM THE SAME CARCASS. ANY MEAT DELIVERED AS A "SIDE", "QUARTER", "HALF", OR SIMILAR UNIT, IF NOT FROM THE SAME CARCASS, SHALL ALL BE OF THE SAME GRADE OR QUALITY.

(3) NO CONTRACT SHALL CONTAIN ANY PROVISION WHEREBY THE BUYER AGREES TO WAIVE ANY WARRANTIES, RIGHTS, OR DEFENSES HE OR SHE MAY HAVE UNDER ARTICLE 2 OF TITLE 4, C.R.S., OR THE "UNIFORM CONSUMER CREDIT CODE",

ARTICLES 1 TO 9 OF TITLE 5, C.R.S.

(4) NO PROVISION OF THIS SECTION SHALL BE CONSTRUED TO RELIEVE THE SELLER OF ANY OBLIGATION HE OR SHE MAY OTHERWISE HAVE UNDER ARTICLE 1 OF TITLE 6, C.R.S.

(5) ANY CONTRACT MADE IN VIOLATION OF THIS ARTICLE SHALL BE UNENFORCEABLE AGAINST THE BUYER.

35-33.5-205. Freezing prior to sale. UNLESS OTHERWISE REQUESTED BY THE PURCHASER, ALL REGULATED PRODUCTS SHALL BE SHARP FROZEN BEFORE DELIVERY.

PART 3
LICENSES - FEES - PENALTIES

35-33.5-301. License required - application - inspection - issuance. (1) A PERSON WHO DESIRES TO SELL A HOME FOOD SERVICE PLAN SHALL FIRST OBTAIN A LICENSE FROM THE DEPARTMENT. A SEPARATE LICENSE SHALL BE REQUIRED FOR EACH BUSINESS LOCATION. THE APPLICATION SHALL BE IN WRITING ON FORMS SUPPLIED BY THE DEPARTMENT, SHALL SET FORTH SUCH INFORMATION AS MAY BE REQUIRED BY THE DEPARTMENT, AND SHALL BE ACCOMPANIED BY ANY REQUIRED FEES.

(2) UPON THE APPLICANT'S SUBMISSION OF AN APPLICATION FOR A LICENSE, OR FOR THE RENEWAL THEREOF, EVIDENCE OF THE BOND REQUIRED BY SECTION 35-33.5-303, AND PAYMENT OF THE REQUIRED FEES, THE DEPARTMENT SHALL REVIEW THE APPLICANT'S OPERATIONS AND, IF IT FINDS THAT SUCH OPERATIONS COMPLY WITH THIS ARTICLE AND THE RULES ESTABLISHED PURSUANT THERETO, THE DEPARTMENT SHALL ISSUE A LICENSE TO OPERATE UNLESS THE DEPARTMENT FINDS THAT THERE ARE GROUNDS FOR DENIAL OR REFUSAL TO RENEW A LICENSE PURSUANT TO SECTION 35-33.5-304.

(3) THE LICENSE SHALL BE VALID FOR THE PERIOD FROM THE DATE OF ISSUANCE UNTIL THE EXPIRATION DATE ESTABLISHED BY THE COMMISSIONER BY RULE AND, EXCEPT FOR GOOD CAUSE SHOWN, SHALL BE RENEWED ANNUALLY THEREAFTER.

(4) A LICENSE SHALL NOT BE TRANSFERABLE TO A NEW OWNER OR LOCATION.

(5) ANY PERSON WHO SELLS A HOME FOOD SERVICE PLAN WITHOUT A VALID LICENSE THEREFOR COMMITS A CLASS 2 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S.

35-33.5-302. License fees. (1) THE FEE FOR EACH LICENSE UNDER THIS PART 3 SHALL BE ESTABLISHED BY THE COMMISSION. THERE SHALL BE NO REDUCTION OF A LICENSE FEE FOR ANY FRACTIONAL PART OF A YEAR. THE FEE SCHEDULE SHALL COVER ALL DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE LICENSING, INSPECTION, AND REGULATION OF SELLERS OF HOME FOOD SERVICE PLANS.

(2) ANY PERSON WHO FAILS TO RENEW A LICENSE ON OR BEFORE THE EXPIRATION DATE OF THE LICENSE SHALL PAY A LATE FEE, AS ESTABLISHED BY THE COMMISSION,

IN ADDITION TO THE LICENSE FEE.

(3) ALL FEES COLLECTED PURSUANT TO THIS SECTION SHALL BE DEPOSITED IN THE STATE TREASURY AND CREDITED TO THE INSPECTION AND CONSUMER SERVICES CASH FUND CREATED IN SECTION 35-1-106.5.

35-33.5-303. Evidence of financial responsibility - action on bond.

(1) BEFORE ANY LICENSE IS ISSUED TO THE SELLER OF A HOME FOOD SERVICE PLAN, OR BEFORE THE REINSTATEMENT OF ANY LICENSE SUSPENDED OR REVOKED FOR VIOLATIONS OF THIS ARTICLE OR OF A RULE OR ORDER ISSUED PURSUANT TO THIS ARTICLE RESULTING IN FINANCIAL LOSS SUFFERED BY ANY BUYER, THE APPLICANT SHALL EXECUTE AND DELIVER TO THE COMMISSIONER A SURETY BOND IN AN AMOUNT DETERMINED BY THE COMMISSIONER, NOT TO EXCEED FIFTY THOUSAND DOLLARS. THE BOND SHALL BE EXECUTED BY THE APPLICANT AS PRINCIPAL AND BY A SURETY COMPANY QUALIFIED AND AUTHORIZED TO DO BUSINESS IN THIS STATE AS SURETY. THE BOND SHALL BE CONDITIONED UPON COMPLIANCE WITH ALL REQUIREMENTS OF THIS ARTICLE, THE FAITHFUL FULFILLMENT OF ALL CONTRACTS, AND THE RENDERING OF ANY SERVICE IN CONNECTION WITH THE SALE, ADVERTISING, OR SOLICITING OF ANY HOME FOOD SERVICE PLAN. THE BOND SHALL BE TO THE STATE OF COLORADO IN FAVOR OF EVERY CONSUMER PURCHASING A HOME FOOD SERVICE PLAN.

(2) IF, AFTER A HEARING IN ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S., THE COMMISSIONER DETERMINES THAT A BONDED LICENSEE HAS VIOLATED ANY PROVISION OF THIS ARTICLE OR OF A RULE OR ORDER ISSUED PURSUANT TO THIS ARTICLE, THE COMMISSIONER MAY DEMAND PAYMENT ON THE BOND ON BEHALF OF ANY CONSUMER INJURED AS A RESULT OF SUCH VIOLATION. IF THE SURETY COMPANY REFUSES TO PAY UPON SUCH DEMAND, THE COMMISSIONER SHALL BRING AN ACTION ON THE BOND ON BEHALF OF THE CONSUMER.

(3) ANY CONSUMER PURCHASING A HOME FOOD SERVICE PLAN AND CLAIMING TO BE INJURED BY THE FRAUD, DECEIT, OR WILLFUL NEGLIGENCE OF ANY BONDED LICENSEE OR BY THE LICENSEE'S FAILURE TO COMPLY WITH ANY PROVISION OF THIS ARTICLE OR OF A RULE OR ORDER ISSUED PURSUANT TO THIS ARTICLE MAY, WITH THE PRIOR WRITTEN CONSENT OF THE COMMISSIONER, BRING AN ACTION UPON SAID BOND AGAINST BOTH THE PRINCIPAL AND SURETY IN ANY COURT OF COMPETENT JURISDICTION TO RECOVER DAMAGES CAUSED THEREBY. UPON THE COMMENCEMENT OF ANY SUCH ACTION, THE COMMISSIONER MAY REQUIRE THE FILING OF A NEW BOND.

(4) WHENEVER THE COMMISSIONER DETERMINES THAT A PREVIOUSLY APPROVED BOND IS INSUFFICIENT, THE COMMISSIONER MAY REQUIRE THE LICENSEE TO EXECUTE AND DELIVER AN ADDITIONAL BOND. FAILURE BY THE LICENSEE TO COMPLY WITH SUCH ORDER WITHIN THIRTY DAYS SHALL CONSTITUTE GROUNDS FOR THE SUSPENSION OR REVOCATION OF THE LICENSE.

35-33.5-304. Disciplinary actions - grounds. (1) IN ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S., THE COMMISSIONER MAY DENY, SUSPEND, REVOKE, RESTRICT, REFUSE TO RENEW, OR PLACE ON PROBATION THE LICENSE OF ANY APPLICANT OR LICENSEE WHO:

(a) MAKES A FALSE STATEMENT OR MISREPRESENTATION ON AN APPLICATION FOR A LICENSE OR RENEWAL;

(b) HAS HAD A PREVIOUS LICENSE OR ANY EQUIVALENT AUTHORIZATION TO ENGAGE IN ACTIVITIES REGULATED UNDER THIS PART 3 REVOKED, SUSPENDED, OR DENIED BY ANY AUTHORITY AUTHORIZED TO GRANT SUCH LICENSE OR AUTHORIZATION IN THIS OR ANY OTHER STATE;

(c) HAS FAILED TO COMPLY WITH OR VIOLATED ANY PROVISION OF THIS ARTICLE OR ANY RULE PROMULGATED BY THE COMMISSIONER PURSUANT TO THIS ARTICLE;

(d) HAS ALLOWED ANY BOND REQUIRED BY SECTION 35-33.5-303 TO EXPIRE, LAPSE, OR BE CANCELLED AND HAS FAILED TO PROVIDE EVIDENCE OF A NEW BOND WITHIN TEN DAYS; OR

(e) FAILS TO OBEY ANY LAWFUL ORDER OF THE COMMISSIONER.

35-33.5-305. Civil penalties - disposition. (1) ANY PERSON WHO VIOLATES ANY PROVISION OF THIS ARTICLE OR OF A RULE PROMULGATED PURSUANT TO THIS ARTICLE IS SUBJECT TO A CIVIL PENALTY, AS DETERMINED BY THE COMMISSIONER OR A COURT OF COMPETENT JURISDICTION. THE MAXIMUM PENALTY SHALL NOT EXCEED SEVEN HUNDRED FIFTY DOLLARS PER VIOLATION; EXCEPT THAT THIS AMOUNT MAY BE DOUBLED IF IT IS DETERMINED, AFTER NOTICE AND AN OPPORTUNITY FOR HEARING, THAT THE PERSON HAS VIOLATED THE STATUTE OR RULE FOR THE SECOND TIME. EACH DAY THE VIOLATION OCCURS SHALL CONSTITUTE A SEPARATE VIOLATION.

(2) NO CIVIL PENALTY MAY BE IMPOSED BY THE COMMISSIONER UNLESS THE PERSON CHARGED IS GIVEN NOTICE AND OPPORTUNITY FOR A HEARING PURSUANT TO THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S.

(3) IF THE COMMISSIONER IS UNABLE TO COLLECT A CIVIL PENALTY ASSESSED UNDER THIS SECTION OR IF ANY PERSON FAILS TO PAY ALL OR PART OF SUCH CIVIL PENALTY, THE COMMISSIONER MAY BRING SUIT TO RECOVER SUCH AMOUNT PLUS COSTS AND ATTORNEY FEES BY ACTION IN ANY COURT OF COMPETENT JURISDICTION.

(4) BEFORE IMPOSING A CIVIL PENALTY UPON A PERSON UNDER THIS SECTION, THE COMMISSIONER OR A COURT OF COMPETENT JURISDICTION MAY CONSIDER THE EFFECT OF SUCH PENALTY ON THE PERSON'S BUSINESS.

(5) PENALTIES COLLECTED UNDER THIS SECTION SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE INSPECTION AND CONSUMER SERVICES CASH FUND CREATED IN SECTION 35-1-106.5.

35-33.5-306. Criminal penalties. ANY PERSON WHO VIOLATES THIS ARTICLE OR ANY RULE PROMULGATED UNDER THIS ARTICLE COMMITS A CLASS 2 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S.

35-33.5-307. Repeal of article. THIS ARTICLE IS REPEALED, EFFECTIVE JULY 1, 2018. PRIOR TO SUCH REPEAL, THE FUNCTIONS OF THE DEPARTMENT SHALL BE REVIEWED AS PROVIDED FOR IN SECTION 24-34-104, C.R.S.

SECTION 21. 11-35-101 (1), Colorado Revised Statutes, is amended to read:

11-35-101. Alternatives to surety bonds permitted - requirements. (1) The requirement of a surety bond as a condition to licensure or authority to conduct business or perform duties in this state provided in sections 12-5.5-202 (2) (b), 12-6-111, 12-6-112, 12-6-112.2, 12-6-512, 12-6-513, 12-11-101 (1) (d), 12-11-104, 12-11-106, 12-14-124 (1), 12-59-115 (1), 12-60-509 (2.5) (b), 12-61-907, 33-4-101 (1), 33-12-104 (1), ~~35-33-403 (3)~~, 35-55-104 (1), 37-91-107 (2) and (3), 38-29-119 (2), 39-21-105 (4), 39-27-104 (2) (a), (2) (b), (2) (c), (2) (d), (2) (e), (2.1) (a), (2.1) (b), (2.1) (c), (2.5) (a), and (2.5) (b), 39-28-105 (1), 42-6-115 (3), and 42-7-301 (6), C.R.S., may be satisfied by a savings account or deposit in or a certificate of deposit issued by a state or national bank doing business in this state or by a savings account or deposit in or a certificate of deposit issued by a state or federal savings and loan association doing business in this state. Such savings account, deposit, or certificate of deposit shall be in the amount specified by statute, if any, and shall be assigned to the appropriate state agency for the use of the people of the state of Colorado. The aggregate liability of the bank or savings and loan association shall in no event exceed the amount of the deposit. For the purposes of the sections referred to in this section, "bond" includes the savings account, deposit, or certificate of deposit authorized by this section.

SECTION 22. Applicability. This act shall apply to acts occurring on or after the effective date of this act.

SECTION 23. 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 16, 2009