

SB058\_L.006

## SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Business, Labor, & Technology.SB16-058 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, 25-4-1614, amend  
4 (1), (2), and (9) (c) introductory portion; **repeal** (10); and **add** (9) (a.5),  
5 (9) (a.7), (9) (d), and (11) as follows:

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

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

15 (b) ENHANCING THE AGRICULTURAL ECONOMY; AND

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

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

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

26 ~~(A) Tier one foods are limited to~~ INCLUDE PICKLED VEGETABLES,  
27 spices, teas, dehydrated produce, nuts, seeds, honey, jams, jellies,  
28 preserves, fruit butter, flour, and baked goods, including candies, fruit  
29 empanadas, and tortillas, and OTHER NONPOTENTIALLY HAZARDOUS  
30 FOODS;

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

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

37 (c) A producer ~~must~~ IS ENCOURAGED TO take a food safety course



1 that includes basic food handling training, and is comparable to, or is a  
2 course given by, the Colorado state university extension service or a state,  
3 county, or district public health agency, and must maintain a status of  
4 good standing in accordance with the course requirements, including  
5 attending any additional classes if necessary.

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

7 (I) to ultimate consumers and not to grocery stores or restaurants;  
8 and BE DELIVERED DIRECTLY FROM A PRODUCER TO AN INFORMED END  
9 CONSUMER;

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

14 (III) NOT INVOLVE INTERSTATE COMMERCE.

15 (e) This section applies only to producers who earn net revenues  
16 of ten FIFTY thousand dollars or less per calendar year IN GROSS ANNUAL  
17 SALES from the sale of each eligible food product produced in the  
18 producer's home kitchen or a commercial, private, or public kitchen  
19 HOMEMADE KITCHEN PRODUCTS.

20 (9) As used in this section:

21 (a.5) "HOMEMADE" MEANS FOOD THAT IS PREPARED IN A PRIVATE  
22 HOME KITCHEN THAT IS NOT LICENSED, INSPECTED, OR REGULATED.

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

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

31 (d) "TRANSACTION" MEANS THE PURCHASE AND SALE OF FOOD OR  
32 A FOOD PRODUCT.

33 (10) ~~The state board of health shall promulgate rules, including~~  
34 ~~enforcement provisions, necessary to provide for the production and sale~~  
35 ~~of tier two foods:~~

36 (11)(a) AN INFORMED END CONSUMER PURCHASING FOOD OR FOOD  
37 PRODUCTS UNDER THIS SECTION ASSUMES THE INHERENT RISKS IN THE  
38 PURCHASE, USE, OR INGESTION OF THE FOOD OR FOOD PRODUCTS  
39 PURCHASED, WHETHER THOSE RISKS ARE KNOWN OR UNKNOWN, AND IS  
40 LEGALLY RESPONSIBLE FOR ALL DAMAGE, INJURY, OR DEATH TO HIMSELF  
41 OR HERSELF OR OTHER PERSONS OR PROPERTY THAT RESULTS FROM THE



1 INHERENT RISKS OF PURCHASING OR INGESTING FOOD OR FOOD PRODUCTS  
2 UNDER THIS SECTION.

3 (b) A PRODUCER IS NOT REQUIRED TO ELIMINATE, ALTER, OR  
4 CONTROL THE INHERENT RISKS RELATED TO THE PURCHASE, INGESTION, OR  
5 USE OF FOOD OR FOOD PRODUCTS RELATED TO A TRANSACTION UNDER THIS  
6 SECTION, EXCEPT AS OTHERWISE REQUIRED BY SUBSECTION (6) OF THIS  
7 SECTION.

8 (c) ACTIONS BASED UPON THE ALLEGED NEGLIGENCE OF THE  
9 PRODUCER WHEREIN THE DAMAGE, INJURY, OR DEATH IS NOT THE RESULT  
10 OF AN INHERENT RISK OF THE PURCHASE, INGESTION, OR USE OF FOOD OR  
11 FOOD PRODUCTS RELATED TO A TRANSACTION UNDER THIS SECTION ARE  
12 NOT PRECLUDED BY THIS SECTION AND MAY PROCEED SUBJECT TO  
13 APPLICABLE LAW.

14 (d) THE ASSUMPTION-OF-RISK PROVISIONS IN THIS SUBSECTION  
15 (11) APPLY REGARDLESS OF THE AGE OF THE PERSON ASSUMING THE RISK.

16 **SECTION 2.** In Colorado Revised Statutes, 35-33-103, **amend**  
17 (8) and (9); and **add** (8.5) as follows:

18 **35-33-103. Definitions.** As used in this article, unless the context  
19 otherwise requires:

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

23 (8.5) "POULTRY" MEANS ANY DOMESTICATED BIRD, INCLUDING  
24 CHICKENS, TURKEYS, DUCKS, GEESE, GUINEAS, OR SQUABS, WHETHER LIVE  
25 OR DEAD.

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

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

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

34 (1) The commissioner is hereby authorized to formulate reasonable rules  
35 and standards of construction, LABELING, operation, record keeping, and  
36 sanitation for all **custom** processing facilities and shall establish rules and  
37 standards pertaining to containers, packaging materials, mobile slaughter  
38 units, slaughter rooms, processing rooms, chill rooms, storage and locker  
39 rooms, sharp freezing facilities, and premises of **custom** processing  
40 facilities, with respect to the service of slaughtering, cutting, preparing,  
41 wrapping, and packaging meat and meat products necessary for the proper



1 preservation of food.

2 **SECTION 4.** In Colorado Revised Statutes, 35-33-107, **add** (6)  
3 as follows:

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

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

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

13 (c) THE POULTRY ARE PROPERLY LABELED; AND

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

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

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

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

28 (11) ALL POULTRY AND POULTRY PRODUCTS MUST BE MARKED AS  
29 REQUIRED BY THE COMMISSIONER BY RULE.

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

32 **35-33-202. Record-keeping requirements.** (1) (a) Every custom  
33 processor shall maintain records of each customer transaction, including,  
34 at a minimum:

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

37 **35-33-203. Slaughter methods.** (1) ~~No custom~~ A processor shall  
38 NOT shackle, hoist, or otherwise bring animals into position for slaughter,  
39 or ~~shall~~ slaughter or bleed animals, except by humane methods.

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



1           **35-33-206. License required - application - inspection -**  
2 **issuance.** (1.5) ANY PERSON WHO DESIRES TO SLAUGHTER AND PROCESS  
3 MORE THAN ONE THOUSAND, BUT FEWER THAN TWENTY THOUSAND,  
4 POULTRY SHALL FIRST OBTAIN A LICENSE FROM THE DEPARTMENT. A  
5 SEPARATE LICENSE IS REQUIRED FOR EACH POULTRY PROCESSING FACILITY.  
6 THE APPLICATION MUST BE IN WRITING ON FORMS SUPPLIED BY THE  
7 DEPARTMENT, SETTING FORTH ANY INFORMATION REQUIRED BY THE  
8 DEPARTMENT, AND MUST BE ACCOMPANIED BY ALL REQUIRED FEES.

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

11           **35-33-301. Sale of poultry - labeling - rules.** (1) A POULTRY  
12 PRODUCER LICENSED OR EXEMPTED UNDER THIS ARTICLE MAY SELL  
13 POULTRY TO INDIVIDUALS AND RETAIL FOOD ESTABLISHMENTS, AS  
14 DEFINED IN SECTION 25-4-1602 (14), C.R.S.

15           (2) THE DEPARTMENT SHALL CONSULT WITH THE DEPARTMENT OF  
16 PUBLIC HEALTH AND ENVIRONMENT TO PROMULGATE RULES REGARDING  
17 THE LABELING OF POULTRY SOLD PURSUANT TO THIS SECTION.

18           **SECTION 10. Act subject to petition - effective date.** This act  
19 takes effect at 12:01 a.m. on the day following the expiration of the  
20 ninety-day period after final adjournment of the general assembly (August  
21 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a  
22 referendum petition is filed pursuant to section 1 (3) of article V of the  
23 state constitution against this act or an item, section, or part of this act  
24 within such period, then the act, item, section, or part will not take effect  
25 unless approved by the people at the general election to be held in  
26 November 2016 and, in such case, will take effect on the date of the  
27 official declaration of the vote thereon by the governor."

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