

Members of the Agriculture, Water & Natural Resources Committee, thank you for your time and consideration to testimonies on SB25-1190.

I am writing today to voice my support in amending the language in the "Colorado Cottage Foods Act" (CRS 25-4-1614) to include the sale of items previously deemed by the CDPHE as requiring refrigeration, or at minimum amendments to CRS 24-4-1602 (Subsection 12) to clearly define a set of measurable/testable values for what deems a food "nonpotentially hazardous."

First and foremost, I am in support of the intent behind this bill. As the husband of a cottage food baker, I have seen how CDPHE's interpretation of "nonpotentially hazardous" has required my wife to pause her small business aspirations in search of a product that she can be proud of, one which does not require her to use ingredients she does not wish to use. While I recognize that this may be an anecdotal example, how many of you have grown up with and/or continue to leave butter out on the counter in a butter dish for toast or pancakes, without a second thought given to the "potential hazard" you are subjecting yourself to? (The butter dish is a staple in our home). How many of you would leave cream cheese out on the counter? (I would not). Yet, CDPHE's interpretation of "nonpotentially hazardous" precludes my wife from using butter in a buttercream frosting recipe that in other states would be approved, while they simultaneously have approved a different frosting which includes both cream cheese and butter. The hazard is not in the ingredient - it is in the handling and processing. CDPHE does not provide the criteria by which this recipe was approved or entertain testing other recipes, even at the expense of the producer - this arbitrary enforcement and interpretation of "nonpotentially hazardous" is hampering small business.

Arbitrary interpretation aside, cottage food product end consumers are already tasked with making an informed purchase decision based on a level of risk acceptable to them, when informed that the food product they are purchasing from a cottage food producer is produced in a facility that is not subject to licensure or inspection. While I support the intent of this bill, I believe that the addition of a second label for foods requiring refrigeration would allow the consumer to determine their level of acceptable risk in purchasing the food product as well as remind them of their responsibility to safely handle the food product after purchase. I propose the following amendments to the bill as submitted to the committee:

- Addition of (VI) to subsection 3(a) of CRS 25-4-1614 - language similar to "The following disclaimer when a food product does not meet the criteria for 'Nonpotentially hazardous' food: 'This product requires refrigeration.'"
- Remove the strikeout of subsection 9(b) to maintain the definition as used in this section for the above addition.

Should the committee decide that the risk is too great to allow food products requiring refrigeration to be sold to informed end consumers by cottage food producers, I would instead propose an amendment (or amendments) to CRS 24-4-1602 (Subsection 12) - the definition of "Nonpotentially hazardous." Many other states (Minnesota, Tennessee, and Texas at least) with cottage food laws either codify what scientific measure is used to determine whether a food requires refrigeration or provide said criteria as part of their training for cottage food producers (e.g. "your food must test with a water activity below 0.85aw if the pH is above 4.6"). Colorado leaves the interpretation of the definition of "Nonpotentially hazardous" up to CDPHE who have, as mentioned previously, shown no interest in providing the criteria they use, let alone

entertaining the possibility of recipes which include ingredients they have blanket deemed potentially hazardous; ingredients which may actually fit a scientific definition of nonpotentially hazardous given the correct handling and processing. I can appreciate the time it would require CDPHE and their partners to review every recipe request - which is why I believe an acceptable middle ground would be to codify the criteria in CRS or instruct the CDPHE to publish their criteria, and instruct the CDPHE to publish an approval process outlining how a cottage food producer can professionally test their recipe against this criteria.

Finally, while not the direct intent of this bill, I would like to propose an additional amendment (d) to CRS 25-4-1614 Subsection 3 - language allowing the sale of cottage food products intended to be served to a banquet or catered event, not for resale (i.e. a wedding or other large gathering) similar to: "A producer operating under this section and providing the food product to an informed end consumer who intends to serve the food product at a banquet, party, gathering, or catered event, shall provide the informed end consumer with a placard, sign, or card to be displayed with the food product with the following disclaimer: 'This product was produced in a home kitchen that is not subject to state licensure or inspection. This product is not intended for resale. The product label is available upon request.', and also provide the informed end consumer with a printed copy of the label described in subsection (3)(a) to be made available upon request." Thus formally allowing cottage food producers to provide their food products for catered events which is currently prohibited by the CDPHE.

Thank you again committee members for your time and consideration to SB25-1190.

Sincerely,

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**House Agriculture, Water & Natural Resources**

**03/03/2025 01:30 PM**

**HB25-1190 Expanding Colorado Cottage Foods Act**

**Typed Text of Testimony Submitted**

<b>Name, Position, Representing</b>	<b>Typed Text of Testimony</b>
<p>Rachel Ziehnert For herself</p>	<p>My name is Rachel and I make delicious gluten free buttercream cakes that people rave about. I'm writing to give my support of the bill that will allow for the sale of refrigerated items under the Colorado Cottage Food Act.</p> <p>I'm a stay-at-home mom of three school-aged kids, and I have dreams of building a small business by working from my home kitchen and selling my buttercream cakes to the public. Working from home in this capacity is the only business model that makes sense for our family.</p> <p>I recently learned, however, that under the current cottage food laws, I am not able to sell buttercream that is made with butter due to the need for refrigeration. Instead, it is required that I use a shelf stable product like shortening, vegetable oil, or ghee— none of which yield a palatable buttercream that I can stand behind selling.</p> <p>As you may be aware, it is already a requirement that the cottage food producer inform the consumer about specific information regarding the risks of purchasing from a home kitchen (including the lack of state inspection and the presence of allergens). Consumers are required to be informed of this at the time of purchase, as well as on the food label itself.</p> <p>Why then, could we not also include a label that an item must be refrigerated? A consumer can be fully informed at the time of purchase about the need for refrigeration from a cottage food producer, just like when buying from a commercial business or retail store. This would allow for so many more small businesses to exist and to thrive. It would allow for the sale of more delicious and quality food products that bring people together in community while helping local families grow.</p> <p>For the sake of small businesses throughout Colorado, I urge you to consider the amendment and pass this bill to allow for the sale of refrigerated goods under the cottage food act. Thank you for your time!</p>

Colorado House of Representatives  
Agriculture, Water and Natural Resources Committee  
Colorado State Capitol

Re Public Comment on HB25-1190

Dear Committee Members:

The Colorado Cottage Food Act strikes a balance of reducing barriers for small-scale food producers while maintaining reasonable safety of the foods they sell. Currently, the Colorado Cottage Food Act permits the sale of foods that are shelf-stable and pose lower safety risks from preparation in a home or otherwise unlicensed kitchen.

HB25-1190 would expand the Colorado Cottage Foods Act to allow for the sale of refrigerated foods including products like soups, sauces, dairy products, meats, poultry and fish that require additional careful controls during preparation, storage and transportation to remain safe for consumers. This change poses very serious business and food safety concerns.

Because cottage foods businesses do not require inspection, we are very concerned that foodborne illness risks, especially for vulnerable populations, will increase due to lack of adequate and properly functioning refrigeration equipment and lack of monitoring of temperatures during production, storage and transportation of these products. There are scientific and sound reasons that these foods must be prepared in licensed commercial kitchens — and the change could unfairly impact restaurants, grocery stores and other types of regulated food production facilities. Expanding this law to include refrigerated food disincentivizes and devalues the high standards and effort expected of Colorado's licensed retail food establishments. Licensed retail food establishments are held to high standards to ensure that the food they prepare is safe for consumers. Retail food licensing requires inspection of the facilities where food is prepared, establishes routine use of controls and safety measures to ensure that food remains free of contamination and harmful bacteria, and establishes rigorous food safety training of managers and kitchen staff.

Foodborne illness outbreaks are costly to respond to for both businesses and public health agencies. They divert already limited local public health resources away from other community health priorities and can have devastating health and economic consequences including serious illnesses, death, loss of business, and reduced worker productivity from illness. HB25-1190 fiscal note likely underestimates the number of additional foodborne illness outbreaks that will occur from this industry on an annual basis. Furthermore, the bill's fiscal note assumes an extra 0.6 FTE for CDPHE beginning in FY2025-26 for this increased workload, along with \$20,000 annually for equipment and testing costs but does not address or provide for additional needed resources for local public health agencies that would bear at least part of the burden of on-the-ground response for community outbreaks.

HB25-1190 makes foods less safe for consumers and creates an uneven playing field for businesses. We would enjoy the opportunity to be a partner in finding ways to reduce barriers to a retail food license for small businesses while maintaining high standards for consumer safety. However, we are deeply concerned by the proposed expansion of the Cottage Foods Act to refrigerated products and ask that you oppose this bill.

Sincerely,

James A Rada, REHS  
Environmental Health Services Division Director  
Jefferson County Public Health