

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-0149.01 Yelana Love x2295

SENATE BILL 16-058

SENATE SPONSORSHIP

Hill,

HOUSE SPONSORSHIP

Becker K.,

Senate Committees
Business, Labor, & Technology
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE REGULATION OF CERTAIN FOODS, AND, IN**
102 **CONNECTION THEREWITH, EXEMPTING CERTAIN FOOD**
103 **PRODUCERS FROM LICENSURE, INSPECTION, AND OTHER**
104 **REGULATION, AND MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Section 1 of the bill exempts certain food producers from licensure, inspection, and other regulation for transactions that:

! Occur directly between the producer and an informed end

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

- consumer;
- ! Occur only in Colorado; and
- ! Do not involve interstate commerce.

An informed end consumer assumes the risks inherent in the purchase, use, or ingestion of the food or food products purchased under this exemption and is legally responsible for all damage, injury, or death that may result from those inherent risks. The bill preserves negligence actions that are not based on these inherent risks.

Section 2 of the bill exempts certain producers from the requirements of the "Colorado Cottage Foods Act".

Section 3 of the bill creates 2 exemptions from federal inspection for producers who slaughter no more than 20,000 poultry per calendar year. The department of agriculture must license and inspect producers operating under this exemption. The bill requires the department of agriculture to develop rules pertaining to producers who slaughter more than 1,000 but not more than 20,000 poultry and sell to grocery stores.

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

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

5 **25-4-1614. Home kitchens - exemption - food inspection - short**
6 **title - definitions - rules.** (1) This section shall be known and may be
7 cited as the "Colorado Cottage Foods Act". THE PURPOSES OF THIS
8 SECTION ARE TO ALLOW FOR THE SALE AND CONSUMPTION OF HOMEMADE
9 FOODS AND TO ENCOURAGE THE EXPANSION OF AGRICULTURAL SALES BY
10 FARMERS' MARKETS, FARMS, AND HOME-BASED PRODUCERS AND
11 ACCESSIBILITY OF THESE RESOURCES TO INFORMED END CONSUMERS BY:
12 (a) FACILITATING THE PURCHASE AND CONSUMPTION OF FRESH
13 AND LOCAL AGRICULTURAL PRODUCTS;
14 (b) ENHANCING THE AGRICULTURAL ECONOMY; AND
15 (c) PROVIDING COLORADO CITIZENS WITH UNIMPEDED ACCESS TO
16 HEALTHY FOOD FROM KNOWN SOURCES.

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

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

9 (A) Tier one foods are limited to INCLUDE PICKLED VEGETABLES,
10 spices, teas, dehydrated produce, nuts, seeds, honey, jams, jellies,
11 preserves, fruit butter, flour, and baked goods, including candies, fruit
12 empanadas, and tortillas, and OTHER NONPOTENTIALLY HAZARDOUS
13 FOODS;

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

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

20 (c) A producer must IS ENCOURAGED TO take a food safety course
21 that includes basic food handling training. and is comparable to, or is a
22 course given by, the Colorado state university extension service or a state,
23 county, or district public health agency, and must maintain a status of
24 good standing in accordance with the course requirements, including
25 attending any additional classes if necessary.

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

27 (I) to ultimate consumers and not to grocery stores or restaurants;

1 and BE DELIVERED DIRECTLY FROM A PRODUCER TO AN INFORMED END
2 CONSUMER;

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

7 (III) NOT INVOLVE INTERSTATE COMMERCE.

8 (e) This section applies only to producers who earn net revenues
9 of ten thousand dollars or less per calendar year from the sale of each
10 eligible food product produced in the producer's home kitchen or a
11 commercial, private, or public kitchen.

12 (9) As used in this section:

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

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

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

23 (10) The state board of health shall promulgate rules, including
24 enforcement provisions, necessary to provide for the production and sale
25 of tier two foods.

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

1 **35-33-103. Definitions.** As used in this article, unless the context
2 otherwise requires:

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

6 (8.5) "POULTRY" MEANS ANY DOMESTICATED BIRD, INCLUDING
7 CHICKENS, TURKEYS, DUCKS, GEESE, GUINEAS, OR SQUABS, WHETHER LIVE
8 OR DEAD.

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

14 **SECTION 3. In Colorado Revised Statutes, 35-33-104, amend**

15 **(1) as follows:**

16 **35-33-104. Commissioner of agriculture - powers and duties.**

17 (1) The commissioner is hereby authorized to formulate reasonable rules
18 and standards of construction, LABELING, operation, record keeping, and
19 sanitation for all custom processing facilities and shall establish rules and
20 standards pertaining to containers, packaging materials, mobile slaughter
21 units, slaughter rooms, processing rooms, chill rooms, storage and locker
22 rooms, sharp freezing facilities, and premises of custom processing
23 facilities, with respect to the service of slaughtering, cutting, preparing,
24 wrapping, and packaging meat and meat products necessary for the proper
25 preservation of food.

26 **SECTION 4. In Colorado Revised Statutes, 35-33-107, add (6)**

27 **as follows:**

1 **35-33-107. Exemptions.** (6) A PRODUCER WHO RAISES AND
2 SLAUGHTERS NO MORE THAN ONE THOUSAND POULTRY DURING EACH
3 CALENDAR YEAR IS EXEMPT FROM THE PROVISIONS OF THIS ARTICLE OTHER
4 THAN THE RECORD KEEPING REQUIREMENT IN SECTION 35-33-202 AND THE
5 LABELING REQUIREMENTS IN SECTION 35-33-301 IF:

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

9 (b) THE POULTRY DO NOT MOVE IN INTERSTATE COMMERCE;
10 (c) THE POULTRY ARE PROPERLY LABELED; AND
11 (d) THE POULTRY ARE HEALTHY WHEN SLAUGHTERED AND THE
12 SLAUGHTER AND PROCESSING ARE CONDUCTED UNDER SANITARY
13 STANDARDS, PRACTICES, AND PROCEDURES THAT PRODUCE POULTRY
14 PRODUCTS THAT ARE SOUND, CLEAN, AND FIT FOR USE AS HUMAN FOOD
15 WHEN DISTRIBUTED BY THE PRODUCER.

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

18 **35-33-201. Processing facilities - operation - rules.** (1) Each
19 custom processing facility licensed under this article must be operated
20 and maintained in a manner sufficient to prevent the creation of
21 unsanitary conditions and to ensure that meat or meat products are not
22 adulterated.

23 (10) All meat and meat products, EXCEPT POULTRY, resulting from
24 the custom processing or slaughter of uninspected animals;

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

27 **SECTION 6.** In Colorado Revised Statutes, 35-33-202, amend

1 (1) (a) introductory portion as follows:

2 **35-33-202. Record-keeping requirements.** (1)(a) Every custom
3 processor shall maintain records of each customer transaction, including,
4 at a minimum:

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

7 **35-33-203. Slaughter methods.** (1) No custom A processor shall
8 NOT shackle, hoist, or otherwise bring animals into position for slaughter,
9 or shall slaughter or bleed animals, except by humane methods.

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

12 **35-33-206. License required - application - inspection -**
13 issuance. (1.5) ANY PERSON WHO DESIRES TO SLAUGHTER AND PROCESS
14 MORE THAN ONE THOUSAND, BUT FEWER THAN TWENTY THOUSAND,
15 POULTRY SHALL FIRST OBTAIN A LICENSE FROM THE DEPARTMENT. A
16 SEPARATE LICENSE IS REQUIRED FOR EACH POULTRY PROCESSING FACILITY.
17 THE APPLICATION MUST BE IN WRITING ON FORMS SUPPLIED BY THE
18 DEPARTMENT, SETTING FORTH ANY INFORMATION REQUIRED BY THE
19 DEPARTMENT, AND MUST BE ACCCOMPANIED BY ALL REQUIRED FEES.

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

22 **35-33-301. Sale of poultry - labeling - rules.** (1) A POULTRY
23 PRODUCER LICENSED OR EXEMPTED UNDER THIS ARTICLE MAY SELL
24 POULTRY TO INDIVIDUALS.

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

1 (3) (a) THE COMMISSIONER OR HIS OR HER DESIGNEE SHALL
2 CONVENE A STAKEHOLDER GROUP, INCLUDING REPRESENTATIVES FROM
3 THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT,
4 RETAIL FOOD ESTABLISHMENTS, LIABILITY INSURANCE COMPANIES,
5 POULTRY FARMERS, POULTRY SUPPLIERS, PROCESSORS OPERATING UNDER
6 THIS ARTICLE, AND ANY OTHER INTERESTED PARTY.

7 (b) THE DEPARTMENT SHALL KEEP AND MAINTAIN A LIST OF
8 STAKEHOLDERS.

9 (c) THE DEPARTMENT SHALL CONVENE THE FIRST MEETING WITH
10 THE STAKEHOLDERS NO LATER THAN JULY 1, 2016, AND AS NEEDED
11 THEREAFTER.

12 (d) THE DEPARTMENT SHALL MEET WITH THE STAKEHOLDERS TO
13 DEVELOP A REGULATORY FRAMEWORK FOR THE PROCESSING OF POULTRY
14 THAT IS SOLD TO RETAIL FOOD ESTABLISHMENTS, AS DEFINED IN SECTION
15 25-4-1602 (14), C.R.S.

16 (e) ON OR BEFORE NOVEMBER 30, 2016, THE COMMISSIONER OR
17 HIS OR HER DESIGNEE SHALL PREPARE A REPORT OF THE FINDINGS AND
18 CONCLUSIONS OF THE STUDY AND SHALL PRESENT THE REPORT TO ALL
19 STAKEHOLDERS AND OTHERS UPON REQUEST.

20 **SECTION 10. Appropriation.** (1) For the 2016-17 state fiscal
21 year, \$3,800 is appropriated to the department of agriculture. This
22 appropriation is from the inspection and consumer services cash fund
23 created in section 35-1-106.5 (1), C.R.S. To implement this act, the
24 department may use this appropriation for the purchase of legal services.

25 (2) For the 2016-17 state fiscal year, \$3,800 is appropriated to the
26 department of law. This appropriation is from reappropriated funds
27 received from the department of agriculture under subsection (1) of this

1 section. To implement this act, the department of law may use this
2 appropriation to provide legal services for the department of agriculture.

3 **SECTION 11. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, and safety.