

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 16-0260.01 Yelana Love x2295

HOUSE BILL 16-1401

HOUSE SPONSORSHIP

Becker K. and Priola,

SENATE SPONSORSHIP

Woods and Hodge,

House Committees
Business Affairs and Labor

Senate Committees
Business, Labor, & Technology

A BILL FOR AN ACT

101 CONCERNING THE REGULATION OF RETAIL FOOD ESTABLISHMENTS.

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 2 of the bill increases annual license fees for retail food establishments, phasing in the increase over the next 3 years, at minimum; creates a new fee category for retail food establishments that sell a limited range of specified foods; and limits the annual license fee exemption to certain specified entities. Section 2 also prohibits a county from spending the increased revenue from the fee increase on anything other than retail food health-related activities.

Section 3 of the bill requires the department of public health and

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.

SENATE
Amended 2nd Reading
April 27, 2016

HOUSE
3rd Reading Unamended
April 8, 2016

HOUSE
2nd Reading Unamended
April 7, 2016

environment (CDPHE) to create a uniform system to communicate health inspection results to the public and sets limitations on the development of the uniform system.

Section 4 requires CDPHE to attain certain targets, including significant statewide compliance with the federal food and drug administration's voluntary national retail food regulatory program standards. To reach these targets, the bill requires CDPHE to audit certain local public health agencies and requires local public health agencies to audit CDPHE in certain situations.

Section 5 decreases the maximum period of suspension of a license or certificate of license from 6 months to one month, except in cases of closure due to an imminent health hazard. Section 5 also permits CDPHE and a county or district board of health to issue a cease-and-desist order if a person or licensee has been issued a civil penalty and remains in noncompliance.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25-4-1606, **amend**
3 (2) and (2.5) as follows:

4 **25-4-1606. Licensure - exception.** (2) Before granting any
5 license or certificate of license, the department or a county or district
6 board of health may ~~visit and inspect~~ CONDUCT AN INSPECTION OF the
7 retail food establishment ~~or property on which the applicant conducts or~~
8 ~~proposes to conduct business to assess whether the establishment can~~
9 ~~operate in accordance~~ TO DETERMINE COMPLIANCE with the rules
10 promulgated by the department. ~~to provide a safe food product.~~ If ~~an~~ THE
11 applicant ~~complies with the requirements of this subsection (2) and~~
12 APPEARS TO BE IN COMPLIANCE WITH the rules ~~promulgated pursuant to~~
13 AND WITH THE APPLICABLE PROVISIONS OF this part 16, the department or
14 a county or district board of health shall approve the application for a
15 license or certificate of license.

16 (2.5) If a critical violation OR A NONCRITICAL VIOLATION THAT IS
17 SIGNIFICANT IN NATURE is documented during ~~an~~ A PREOPERATIONAL

1 inspection, and the retail food establishment is unable to correct the
2 violation while the inspector is on site, follow-up activities shall be
3 conducted ~~If the retail food establishment is able to correct the critical~~
4 ~~violation during the inspection, the critical violation and the resolution~~
5 ~~demonstrating compliance shall be documented on the inspection report~~
6 ~~form, with no follow-up inspection required. If more than one follow-up~~
7 ~~inspection is needed to correct the same critical violation at any type of~~
8 ~~retail food establishment, the department or a county or district board of~~
9 ~~health may pursue the civil penalty process outlined in section 25-4-1611~~
10 ~~for correction and to recover any associated costs.~~ FOR THE PURPOSE OF
11 GRANTING A LICENSE OR CERTIFICATE OF LICENSE.

12 **SECTION 2.** In Colorado Revised Statutes, 25-4-1607, **amend**
13 (1) and (9) (a); and **add** (1.5), (13), and (14) as follows:

14 **25-4-1607. Fees - repeal.** (1) EXCEPT AS PROVIDED IN
15 SUBSECTION (14) OF THIS SECTION AND PARAGRAPH (d.5) OF THIS
16 SUBSECTION (1). EFFECTIVE JANUARY 1 OF THE YEAR FOLLOWING THE
17 INCREASES SPECIFIED IN PARAGRAPH (a) OF SUBSECTION (1.5) OF THIS
18 SECTION, each retail food establishment in this state shall be assessed an
19 annual license fee ~~in accordance with the following provisions~~ AS
20 FOLLOWS:

21 (a) A retail food establishment preparing or serving food in
22 individual portions for immediate on- or off-premises consumption shall
23 be assessed an annual fee based on the following schedule:

24	Seating Capacity	Fee
25	0 to 100	\$255 \$385
26	101 to 200	285 430
27	Over 200	310 465

1 (a.5) A RETAIL FOOD ESTABLISHMENT LIMITED TO PREPARING OR
2 SERVING FOOD THAT DOES NOT REQUIRE TIME OR TEMPERATURE CONTROL
3 FOR SAFETY, PROVIDING SELF-SERVICE BEVERAGES, OFFERING
4 PREPACKAGED COMMERCIALY PREPARED FOOD AND BEVERAGES
5 REQUIRING TIME OR TEMPERATURE CONTROL, OR ONLY REHEATING
6 COMMERCIALY PREPARED FOODS THAT REQUIRE TIME OR TEMPERATURE
7 CONTROL FOR SAFETY FOR RETAIL SALE TO CONSUMERS SHALL BE
8 ASSESSED AN ANNUAL FEE OF TWO HUNDRED SEVENTY DOLLARS.

9 (b) A retail food establishment ONLY offering PREPACKAGED
10 COMMERCIALY PREPARED food AND BEVERAGES, INCLUDING THOSE THAT
11 ARE REQUIRED TO BE HELD AT REFRIGERATED OR FROZEN TIME OR
12 TEMPERATURE CONTROL FOR SAFETY for retail sale to consumers for
13 off-premises consumption, shall be assessed an annual fee based on the
14 following schedule:

15	Square Footage	Fee
16	Less than 3,500 15,001	\$115 \$195
17	3,501 to OVER 15,000	180 353
18	15,001 to 25,000	200
19	25,001 to 45,000	235
20	45,001 to 65,000	290
21	65,001 to 85,000	415
22	over 85,000	500

23 (c) A retail food establishment offering food for retail sale to
24 consumers for off-premises consumption and preparing or serving food
25 in individual portions for immediate consumption either on- or
26 off-premises shall be assessed an annual fee based on the following
27 schedule:

1	Square Footage	Fee
2	Less than 3,500 15,001	\$207 \$375
3	3,501 to OVER 15,000	338 715
4	15,001 to 25,000	360
5	25,001 to 45,000	395
6	45,001 to 65,000	450
7	65,001 to 85,000	575
8	OVER 85,000	690

9 (c.5) (F) A retail food establishment offering food at a temporary
10 living quarter for workers associated with oil and gas shall be assessed an
11 ~~initial licensing~~ ANNUAL fee ~~based on the following schedule:~~ OF EIGHT
12 HUNDRED FIFTY-FIVE DOLLARS.

13	Seating Capacity	Initial License Fee
14	0-50	\$750
15	Over 50	1,250

16 (H) ~~Any future annual license fee or a change in location within~~
17 ~~the calendar year of the same retail food establishment offering food at a~~
18 ~~temporary living quarter for workers associated with oil and gas shall be~~
19 ~~assessed a renewal fee based on the following schedule:~~

20	Seating Capacity	Renewal License Fee
21	0-50	\$275
22	Over 50	500

23 (d) A retail food establishment ~~shall be~~ IS subject to only one of
24 the fees established in this subsection (1); EXCEPT THAT EFFECTIVE
25 SEPTEMBER 1, 2016, THE LICENSE FEES ESTABLISHED FOR RETAIL FOOD
26 ESTABLISHMENTS AT A SPECIAL EVENT, AS DEFINED IN SECTION 25-4-1602
27 (16), MUST BE ESTABLISHED BY THE COUNTY OR DISTRICT PUBLIC HEALTH

1 AGENCY.

2 (d.5) THE FEES ESTABLISHED IN THIS SUBSECTION (1) ARE
3 EFFECTIVE SEPTEMBER 1, 2018, FOR ANY NEW RETAIL FOOD
4 ESTABLISHMENT THAT WAS NOT LICENSED AND IN OPERATION PRIOR TO
5 THAT DATE.

6 (e) (I) Retail food establishment license fees shall be established
7 pursuant to this subsection (1); except that the city and county of Denver
8 may establish such fees by ordinance.

9 (II) Notwithstanding subparagraph (I) of this paragraph (e), the
10 fees established in this subsection (1) or by ordinance of the city and
11 county of Denver shall be the only annual license fees charged by the
12 state or any county, district, local, or regional inspection authority and
13 shall cover all inspections of a retail food establishment pursuant to this
14 subsection (1) throughout an annual license period.

15 (1.5) (a) EXCEPT AS PROVIDED IN SUBPARAGRAPH (VI) OF THIS
16 PARAGRAPH (a) AND SUBSECTION (14) OF THIS SECTION, EFFECTIVE
17 JANUARY 1, 2018, TO DECEMBER 31, 2018, EACH RETAIL FOOD
18 ESTABLISHMENT IN THIS STATE SHALL BE ASSESSED AN ANNUAL LICENSE
19 FEE AS FOLLOWS:

20 (I) A RETAIL FOOD ESTABLISHMENT PREPARING OR SERVING FOOD
21 IN INDIVIDUAL PORTIONS FOR IMMEDIATE ON- OR OFF-PREMISES
22 CONSUMPTION SHALL BE ASSESSED AN ANNUAL FEE BASED ON THE
23 FOLLOWING SCHEDULE:

24 SEATING CAPACITY	FEE
25 0 TO 100	\$360
26 101 TO 200	400
27 OVER 200	435

1 (II) A RETAIL FOOD ESTABLISHMENT PREPARING OR SERVING FOOD
2 THAT DOES NOT REQUIRE TIME OR TEMPERATURE CONTROL FOR SAFETY,
3 PROVIDING SELF-SERVICE BEVERAGES, OFFERING PREPACKAGED
4 COMMERCIALY PREPARED FOOD AND BEVERAGES REQUIRING TIME OR
5 TEMPERATURE CONTROL OR ONLY REHEATING COMMERCIALY PREPARED
6 FOODS THAT REQUIRE TIME OR TEMPERATURE CONTROL FOR SAFETY FOR
7 RETAIL SALE TO CONSUMERS SHALL BE ASSESSED AN ANNUAL FEE OF TWO
8 HUNDRED FIFTY-THREE DOLLARS.

9 (III) A RETAIL FOOD ESTABLISHMENT ONLY OFFERING
10 PREPACKAGED COMMERCIALY PREPARED FOOD AND BEVERAGES,
11 INCLUDING THOSE THAT ARE REQUIRED TO BE HELD AT REFRIGERATED OR
12 FROZEN TIME OR TEMPERATURE CONTROL FOR SAFETY FOR RETAIL SALE TO
13 CONSUMERS FOR OFF-PREMISES CONSUMPTION, SHALL BE ASSESSED AN
14 ANNUAL FEE BASED ON THE FOLLOWING SCHEDULE:

15	SQUARE FOOTAGE	FEE
16	LESS THAN 15,001	\$183
17	OVER 15,000	330

18 (IV) A RETAIL FOOD ESTABLISHMENT OFFERING FOOD FOR RETAIL
19 SALE TO CONSUMERS FOR OFF-PREMISES CONSUMPTION AND PREPARING OR
20 SERVING FOOD IN INDIVIDUAL PORTIONS FOR IMMEDIATE CONSUMPTION
21 EITHER ON- OR OFF-PREMISES SHALL BE ASSESSED AN ANNUAL FEE BASED
22 ON THE FOLLOWING SCHEDULE:

23	SQUARE FOOTAGE	FEE
24	LESS THAN 15,001	\$350
25	OVER 15,000	665

26 (V) A RETAIL FOOD ESTABLISHMENT OFFERING FOOD AT A
27 TEMPORARY LIVING QUARTER FOR WORKERS ASSOCIATED WITH OIL AND

1 GAS SHALL BE ASSESSED AN ANNUAL FEE OF EIGHT HUNDRED DOLLARS.

2 (VI) THE FEES ESTABLISHED IN THIS SUBSECTION (1.5) ARE
3 EFFECTIVE SEPTEMBER 1, 2017, FOR ANY NEW RETAIL FOOD
4 ESTABLISHMENT THAT WAS NOT LICENSED AND IN OPERATION PRIOR TO
5 THAT DATE.

6 (b) EXCEPT AS PROVIDED IN SUBPARAGRAPH (VI) OF THIS
7 PARAGRAPH (b), EFFECTIVE JANUARY 1, 2017, TO DECEMBER 31, 2017,
8 EACH RETAIL FOOD ESTABLISHMENT IN THIS STATE SHALL BE ASSESSED AN
9 ANNUAL LICENSE FEE AS FOLLOWS:

10 (I) A RETAIL FOOD ESTABLISHMENT PREPARING OR SERVING FOOD
11 IN INDIVIDUAL PORTIONS FOR IMMEDIATE ON- OR OFF-PREMISES
12 CONSUMPTION SHALL BE ASSESSED AN ANNUAL FEE BASED ON THE
13 FOLLOWING SCHEDULE:

14 SEATING CAPACITY	FEE
15 0 TO 100	\$330
16 101 TO 200	370
17 OVER 200	405

18 (II) A RETAIL FOOD ESTABLISHMENT LIMITED TO PREPARING OR
19 SERVING FOOD THAT DOES NOT REQUIRE TIME OR TEMPERATURE CONTROL
20 FOR SAFETY, PROVIDING SELF-SERVICE BEVERAGES, OFFERING
21 PREPACKAGED COMMERCIALY PREPARED FOOD AND BEVERAGES
22 REQUIRING TIME OR TEMPERATURE CONTROL OR ONLY REHEATING
23 COMMERCIALY PREPARED FOODS THAT REQUIRE TIME OR TEMPERATURE
24 CONTROL FOR SAFETY FOR RETAIL SALE TO CONSUMERS SHALL BE
25 ASSESSED AN ANNUAL FEE OF TWO HUNDRED THIRTY-FIVE DOLLARS.

26 (III) A RETAIL FOOD ESTABLISHMENT ONLY OFFERING
27 PREPACKAGED COMMERCIALY PREPARED FOOD AND BEVERAGES,

1 INCLUDING THOSE THAT ARE REQUIRED TO BE HELD AT REFRIGERATED OR
2 FROZEN TIME OR TEMPERATURE CONTROL FOR SAFETY FOR RETAIL SALE TO
3 CONSUMERS FOR OFF-PREMISES CONSUMPTION, SHALL BE ASSESSED AN
4 ANNUAL FEE BASED ON THE FOLLOWING SCHEDULE:

5	SQUARE FOOTAGE	FEE
6	LESS THAN 15,001	\$170
7	OVER 15,000	305

8 (IV) A RETAIL FOOD ESTABLISHMENT OFFERING FOOD FOR RETAIL
9 SALE TO CONSUMERS FOR OFF-PREMISES CONSUMPTION AND PREPARING OR
10 SERVING FOOD IN INDIVIDUAL PORTIONS FOR IMMEDIATE CONSUMPTION
11 EITHER ON- OR OFF-PREMISES SHALL BE ASSESSED AN ANNUAL FEE BASED
12 ON THE FOLLOWING SCHEDULE:

13	SQUARE FOOTAGE	FEE
14	LESS THAN 15,001	\$325
15	OVER 15,000	620

16 (V) A RETAIL FOOD ESTABLISHMENT OFFERING FOOD AT A
17 TEMPORARY LIVING QUARTER FOR WORKERS ASSOCIATED WITH OIL AND
18 GAS SHALL BE ASSESSED AN ANNUAL FEE OF SEVEN HUNDRED FORTY
19 DOLLARS.

20 (VI) THE FEES ESTABLISHED IN THIS SUBSECTION (1.5) ARE
21 EFFECTIVE SEPTEMBER 1, 2016, FOR ANY NEW RETAIL FOOD
22 ESTABLISHMENT THAT WAS NOT LICENSED AND IN OPERATION PRIOR TO
23 THAT DATE. THIS SUBPARAGRAPH (VI) IS REPEALED, EFFECTIVE JANUARY
24 1, 2017.

25 (c) A RETAIL FOOD ESTABLISHMENT IS SUBJECT TO ONLY ONE OF
26 THE FEES ESTABLISHED IN THIS SUBSECTION (1.5) PER YEAR.

27 (d) RETAIL FOOD ESTABLISHMENT LICENSE FEES SHALL BE

1 ESTABLISHED PURSUANT TO THIS SUBSECTION (1.5); EXCEPT THAT THE
2 CITY AND COUNTY OF DENVER MAY ESTABLISH SUCH FEES BY ORDINANCE.

3 (9) (a) A certificate of license may be issued to and in the name
4 and address of any:

5 (I) ~~Parochial, public, or private school~~ PUBLIC OR NONPUBLIC
6 SCHOOL FOR STUDENTS IN KINDERGARTEN THROUGH TWELFTH GRADE OR
7 ANY PORTION THEREOF;

8 (II) Penal institution;

9 (III) ~~Charitable organization and benevolent, nonprofit retail food~~
10 ~~establishment conducted for the purpose of assisting elderly,~~
11 ~~incapacitated, or disadvantaged persons~~ NONPROFIT ORGANIZATION THAT
12 PROVIDES FOOD SOLELY TO PEOPLE WHO ARE FOOD INSECURE, INCLUDING,
13 BUT NOT LIMITED TO, A SOUP KITCHEN, FOOD PANTRY, OR HOME DELIVERY
14 SERVICE; and

15 (IV) LOCAL GOVERNMENT ENTITY OR nonprofit ~~or charitable~~
16 organization that donates, prepares, OR sells ~~or serves food in conjunction~~
17 ~~with an event or celebration if such donation, preparation, sale, or service~~
18 ~~of food~~: AT A SPECIAL EVENT, INCLUDING, BUT NOT LIMITED TO, A SCHOOL
19 SPORTING EVENT, FIREFIGHTERS' PICNIC, OR CHURCH SUPPER, THAT TAKES
20 PLACE IN THE COUNTY IN WHICH THE LOCAL GOVERNMENT ENTITY OR
21 NONPROFIT ORGANIZATION RESIDES OR IS PRINCIPALLY LOCATED.

22 ~~(A) Does not exceed the duration of the event or celebration or~~
23 ~~a maximum of fifty-two days within a calendar year; and~~

24 ~~(B) Takes place in the county in which such nonprofit or~~
25 ~~charitable organization resides or is principally located.~~

26 (13) **Legislative declaration - disposition of fee revenue.**

27 (a) THE GENERAL ASSEMBLY DOES NOT INTEND FOR THE FEES PAID BY

1 RETAIL FOOD ESTABLISHMENTS AS OUTLINED IN SUBSECTIONS (1) AND
2 (1.5) OF THIS SECTION TO SUBSIDIZE INSPECTION OR OTHER COSTS
3 ASSOCIATED WITH ENTITIES EXEMPT FROM FEES UNDER PARAGRAPH (a) OF
4 SUBSECTION (9) OF THIS SECTION.

5 (b) COUNTIES MAY ONLY SPEND THE INCREASED REVENUE FROM
6 THE INCREASE OF RETAIL FOOD ESTABLISHMENT FEES ON RETAIL FOOD
7 HEALTH-RELATED ACTIVITIES. SUPPLANTING FUNDS FOR OTHER COUNTY
8 PROGRAMS IS PROHIBITED.

9 (14) (a) THE FEE INCREASE IN SUBSECTION (1.5) OF THIS SECTION
10 DOES NOT TAKE EFFECT UNTIL THE DEPARTMENT AND ALL LOCAL PUBLIC
11 HEALTH AGENCIES CONTRACTED BY THE DEPARTMENT TO PERFORM
12 INSPECTIONS AND ENFORCE REGULATIONS REGARDING RETAIL FOOD
13 ESTABLISHMENTS PROVE COMPLIANCE WITH SECTION 25-4-1607.7 (2). IF
14 THE DEPARTMENT AND ALL LOCAL PUBLIC HEALTH AGENCIES ARE NOT IN
15 COMPLIANCE ON JANUARY 1, 2018, THE INCREASE DOES NOT TAKE EFFECT
16 UNTIL JANUARY 1 IN THE YEAR FOLLOWING PROVEN COMPLIANCE.

17 (b) THE FEE INCREASE IN SUBSECTION (1) OF THIS SECTION DOES
18 NOT TAKE EFFECT UNTIL THE DEPARTMENT PROVES COMPLIANCE WITH
19 SECTION 25-4-1607.9 (1). IF THE DEPARTMENT IS NOT IN COMPLIANCE ON
20 JANUARY 1 FOLLOWING THE FEE INCREASE SPECIFIED IN SUBSECTION (1.5)
21 OF THIS SECTION, THE INCREASE IN SUBSECTION (1) DOES NOT TAKE EFFECT
22 UNTIL JANUARY 1 IN THE YEAR FOLLOWING PROVEN COMPLIANCE.

23 (c) THE DIRECTOR OF THE DEPARTMENT SHALL NOTIFY THE
24 REVISOR OF STATUTES, IN WRITING, WHEN THE CONDITIONS SPECIFIED IN
25 PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (14) HAVE BEEN SATISFIED.

26 **SECTION 3.** In Colorado Revised Statutes, **add** 25-4-1607.7 as
27 follows:

1 **25-4-1607.7. Health inspection results - development of a**
2 **uniform system - communication to the public.** (1) ON OR BEFORE
3 JANUARY 1, 2017, THE DEPARTMENT SHALL SOLICIT INPUT FROM RETAIL
4 FOOD ESTABLISHMENTS, CONTRACTED LOCAL PUBLIC HEALTH AGENCIES,
5 COUNTY COMMISSIONERS, AND OTHERS WITH A VESTED INTEREST IN THE
6 RETAIL FOOD INSPECTION PROGRAM TO ESTABLISH A UNIFORM SYSTEM TO
7 COMMUNICATE HEALTH INSPECTION RESULTS TO THE PUBLIC. THE
8 UNIFORM SYSTEM ESTABLISHED PURSUANT TO THIS SECTION MUST
9 PROVIDE MEANINGFUL AND REASONABLY DETAILED INFORMATION TO THE
10 PUBLIC AND MUST NOT SUMMARIZE THE RESULTS OF THE INSPECTION WITH
11 A LETTER, NUMBER, OR SYMBOL GRADING SYSTEM, OR A SIMILAR,
12 OVERSIMPLIFIED METHOD OF QUANTIFYING RESULTS.

13 (2) AFTER JULY 1, 2017, THE DEPARTMENT OR A LOCAL PUBLIC
14 HEALTH AGENCIES CONTRACTED BY THE DEPARTMENT TO PERFORM
15 INSPECTIONS AND ENFORCE REGULATIONS REGARDING RETAIL FOOD
16 ESTABLISHMENTS SHALL ONLY UTILIZE THE SYSTEM DEVELOPED AND
17 APPROVED BY THE DEPARTMENT TO COMMUNICATE INSPECTION RESULTS.

18 **SECTION 4.** In Colorado Revised Statutes, **add 25-4-1607.9** as
19 follows:

20 **25-4-1607.9. Department targets - audits - reporting.** (1) ON
21 OR BEFORE APRIL 1, 2017, THE DEPARTMENT SHALL RESPOND TO ALL
22 PLANS AND SPECIFICATIONS AND HACCP PLAN REVIEWS WITHIN
23 FOURTEEN WORKING DAYS AFTER RECEIPT, AS REQUIRED BY SECTION
24 25-4-1605 (4).

25 (2) ON OR BEFORE DECEMBER 31, 2019, THE DEPARTMENT SHALL
26 ENSURE SIGNIFICANT STATEWIDE COMPLIANCE WITH THE FEDERAL FOOD
27 AND DRUG ADMINISTRATION'S VOLUNTARY NATIONAL RETAIL FOOD

1 REGULATORY PROGRAM STANDARDS BY VERIFYING THAT:

2 (a) AT LEAST SEVENTY PERCENT OF COLORADO'S RETAIL FOOD
3 PROGRAM STAFF MEET THE NATIONAL CRITERIA FOR APPROPRIATE
4 TRAINING AND EDUCATION TO ADEQUATELY PERFORM REQUIRED
5 INSPECTIONS; AND

6 (b) AT LEAST SEVENTY PERCENT OF COLORADO'S RETAIL FOOD
7 PROGRAM STAFF MEET THE NATIONAL CRITERIA REGARDING THE FOCUS OF
8 INSPECTIONS ON CRITICAL ITEM RISK FACTORS, THE CORRECTION OF
9 DOCUMENTED DEFICIENCIES, AND THE FOCUS OF INSPECTIONS ON THE
10 HIGHEST-RISK ESTABLISHMENTS.

11 (3) TO VERIFY COMPLIANCE WITH THIS SECTION:

12 (a) THE DEPARTMENT SHALL AUDIT ANY LOCAL PUBLIC HEALTH
13 AGENCY THAT CONDUCTS INSPECTIONS WITHIN ITS JURISDICTION; AND

14 (b) LOCAL PUBLIC HEALTH AGENCIES SHALL AUDIT THE
15 DEPARTMENT REGARDING THE JURISDICTIONS WHERE THE DEPARTMENT
16 CONDUCTS INSPECTIONS.

17 (4) THE RESULTS OF THE AUDITS CONDUCTED PURSUANT TO
18 SUBSECTION (3) OF THIS SECTION MUST BE DOCUMENTED AND REPORTED
19 DURING EACH STAKEHOLDER PROCESS HELD PURSUANT TO SECTION
20 25-4-1607.5.

21 **SECTION 5.** In Colorado Revised Statutes, 25-4-1609, **amend**
22 (1) and (2); and **add** (2.5) as follows:

23 **25-4-1609. Disciplinary actions - closure - revocation -**
24 **suspension - review.** (1) The department or a county or district board of
25 health may, on its own motion or complaint and after an investigation and
26 hearing at which the licensee is afforded an opportunity to be heard,
27 suspend or revoke a license or certificate of license for any violation of

1 this part 16, any rule adopted pursuant to this part 16, or any of the terms,
2 conditions, or provisions of such license or certificate of license. A
3 written notice of suspension or revocation, as well as any required notice
4 of hearing, shall be sent TO THE LICENSEE by certified mail, ~~to the licensee~~
5 OR BY ONE OR MORE OTHER METHODS THAT ASSURE RECEIPT, at the
6 address contained in the license or certificate of license.

7 (2) Except in cases of closure due to an imminent health hazard,
8 proceedings for the revocation or suspension of a license or certificate of
9 license may not be commenced until after the imposition of the penalties
10 prescribed by section 25-4-1611. The maximum period of suspension is
11 ~~six months~~ ONE MONTH. When a license or certificate of license is
12 suspended or revoked, no part of the fees paid for a license may be
13 returned to the licensee.

14 (2.5) THE DEPARTMENT OR A COUNTY OR DISTRICT BOARD OF
15 HEALTH MAY ISSUE A CEASE-AND-DESIST ADMINISTRATIVE ORDER IF A
16 PERSON OR LICENSEE HAS BEEN ISSUED A CIVIL PENALTY IN ACCORDANCE
17 WITH SECTION 25-4-1611 (1) AND REMAINS IN NONCOMPLIANCE.

18 **SECTION 6. 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.