

CHAPTER 158

AGRICULTURE

SENATE BILL 16-058

BY SENATOR(S) Hill, Baumgardner, Cooke, Crowder, Donovan, Grantham, Holbert, Lambert, Lundberg, Marble, Martinez Humenik, Neville T., Roberts, Scheffel, Scott, Sonnenberg, Tate, Woods;
also REPRESENTATIVE(S) Becker K., Arndt, Conti, Duran, Fields, Ginal, Hamner, Kraft-Tharp, Lontine, Mitsch Bush, Pabon, Priola, Rosenthal, Salazar, Tyler, Van Winkle, Vigil, Williams, Winter, Hullinghorst.

AN ACT

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

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

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

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

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

(b) ENHANCING THE AGRICULTURAL ECONOMY; AND

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

(2) (a) A producer may use his or her home kitchen or a commercial, private, or public kitchen to produce foods for sale only if the producer sells the foods directly

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

to ~~ultimate~~ INFORMED END consumers.

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

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

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

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

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

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

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

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

(III) NOT INVOLVE INTERSTATE COMMERCE.

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

(9) As used in this section:

(a.5) "HOMEMADE" MEANS FOOD THAT IS PREPARED IN A PRIVATE HOME KITCHEN, OR A COMMERCIAL, PRIVATE, OR PUBLIC KITCHEN, WHEN THE KITCHEN IS NOT LICENSED, INSPECTED, OR REGULATED.

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

(c) "Producer" means a person who prepares nonpotentially hazardous foods in

a home kitchen or similar venue for sale directly to consumers pursuant to this section, AND INCLUDES THAT PERSON'S DESIGNATED REPRESENTATIVE. A producer may only be:

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

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

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

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

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

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

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

35-33-104. Commissioner of agriculture - powers and duties. (1) The commissioner is hereby authorized to formulate reasonable rules and standards of construction, LABELING, operation, record keeping, and sanitation for all ~~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 ~~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.

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

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

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

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

(c) THE POULTRY ARE PROPERLY LABELED; AND

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

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

35-33-201. Processing facilities - operation - rules. (1) Each ~~custom~~ processing facility licensed under this article 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) For the 2016-17 state fiscal year, \$3,800 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of agriculture under subsection (1) of this section. To implement this act, the department of law may use this appropriation to provide legal services for the department of agriculture.

SECTION 11. 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: May 4, 2016