

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.



HOUSE BILL 26-1033

BY REPRESENTATIVE(S) Gonzalez R. and Duran, Caldwell, Lindsay, Martinez, Mauro, Nguyen, Richardson, Ricks, Rutinel, Winter T., Barron, Mabrey, Phillips, Soper;
also SENATOR(S) Rodriguez and Pelton B., Ball, Benavidez, Bright, Carson, Cutter, Exum, Frizell, Gonzales J., Hinrichsen, Jodeh, Kipp, Kirkmeyer, Lindstedt, Liston, Marchman, Mullica, Pelton R., Snyder, Wallace, Coleman.

CONCERNING EXPANDING THE SCOPE OF THE "COLORADO COTTAGE FOODS ACT", AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. Short title. The short title of this act is the "Tamale Act".

SECTION 2. In Colorado Revised Statutes, 25-4-1614, **amend** (2)(a), (2)(b), (2)(c), (2)(e), (3)(a)(II), (3)(a)(IV), (4), (7), (8), (9)(b), and (9)(c) introductory portion; and **add** (3)(a)(VI) and (8.5) as follows:

25-4-1614. Home kitchens - exemption - food inspection - short title - applicability - definitions - rules.

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(2) (a) (I) A producer may use ~~his or her~~ THEIR home kitchen or a commercial, private, or public kitchen to produce NONPOTENTIALLY HAZARDOUS foods for sale ~~only if the producer sells the foods~~ directly to informed end consumers. THESE FOODS INCLUDE PICKLED FRUITS AND VEGETABLES, SPICES, TEAS, DEHYDRATED PRODUCE, NUTS, SEEDS, HONEY, JAMS, JELLIES, PRESERVES, FRUIT BUTTER, FLOUR, BAKED GOODS, CANDIES, FRUIT EMPANADAS, TORTILLAS, AND OTHER NONPOTENTIALLY HAZARDOUS FOODS.

(II) A PRODUCER MAY USE THEIR HOME KITCHEN TO PRODUCE AND SELL PACKAGED FOODS THAT REQUIRE TIME AND TEMPERATURE CONTROL FOR SAFETY, INCLUDING TAMALES, BURRITOS, AND TORTAS. A PRODUCER MAY SELL ONE TYPE OF FOOD PRODUCT THAT REQUIRES TIME AND TEMPERATURE CONTROL FOR SAFETY, WITH THE ABILITY TO OFFER UP TO FIVE VARIATIONS OF THAT ONE TYPE OF FOOD PRODUCT. THE PRODUCER MUST SPECIFY THE INDIVIDUAL FOOD PRODUCTS THAT REQUIRE TIME AND TEMPERATURE CONTROL FOR SAFETY AND PROVIDE A LIST OF SUCH FOOD PRODUCTS TO THE DEPARTMENT OR A COUNTY, DISTRICT, OR REGIONAL HEALTH AGENCY UPON REQUEST. A PRODUCER MAY CHANGE THE FOOD PRODUCTS THAT REQUIRE TIME AND TEMPERATURE CONTROL FOR SAFETY, AS LONG AS THE PRODUCER IS NOT SELLING MORE THAN FIVE VARIATIONS OF ONE FOOD PRODUCT THAT REQUIRES TIME AND TEMPERATURE CONTROL FOR SAFETY AT ANY GIVEN TIME. THE PRODUCER MUST PACKAGE FOOD PRODUCTS REQUIRING TIME AND TEMPERATURE CONTROL IN THE PRODUCER'S HOME KITCHEN OR A COMMERCIAL, PRIVATE, OR PUBLIC KITCHEN.

(III) 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.

(IV) THE FINAL FOOD PRODUCT SHALL NOT BE COOLED AND REHEATED BEFORE BEING SOLD.

(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 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.~~ THAT SELLS FOOD THAT REQUIRES TIME AND TEMPERATURE CONTROL FOR SAFETY SHALL ENSURE THAT ANY MEAT OR MEAT PRODUCT USED IN THE PRODUCTION OF FOOD UNDER THIS SECTION:

(A) HAS BEEN FEDERALLY INSPECTED AND BEARS THE MARK OF INSPECTION; OR

(B) SATISFIES AN EXEMPTION FROM INSPECTION, SUCH AS A FEDERAL OR STATE EXEMPTION FOR A POULTRY PRODUCER.

~~(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.~~ IF A FOOD PRODUCT REQUIRES TIME AND TEMPERATURE CONTROL FOR SAFETY, THE PRODUCER SHALL FOLLOW ALL COOKING, COOLING, AND HOLDING TEMPERATURES AS SPECIFIED IN RULES ADOPTED BY THE DEPARTMENT PURSUANT TO SECTION 25-4-1604 (1)(b) TO PROTECT FOOD SAFETY UNTIL THE TIME OF SALE.

(III) IF A PRODUCER TRANSPORTS A FOOD PRODUCT THAT REQUIRES TIME AND TEMPERATURE CONTROL FOR SAFETY BEFORE FINAL DELIVERY TO AN INFORMED END CONSUMER, THE PRODUCER SHALL MAINTAIN THE FOOD PRODUCT AT AN APPROPRIATE HOLDING TEMPERATURE TO PROTECT FOOD SAFETY DURING TRANSPORT, SHALL NOT TRANSPORT THE FOOD PRODUCT MORE THAN ONCE, AND SHALL NOT TRANSPORT THE FOOD PRODUCT FOR LONGER THAN TWO HOURS.

(IV) A PRODUCER SHALL NOT MAKE BARE-HAND CONTACT WITH READY-TO-EAT FOODS SOLD UNDER THIS SECTION.

(c) (I) A producer ~~must~~ SHALL 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~~ SHALL maintain a status of good standing in accordance with the course requirements, including attending ~~any~~ additional classes if necessary.

(II) A PRODUCER THAT SELLS FOOD PRODUCTS THAT REQUIRE TIME

AND TEMPERATURE CONTROL FOR SAFETY SHALL TAKE A FOOD SAFETY COURSE THAT INCLUDES FOOD HANDLING TRAINING CONCERNING TIME AND TEMPERATURE CONTROL AND ACQUIRE AND MAINTAIN PROOF OF COURSE COMPLETION AND A STATUS OF GOOD STANDING IN ACCORDANCE WITH THE COURSE REQUIREMENTS, INCLUDING ATTENDING ADDITIONAL CLASSES IF NECESSARY. THE DEPARTMENT MAY APPROVE COURSES THAT PROVIDE THE TRAINING SPECIFIED IN THIS SUBSECTION (2)(c)(II).

(e) This section applies only to producers ~~who~~ THAT earn ~~net~~ GROSS revenues of ~~ten~~ ONE HUNDRED FIFTY 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~~ FOOD PERMITTED UNDER THIS SECTION. THE DEPARTMENT SHALL ANNUALLY ADJUST THE CAP FOR INFLATION. THE DEPARTMENT MAY ROUND THE ADJUSTED AMOUNT UPWARD TO THE NEAREST DOLLAR. INFLATION IS MEASURED BY THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX, OR A SUCCESSOR INDEX, FOR DENVER-AURORA-LAKESWOOD FOR ALL ITEMS PAID FOR BY URBAN CONSUMERS. A PRODUCER SHALL NOT ESTABLISH, REORGANIZE, OR OPERATE MULTIPLE ENTITIES OR CONTRACTUAL ARRANGEMENTS FOR THE PURPOSE OF CIRCUMVENTING THIS REVENUE CAP.

(3) (a) A food product sold under this section must have an affixed label that includes at least:

(II) The producer's name, DEPARTMENT-ISSUED REGISTRATION NUMBER, the ~~address at~~ COUNTY IN which the food was prepared, and the producer's current telephone number or electronic mail address;

(IV) A complete list of ingredients; ~~and~~

(VI) A WEBSITE ADDRESS PROVIDED BY THE DEPARTMENT THAT INCLUDES CONTACT INFORMATION FOR CONSUMERS TO REPORT FOOD-BORNE ILLNESSES, HOW TO VERIFY A PRODUCER'S ACTIVE REGISTRATION, AND HOW TO REPORT ISSUES REGARDING A PRODUCER'S REGISTRATION STATUS.

(4) (a) A food product produced pursuant to this section is subject to food sampling and inspection by the department or a county, district, or regional health agency pursuant to section 25-5-406 if it is determined that the food product is misbranded pursuant to subsection (3) of this section or

if a consumer complaint has been received or if the product is suspected in an injury or food-borne illness outbreak.

(b) IF A CONSUMER COMPLAINT OF FOOD-BORNE ILLNESS HAS BEEN RECEIVED, OR IF A PRODUCT IS SUSPECTED IN AN INJURY OR FOOD-BORNE ILLNESS OUTBREAK, THE DEPARTMENT OR A COUNTY, DISTRICT, OR REGIONAL HEALTH AGENCY MAY IMPLEMENT LOCAL RESPONSE PROCEDURES, INCLUDING CORRECTIVE ACTION PLANS, ADDITIONAL FOOD SAMPLING TESTS, AND ADDITIONAL TRAINING REQUIREMENTS FOR THE PRODUCER. THE DEPARTMENT OR A COUNTY, DISTRICT, OR REGIONAL HEALTH AGENCY MAY CHARGE A PRODUCER ONLY THE DIRECT COSTS INCURRED UNDER THIS SUBSECTION (4)(b).

(c) IF THE DEPARTMENT OR A COUNTY, DISTRICT, OR REGIONAL HEALTH AGENCY INSPECTS A FOOD PRODUCT PRODUCED PURSUANT TO THIS SECTION AND DETERMINES THAT THE FOOD PRODUCT IS MISBRANDED OR MAY CAUSE AN INJURY OR FOOD-BORNE ILLNESS OUTBREAK, THE DEPARTMENT OR HEALTH AGENCY MAY:

(I) IMPOSE A FINE FOR A VIOLATION OF THIS SECTION, WHICH FINE MUST NOT EXCEED A TOTAL OF ONE HUNDRED DOLLARS FOR THE VIOLATION; AND

(II) RECOVER FROM THE PRODUCER THE COST OF THE INVESTIGATION OR INSPECTION, WHICH COST MUST NOT EXCEED ONE THOUSAND DOLLARS.

(d) IF THE DEPARTMENT OR A COUNTY, DISTRICT, OR REGIONAL HEALTH AGENCY DETERMINES THAT, ON THREE SEPARATE OCCASIONS WITHIN TWELVE MONTHS, A PRODUCER HAS MISBRANDED FOOD THAT REQUIRES TIME AND TEMPERATURE CONTROL FOR SAFETY OR FAILED TO COMPLY WITH REQUIREMENTS RELATED TO FOOD THAT REQUIRES TIME AND TEMPERATURE CONTROL FOR SAFETY, THE PRODUCER SHALL NOT SELL FOODS THAT REQUIRE TIME AND TEMPERATURE CONTROL PURSUANT TO THIS SECTION.

(7) EXCEPT AS PROVIDED IN SUBSECTION (2)(b)(II) OF THIS SECTION, sections 25-4-1604 to 25-4-1613 do not apply to this section.

(8) (a) A PRODUCER SHALL ANNUALLY REGISTER WITH THE DEPARTMENT BEFORE SELLING ANY FOOD UNDER THIS SECTION. THE

REGISTRATION MUST INDICATE THE TYPES OF FOOD THE PRODUCER ANTICIPATES SELLING UNDER THIS SECTION. THE DEPARTMENT SHALL ISSUE A REGISTRATION NUMBER TO EACH PRODUCER.

(b) ~~The department or a county, district, or regional health agency may~~ SHALL create ~~a voluntary~~ AND MAINTAIN AN electronic registry of producers, ~~if it determines that a registry would be of value to producers and consumers~~ UPDATE THE REGISTRY MONTHLY, SHARE THE REGISTRY WITH EACH COUNTY OR DISTRICT PUBLIC HEALTH AGENCY, AND MAKE THE REGISTRY AVAILABLE ON THE DEPARTMENT'S PUBLIC-FACING WEBSITE.

(8.5) THIS SECTION DOES NOT APPLY TO THE SALE OF RAW MILK; LOW-ACID CANNED FOOD PRODUCTS; FERMENTED OR ACIDIFIED FOOD PRODUCTS THAT REQUIRE TIME AND TEMPERATURE CONTROL FOR SAFETY; FOOD PRODUCTS THAT ARE ALCOHOL BEVERAGES OR THAT CONTAIN CANNABINOIDS; OR FOOD PRODUCTS THAT ARE PRODUCED WITH SMOKING USED AS A PRESERVATION METHOD AND NOT FOR FLAVOR, REDUCED OXYGEN PROCESSING, OR CURING.

(9) As used in this section:

(b) ~~"Nonpotentially hazardous" has the meaning set forth in section 25-4-1602 (12)~~ "MEAT OR MEAT PRODUCTS" HAS THE MEANING SET FORTH IN SECTION 35-33-103 (8).

(c) "Producer" means a person ~~who~~ THAT 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:

SECTION 3. In Colorado Revised Statutes, **add** 25-4-1614.5 as follows:

25-4-1614.5. Cottage foods cash fund created.

(1) THE COTTAGE FOODS CASH FUND IS CREATED IN THE STATE TREASURY. THE COTTAGE FOODS CASH FUND CONSISTS OF MONEY CREDITED TO THE COTTAGE FOODS CASH FUND PURSUANT TO SECTIONS 25-1.5-303 (5)(e) AND 25-27-107.5 (3) AND ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE COTTAGE FOODS CASH

FUND.

(2) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE COTTAGE FOODS CASH FUND TO THE COTTAGE FOODS CASH FUND.

SECTION 4. In Colorado Revised Statutes, 25-1.5-303, **add** (5)(e) as follows:

25-1.5-303. Medication reminder boxes or systems - medication cash fund - repeal.

(5) (e) (I) NOTWITHSTANDING SUBSECTION (5)(a) OF THIS SECTION, ON JULY 1, 2026, THE STATE TREASURER SHALL TRANSFER TWO HUNDRED THOUSAND DOLLARS FROM THE MEDICATION ADMINISTRATION CASH FUND CREATED IN SUBSECTION (5)(a) OF THIS SECTION TO THE COTTAGE FOODS CASH FUND CREATED IN SECTION 25-4-1614.5.

(II) THIS SUBSECTION (5)(e) IS REPEALED, EFFECTIVE JULY 1, 2028.

SECTION 5. In Colorado Revised Statutes, 25-27-107.5, **add** (3) as follows:

25-27-107.5. Assisted living residence cash fund created - repeal.

(3) (a) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION, ON JULY 1, 2026, THE STATE TREASURER SHALL TRANSFER ONE HUNDRED THOUSAND DOLLARS FROM THE ASSISTED LIVING RESIDENCE CASH FUND CREATED IN SUBSECTION (1) OF THIS SECTION TO THE COTTAGE FOODS CASH FUND CREATED IN SECTION 25-4-1614.5.

(b) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE JULY 1, 2028.

SECTION 6. In Colorado Revised Statutes, 35-36-102, **amend** (8)(b)(II) and (12)(b)(II) as follows:

35-36-102. Definitions.

As used in this article 36, unless the context otherwise requires:

(8) (b) "Commodity handler" does not include:

(II) A producer as defined in the "Colorado Cottage Foods Act", section 25-4-1614 (9)(c), ~~who~~ THAT earns ~~net~~ GROSS revenues ~~of ten thousand dollars or less per calendar year from the sale of each eligible food product~~ LESS THAN THE AMOUNT PERMITTED PURSUANT TO SECTION 25-4-1614 (2)(e).

(12) (b) "Dealer" does not include:

(II) A producer as defined in the "Colorado Cottage Foods Act", section 25-4-1614 (9)(c), ~~who~~ THAT earns ~~net~~ GROSS revenues ~~of ten thousand dollars or less per calendar year from the sale of each eligible food product~~ LESS THAN THE AMOUNT PERMITTED PURSUANT TO SECTION 25-4-1614 (2)(e).

SECTION 7. Appropriation. For the 2026-27 state fiscal year, \$119,354 is appropriated to the department of public health and environment for use by the division of environmental health and sustainability. This appropriation is from the cottage foods cash fund created in section 25-4-1614.5 (1), C.R.S., and is based on an assumption that the division will require an additional 1.0 FTE. To implement this act, the division may use this appropriation for the cottage foods program.

SECTION 8. Effective date. This act takes effect upon passage; except that section 25-4-1614, Colorado Revised Statutes, amended in section 2 of this act, and section 35-36-102, Colorado Revised Statutes, amended in section 6 of this act, take effect January 1, 2027.

SECTION 9. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for

the support and maintenance of the departments of the state and state institutions.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO