

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

REVISED

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

LLS NO. 17-0662.01 Jane Ritter x4342

HOUSE BILL 17-1079

HOUSE SPONSORSHIP

Kennedy,

SENATE SPONSORSHIP

Coram and Jahn,

House Committees

Finance
Appropriations

Senate Committees

Finance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE CONTINUED COLLECTION OF FEES FOR WHOLESALE**
102 **FOOD MANUFACTURING AND STORAGE, AND, IN CONNECTION**
103 **THEREWITH, 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://leg.colorado.gov>.)

The bill amends provisions related to the continued collection of fees related to wholesale food manufacturing and storage. Specifically, the bill:

- ! Establishes an across-the-board annual application fee of \$100;

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
2nd Reading Unamended
May 9, 2017

HOUSE
3rd Reading Unamended
May 1, 2017

HOUSE
Amended 2nd Reading
April 28, 2017

- ! Specifies that a nonprofit facility, grain storage facility, brewery, brew pub, winery, or distiller of spirituous liquors is required to pay only the annual \$100 application fee;
- ! Provides that wholesale food manufacturers or storage facilities with gross annual sales of less than \$100,000 are required to pay the annual \$100 application fee plus an additional registration fee of \$100;
- ! Provides that wholesale food manufacturers or storage facilities with gross annual sales of \$100,000 or more are required to pay the annual \$100 application fee plus an additional registration fee of \$250; and
- ! Increases the fee for a certificate of free sale from the existing \$128 to \$150.

The bill also removes the repeal date from statute.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25-5-426, **amend** (4);
 3 **repeal** (6); and **repeal and reenact, with amendments**, (2) as follows:

4 **25-5-426. Wholesale food manufacturing and storage -**
 5 **definitions - legislative declaration - fees - cash fund.** (2) AS USED IN
 6 THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 (a) "BREW PUB" HAS THE SAME MEANING AS SET FORTH IN SECTION
 8 12-47-103 (4).

9 (b) "BREWERY" HAS THE SAME MEANING AS SET FORTH IN SECTION
 10 12-47-103 (5).

11 (c) "DIETARY INGREDIENT" MEANS ONE OR ANY COMBINATION OF
 12 A VITAMIN, MINERAL, HERB OR OTHER BOTANICAL, AMINO ACID, AND A
 13 SUBSTANCE SUCH AS AN ENZYME, ORGAN TISSUE, GLANDULAR, OR
 14 METABOLITE.

15 (d) "DIETARY SUPPLEMENT" MEANS A PRODUCT TAKEN BY MOUTH
 16 THAT CONTAINS A DIETARY INGREDIENT OR A NEW DIETARY INGREDIENT
 17 INTENDED TO SUPPLEMENT THE DIET.

1 (e) "DISTILLERY" OR "DISTILLER" HAS THE SAME MEANING AS SET
2 FORTH IN SET FORTH IN SECTION 12-47-103 (7).

3 (f) "GRAIN" MEANS A SMALL HARD FRUIT OR SEED PRODUCED BY
4 A CEREAL GRASS AND THE SEEDS OF SUCH PLANTS AS A WHOLE.

5 (g) "GRAIN STORAGE FACILITY" MEANS ANY ESTABLISHMENT,
6 STRUCTURE, OR STRUCTURES UNDER ONE MANAGEMENT AT ONE GENERAL
7 PHYSICAL LOCATION THAT HOLDS GRAIN WITHOUT FURTHER
8 MANUFACTURING OR PROCESSING AFTER HARVEST.

9 (h) "MANUFACTURING OR PROCESSING" MEANS MAKING FOOD
10 FROM ONE OR MORE INGREDIENTS, OR SYNTHESIZING, PREPARING,
11 TREATING, MODIFYING, OR MANIPULATING FOOD, INCLUDING FOOD CROPS
12 OR INGREDIENTS. EXAMPLES INCLUDE: CUTTING, PEELING, TRIMMING,
13 WASHING, WAXING, EVISCERATING, RENDERING, COOKING, BAKING,
14 FREEZING, COOLING, PASTEURIZING, HOMOGENIZING, MIXING,
15 FORMULATING, BOTTLING, MILLING, GRINDING, EXTRACTING JUICES,
16 DISTILLING, LABELING, OR PACKAGING.

17 (i) "NEW DIETARY INGREDIENT" MEANS A DIETARY INGREDIENT
18 THAT WAS NOT SOLD IN THE UNITED STATES AS A DIETARY SUPPLEMENT
19 BEFORE OCTOBER 15, 1994.

20 (j) "NONPROFIT FACILITY" MEANS A CHARITABLE ENTITY THAT
21 PROVIDES FOOD TO THE PUBLIC, INCLUDING FOOD BANKS AND NONPROFIT
22 FOOD FACILITIES. TO QUALIFY AS A NONPROFIT FACILITY, THE ENTITY
23 SHALL BE EXEMPT FROM PAYING FEDERAL INCOME TAX UNDER THE
24 FEDERAL INTERNAL REVENUE CODE.

25 (k) "SPIRITUOUS LIQUORS" HAS THE SAME MEANING AS SET FORTH
26 IN SECTION 12-47-103 (36).

27 (l) "WHOLESALE FOOD MANUFACTURER" AND "STORAGE FACILITY"

1 MEAN A FACILITY THAT MANUFACTURES, PRODUCES, PACKS, PROCESSES,
2 TREATS, PACKAGES, TRANSPORTS, OR HOLDS HUMAN FOOD, INCLUDING
3 DIETARY SUPPLEMENTS. THESE TERMS INCLUDE, WITHOUT LIMITATION,
4 ANY REPACKER, RESHIPPER, SHELL STOCK SHIPPER, AND SHUCKER-PACKER,
5 AS DEFINED IN SECTION 25-4-1803 (8), (9), (12), AND (13), RESPECTIVELY.

6 (m) "WINERY" HAS THE SAME MEANING AS SET FORTH IN SECTION
7 12-47-103 (40).

8 (4) (a) Beginning July 1, 2003, and on or before July 1 of each
9 year thereafter, the owner of any wholesale food ~~manufacturing~~
10 ~~MANUFACTURER~~ or storage facility shall ~~register such facility with~~ ~~SUBMIT~~
11 ~~AN APPLICATION TO~~ the department. ~~The registration of~~ Each wholesale
12 food ~~manufacturing~~ ~~MANUFACTURER~~ or storage facility shall ~~be~~
13 ~~accompanied by an annual registration fee as set forth in paragraph (b) of~~
14 ~~this subsection (4); except that an owner whose gross income is less than~~
15 ~~fifteen thousand dollars per year, a nonprofit facility, and a grain storage~~
16 ~~facility shall register but shall not be required to pay the fee. Such~~ ~~PAY AN~~
17 ~~ANNUAL APPLICATION~~ FEE OF ONE HUNDRED DOLLARS, PLUS ANY
18 ADDITIONAL REGISTRATION FEE SPECIFIED IN SUBSECTION (4)(b) OF THIS
19 ~~SECTION; EXCEPT THAT AN APPLICATION FEE IS NOT REQUIRED FOR A~~
20 ~~NONPROFIT FACILITY. THE APPLICATION FOR registration shall be~~ IS valid
21 for one year or for the portion of the fiscal year that remains ~~if a~~
22 ~~registration is granted~~ IF AN APPLICATION IS SUBMITTED after July 1 of any
23 fiscal year. If ~~a registration~~ AN APPLICATION is valid for only a portion of
24 a fiscal year, ~~there shall be no~~ AN APPLICATION FEE reduction of any fee
25 IS NOT required by this section. Each ~~registration shall expire~~
26 ~~APPLICATION EXPIRES~~ on June 30 of the state fiscal year in which the
27 ~~registration is granted~~ APPLICATION IS SUBMITTED.

1 (b) ~~Subject to paragraph (a) of this subsection (4)~~ IN ADDITION TO
2 THE APPLICATION FEE A FACILITY IS REQUIRED TO PAY PURSUANT TO
3 SUBSECTION (4)(a) OF THIS SECTION, THE SCHEDULE FOR ANNUAL
4 REGISTRATION FEES FOR WHOLESALE FOOD MANUFACTURERS OR STORAGE
5 FACILITIES IS AS FOLLOWS:

6 (I) ~~Upon registration of a small wholesale food manufacturer or~~
7 ~~storage facility, the department shall collect a fee of one hundred~~
8 ~~eighty-five dollars~~ A REGISTRATION FEE IS NOT REQUIRED FOR A
9 NONPROFIT FACILITY, GRAIN STORAGE FACILITY, BREWERY, BREW PUB,
10 WINERY, OR A DISTILLER OF SPIRITUOUS LIQUORS.

11 (II) ~~Upon registration of a medium wholesale food manufacturer~~
12 ~~or storage facility, the department shall collect a fee of three hundred~~
13 ~~seven dollars~~ A WHOLESALE FOOD MANUFACTURER OR STORAGE FACILITY
14 WITH GROSS ANNUAL SALES OF LESS THAN ONE HUNDRED FIFTY THOUSAND
15 DOLLARS SHALL PAY THE DEPARTMENT A REGISTRATION FEE OF SIXTY
16 DOLLARS.

17 (III) ~~Upon registration of a large wholesale food manufacturer or~~
18 ~~storage facility, the department shall collect a fee of three hundred ninety~~
19 ~~dollars~~ A WHOLESALE FOOD MANUFACTURER OR STORAGE FACILITY WITH
20 GROSS ANNUAL SALES OF ONE HUNDRED FIFTY THOUSAND DOLLARS OR
21 MORE SHALL PAY THE DEPARTMENT A REGISTRATION FEE OF THREE
22 HUNDRED DOLLARS.

23 (c) UPON ISSUING A CERTIFICATE OF FREE SALE, the department
24 shall collect a fee of one hundred ~~twenty-eight~~ FIFTY dollars. ~~for the~~
25 ~~issuance of a certificate of free sale.~~

26 (V) ~~(Deleted by amendment, L. 2008, p. 1000, § 1, effective July~~
27 ~~1, 2008.)~~

1 (6) ~~This section is repealed, effective July 1, 2017.~~

2 **SECTION 2. Appropriation.** For the 2017-18 state fiscal year,
3 \$491,510 is appropriated to the department of public health and
4 environment for use by the division of environmental health and
5 sustainability. This appropriation is from the wholesale food
6 manufacturing and storage protection cash fund created in section
7 25-5-426 (5), C.R.S., and is based on an assumption that the division will
8 require an additional 3.0 FTE. To implement this act, the division may
9 use this appropriation for the environmental health programs.

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