

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0149.01 Yelana Love x2295

SENATE BILL 16-058

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SENATE SPONSORSHIP

Hill,

HOUSE SPONSORSHIP

(None),

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Senate Committees

Business, Labor, & Technology

House Committees

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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.

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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.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 25-4-1615 as  
3 follows:

4 **25-4-1615. Farm-based food sales - exemption - assumption of**  
5 **risk.** (1) THE PURPOSES OF THIS SECTION ARE TO ALLOW FOR THE SALE  
6 AND CONSUMPTION OF HOMEMADE FOODS AND TO ENCOURAGE THE  
7 EXPANSION OF AGRICULTURAL SALES BY FARMERS' MARKETS, FARMS, AND  
8 HOME-BASED PRODUCERS AND ACCESSIBILITY OF THESE RESOURCES TO  
9 INFORMED END CONSUMERS BY:

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

12 (b) ENHANCING THE AGRICULTURAL ECONOMY; AND

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

15 (2) NOTWITHSTANDING SECTION 25-4-1614, NO LICENSURE,  
16 PERMITTING, CERTIFICATION, INSPECTION, PACKAGING, OR LABELING

1 PERTAINING TO THE PREPARATION, SERVING, USE, CONSUMPTION, OR  
2 STORAGE OF FOOD OR FOOD PRODUCTS IS REQUIRED UNDER THIS SECTION.

3 (3) NOTHING IN THIS SECTION PROHIBITS AN AGENCY FROM  
4 PROVIDING ASSISTANCE, CONSULTATION, OR INSPECTION WHEN  
5 REQUESTED BY THE PRODUCER.

6 (4) TRANSACTIONS UNDER THIS SECTION MUST:

7 (a) BE DELIVERED BETWEEN A PRODUCER AND AN INFORMED END  
8 CONSUMER;

9 (b) OCCUR ONLY IN COLORADO;

10 (c) NOT INVOLVE INTERSTATE COMMERCE; AND

11 (d) NOT INVOLVE THE SALE OF MEAT PRODUCTS; EXCEPT THAT THE  
12 SALE OF POULTRY AND POULTRY PRODUCTS PRODUCED IN ACCORDANCE  
13 WITH ARTICLE 33.7 OF TITLE 35, C.R.S., IS PERMITTED UNDER THIS  
14 SECTION.

15 (5) FOOD PRODUCED UNDER THIS SECTION MAY NOT BE SOLD OR  
16 USED IN ANY RETAIL FOOD ESTABLISHMENT UNLESS THE FOOD HAS BEEN  
17 LABELED, LICENSED, PACKAGED, REGULATED, OR INSPECTED AS REQUIRED  
18 BY LAW.

19 (6) ANY FOOD PRODUCT SOLD AT A FARMERS' MARKET MUST BE  
20 LABELED AND SIGNS MUST BE CONSPICUOUSLY POSTED INFORMING  
21 CONSUMERS THAT THE FOOD PRODUCT OR FOOD IS NOT CERTIFIED,  
22 LABELED, LICENSED, PACKAGED, REGULATED, OR INSPECTED.

23 (7) NONPOTENTIALLY HAZARDOUS FOODS, AS DEFINED BY SECTION  
24 25-4-1602 (12), ARE NOT REQUIRED TO BE LABELED, LICENSED,  
25 REGULATED, PACKAGED, OR INSPECTED IF SOLD AT A FARMERS' MARKET  
26 OR SOLD FROM A PRODUCER TO AN INFORMED END CONSUMER.

27 (8) NOTHING IN THIS SECTION PREVENTS THE COLORADO

1 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FROM INVESTIGATING  
2 FOOD-BORNE ILLNESS.

3 (9) NOTHING IN THIS SECTION CHANGES THE REQUIREMENT FOR  
4 BRAND INSPECTIONS OR ANIMAL HEALTH INSPECTIONS.

5 (10) AN INFORMED END CONSUMER PURCHASING PRODUCTS UNDER  
6 THIS SECTION ASSUMES THE INHERENT RISKS IN THE PURCHASE, USE, OR  
7 INGESTION OF THE FOOD OR FOOD PRODUCTS PURCHASED, WHETHER THOSE  
8 RISKS ARE KNOWN OR UNKNOWN, AND IS LEGALLY RESPONSIBLE FOR ALL  
9 DAMAGE, INJURY, OR DEATH TO HIMSELF OR HERSELF OR OTHER PERSONS  
10 OR PROPERTY THAT RESULTS FROM THE INHERENT RISKS OF PURCHASING  
11 OR INGESTING FOOD OR FOOD PRODUCTS UNDER THIS SECTION.

12 (11) A PRODUCER IS NOT REQUIRED TO ELIMINATE, ALTER, OR  
13 CONTROL THE INHERENT RISKS RELATED TO THE PURCHASE, INGESTION, OR  
14 USE OF FOOD OR FOOD PRODUCTS RELATED TO THE TRANSACTION UNDER  
15 THIS SECTION, EXCEPT AS OTHERWISE REQUIRED BY SUBSECTION (6) OF  
16 THIS SECTION.

17 (12) ACTIONS BASED UPON THE ALLEGED NEGLIGENCE OF THE  
18 PRODUCER WHEREIN THE DAMAGE, INJURY, OR DEATH IS NOT THE RESULT  
19 OF AN INHERENT RISK OF THE PURCHASE, INGESTION, OR USE OF FOOD OR  
20 FOOD PRODUCTS RELATED TO A TRANSACTION UNDER THIS SECTION ARE  
21 NOT PRECLUDED BY THIS SECTION AND MAY PROCEED SUBJECT TO  
22 APPLICABLE LAW.

23 (13) THE ASSUMPTION-OF-RISK PROVISIONS IN SUBSECTIONS (10)  
24 TO (12) OF THIS SECTION APPLY REGARDLESS OF THE AGE OF THE PERSON  
25 ASSUMING THE RISK.

26 (14) AS USED IN THIS SECTION:

27 (a) "HOMEMADE" MEANS FOOD THAT IS PREPARED IN A PRIVATE

1 HOME KITCHEN THAT IS NOT LICENSED, INSPECTED, OR REGULATED.

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

6 (c) "PRODUCER" MEANS ANY PERSON WHO HARVESTS ANY  
7 PRODUCT OF THE SOIL OR ANIMALS FOR FOOD OR DRINK.

8 (d) "TRANSACTION" MEANS THE EXCHANGE OF BUYING AND  
9 SELLING.

10 **SECTION 2.** In Colorado Revised Statutes, 25-4-1614, **add** (7.5)  
11 as follows:

12 **25-4-1614. Home kitchens - exemption - food inspection - short**  
13 **title - definitions - rules.** (7.5) THIS SECTION DOES NOT APPLY TO A  
14 PRODUCER, AS DEFINED IN SECTION 25-4-1615 (14) (c), WHO SELLS FOOD  
15 AT A FARMERS' MARKET OR THROUGH RANCH, FARM, OR HOME-BASED  
16 SALES AS DESCRIBED IN SECTION 25-4-1615.

17 **SECTION 3.** In Colorado Revised Statutes, **add** article 33.7 to  
18 title 35 as follows:

19 **ARTICLE 33.7**

20 **Poultry Inspection Exemption**

21 **35-33.7-101. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE  
22 CONTEXT OTHERWISE REQUIRES:

23 (1) "INFORMED END CONSUMER" HAS THE MEANING SET FORTH IN  
24 SECTION 25-4-1615 (14) (b), C.R.S.

25 (2) "LABEL" MEANS ANY DISPLAY OF WRITTEN, PRINTED, OR  
26 GRAPHIC MATTER UPON ANY ARTICLE OR THE IMMEDIATE CONTAINER, NOT  
27 INCLUDING PACKAGE LINERS, OF ANY ARTICLE.

1           (3) "LABELING" MEANS ALL LABELS AND OTHER WRITTEN,  
2 PRINTED, OR GRAPHIC MATTER UPON ANY ARTICLE OR ANY OF ITS  
3 CONTAINERS OR WRAPPERS.

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

7           **35-33.7-102. License required - application - inspection -**  
8 **issuance - rules.** (1) A PERSON WHO DESIRES TO OPERATE A POULTRY  
9 PROCESSING FACILITY EXEMPT FROM FEDERAL INSPECTION SHALL FIRST  
10 OBTAIN A LICENSE FROM THE DEPARTMENT. A SEPARATE LICENSE IS  
11 REQUIRED FOR EACH EXEMPT POULTRY PROCESSING FACILITY. THE  
12 APPLICATION MUST BE IN WRITING ON FORMS SUPPLIED BY THE  
13 DEPARTMENT, SETTING FORTH ANY INFORMATION REQUIRED BY THE  
14 DEPARTMENT, AND MUST BE ACCOMPANIED BY ALL REQUIRED FEES.

15           (2) UPON THE APPLICANT'S SUBMISSION OF AN APPLICATION FOR  
16 A LICENSE AND PAYMENT OF THE REQUIRED FEES, THE DEPARTMENT SHALL  
17 INSPECT FACILITIES AND PREMISES AT THE LOCATION TO BE LICENSED AND  
18 ISSUE A LICENSE TO OPERATE UNLESS THE DEPARTMENT FINDS THAT THERE  
19 ARE GROUNDS FOR DENIAL OR REFUSAL TO RENEW A LICENSE.

20           (3) THE LICENSE IS VALID FROM THE DATE OF ISSUANCE UNTIL THE  
21 EXPIRATION DATE ESTABLISHED BY THE COMMISSIONER BY RULE. EXCEPT  
22 FOR GOOD CAUSE SHOWN, THE DEPARTMENT SHALL RENEW THE LICENSE  
23 ANNUALLY THEREAFTER.

24           (4) A LICENSE IS NOT TRANSFERABLE TO A NEW OWNER OR  
25 LOCATION.

26           **35-33.7-103. License fees.** (1) THE COMMISSION SHALL  
27 ESTABLISH THE FEE FOR EACH LICENSE UNDER THIS ARTICLE. THERE MUST

1 BE NO REDUCTION OF A LICENSE FEE FOR ANY FRACTIONAL PART OF A  
2 YEAR. THE FEE SCHEDULE MUST COVER ALL DIRECT AND INDIRECT COSTS  
3 ASSOCIATED WITH THE LICENSING, INSPECTION, AND REGULATION OF  
4 EXEMPT POULTRY PROCESSORS.

5 (2) ANY PERSON WHO FAILS TO RENEW A LICENSE ON OR BEFORE  
6 THE EXPIRATION DATE OF THE LICENSE SHALL PAY A LATE FEE, AS  
7 ESTABLISHED BY THE COMMISSION, IN ADDITION TO THE LICENSE FEE.

8 (3) THE COMMISSION SHALL TRANSMIT ALL FEES COLLECTED  
9 PURSUANT TO THIS SECTION TO THE STATE TREASURER, WHO SHALL  
10 DEPOSIT THEM IN THE INSPECTION AND CONSUMER SERVICES CASH FUND  
11 CREATED IN SECTION 35-1-106.5.

12 **35-33.7-104. Poultry inspection exemption - one thousand**  
13 **poultry or less - requirements - sale.** (1) A POULTRY PRODUCER MAY  
14 RAISE AND SLAUGHTER POULTRY ON HIS OR HER FARM WITHOUT FEDERAL  
15 INSPECTION IF:

16 (a) THE PRODUCER SLAUGHTERS NO MORE THAN ONE THOUSAND  
17 POULTRY DURING THE CALENDAR YEAR FOR WHICH THE EXEMPTION  
18 APPLIES;

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

22 (c) THE POULTRY DO NOT MOVE IN INTERSTATE COMMERCE;

23 (d) THE POULTRY ARE NOT MISBRANDED; AND

24 (e) THE POULTRY ARE SOUND, CLEAN, AND FIT FOR USE AS HUMAN  
25 FOOD WHEN DISTRIBUTED BY THE PRODUCER.

26 (2) THIS SECTION DOES NOT APPLY IF THE PRODUCER, IN THE  
27 CURRENT CALENDAR YEAR, BUYS OR SELLS ANY POULTRY OR POULTRY

1 PRODUCTS OTHER THAN AS SPECIFIED IN THIS ARTICLE.

2 (3) A PRODUCER OPERATING UNDER THIS SECTION MAY SELL  
3 POULTRY DIRECTLY TO INFORMED END CONSUMERS AND RETAIL FOOD  
4 ESTABLISHMENTS.

5 **35-33.7-105. Poultry inspection exemption - twenty thousand**  
6 **poultry or less - requirements - sale.** (1) A POULTRY PRODUCER MAY  
7 RAISE AND SLAUGHTER POULTRY ON HIS OR HER FARM WITHOUT FEDERAL  
8 INSPECTION IF:

9 (a) THE PRODUCER SLAUGHTERS AND PROCESSES, ON HIS OR HER  
10 PREMISES, NO MORE THAN TWENTY THOUSAND POULTRY, RAISED BY HIM  
11 OR HER, IN A CALENDAR YEAR;

12 (b) THE PRODUCER DOES NOT BUY OR SELL POULTRY PRODUCTS  
13 PREPARED UNDER ANOTHER EXEMPTION IN THE SAME CALENDAR YEAR IN  
14 WHICH HE OR SHE CLAIMS THE EXEMPTION IN THIS SECTION;

15 (c) THE POULTRY PRODUCTS ARE DISTRIBUTED SOLELY BY THE  
16 PRODUCER AND ONLY WITHIN THE STATE OF COLORADO;

17 (d) THE POULTRY ARE HEALTHY WHEN SLAUGHTERED;

18 (e) THE SLAUGHTER AND PROCESSING AT THE PRODUCER'S  
19 PREMISES ARE CONDUCTED USING SANITARY STANDARDS, PRACTICES, AND  
20 PROCEDURES THAT PRODUCE POULTRY PRODUCTS THAT ARE SOUND,  
21 CLEAN, AND FIT FOR USE AS HUMAN FOOD;

22 (f) THE PRODUCER ONLY DISTRIBUTES POULTRY PRODUCTS HE OR  
23 SHE PRODUCES UNDER THE EXEMPTION IN THIS SECTION;

24 (g) THE FACILITY USED TO SLAUGHTER OR PROCESS THE POULTRY  
25 IS NOT USED TO SLAUGHTER OR PROCESS ANOTHER PERSON'S POULTRY  
26 UNLESS THE ADMINISTRATOR OF THE FOOD SAFETY INSPECTION SERVICE  
27 GRANTS THE PRODUCER AN EXEMPTION;



1 (h) THE SHIPPING CONTAINERS, WHEN DISTRIBUTED IN INTRASTATE  
2 COMMERCE, BEAR:

3 (I) THE PRODUCER'S NAME;

4 (II) THE PRODUCER'S ADDRESS; AND

5 (III) THE STATEMENT, "EXEMPT C.R.S. 35-33.7-105".

6 (2) A PRODUCER OPERATING UNDER THIS SECTION MAY SELL  
7 POULTRY DIRECTLY TO INFORMED END CONSUMERS AND RETAIL FOOD  
8 ESTABLISHMENTS.

9 (3) THE DEPARTMENT SHALL MEET WITH STAKEHOLDERS AND  
10 PROMULGATE RULES PROVIDING FOR THE PROCESSING OF POULTRY  
11 PRODUCED UNDER THIS SECTION AND SOLD TO GROCERY STORES.

12 **35-33.7-106. Resale - retail food establishments.** RETAIL FOOD  
13 ESTABLISHMENTS SELLING POULTRY PRODUCED UNDER THIS ARTICLE MUST  
14 DISCLOSE THE SOURCE OF THE POULTRY TO CONSUMERS.

15 **35-33.7-107. Record-keeping requirements.** ADEQUATE  
16 RECORDS MUST BE MAINTAINED TO ASSURE THAT NOT MORE THAN THE  
17 NUMBER OF EXEMPTED POULTRY ARE SLAUGHTERED OR PROCESSED IN A  
18 CALENDAR YEAR. RECORDS MUST BE KEPT FOR ONE YEAR FOLLOWING THE  
19 TERMINATION OF EACH EXEMPTION.

20 **SECTION 4. Act subject to petition - effective date.** This act  
21 takes effect at 12:01 a.m. on the day following the expiration of the  
22 ninety-day period after final adjournment of the general assembly (August  
23 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a  
24 referendum petition is filed pursuant to section 1 (3) of article V of the  
25 state constitution against this act or an item, section, or part of this act  
26 within such period, then the act, item, section, or part will not take effect  
27 unless approved by the people at the general election to be held in

- 1 November 2016 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.