

Second Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0115.01 Chuck Brackney x2295

HOUSE BILL 12-1027

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HOUSE SPONSORSHIP

Bradford,

SENATE SPONSORSHIP

(None),

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House Committees

Economic and Business Development

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING THE SALE OF NONPOTENTIALLY HAZARDOUS FOOD  
102 PRODUCED IN A HOME KITCHEN FOR SALE DIRECTLY TO  
103 CONSUMERS FOR CONSUMPTION OFF PREMISES.

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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>.)*

The bill permits a person to produce nonpotentially hazardous food in a home kitchen for sale directly to consumers for consumption off premises. County or district public health agencies may register persons who produce nonpotentially hazardous food in a home kitchen for sale

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.

directly to consumers for consumption off premises. These food products are subject to inspection by local or state public health agencies.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25-4-1602, **add** (14)  
3 (m) as follows:

4 **25-4-1602. Definitions.** As used in this part 16, unless the context  
5 otherwise requires:

6 (14) "Retail food establishment" means a retail operation that  
7 stores, prepares, or packages food for human consumption or serves or  
8 otherwise provides food for human consumption to consumers directly or  
9 indirectly through a delivery service, whether such food is consumed on  
10 or off the premises or whether there is a charge for such food. "Retail  
11 food establishment" does not mean:

12 (m) A HOME KITCHEN IN WHICH A PERSON PRODUCES  
13 NONPOTENTIALLY HAZARDOUS FOOD FOR SALE DIRECTLY TO CONSUMERS  
14 FOR CONSUMPTION OFF PREMISES.

15 **SECTION 2.** In Colorado Revised Statutes, **add** section  
16 25-4-1603.5 as follows:

17 **25-4-1603.5. Nonpotentially hazardous food produced in a**  
18 **home kitchen - registration - inspection.** (1) NOTHING IN THIS ARTICLE  
19 PROHIBITS, AND SECTIONS 25-4-1603 TO 25-4-1613 DO NOT APPLY TO, THE  
20 PRODUCTION OF NONPOTENTIALLY HAZARDOUS FOOD IN A HOME KITCHEN  
21 FOR SALE DIRECTLY TO CONSUMERS THROUGH TRANSACTIONS THAT TAKE  
22 PLACE ON THE FOOD PRODUCER'S PROPERTY OR AT A ROADSIDE STAND OR  
23 FARMERS' MARKET FOR CONSUMPTION OFF PREMISES.

24 (2) A COUNTY OR DISTRICT PUBLIC HEALTH AGENCY MAY  
25 REGISTER PERSONS WHO PRODUCE AND SELL NONPOTENTIALLY

1 HAZARDOUS FOOD IN A HOME KITCHEN FOR SALE DIRECTLY TO CONSUMERS  
2 FOR CONSUMPTION OFF PREMISES. SUCH REGISTRATION SHALL BE FOR A  
3 PERIOD OF ONE YEAR AND FOR A FEE OF NO MORE THAN ONE HUNDRED  
4 DOLLARS PER PERSON PER YEAR. THE REGISTRATION MUST BE IN THE  
5 COUNTY OF RESIDENCE OF THE PERSON PRODUCING THE NONPOTENTIALLY  
6 HAZARDOUS FOOD, ALTHOUGH THE PERSON MAY SELL THE FOOD IN THE  
7 OTHER COUNTIES. A COUNTY OR DISTRICT PUBLIC HEALTH AGENCY THAT  
8 DECLINES TO REGISTER PERSONS WHO PRODUCE NONPOTENTIALLY  
9 HAZARDOUS FOOD IN A HOME KITCHEN FOR SALE DIRECTLY TO CONSUMERS  
10 MAY NOT PROHIBIT THE SALE OF SUCH FOOD FOR CONSUMPTION OFF  
11 PREMISES.

12 (3) A FOOD PRODUCT PRODUCED PURSUANT TO THIS SECTION IS  
13 SUBJECT TO FOOD SAMPLING AND INSPECTION BY THE DEPARTMENT OR A  
14 COUNTY OR DISTRICT PUBLIC HEALTH AGENCY. LOCAL OR STATE HEALTH  
15 AUTHORITIES MAY CONFISCATE, EMBARGO, CONDEMN, OR REMOVE  
16 PRODUCTS IF NECESSARY.

17 (4) A FOOD PRODUCT PRODUCED PURSUANT TO THIS SECTION MAY  
18 NOT BE INFUSED WITH MEDICAL MARIJUANA OR OTHERWISE  
19 ADULTERATED.

20 (5) (a) A FOOD PRODUCT SOLD PURSUANT TO THIS SECTION MUST  
21 HAVE AN AFFIXED LABEL THAT INCLUDES AT LEAST:

22 (I) IDENTIFICATION OF THE PRODUCT;

23 (II) THE PRODUCER'S NAME, THE ADDRESS AT WHICH THE FOOD  
24 WAS PREPARED, AND THE PRODUCER'S CURRENT TELEPHONE NUMBER AND  
25 ELECTRONIC MAIL ADDRESS;

26 (III) A COMPLETE LIST OF INGREDIENTS, INCLUDING ANY  
27 ALLERGENS; AND

1 (IV) THE FOLLOWING DISCLAIMER: "THIS PRODUCT WAS  
2 PRODUCED IN A HOME KITCHEN THAT IS NOT SUBJECT TO STATE LICENSURE  
3 OR INSPECTION. THIS PRODUCT IS NOT INTENDED FOR RESALE."

4 (b) A FOOD PRODUCT SOLD UNDER THIS SECTION AND NOT  
5 LABELED IN ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (5)  
6 IS MISBRANDED AND SUBJECT TO FOOD SAMPLING AND INSPECTION  
7 PURSUANT TO SUBSECTION (3) OF THIS SECTION.

8 (6) A PERSON WHO SELLS FOODS PURSUANT TO THIS SECTION MUST  
9 MAINTAIN HOME BAKERY LIABILITY INSURANCE OR OTHER ADEQUATE  
10 LIABILITY INSURANCE.

11 **SECTION 3. Act subject to petition - effective date.** This act  
12 takes effect at 12:01 a.m. on the day following the expiration of the  
13 ninety-day period after final adjournment of the general assembly (August  
14 7, 2012, if adjournment sine die is on May 9, 2012); except that, if a  
15 referendum petition is filed pursuant to section 1 (3) of article V of the  
16 state constitution against this act or an item, section, or part of this act  
17 within such period, then the act, item, section, or part will not take effect  
18 unless approved by the people at the general election to be held in  
19 November 2012 and, in such case, will take effect on the date of the  
20 official declaration of the vote thereon by the governor.