


 Colorado *Legislative Council Staff Fiscal Note*
FINAL
FISCAL NOTE

Drafting Number: LLS 12-0643
Prime Sponsor(s): Rep. Summers
 Sen. Jahn

Date: July 13, 2012
Bill Status: Signed into Law
Fiscal Analyst: Kirk Mlinek (303-866-4782)

TITLE: CONCERNING CIVIL PENALTIES FOR RETAIL FOOD ESTABLISHMENTS.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
State Revenue		
Food Protection Cash Fund	<\$5,000	<\$5,000
State Expenditures		
FTE Position Change		
Effective Date: The bill was signed into law by the Governor and took effect on April 6, 2012.		
Appropriation Summary for FY 2012-2013: None required.		
Local Government Impact: See Local Government Impact section.		

Summary of Legislation

The bill specifies that the Department of Public Health and Environment (DPHE), or a county or district board of health, may initiate license suspension or revocation proceedings against a retail food establishment (establishment) only after the imposition of the penalties prescribed in Section 25-4-1611, C.R.S. An exception is provided for cases involving an imminent health hazard.

Background

Under current law, the DPHE or a county or district board of health may, on its own motion or complaint and after an investigation and hearing, suspend or revoke a retail food establishment's license, or certificate of license, for violations of the Food Protection Act (Section 25-4-101, *et seq*, C.R.S.). Revocations and suspensions are in addition to other penalties provided in law and are reviewable by any court that has jurisdiction over retail food establishments. Establishments deemed to be in noncompliance may be fined from \$250 to \$1,000. Once invoked by the DPHE or a county or district board of health, the process of addressing food establishment violations under the Food Protection Act consists of a series of written notices of violation, the provision of time to permit the establishment to gain compliance, written notification of noncompliance, and multiple follow-up inspections to evaluate compliance.

Civil penalties can be assessed as part of a third follow-up inspection, with civil penalties ranging from \$250 to \$500 at the first level, to a maximum range of \$500 to \$1,000. Under the bill, maximum of three civil penalties may be assessed against any licensee or other establishment operator in a twelve-month period. Licensees with pending disciplinary actions are immune from the assessment of civil penalties until the disciplinary action has been resolved.

Except in cases of closure due to an imminent health hazard, the bill states that the penalties provided in Section 25-4-1611, C.R.S., must be imposed before revocation or suspension proceedings may begin. Under the bill, the maximum period of revocation is six months.

State Revenue

Revenue from civil penalties assessed by the DPHE is deposited in the Food Protection Cash Fund. For FY 2012-13 and future years, the increase in revenue is estimated to be less than \$5,000 per year.

Local Government Impact

Administrative and legal costs for county health departments increase when the process for license revocation or suspension takes longer. County health departments enforcing serious noncompliance issues at an establishment, or multiple establishments, could experience a significant increase in costs for such cases, which may currently proceed directly to license revocation or suspension.

Departments Contacted

Public Health and Environment
Municipal League

Judicial
Special Districts

Colorado Counties