



Colorado Department
of Public Health
and Environment

“COLORADO COTTAGE FOODS ACT”

FACT SHEET

This Fact Sheet is developed to establish uniform interpretation and application of the recently enacted “*Colorado Cottage Foods Act (Act)*.” This fact sheet is provided by the Colorado Department of Public Health and Environment, Division of Environmental Health & Sustainability. Additional information about the Act, may be obtained by calling 303-692-3645, or visiting the division’s web page - www.cdphe.state.co.us/cp

This Act was incorporated into the *Food Protection Act* and modified the definition of a retail food establishment to *not* include:

“A HOME, COMMERCIAL, PRIVATE OR PUBLIC KITCHEN IN WHICH A PERSON PRODUCES FOOD PRODUCTS SOLD DIRECTLY TO CONSUMERS PURSUANT TO THE “*COLORADO COTTAGE FOOD ACT*”, SECTION 25-4-1614.”

This document is intended to serve as direction to local public health agencies (LPHA) as to what can and cannot be produced in a home kitchen and the mechanism of delivery of these products under the provisions of the “*Colorado Cottage Foods Act*.”

1. What is the effective date of the law?

The effective date was March 15, 2012, the date the Governor signed the bill. The Bill contained a “Safety Clause” which establishes the signature date as the date the bill became law and enacted. [Section 8]

2. Within the Cottage Foods Act, what foods can be produced and sold?

Pursuant to the Act, a producer is permitted to manufacture and “...*SELL ONLY A LIMITED RANGE OF FOODS THAT ARE NONPOTENTIALLY HAZARDOUS AND THAT DO NOT REQUIRE REFRIGERATION. THESE FOODS ARE LIMITED TO SPICES, TEAS, DEHYDRATED PRODUCE, NUTS, SEED, HONEY, JAMS, JELLIES PRESERVES, FRUIT BUTTER, BAKED GOODS, AND CANDIES.*” [25-4-1614(2)(b)]

3. Can value added fruits and vegetables now be sold without a retail license or wholesale food registration? Value added means prepped, washed, cut and/or bagged fruits or vegetables.

No. Products are limited to those listed in the Act. Products outside of this listing would fall under the appropriate regulatory authority/structure. See Interpretive Memos 99-02 and 04-03. [Section 25-4-1614(2)(b)]

4. Are all baked goods allowed?

Only non-potentially hazardous baked goods are allowed. Certain baked goods are actually potentially hazardous, for example, some pumpkin and cream pies, cheese cakes and pastries will support pathogenic growth and therefore require refrigeration. When such baked goods are brought to the attention of an LPHA, the producer will need to show, through laboratory verification, that the pH and water activity of the product are within the parameters for a non-potentially hazardous food in order to continue producing the product under this provisions of this law. [Section 25-4-1614(2)(b)]

5. Where and to whom can the foods permitted by the Act be sold?

The foods produced must be sold only on the producer's premises, at the producer's roadside stand, or at a farmer's market, community-supported agriculture organization, or similar venue. These foods can *only* be sold directly to the end user ("ultimate consumer"), and shall not be sold or distributed further. Selling or providing these food products to grocery stores or other retail food establishments is prohibited. [25-4-1614(2)(a), 25-4-1614(2)(d)(I) and (II) and 25-4-1614(5)]

6. What does the term "similar venue" mean when listing the types of locations/venues where these food items can be sold?

The intent is to sell these products where fresh locally sourced foods are more easily available to all consumers, not commercially but on a small-scale basis, directly to the end user. Similar venue was not specifically defined in the Act.

7. Do the foods sold at farmers markets need to be sold packaged?

Yes. As foods sold under this Act must have an affixed label, such foods must be packaged. Raw, uncut fruits and vegetables are not subject to this or the *Food Protection Act*. [25-4-1614(3)(a) and 25-4-1602(14)(j)]

8. Do vendors at Farmers Markets selling eggs still need to hold a Retail Food License to sell eggs?

Yes and the egg producer needs to be recognized as an approved source by the Colorado Department of Agriculture (CDA). Additional licensing may be required by CDA and/or USDA depending on their flock size or sell volume. See CDA's website at <http://www.colorado.gov/cs/Satellite/Agriculture-Main/CDAG/1167928196642> for additional information . [35-21-105]

9. Do cottage food producers need pre approval prior to initiating their operation?

No; however, a LPHA may create a voluntary electronic registry in which a producer may choose to participate. [25-4-1614(8)]

10. How do we determine net revenues for these home producers?

The intent of the Act was not to create a regulatory framework or reporting requirements for these types of operations. If an LPHA suspects noncompliance with the Act or receives a complaint, the LPHA could investigate the producer and request records to make that determination. [Section 1 Legislative Declaration]

11. How is the net revenue determined? Is it by broad category, i.e., baked goods or is each individual produced capped at \$5,000 annually?

Each individual flavor of jam, type of spice, type of cake, etc., would represent a distinct revenue stream of \$5,000. [Section 1 Legislative Declaration and 25-4-1614(2)(e)]

12. What actions should be taken if disallowed or unapproved foods are produced?

If a local public health agency becomes aware of a person operating outside of the provision of the "Colorado Cottage Foods Act" and producing foods that are not allowed as listed in section 25-4-1614(2)(b), C.R.S., under their authorities in the *Colorado Pure Food and Drug Law*, section 25-5-406, C.R.S., they may embargo and/or condemn the product in question. [25-5-406(4) and 25-4-1614(4)]

Additionally, a local public health agency (LPHA) may utilize the enforcement provisions of the *Food Protection Act* under 25-4-1610, *Unlawful acts*, specifically paragraph (b) of that section, which disallows the operation of a retail food establishment without a valid license. [25-4-1610((1)(b))]