

Colorado Legislative Council Staff Fiscal Note

**FINAL  
FISCAL NOTE**

**Drafting Number:** LLS 15-0350      **Date:** August 26, 2015  
**Prime Sponsor(s):** Rep. Hamner; Willett      **Bill Status:** Signed into Law  
 Sen. Donovan; Grantham      **Fiscal Analyst:** Clare Pramuk (303-866-2677)

**BILL TOPIC:** CO COTTAGE FOODS ACT EXPANSION

Fiscal Impact Summary*	FY 2015-2016	FY 2016-2017
<b>State Revenue</b>		
<b>State Expenditures</b>	<b><u>\$139,226</u></b>	<b><u>\$105,345</u></b>
General Fund	120,982	89,477
Centrally Appropriated Costs**	18,244	15,868
<b>FTE Position Change</b>	1.4 FTE	1.2 FTE
<b>Appropriation Required:</b> \$120,982 - Department of Public Health and Environment (FY 2015-16)		

\* This summary shows changes from current law under the bill for each fiscal year.

\*\* These costs are not included in the bill's appropriation. See the State Expenditures section for more information.

**Summary of Legislation**

This bill divides the foods that may be produced under the Cottage Foods Act into two tiers. Tier 1 foods include all the foods on the list of nonpotentially hazardous foods that can be sold when produced in a home kitchen under existing law plus fruit empanadas and tortillas. Tier 2 foods are limited to pickled vegetables that have an equilibrium pH value of 4.6 or lower. The bill requires that a producer conspicuously display a sign at the point of sale with specific wording to notify customers that the food was produced in a home kitchen not subject to state licensure or inspection, that the kitchen may also process common food allergens, and that the product is not intended for resale.

The State Board of Health in the Department of Public Health and Environment (DPHE), is required to promulgate rules, including enforcement provisions, to regulate the production and sale of tier 2 foods.

**Background**

The Colorado Cottage Foods Act allows producers of nonpotentially hazardous foods to use their home, commercial, or public kitchens to produce foods to sell directly to the ultimate consumers without a retail food license. A nonpotentially hazardous food is defined in current law as any food or beverage that, when stored under normal conditions without refrigeration, will not support the rapid and progressive growth of microorganisms that cause food infections or food intoxications. The act limits these foods to spices, teas, dehydrated produce, nuts, seeds, honey, jams, jellies, preserves, fruit butter, and baked goods, including candies.

Pickling vegetables in a home kitchen not subject to state inspection raises safety concerns. The use of careful food handling and sanitation methods, sufficient heat and proper pickling ingredients are important in preventing the transfer of food borne illness or the development of bacteria.

### State Expenditures

***This bill increases General Fund expenditures for the Division of Environmental Health and Sustainability in the DPHE by \$139,226 and 1.4 FTE in FY 2015-16 and \$105,345 and 1.2 FTE in FY 2016-17.***

**Assumptions.** This analysis is based on the following assumptions:

- there are 400 producers of tier 2 foods; and
- a large number of producers will be on the western slope.

<b>Cost Components</b>	<b>FY 2015-16</b>	<b>FY 2016-17</b>
Personal Services	\$94,896	\$72,598
FTE	1.4 FTE	1.2 FTE
Operating Expenses and Capital Outlay Costs	6,286	1,300
Computer System Modifications and Maintenance	6,500	1,500
Travel	13,300	14,079
Centrally Appropriated Costs*	18,244	15,868
<b>TOTAL</b>	<b>\$139,226</b>	<b>\$105,345</b>

\* Centrally appropriated costs are not included in the bill's appropriation.

**Tier 1 Foods.** The division will update fact sheets and guidance documents to include the nonpotentially hazardous foods added by the bill. This represents a minimal workload increase.

**Tier 2 Foods.** The division will convene a stakeholder group in FY 2015-16 to collect input on appropriate rules for pickled vegetable production. Rules adopted by the board are expected to draw from current established food safety practices and include appropriate enforcement provisions and necessary registration requirements.

On a continuing basis, division staff will provide complaint follow up, field inspections for product labeling in support of local public health agencies, and provide training and outreach to cottage food producers. The division will be responsible for enforcement actions for violations of the board's rules.

### Local Government Impact

The bill will increase the workload of county or district public health agencies to ensure that cottage foods are not being sold to retail food establishments in violation of the Cottage Food Act. The addition of pickled vegetables to the act increases the probability that producers will experience food safety issues. Should these issues arise, a county or district public health agency, in conjunction with the DPHE, will be responsible for the investigation of food borne illness.

**Effective Date**

The bill was signed into law by the Governor on June 5, 2015, and became effective on August 5, 2015.

**State Appropriations**

For FY 2015-16, the Department of Public Health and Environment is appropriated \$120,982 from the General Fund, and allocated 1.4 FTE.

**State and Local Government Contacts**

Counties	Public Health
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