



*Colorado Legislative Council Staff Fiscal Note*  
**NO FISCAL IMPACT**

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**Drafting Number:** LLS 11-0494

**Date:** February 16, 2011

**Prime Sponsor(s):** Rep. Sonnenberg  
Sen. Jahn

**Bill Status:** House Judiciary

**Fiscal Analyst:** Kirk Mlinek (303-866-4782)

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**TITLE:** CONCERNING LIMITATIONS ON DAMAGES AGAINST FOOD RETAILERS IN PRODUCT LIABILITY ACTIONS FOR FOOD-BORNE ILLNESSES.

### **Summary of Legislation**

The bill exempts from a product liability action any food retailers who are not manufacturers of food, but who are deemed manufacturers in instances where jurisdiction over the food manufacturer cannot be obtained, for causing an injured party to suffer a food-borne illness. The exemption does not apply if a food retailer is shown to have introduced into the food the contaminant that produced the food-borne illness, the food retailer had knowledge at the time of sale that the food contained a contaminant that would produce a food-borne illness, or that the product was subject to a recall.

The bill is effective August 10, 2011, unless a referendum petition is filed.

### **Background**

Section 13-21-402, C.R.S., the "innocent seller" statute, provides immunity from product liability actions against sellers of products who are not also the manufacturers of the product(s) in question. In cases where jurisdiction over a particular manufacturer of a product, or product part, that is alleged to be defective cannot be determined, the manufacturer's principal distributor or seller is deemed to be the manufacturer.

The bill extends the approach described above to food retailers who are deemed manufacturers when jurisdiction over the manufacturer cannot be obtained. Liability is not waived if an injured party proves one of the three conditions noted in the opening paragraph.

### **Assessment**

The addition of language specific to product liability actions against food retailers does not cause a fiscal impact.

### **Departments Contacted**

Judicial

Law

Public Health and Environment