

First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

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LLS NO. 09-0211.01 Duane Gall

SUNSET BILL

Sunset Process - Senate Agriculture and Natural Resources Committee

SHORT TITLE: "Sunset Meat Processors & Home Food Plans"

DEADLINES: Finalize by: 01/26/2009 File by: 01/28/2009

A BILL FOR AN ACT

101 **CONCERNING THE CONTINUATION OF THE REGULATION BY THE**
102 **DEPARTMENT OF AGRICULTURE OF PERSONS SELLING**
103 **PROCESSED MEAT, AND, IN CONNECTION THEREWITH,**
104 **CLARIFYING THE STATUTORY DISTINCTION BETWEEN CUSTOM**
105 **MEAT PROCESSORS AND THE SELLERS OF HOME FOOD SERVICE**
106 **PLANS, AMENDING TERMS TO COMPORT WITH CURRENT**
107 **BUSINESS PRACTICES, AND INCREASING CONSUMER**
108 **PROTECTIONS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

Sunset Process - Senate Agriculture and Natural Resources Committee. Implements the recommendations of the department of regulatory agencies in its sunset review of the authority of the department of agriculture to regulate the slaughter, processing, and sale of meat animals as follows:

- *Recommendation 1.* Continues the authority of the department of agriculture to regulate the slaughter, processing, and sale of meat animals until July 1, 2018, under the provisions of the sunset law.
- *Recommendation 2.* Repeals the regulation of locker plants.
- *Recommendation 3.* Wherever practical to do so, separates the statutes regulating food plans from the statutes regulating custom meat processors. **<These changes could not conveniently be isolated and grouped together.>**
- *Recommendation 4.* Specifically defines custom processing and clarifies that the statutes only apply to custom processing.
- *Recommendation 5.* Specifically defines the terms "slaughter" and "processing".
- *Recommendation 6.* Updates the statutes on food plan sales to reflect current business practices.
- *Recommendation 7.* Eliminates and revises certain defined terms to reflect current business practices and harmonize with other federal and state statutes. **<These changes could not conveniently be isolated and grouped together.>**
- *Recommendation 8.* Changes the method by which a consumer may recover against the bond of a seller of a home food service plan on the basis of fraud or other wrongdoing.
- *Recommendation 9.* Allows the commissioner of agriculture to set the license renewal cycles for licenses administratively rather than specifying expiration dates in statute.
- *Recommendation 10.* Directs that civil penalties will be deposited in the general fund of the state rather than the inspection and consumer services cash fund.
- *Recommendation 11.* Eliminates language requiring application for a new license within 10 days after a change in ownership or location.
- *Recommendation 12.* Requires grocery stores to undergo sanitary inspections of their custom meat processing facilities.
- *Recommendation 13.* Repeals an existing prohibition on

- the presence of nonemployees in a meat processing area.
Recommendation 14. Repeals the existing 20-pound minimum threshold for regulation of bulk or bundled meat products.

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

2 **Recommendation 1** [*sections 1 & 2 of bill*]

3 **SECTION 1. Repeal.** 24-34-104 (40) (j) (I), Colorado Revised
4 Statutes, is repealed as follows:

5 **24-34-104. General assembly review of regulatory agencies**
6 **and functions for termination, continuation, or reestablishment.**

7 (40) The following agencies, functions, or both, shall terminate on July
8 1, 2009:

9 (j) The following functions of the commissioner of the department
10 of agriculture:

11 ~~(I) The issuance of licenses relating to slaughter, processing, and~~
12 ~~sale of meat in accordance with article 33 of title 35, C.R.S.;~~

13 **SECTION 2.** 24-34-104 (49), Colorado Revised Statutes, is
14 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

15 **24-34-104. General assembly review of regulatory agencies**
16 **and functions for termination, continuation, or reestablishment.**

17 (49) The following agencies, functions, or both, shall terminate on July
18 1, 2018:

19 (c) THE REGULATION BY THE DEPARTMENT OF AGRICULTURE OF
20 THE SLAUGHTER, PROCESSING, AND SALE OF MEAT ANIMALS IN
21 ACCORDANCE WITH ARTICLE 33 OF TITLE 35, C.R.S.

22 **Recommendations 6 & 7** [*entire section*]

23 **SECTION 3.** 35-33-103, Colorado Revised Statutes, is amended

1 to read:

2 **35-33-103. Definitions.** As used in this article, unless the context
3 otherwise requires:

4 (1) "ADULTERATED" HAS THE MEANING SET FORTH IN SECTION
5 25-5-410, C.R.S.

6 ~~(1)~~ (2) "Advertisement" ~~includes the attempt by publication,~~
7 ~~dissemination, solicitation, or circulation, to induce directly or indirectly~~
8 ~~through visual, oral, or written means, any person to enter into any~~
9 ~~obligation or to acquire any title or interest in any property~~ MEANS A
10 COMMUNICATION, BY OR THROUGH ANY MEDIUM, INTENDED TO SOLICIT OR
11 PROMOTE THE SALE OF ANY PRODUCT OR SERVICE:

12 (a) REGULATED BY THIS ARTICLE;

13 (b) PRODUCED OR PROVIDED BY ANY PERSON REGULATED BY THIS
14 ARTICLE; OR

15 (c) THE PRODUCTION OR PROVISION OF WHICH IS REGULATED BY
16 THIS ARTICLE.

17 ~~(2)~~ (3) "Bulk meat" means meat consisting of whole carcasses,
18 ~~sides, or primal cuts and sold by hanging weight~~ OR PARTS THEREOF, OF
19 COMMERCIAL SIZE AND REQUIRING FURTHER CUTTING INTO CUTS OF
20 RETAIL SIZE FOR INDIVIDUAL CONSUMPTION.

21 ~~(3)~~ (4) "Bundle" means individually wrapped cuts of meat
22 packaged together for sale as a single unit.

23 ~~(4)~~ (5) "Commission" means the state agricultural commission.

24 ~~(5)~~ (6) "Commissioner" means the commissioner of agriculture or
25 his OR HER authorized agent.

26 **Recommendation 4** *[this subsection only]*

27 ~~(6)~~ (7) "Custom processing" means the slaughter or ~~processing for~~

1 a fee or other remuneration of an animal delivered to the processor by the
2 owner of such animal PROCESSING, FOR A FEE OR OTHER COMPENSATION,
3 OF MEAT OR MEAT PRODUCTS OF AN ANIMAL NOT OWNED BY THE PERSON
4 PERFORMING THE SLAUGHTER OR PROCESSING AND NOT INTENDED FOR
5 SALE BY THE OWNER OF THE ANIMAL.

6 (7) (8) "Department" means the department of agriculture.

7 (8) "Diseased meat" includes meat that is stale, emaciated, brown,
8 tainted, putrid, measly, or contaminated so as to render it unfit for human
9 consumption.

10 (9) "Food" and "food products" means all articles used for food,
11 drink, confectionery, or condiment by humans, whether simple, mixed, or
12 compound, and any substance used as a constituent in the manufacture
13 thereof.

14 (10) "Food plan" means soliciting, negotiating, or making sales of
15 meat or meat products and frozen foods to consumers, which products are
16 sold or delivered as a package or to be delivered over a specified time for
17 storage in a locker box, home freezer, or any other freezer unit or facility.
18 "Food plan" includes the sale, lease, or rental of any freezer unit in
19 conjunction with the sale of food.

20 (11) "Food plan operator" means any person, firm, or corporation,
21 other than a processor, or a locker plant operator, engaged in the business
22 of soliciting, negotiating, or making sales of food plans.

23 (12) "Freezer unit" means any compartment used for the storage
24 of frozen meats or food, including any locker box or home freezer unit,
25 that has a capacity not to exceed two hundred fifty pounds.

26 (13) "Frozen foods" means any food or food products that have
27 been preserved by freezing or have been subjected to a process of

1 ~~refrigeration sufficient to reduce every portion thereof to a frozen state.~~

2 (14) "Humane method" means:

3 (a) ~~A method whereby an animal is rendered insensible to pain by~~
4 ~~a mechanical, electrical, chemical, or other means that is rapid and~~
5 ~~effective, before being shackled, hoisted, thrown, cast, or cut, but does~~
6 ~~not include any use of a manually operated hammer, sledge, or poleax;~~

7 (b) ~~A method employed in connection with the ritual requirements~~
8 ~~of any religious faith whereby an animal suffers loss of consciousness by~~
9 ~~anemia of the brain caused by the simultaneous and instantaneous~~
10 ~~severance of the carotid arteries with a sharp instrument.~~

11 **Recommendation 7**

12 (10) "HOME FOOD SERVICE PLAN" MEANS AN ARRANGEMENT FOR
13 THE SALE AND DELIVERY OF FOOD TO A CONSUMER, WHETHER OR NOT THE
14 CONSUMER IS REQUIRED TO PAY A MEMBERSHIP FEE OR SIMILAR CHARGE
15 AND WHETHER OR NOT ANY NONFOOD ITEM, INCLUDING DURABLE
16 CONSUMER GOODS OR SERVICES, IS INCLUDED WITH THE FOOD, IF:

17 (a) THE ARRANGEMENT IS MADE BY MEANS OF A PERSONAL
18 MEETING AT THE CONSUMER'S HOME; AND

19 (b) THE FOOD CONSISTS OF OR INCLUDES ANY MEAT OR MEAT
20 PRODUCTS.

21 (11) "INEDIBLE MEAT" MEANS MEAT OR MEAT PRODUCTS DERIVED
22 FROM DEAD, DYING, DISABLED, DISEASED, OR CONDEMNED ANIMALS OR
23 FROM ANIMALS WHOSE MEAT OR MEAT PRODUCTS ARE OTHERWISE
24 UNSUITABLE FOR HUMAN CONSUMPTION. "INEDIBLE MEAT" INCLUDES
25 MEAT OR MEAT PRODUCTS, REGARDLESS OF ORIGIN, THAT HAVE
26 DETERIORATED SO FAR AS TO BE UNFIT FOR HUMAN CONSUMPTION.

27 (15) ~~"Inspection" means an actual on-site investigation or~~

1 ~~examination by the department of agriculture to see that a processing~~
2 ~~facility conforms with the requirements of this article and the rules and~~
3 ~~regulations of the department.~~

4 ~~(16) "Livestock" means cattle, calves, sheep, swine, horses, mules,~~
5 ~~goats, and any other animal which may be used in and for the preparation~~
6 ~~of meat or meat products.~~

7 **Recommendation 2** *[subsections (17) & (18)]*

8 ~~(17) "Locker box" means the individual sections or compartments~~
9 ~~of a capacity not to exceed thirty-five cubic feet in the locker room of a~~
10 ~~locker plant.~~

11 ~~(18) "Locker plant" means a location or establishment in which~~
12 ~~space in individual lockers is rented for the storage of frozen food.~~

13 ~~(19) (12) "Meat or meat product PRODUCTS" means carcasses or~~
14 ~~parts of carcasses derived from cattle, calves, sheep, swine, goats, large~~
15 ~~game animals, and other food animals, including rabbits and poultry ANY~~
16 ~~ANIMALS USED FOR FOOD.~~

17 ~~(20) "Meat processing facility" or "processing facility" means any~~
18 ~~establishment where meat is slaughtered, dressed, processed, cut,~~
19 ~~trimmed, wrapped, or packaged for delivery to consumers.~~

20 ~~(21) "Misrepresent" means the use of any untrue, misleading, or~~
21 ~~deceptive oral or written statement, advertisement, label, display, picture,~~
22 ~~illustration, or sample.~~

23 ~~(22) "Packaging materials" means cartons, wrapping materials, or~~
24 ~~any other container of any kind used for the packaging of meat or meat~~
25 ~~products or food or food products.~~

26 ~~(23) "Packer" means any person engaged in the business of~~
27 ~~slaughtering, or of manufacturing or preparing meat or meat products for~~

1 ~~sale, either by such person or others, or of manufacturing or preparing~~
2 ~~livestock products for sale by such person or others.~~

3 ~~(24)~~ (13) "Poultry" means any domesticated bird, live or dead,
4 including but not limited to chickens, turkeys, ducks, and geese.

5 ~~(25)~~ (14) "Premises" means the back, front, and side yard of
6 property occupied by a CUSTOM processing establishment; docks and
7 areas where vehicles are loaded or unloaded; driveways, approaches,
8 pens, and alleys; and buildings or portions of buildings ~~which~~ THAT are
9 part of any establishment even though not used for CUSTOM processing.

10 ~~(26)~~ "Primal cuts" includes:

11 ~~(a) Side of beef: One-half of a split beef, comprising the~~
12 ~~forequarter and hindquarter;~~

13 ~~(b) Forequarter of beef: The forward portion of a side, back to~~
14 ~~and including the twelfth rib;~~

15 ~~(c) Back of beef: The chuck and rib with plate and brisket~~
16 ~~removed;~~

17 ~~(d) Arm chuck of beef: With brisket removed, the back portion~~
18 ~~to and including the fifth rib;~~

19 ~~(e) Rib of beef: That portion from the sixth rib to the twelfth rib~~
20 ~~inclusive, not to exceed ten inches from tip of chine bone to top of rib~~
21 ~~without plate;~~

22 ~~(f) Hindquarter of beef: The rear portion of a side from and~~
23 ~~including the thirteenth rib, consisting of round, loin, and flank;~~

24 ~~(g) Trimmed loin of beef: Without flank or kidney, that portion~~
25 ~~consisting of the short loin and hip section of hindquarter including the~~
26 ~~thirteenth rib and separated one to two inches below the aitch bone;~~

27 ~~(h) Full loin of beef: The trimmed loin, flank, and kidney;~~

1 (i) ~~Round of beef. That portion of hindquarter separated from the~~
2 ~~loin one to two inches below the aitch bone back to the chine bone.~~

3 ~~(27) "Processor" means any person, firm, or corporation which~~
4 ~~sells, cuts up, processes, slaughters, packages, wraps, stores, or freezes~~
5 ~~meat or meat products or food and food products for storage in a locker~~
6 ~~box, a home freezer, or any other freezer unit, and includes any location~~
7 ~~or establishment that has any one or more of the following facilities: A~~
8 ~~processing room, a chill room, a storage room, or a sharp freezing facility,~~
9 ~~and equipment used in conjunction therewith.~~

10 **Recommendation 5** *[subsections (15) and (22)]*

11 (15) "PROCESSING" MEANS THE SLAUGHTERING, DRESSING,
12 CUTTING, PREPARING, TRIMMING, WRAPPING, OR PACKAGING OF AN
13 ANIMAL OR OF MEAT OR MEAT PRODUCTS FROM AN ANIMAL.

14 ~~(28)~~ (16) "Rabbit" means A domesticated rabbit, either A fryer or
15 young rabbit or A roaster or mature rabbit.

16 ~~(29)~~ (17) "Regulated product" means any meat or meat product
17 ~~sold as a wholesale cut or as a variety or AS BULK MEAT OR IN A bundle;~~
18 ~~of cuts and broken down and wrapped for storage in a locker box, home~~
19 ~~freezer, or any other freezer unit; any food which THAT is sold or given~~
20 ~~away as an incentive or bonus connected with the sale of meat or meat~~
21 ~~products; any food product intended for human consumption which THAT~~
22 ~~is sold or given away as a part of any HOME food SERVICE plan; any meat~~
23 ~~or meat product or poultry or poultry product which THAT requires~~
24 ~~inspection by the U.S. department of agriculture before sale; or any meat~~
25 ~~or meat product, poultry or poultry product, or rabbit or rabbit product~~
26 ~~which THAT is intended for human consumption or has been determined~~
27 ~~to be unfit for human consumption.~~

1 ~~(30) "Remodel" or "renovate" means to reconstruct after any~~
2 ~~demolition or removal of existing structures or parts thereof beyond the~~
3 ~~scope of ordinary repairs.~~

4 ~~(31)~~ (18) "Represent" ~~means~~ OR "REPRESENTATION" REFERS TO the
5 use of any oral or written statement, advertisement, label, display, picture,
6 illustration, or sample.

7 ~~(32)~~ (19) "Retail" or "retail sale" means a sale to an ultimate
8 consumer not intended for resale. For purposes of this article, sales to
9 hotels, restaurants, or institutions are not retail sales.

10 ~~(33)~~ (20) "Sharp freezing facility" means a facility capable of
11 maintaining a temperature of ten degrees below zero Fahrenheit or lower
12 on still air or contact or a temperature of zero degrees Fahrenheit or lower
13 by forced air circulation, within a tolerance of five degrees Fahrenheit for
14 a minimum of twelve hours after fresh food is put in such facility for
15 freezing.

16 ~~(34)~~ (21) "Sharp frozen" means the process of refrigeration
17 sufficient to reduce every portion of any meat or meat product to a
18 temperature of zero degrees Fahrenheit or less in five hours or less.

19 ~~(35) "Slaughterer" means any person regularly engaged in the~~
20 ~~slaughter of livestock.~~

21 ~~(36) "Stockyard" means any place, establishment, or facility~~
22 ~~commonly known as a stockyard, conducted or operated for compensation~~
23 ~~or profit as a public market, consisting of pens or other enclosures and~~
24 ~~their appurtenances for the handling, keeping, and holding of livestock~~
25 ~~for the purpose of sale or shipment.~~

26 ~~(37) "Wholesale" means the selling of goods in gross to other~~
27 ~~wholesalers, to retail dealers, or to anyone who intends to resell;~~

1 ~~"wholesale" does not include the selling of goods to household consumers~~
2 ~~of such goods.~~

3 ~~(38) "Wholesale cut" means a whole carcass of beef, swine, or~~
4 ~~sheep, or any part thereof customarily classified as being of commercial~~
5 ~~size and usually requiring further cutting into cuts of retail size for use by~~
6 ~~consumers. Wholesale cuts shall be cut to standards as dictated by~~
7 ~~uniform industry standards for meat cutting and purveyors.~~

8 **Recommendation 5** *[subsections (15) and (22)]*

9 (22) "SLAUGHTER" MEANS ANY PROCESS, OR THE USE OF ANY
10 PROCESS, INCLUDING WITHOUT LIMITATION THE PROCESS OF BLEEDING,
11 THAT CAUSES THE DEATH OF ANY ANIMAL INTENDED FOR FOOD.

12 (23) "UNINSPECTED", IN REFERENCE TO ANY ANIMAL, MEAT, OR
13 MEAT PRODUCT, MEANS NOT INSPECTED AND PASSED BY THE UNITED
14 STATES DEPARTMENT OF AGRICULTURE OR ANOTHER AUTHORIZED
15 GOVERNMENT AGENCY.

16 **Recommendations 4 & 7**

17 **SECTION 4.** 35-33-104 (1), (3), (4), and (6), Colorado Revised
18 Statutes, are amended to read:

19 **35-33-104. Department of agriculture - powers and duties.**

20 (1) The ~~department~~ COMMISSIONER is hereby authorized to formulate
21 reasonable rules and standards of construction, operation,
22 RECORD-KEEPING, and sanitation for all ~~meat~~ CUSTOM processing facilities
23 and shall establish rules and standards pertaining to containers, packaging
24 materials, mobile slaughter units, slaughter rooms, processing rooms,
25 chill rooms, storage and locker rooms, sharp freezing facilities, and
26 premises of ~~meat~~ CUSTOM processing facilities, with respect to the service
27 of slaughtering, cutting, preparing, wrapping, and packaging meat and

1 meat products necessary for the proper preservation of food, and shall
2 establish rules and standards pertaining to the sale of meat or meat
3 products and for A SELLER OF HOME food ~~plan operators~~ SERVICE PLANS
4 to the end of protecting the public health and protecting the public from
5 deception, fraud, or unethical sales practices.

6 (3) ~~The commission is authorized and instructed to adopt~~
7 ~~applicable rules and regulations of the United States department of~~
8 ~~agriculture insofar as they relate to the inspection of live animals and the~~
9 ~~manufacture, labeling, and marking of meat or meat products from meat~~
10 ~~processing facilities insofar as they can be applied to the meat and meat~~
11 ~~products manufactured and offered for sale in this state.~~

12 (4) The ~~department~~ COMMISSIONER shall have the right of access,
13 at any reasonable time, during regular working hours, to any premises for
14 the purpose of any examination or inspection necessary to enforce ~~any of~~
15 ~~the provisions of~~ this article or the rules ~~or regulations~~ promulgated
16 thereunder.

17 (6) When the commissioner has reasonable cause to believe that
18 any meat or meat product or regulated product is being held, slaughtered,
19 processed, or sold in violation of this article or the rules ~~and regulations~~
20 promulgated under this article, and when such product endangers the
21 public health, safety, or welfare, he OR SHE may issue and enforce a
22 written retention order, prohibiting any person from moving, selling, or
23 otherwise disposing of the retained product in any manner without written
24 permission of the commissioner. Within five days ~~of~~ AFTER the issuance
25 of any ~~such~~ retention order, the commissioner shall hold a hearing to
26 determine whether the retained product should be condemned or released
27 for sale as food. If the product is found to be ~~diseased or otherwise unfit~~

1 ~~for human consumption~~ ADULTERATED, and ~~such~~ THE product cannot be
2 brought into compliance with this article, the commissioner shall order
3 that the retained product is inedible meat ~~as defined in article 59 of this~~
4 ~~title~~ and shall be disposed of in accordance with ~~the provisions of said~~
5 article 59 OF THIS TITLE.

6 **Recommendation 12**

7 **SECTION 5.** 35-33-107 (2) and (3), Colorado Revised Statutes,
8 are amended to read:

9 **35-33-107. Exemptions.** (2) ~~Any retail grocery store in which~~
10 ~~seventy-five percent or more of the business results from retail sales of~~
11 ~~products other than bulk meat shall be exempt from the licensing~~
12 ~~requirements of this article; however, all other provisions of this article~~
13 ~~relating to advertising and sale of meat or meat products shall apply.~~

14 (3) Any person who holds an establishment number issued by the
15 United States department of agriculture for purposes of inspection and
16 does not ~~sell meat or meat products at retail or engage in the custom~~
17 ~~processing of meat animals shall be exempt from the requirements of this~~
18 ~~article. except that any such person shall be subject to the requirements~~
19 ~~of section 35-33-204.~~

20 **Recommendations 2 & 7**

21 **SECTION 6. Repeal.** 35-33-108, Colorado Revised Statutes, is
22 repealed as follows:

23 **35-33-108. Operators not warehousemen.** ~~Operators of locker~~
24 ~~plants or processors or any establishment which processes meat or meat~~
25 ~~products or food products for frozen storage shall not be construed to be~~
26 ~~warehousemen.~~

27 **Recommendations 4, 7, & 13**

1 **SECTION 7.** 35-33-201 (1), (2), (6), (7), (9), and (10), Colorado
2 Revised Statutes, are amended to read:

3 **35-33-201. Custom processing facilities - operation.** (1) The
4 ~~meat~~ CUSTOM processing activities of any facility licensed under this
5 article ~~or under article 11 of title 12, C.R.S.~~, shall be conducted in a safe
6 and sanitary manner.

7 (2) ~~Only employees of such facility shall be allowed in the~~
8 ~~processing area while processing is underway. In no case shall anyone~~
9 ~~other than an employee be allowed or required to assist in any processing,~~
10 ~~wrapping, or labeling operation.~~

11 (6) Unpackaged or uncovered ~~regulated~~ MEAT OR MEAT products
12 shall not be moved through the slaughter, holding, or refuse rooms or
13 areas.

14 (7) All poultry and rabbits shall be chilled immediately after
15 processing so that the internal temperature is reduced to a temperature
16 established by the ~~department~~ COMMISSIONER by rule and sufficient to
17 protect the public health.

18 (9) (a) ~~Carcasses or parts of carcasses found to be affected with~~
19 ~~any disease or condition rendering them unfit for human consumption~~
20 ADULTERATED OR INEDIBLE MEAT shall be ~~condemned~~, decharacterized
21 SO AS TO UNEQUIVOCALLY PRECLUDE ITS USE FOR HUMAN FOOD and
22 SHALL BE disposed of by methods approved by the commissioner.

23 (b) Decharacterization of adulterated ~~contaminated, decomposed,~~
24 or ~~diseased~~ INEDIBLE meat shall be accomplished by freely slashing and
25 covering all exposed surfaces with an edible green dye, charcoal, or such
26 other methods as may be approved by the commissioner.

27 (10) All meat and meat products resulting from the ~~custom~~

1 processing ~~or slaughter~~ of uninspected animals:

2 (a) Shall, AS SOON AS IS PRACTICABLE AFTER PROCESSING, be
3 MARKED OR CODED WITH THE OWNER'S NAME AND marked "NOT FOR
4 SALE" in letters not less than three-eighths of an inch in height;

5 (b) ~~Each uninspected carcass, half, or quarter, must be marked~~
6 ~~"NOT FOR SALE" with an ink brand before being placed in a freezer~~
7 ~~unit. Livers, hearts, and tongues must be marked "NOT FOR SALE"~~
8 ~~with an ink brand before they leave the kill floor. Each package of meat~~
9 ~~or meat products custom slaughtered or processed~~ Shall, WHEN
10 PACKAGED, be marked or coded with the owner's name, the date of
11 wrapping of the package, and the package contents, and ~~shall be~~ labeled
12 "NOT FOR SALE"; AND

13 (c) SHALL BE RETURNED TO THE OWNER OR DECHARACTERIZED
14 AND DISPOSED OF BY METHODS APPROVED BY THE COMMISSIONER, EXCEPT
15 FOR UNCLAIMED MEAT FROM WILDLIFE SUBJECT TO THE JURISDICTION OF
16 THE COLORADO DIVISION OF WILDLIFE, WHICH SHALL BE DONATED OR
17 DISPOSED OF IN ACCORDANCE WITH ANY APPLICABLE STATE OR FEDERAL
18 HEALTH OR WILDLIFE LAWS.

19 **Recommendations 4 & 7**

20 **SECTION 8.** 35-33-202, Colorado Revised Statutes, is amended
21 to read:

22 **35-33-202. Record-keeping requirements.** (1) (a) Every
23 CUSTOM processor ~~of live poultry or rabbits~~ shall maintain records of ~~their~~
24 ~~purchase and slaughter, including~~ EACH CUSTOMER TRANSACTION,
25 INCLUDING, AT A MINIMUM:

26 (I) The date of ~~any~~ THE transaction;

27 (II) ~~the number purchased~~; A DESCRIPTION OF THE MEAT OR MEAT

1 PRODUCTS processed, ~~or slaughtered, and~~ including species and quantity;

2 (III) The name and address of the ~~seller~~ OWNER; AND

3 (IV) SUCH OTHER INFORMATION AS MAY BE REQUIRED BY RULES
4 OF THE COMMISSIONER.

5 (b) ~~Such~~ THE records MAINTAINED PURSUANT TO PARAGRAPH (a)
6 OF THIS SUBSECTION (1) shall be KEPT FOR AT LEAST TWO YEARS AND
7 made available to the commissioner on demand.

8 (2) ~~Every person operating a facility engaging in the custom~~
9 ~~processing of meat animals other than poultry and rabbits shall maintain~~
10 ~~records of all animals processed, the name and address of the seller or~~
11 ~~owner, and whether the animal processed was inspected by the United~~
12 ~~States department of agriculture or was exempt from inspection.~~

13 **Recommendation 7** [*Sections 9 and 10 of bill*]

14 **SECTION 9.** 35-33-203, Colorado Revised Statutes, is amended
15 to read:

16 **35-33-203. Slaughter methods.** (1) No CUSTOM processor shall
17 shackle, hoist, or otherwise bring ~~livestock~~ ANIMALS into position for
18 slaughter or shall slaughter or bleed ~~livestock~~ ANIMALS except by humane
19 methods PERMITTED BY THE FEDERAL "HUMANE METHODS OF SLAUGHTER
20 ACT OF 1958", 7 U.S.C. SEC. 1901 ET SEQ., AS AMENDED.

21 (2) ~~The commissioner shall promulgate rules that conform~~
22 ~~substantially to the rules and regulations of the secretary of agriculture of~~
23 ~~the United States pursuant to the federal "Humane Methods of Slaughter~~
24 ~~Act of 1958", as amended, but the use of a manually operated hammer,~~
25 ~~sledge, or poleax shall not be permitted.~~

26 **SECTION 10. Repeal.** 35-33-204, Colorado Revised Statutes,
27 is repealed as follows:

1 **35-33-204. Sale of adulterated or diseased meat.**

2 ~~(1) Notwithstanding any other provision of this article, it is unlawful for~~
3 ~~any person to receive for the purpose of slaughter, slaughter, sell, expose~~
4 ~~for sale, can or pack for the purposes of transportation or sale, or give~~
5 ~~away for use as human food, any meat which such person knows or has~~
6 ~~reason to know is:~~

7 ~~(a) Adulterated, as defined in section 25-5-410, C.R.S.; or~~

8 ~~(b) Diseased or came from the carcass of an animal that died from~~
9 ~~disease or exposure or was not slaughtered for the purpose of human~~
10 ~~consumption.~~

11 ~~(2)(a) Any person who violates paragraph (a) of subsection (1) of~~
12 ~~this section commits a class 2 misdemeanor and shall be punished as~~
13 ~~provided in section 18-1.3-501, C.R.S.~~

14 ~~(b) Any person who violates paragraph (b) of subsection (1) of~~
15 ~~this section commits a class 5 felony and shall be punished as provided~~
16 ~~in section 18-1.3-401, C.R.S.~~

17 **Recommendations 3, 4, & 7**

18 **SECTION 11.** Part 2 of article 33 of title 35, Colorado Revised
19 Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW
20 SECTIONS to read:

21 **35-33-206. License required - application - inspection -**
22 **issuance.** (1) ANY PERSON WHO DESIRES TO OPERATE A CUSTOM
23 PROCESSING FACILITY SHALL FIRST OBTAIN A LICENSE FROM THE
24 DEPARTMENT. A SEPARATE LICENSE SHALL BE REQUIRED FOR EACH
25 CUSTOM PROCESSING FACILITY. THE APPLICATION SHALL BE IN WRITING
26 ON FORMS SUPPLIED BY THE DEPARTMENT, SHALL SET FORTH SUCH
27 INFORMATION AS MAY BE REQUIRED BY THE DEPARTMENT, AND SHALL BE

1 ACCOMPANIED BY ANY REQUIRED FEES.

2 (2) UPON THE APPLICANT'S SUBMISSION OF AN APPLICATION FOR
3 A LICENSE, OR FOR THE RENEWAL THEREOF, AND PAYMENT OF THE
4 REQUIRED FEES, THE DEPARTMENT SHALL INSPECT FACILITIES AND
5 PREMISES AT THE LOCATION TO BE LICENSED AND, IF IT FINDS THAT THE
6 EQUIPMENT, FACILITIES, SURROUNDING PREMISES, AND OPERATION OF
7 SUCH ESTABLISHMENT COMPLY WITH THIS ARTICLE AND THE RULES
8 ESTABLISHED PURSUANT THERETO, THE DEPARTMENT SHALL ISSUE A
9 LICENSE TO OPERATE UNLESS THE DEPARTMENT FINDS THAT THERE ARE
10 GROUNDS FOR DENIAL OR REFUSAL TO RENEW A LICENSE PURSUANT TO
11 SECTION 35-33-208.

12 **Recommendation 9** *[subsection (3) only]*

13 (3) THE LICENSE SHALL BE VALID FOR THE PERIOD FROM THE DATE
14 OF ISSUANCE UNTIL THE EXPIRATION DATE ESTABLISHED BY THE
15 COMMISSIONER BY RULE AND, EXCEPT FOR GOOD CAUSE SHOWN, SHALL BE
16 RENEWED ANNUALLY THEREAFTER.

17 (4) A LICENSE SHALL NOT BE TRANSFERABLE TO A NEW OWNER OR
18 LOCATION.

19 (5) ANY PERSON WHO OPERATES A CUSTOM PROCESSING FACILITY
20 WITHOUT A VALID LICENSE THEREFOR COMMITS A CLASS 2 MISDEMEANOR
21 AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S.

22 **35-33-207. License fees.** (1) THE FEE FOR EACH LICENSE UNDER
23 THIS PART 2 SHALL BE ESTABLISHED BY THE COMMISSION. THERE SHALL
24 BE NO REDUCTION OF A LICENSE FEE FOR ANY FRACTIONAL PART OF A
25 YEAR. THE FEE SCHEDULE SHALL COVER ALL OF THE DIRECT AND INDIRECT
26 COSTS ASSOCIATED WITH THE LICENSING, INSPECTION, AND REGULATION
27 OF CUSTOM PROCESSORS.

1 (2) ALL FEES COLLECTED PURSUANT TO THIS SECTION SHALL BE
2 DEPOSITED IN THE STATE TREASURY AND CREDITED TO THE INSPECTION
3 AND CONSUMER SERVICES CASH FUND CREATED IN SECTION 35-1-106.5.

4 **35-33-208. Disciplinary actions - grounds.** (1) IN ACCORDANCE
5 WITH THE "COLORADO ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF
6 TITLE 24, C.R.S., THE COMMISSIONER MAY DENY, SUSPEND, REVOKE,
7 RESTRICT, REFUSE TO RENEW, OR PLACE ON PROBATION THE LICENSE OF
8 ANY APPLICANT OR LICENSEE WHO:

9 (a) MAKES A FALSE STATEMENT OR MISREPRESENTATION ON AN
10 APPLICATION FOR A LICENSE OR RENEWAL;

11 (b) HAS HAD A PREVIOUS LICENSE OR ANY EQUIVALENT
12 AUTHORIZATION TO ENGAGE IN ACTIVITIES REGULATED UNDER THIS PART
13 2 REVOKED, SUSPENDED, OR DENIED BY ANY AUTHORITY AUTHORIZED TO
14 GRANT SUCH LICENSE OR AUTHORIZATION IN THIS OR ANY OTHER STATE;

15 (c) HAS FAILED TO COMPLY WITH OR VIOLATED ANY PROVISION OF
16 THIS PART 2 OR ANY RULE PROMULGATED BY THE COMMISSIONER
17 PURSUANT TO THIS PART 2; OR

18 (d) FAILS TO OBEY ANY LAWFUL ORDER OF THE COMMISSIONER.

19 **Recommendations 3, 6, & 14**

20 **SECTION 12.** 35-33-301, Colorado Revised Statutes, is amended
21 to read:

22 **35-33-301. Applicability - advertising and sale.** (1) ~~The~~
23 ~~provisions of~~ This part 3 shall apply to all sales of regulated products or
24 advertisements containing an offer to sell regulated products:

25 (a) In bulk or as a bundle; ~~or as a package of greater than twenty~~
26 ~~pounds which is cut up and wrapped for cold storage;~~ or

27 (b) On credit, or subject to an installment or other payment plan

1 or as part of a HOME food SERVICE plan including cut and packaged meats
2 intended for storage in a ~~locker box~~, home freezer or other cold storage
3 facility.

4 **Recommendations 3, 6, & 7**

5 **SECTION 13.** Part 3 of article 33 of title 35, Colorado Revised
6 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
7 read:

8 **35-33-301.5. Method of sale.** (1) ALL REGULATED PRODUCTS
9 SHALL BE SOLD BY WEIGHT.

10 (2) THE PRICE OF ANY BULK MEAT SHALL BE STATED PER POUND.

11 (3) WHEN A REGULATED PRODUCT IS SOLD AS A BUNDLE, OR AS
12 PART OF A HOME FOOD SERVICE PLAN, THE CUSTOMER SHALL BE PROVIDED
13 WITH A WRITTEN STATEMENT OF EITHER:

14 (a) THE NET WEIGHT AND PRICE PER POUND FOR EACH ITEM; OR

15 (b) THE NET WEIGHT AND TOTAL PRICE FOR EACH ITEM OTHER
16 THAN BULK MEAT.

17 **Recommendation 6**

18 **SECTION 14.** 35-33-302 (9), (10), (11), (12), and (13), Colorado
19 Revised Statutes, are amended to read:

20 **35-33-302. Advertisements.** (9) Any advertisement offering to
21 sell meat as a "side", "half", "quarter", or similar unit shall contain the
22 following warning in capital letters: "Meat sold by ~~hanging~~ weight
23 DETERMINED before processing. Actual yield will be less".

24 (10) Any advertisement offering for sale a "side", "quarter", or
25 "half" of beef and containing a list of ~~primal~~ cuts purportedly from such
26 "side", "half", or "quarter", shall list only ~~primal~~ cuts ~~which~~ THAT are
27 anatomically correct components of the indicated part of the carcass.

1 (11) ~~No~~ A PERSON SHALL NOT USE AN advertisement ~~shall~~
2 ~~constitute or be a~~ THAT CONSTITUTES ALL OR part of a deceptive trade
3 practice as defined in section 6-1-105 (1) (e), (1) (i), (1) (j), (1) (l), or (1)
4 (n), C.R.S., IN CONNECTION WITH GOODS OR SERVICES SUBJECT TO THIS
5 ARTICLE.

6 (12) Any person violating ~~the terms of~~ this section commits a
7 class 2 misdemeanor and shall be punished as provided in section
8 18-1.3-501, C.R.S.

9 (13) Nothing in this section shall be construed to limit or preempt
10 the ~~provisions~~ APPLICATION of article 1 of title 6, C.R.S.

11 **Recommendations 3, 6, & 7**

12 **SECTION 15.** 35-33-303, Colorado Revised Statutes, is amended
13 to read:

14 **35-33-303. Documentation of sales.** (1) Any sale of a ~~regulated~~
15 ~~product subject to this part 3~~ BULK MEAT OR A HOME FOOD SERVICE PLAN
16 shall be ~~in writing and~~ DOCUMENTED IN A WRITTEN RECEIPT, WHICH shall
17 contain, ~~or specify, without limitation~~ AT A MINIMUM:

- 18 (a) The full name and ~~current mailing~~ address of the seller;
- 19 (b) THE NAME AND ADDRESS OF THE BUYER;
- 20 (c) THE DATE OF THE SALE;
- 21 (d) WEIGHT AND PRICING INFORMATION AS REQUIRED BY SECTION
22 35-33-301.5;
- 23 ~~(b)~~ (e) The total price to be paid by the buyer, ~~under the contract,~~
24 including, without limitation, any applicable charges for cutting, freezing,
25 wrapping, packaging, delivery, freezer or locker rental, insurance, and
26 any interest, finance charge, service charge, or membership charge;
- 27 ~~(c)~~ (f) The total weight of ~~any beef cut from a single carcass or~~

1 ~~otherwise sold as a "side", "half", "quarter", or similar unit, separately~~
2 ~~itemized, including the total weight of all meat to be delivered under the~~
3 ~~contract, ALL REGULATED PRODUCTS, INCLUDING SEPARATELY itemized~~
4 ~~separate total weights for beef, poultry, and any other meat or meat~~ EACH
5 REGULATED product;

6 ~~(d)~~ (g) A separate itemization of all nonfood charges;

7 ~~(e)~~ (h) The make, model number, and cubic-foot capacity of any
8 locker, freezer, or other appliance or facility sold or rented under the
9 contract;

10 ~~(f)~~ (i) The exact number, period, and amount of any installments
11 to be paid during the life of the contract or any associated financing
12 agreement;

13 ~~(g)~~ (j) The annual percentage rate of any interest, finance, penalty,
14 late fee, delinquency, or other charge that is or may be levied on any
15 outstanding balance;

16 ~~(h)~~ (k) If the full balance due under the contract is not paid on
17 delivery, that the contract may be assigned and, upon assignment, may be
18 collected by a third-party assignee;

19 ~~(i)~~ (l) A merger clause stating that the contract excludes any terms
20 not expressly contained therein; and

21 ~~(j)~~ (m) The signature of the buyer.

22 (2) EVERY PERSON WHO SELLS BULK MEAT OR A HOME FOOD
23 SERVICE PLAN SHALL MAINTAIN A COPY OF EACH CONTRACT REQUIRED BY
24 SUBSECTION (1) OF THIS SECTION FOR AT LEAST TWO YEARS.

25 (3) ANY SALE OF A REGULATED PRODUCT NOT SUBJECT TO
26 SUBSECTION (1) OF THIS SECTION SHALL BE DOCUMENTED IN A WRITING
27 THAT CONTAINS, AT A MINIMUM:

- 1 (a) THE FULL NAME AND ADDRESS OF THE SELLER;
- 2 (b) THE TOTAL PRICE PAID, OR TO BE PAID, BY THE BUYER;
- 3 (c) WEIGHT AND PRICING INFORMATION AS REQUIRED BY SECTION
- 4 35-33-301.5;
- 5 (d) A SEPARATE ITEMIZATION OF ALL CHARGES FOR GOODS AND
- 6 SERVICES OTHER THAN FOOD;
- 7 (e) THE DATE OF PURCHASE; AND
- 8 (f) TERMS SPECIFIC TO ANY ONGOING CONTRACTUAL
- 9 RELATIONSHIP BETWEEN THE BUYER AND SELLER.

10 **Recommendations 6 & 7**

11 **SECTION 16.** 35-33-305, Colorado Revised Statutes, is amended

12 to read:

13 **35-33-305. Freezing prior to sale.** ~~Except for animals being~~

14 ~~custom slaughtered or processed for the owner and not sold by the~~

15 ~~processor, perishable products regulated under this article and sold or~~

16 ~~delivered in quantities of more than twenty-five pounds, Unless otherwise~~

17 requested by the purchaser, ~~must~~ ALL REGULATED PRODUCTS SHALL be

18 sharp frozen before delivery. ~~to the consumer.~~

19 **Recommendations 3, 6, & 7**

20 **SECTION 17.** Part 3 of article 33 of title 35, Colorado Revised

21 Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW

22 SECTIONS to read:

23 **35-33-306. License required - application - inspection -**

24 **issuance.** (1) A PERSON WHO DESIRES TO SELL A HOME FOOD SERVICE

25 PLAN SHALL FIRST OBTAIN A LICENSE FROM THE DEPARTMENT. A

26 SEPARATE LICENSE SHALL BE REQUIRED FOR EACH BUSINESS LOCATION.

27 THE APPLICATION SHALL BE IN WRITING ON FORMS SUPPLIED BY THE

1 DEPARTMENT, SHALL SET FORTH SUCH INFORMATION AS MAY BE REQUIRED
2 BY THE DEPARTMENT, AND SHALL BE ACCOMPANIED BY ANY REQUIRED
3 FEES.

4 (2) UPON THE APPLICANT'S SUBMISSION OF AN APPLICATION FOR
5 A LICENSE, OR FOR THE RENEWAL THEREOF, EVIDENCE OF THE BOND
6 REQUIRED BY SECTION 35-33-308, AND PAYMENT OF THE REQUIRED FEES,
7 THE DEPARTMENT SHALL REVIEW THE APPLICANT'S OPERATIONS AND, IF IT
8 FINDS THAT SUCH OPERATIONS COMPLY WITH THIS ARTICLE AND THE
9 RULES ESTABLISHED PURSUANT THERETO, THE DEPARTMENT SHALL ISSUE
10 A LICENSE TO OPERATE UNLESS THE DEPARTMENT FINDS THAT THERE ARE
11 GROUNDS FOR DENIAL OR REFUSAL TO RENEW A LICENSE PURSUANT TO
12 SECTION 35-33-309.

13 **Recommendation 9** *[subsection (3) only]*

14 (3) THE LICENSE SHALL BE VALID FOR THE PERIOD FROM THE DATE
15 OF ISSUANCE UNTIL THE EXPIRATION DATE ESTABLISHED BY THE
16 COMMISSIONER BY RULE AND, EXCEPT FOR GOOD CAUSE SHOWN, SHALL BE
17 RENEWED ANNUALLY THEREAFTER.

18 (4) A LICENSE SHALL NOT BE TRANSFERABLE TO A NEW OWNER OR
19 LOCATION.

20 (5) ANY PERSON WHO SELLS A HOME FOOD SERVICE PLAN WITHOUT
21 A VALID LICENSE THEREFOR COMMITS A CLASS 2 MISDEMEANOR AND
22 SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S.

23 **35-33-307. License fees.** (1) THE FEE FOR EACH LICENSE UNDER
24 THIS PART 3 SHALL BE ESTABLISHED BY THE COMMISSION. THERE SHALL
25 BE NO REDUCTION OF A LICENSE FEE FOR ANY FRACTIONAL PART OF A
26 YEAR. THE FEE SCHEDULE SHALL COVER ALL OF THE DIRECT AND INDIRECT
27 COSTS ASSOCIATED WITH THE LICENSING, INSPECTION, AND REGULATION

1 OF SELLERS OF HOME FOOD SERVICE PLANS.

2 (2) ALL FEES COLLECTED PURSUANT TO THIS SECTION SHALL BE
3 DEPOSITED IN THE STATE TREASURY AND CREDITED TO THE INSPECTION
4 AND CONSUMER SERVICES CASH FUND CREATED IN SECTION 35-1-106.5.

5 **Recommendation 8** *[section 35-33-308 only]*

6 **35-33-308. Evidence of financial responsibility - action on**
7 **bond.** (1) BEFORE ANY LICENSE IS ISSUED TO THE SELLER OF A HOME
8 FOOD SERVICE PLAN, OR BEFORE THE REINSTATEMENT OF ANY LICENSE
9 SUSPENDED OR REVOKED FOR VIOLATIONS OF THIS PART 3 RESULTING IN
10 FINANCIAL LOSS SUFFERED BY ANY BUYER, THE APPLICANT SHALL
11 EXECUTE AND DELIVER TO THE COMMISSIONER A SURETY BOND IN AN
12 AMOUNT DETERMINED BY THE COMMISSIONER, NOT TO EXCEED FIFTY
13 THOUSAND DOLLARS. THE BOND SHALL BE EXECUTED BY THE APPLICANT
14 AS PRINCIPAL AND BY A SURETY COMPANY QUALIFIED AND AUTHORIZED
15 TO DO BUSINESS IN THIS STATE AS SURETY. THE BOND SHALL BE
16 CONDITIONED UPON COMPLIANCE WITH ALL REQUIREMENTS OF THIS
17 ARTICLE, THE FAITHFUL FULFILLMENT OF ALL CONTRACTS, AND THE
18 RENDERING OF ANY SERVICE IN CONNECTION WITH THE SALE,
19 ADVERTISING, OR SOLICITING OF ANY HOME FOOD SERVICE PLAN. THE
20 BOND SHALL BE TO THE STATE OF COLORADO IN FAVOR OF EVERY
21 CONSUMER PURCHASING A HOME FOOD SERVICE PLAN.

22 (2) IF, AFTER A HEARING IN ACCORDANCE WITH THE "COLORADO
23 ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S., THE
24 COMMISSIONER DETERMINES THAT A BONDED LICENSEE HAS VIOLATED
25 ANY PROVISION OF THIS PART 3 OR OF A RULE OR ORDER ISSUED PURSUANT
26 TO THIS PART 3, THE COMMISSIONER MAY DEMAND PAYMENT ON THE BOND
27 ON BEHALF OF ANY CONSUMER INJURED AS A RESULT OF SUCH VIOLATION.

1 IF THE SURETY COMPANY REFUSES TO PAY UPON SUCH DEMAND, THE
2 COMMISSIONER SHALL BRING AN ACTION ON THE BOND ON BEHALF OF THE
3 CONSUMER.

4 (3) ANY CONSUMER PURCHASING A HOME FOOD SERVICE PLAN AND
5 CLAIMING TO BE INJURED BY THE FRAUD, DECEIT, OR WILLFUL NEGLIGENCE
6 OF ANY BONDED LICENSEE OR BY THE LICENSEE'S FAILURE TO COMPLY
7 WITH ANY PROVISION OF THIS ARTICLE OR OF A RULE OR ORDER ISSUED
8 PURSUANT TO THIS ARTICLE MAY, WITH THE PRIOR WRITTEN CONSENT OF
9 THE COMMISSIONER, BRING AN ACTION UPON SAID BOND AGAINST BOTH
10 THE PRINCIPAL AND SURETY IN ANY COURT OF COMPETENT JURISDICTION
11 TO RECOVER DAMAGES CAUSED THEREBY. UPON THE COMMENCEMENT OF
12 ANY SUCH ACTION, THE COMMISSIONER MAY REQUIRE THE FILING OF A
13 NEW BOND.

14 (4) WHENEVER THE COMMISSIONER DETERMINES THAT A
15 PREVIOUSLY APPROVED BOND IS INSUFFICIENT, THE COMMISSIONER MAY
16 REQUIRE THE LICENSEE TO EXECUTE AND DELIVER AN ADDITIONAL BOND.
17 FAILURE BY THE LICENSEE TO COMPLY WITH SUCH ORDER WITHIN THIRTY
18 DAYS SHALL CONSTITUTE GROUNDS FOR THE SUSPENSION OR REVOCATION
19 OF THE LICENSE.

20 **35-33-309. Disciplinary actions - grounds.** (1) IN ACCORDANCE
21 WITH THE "COLORADO ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF
22 TITLE 24, C.R.S., THE COMMISSIONER MAY DENY, SUSPEND, REVOKE,
23 RESTRICT, REFUSE TO RENEW, OR PLACE ON PROBATION THE LICENSE OF
24 ANY APPLICANT OR LICENSEE WHO:

25 (a) MAKES A FALSE STATEMENT OR MISREPRESENTATION ON AN
26 APPLICATION FOR A LICENSE OR RENEWAL;

27 (b) HAS HAD A PREVIOUS LICENSE OR ANY EQUIVALENT

1 AUTHORIZATION TO ENGAGE IN ACTIVITIES REGULATED UNDER THIS PART
2 3 REVOKED, SUSPENDED, OR DENIED BY ANY AUTHORITY AUTHORIZED TO
3 GRANT SUCH LICENSE OR AUTHORIZATION IN THIS OR ANY OTHER STATE;

4 (c) HAS FAILED TO COMPLY WITH OR VIOLATED ANY PROVISION OF
5 THIS PART 3 OR ANY RULE PROMULGATED BY THE COMMISSIONER
6 PURSUANT TO THIS PART 3;

7 (d) HAS ALLOWED ANY BOND REQUIRED BY SECTION 35-33-308 TO
8 EXPIRE, LAPSE, OR BE CANCELLED AND HAS FAILED TO PROVIDE EVIDENCE
9 OF A NEW BOND WITHIN TEN DAYS; OR

10 (e) FAILS TO OBEY ANY LAWFUL ORDER OF THE COMMISSIONER.

11 **Recommendations 2, 3, & 11**

12 **SECTION 18. Repeal.** 35-33-401, Colorado Revised Statutes,
13 is repealed as follows:

14 **35-33-401. License required - application.** ~~(1) Any person who~~
15 ~~operates a food plan, locker plant, or meat processing facility shall first~~
16 ~~obtain a license therefor from the department. A separate license shall be~~
17 ~~required for each business location or processing facility. The application~~
18 ~~shall be in writing on forms supplied by the department, shall set forth~~
19 ~~such information as may be required by the department, and shall be~~
20 ~~accompanied by any required fees.~~

21 ~~(2) A license shall not be transferable to a new owner or location.~~
22 ~~Any change in ownership or operation which would require a change in~~
23 ~~the license application shall require a new application within ten days of~~
24 ~~such change.~~

25 ~~(3) Any person who operates a food plan, locker plant, or meat~~
26 ~~processing facility without a valid license therefor commits a class 2~~
27 ~~misdemeanor and shall be punished as provided in section 18-1.3-501,~~

1 C.R.S.

2 **Recommendations 2 & 3** *[through section 21 of bill]*

3 **SECTION 19. Repeal.** 35-33-402, Colorado Revised Statutes,
4 is repealed as follows:

5 **35-33-402. Inspection - issuance of license.** ~~(1) Upon approval~~
6 ~~of an application for a license or an annual renewal thereof and payment~~
7 ~~of the required fees, the department shall inspect facilities and premises~~
8 ~~at the location to be licensed and, if it finds that the equipment, facilities,~~
9 ~~surrounding premises, and operation of such establishment comply with~~
10 ~~the provisions of this article and the rules and regulations established~~
11 ~~pursuant thereto, the department shall issue a license to operate.~~

12 ~~(2) The license shall be in such form as the commissioner may~~
13 ~~prescribe and shall be valid for the period from the date of issuance until~~
14 ~~the thirtieth day of June next following and, except for good cause shown,~~
15 ~~shall be renewed annually thereafter.~~

16 **SECTION 20. Repeal.** 35-33-403, Colorado Revised Statutes,
17 is repealed as follows:

18 **35-33-403. License fees - evidence of financial responsibility.**

19 ~~(1)(a) The fee for each license under this article shall be established by~~
20 ~~the agricultural commission. There shall be no reduction of a license fee~~
21 ~~for any fractional part of a year.~~

22 ~~(b) For the fiscal year commencing on July 1, 2007, and for each~~
23 ~~subsequent fiscal year, the agricultural commission shall establish a fee~~
24 ~~schedule to cover all of the direct and indirect costs associated with the~~
25 ~~licensing, inspection, and regulation of locker plants and processors.~~
26 ~~There shall be no reduction of a license fee for any fractional part of a~~
27 ~~year.~~

1 (c) For the fiscal year commencing on July 1, 2007, and for each
2 subsequent fiscal year, the agricultural commission shall establish a fee
3 schedule to cover all of the direct and indirect costs associated with the
4 licensing, inspection, and regulation of food plan operators.

5 (2) All fees collected pursuant to this section shall be deposited
6 in the state treasury and credited to the inspection and consumer services
7 cash fund created in section 35-1-106.5.

8 (3) Before any license is issued to any food plan operator, or
9 before the reinstatement of any license suspended or revoked for
10 violations of this article resulting in financial loss suffered by any buyer,
11 the applicant shall file evidence of financial responsibility meeting the
12 requirements of article 35 of title 11, C.R.S., or shall execute and deliver
13 to the commissioner a surety bond in a penal sum determined by the
14 commissioner not to exceed fifty thousand dollars. Such bond shall be
15 executed by the applicant as principal and by a surety company qualified
16 and authorized to do business in this state as surety. The bond shall be
17 conditioned upon compliance with all provisions of this article, the
18 faithful fulfillment of all contracts, and the faithful handling, sale, or
19 storage of meat or meat products or the rendering of any service in
20 connection with the handling, sale, advertising, soliciting, or storage of
21 any meat or meat products or frozen food. The bond shall be to the state
22 of Colorado in favor of every consumer purchasing meat or meat products
23 and frozen food. Any consumer entering into a contract or agreement or
24 purchasing any meat or meat products or frozen food and claiming to be
25 injured by the fraud, deceit, or willful negligence of any bonded licensee
26 may bring an action upon said bond against both the principal and surety
27 or, if other evidence of financial responsibility has been filed, may bring

1 ~~an action to recover on any form of financial responsibility in any court~~
2 ~~of competent jurisdiction to recover damages caused by such fraud,~~
3 ~~deceit, or willful negligence or the failure to comply with the provisions~~
4 ~~of this article. Upon any actions being commenced, the commissioner~~
5 ~~may require the filing of additional evidence of financial responsibility or~~
6 ~~a new bond and, immediately upon recovery in any action, the licensee~~
7 ~~shall file new evidence of financial responsibility within ten days.~~

8 **SECTION 21.** 11-35-101 (1), Colorado Revised Statutes, is
9 amended to read:

10 **11-35-101. Alternatives to surety bonds permitted -**
11 **requirements.** (1) The requirement of a surety bond as a condition to
12 licensure or authority to conduct business or perform duties in this state
13 provided in sections 12-5.5-202 (2) (b), 12-6-111, 12-6-112, 12-6-112.2,
14 12-6-512, 12-6-513, 12-11-101 (1) (d), 12-11-104, 12-11-106, 12-14-124
15 (1), 12-59-115 (1), 12-60-509 (2.5) (b), 12-61-907, 33-4-101 (1),
16 33-12-104 (1), ~~35-33-403 (3)~~, 35-55-104 (1), 37-91-107 (2) and (3),
17 38-29-119 (2), 39-21-105 (4), 39-27-104 (2) (a), (2) (b), (2) (c), (2) (d),
18 (2) (e), (2.1) (a), (2.1) (b), (2.1) (c), (2.5) (a), and (2.5) (b), 39-28-105 (1),
19 42-6-115 (3), and 42-7-301 (6), C.R.S., may be satisfied by a savings
20 account or deposit in or a certificate of deposit issued by a state or
21 national bank doing business in this state or by a savings account or
22 deposit in or a certificate of deposit issued by a state or federal savings
23 and loan association doing business in this state. Such savings account,
24 deposit, or certificate of deposit shall be in the amount specified by
25 statute, if any, and shall be assigned to the appropriate state agency for the
26 use of the people of the state of Colorado. The aggregate liability of the
27 bank or savings and loan association shall in no event exceed the amount

1 of the deposit. For the purposes of the sections referred to in this section,
2 "bond" includes the savings account, deposit, or certificate of deposit
3 authorized by this section.

4 **SECTION 22. Repeal.** 35-33-404, Colorado Revised Statutes,
5 is repealed as follows:

6 **35-33-404. License - denial - suspension - revocation.**

7 ~~(1) Pursuant to the provisions of article 4 of title 24, C.R.S., the~~
8 ~~commissioner may deny, suspend, revoke, restrict, refuse to renew, or~~
9 ~~place on probation the license of any applicant or licensee who:~~

10 ~~(a) Makes a false statement or misrepresentation on his~~
11 ~~application for a license or renewal;~~

12 ~~(b) Has had a previous license or any equivalent authorization to~~
13 ~~engage in activities regulated under this article revoked, suspended, or~~
14 ~~denied by any authority authorized to grant such license or authorization~~
15 ~~in this or any other state;~~

16 ~~(c) Has failed to comply with or violated any provision of this~~
17 ~~article or any rule or regulation promulgated by the commissioner~~
18 ~~pursuant to this article;~~

19 ~~(d) Has allowed any bond or other security required by section~~
20 ~~35-33-403 (3) to expire, lapse, or be cancelled and has failed to provide~~
21 ~~evidence of new security within ten days;~~

22 ~~(e) Fails to obey any lawful order of the commissioner.~~

23 **Recommendation 10**

24 **SECTION 23.** 35-33-405 (1) and (3), Colorado Revised Statutes,
25 are amended to read:

26 **35-33-405. Violations - civil penalties - disposition.** (1) In
27 addition to the criminal penalties prescribed in sections 35-33-204 (2) and

1 SECTION 35-33-302 (12), any person who violates any provision of this
2 article shall also be subject to a civil penalty of not more than seven
3 hundred fifty dollars per violation for each day of violation.

4 (3) Any penalty collected under this section shall be transmitted
5 to the state treasurer, who shall credit the same to the ~~inspection and~~
6 ~~consumer services cash fund created in section 35-1-106.5~~ GENERAL
7 FUND.

8 **SECTION 24.** 35-33-406, Colorado Revised Statutes, is amended
9 to read:

10 **35-33-406. Violations - criminal penalty.** Any person who
11 violates ~~the provisions of~~ this article or any rule ~~or regulation~~
12 promulgated under this article commits a class 2 misdemeanor and shall
13 be punished as provided in section 18-1.3-501, C.R.S.

14 **Recommendation 1**

15 **SECTION 25.** 35-33-407, Colorado Revised Statutes, is amended
16 to read:

17 **35-33-407. Repeal of article.** This article is repealed, effective
18 July 1, ~~2009~~ 2018. Prior to such repeal, the licensing functions of the
19 department shall be reviewed as provided for in section 24-34-104, C.R.S.

20 **SECTION 26. Applicability.** This act shall apply to acts
21 occurring on or after the effective date of this act.

22 **SECTION 27. Safety clause.** The general assembly hereby finds,
23 determines, and declares that this act is necessary for the immediate
24 preservation of the public peace, health, and safety.