

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 15-0778.01 Yelana Love x2295

HOUSE BILL 15-1226

HOUSE SPONSORSHIP

Becker K.,

SENATE SPONSORSHIP

Hodge,

House Committees

Public Health Care & Human Services
Finance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING ANNUAL LICENSE FEES FOR RETAIL FOOD
102 ESTABLISHMENTS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The annual license fees are currently established in statute for retail food establishments that:

- ! Prepare or serve food in individual portions for immediate on- or off-premises consumption;
- ! Offer food for retail sale to consumers for off-premises consumption; and

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

! Offer food for retail sale to consumers for off-premises consumption and prepare or serve food in individual portions for immediate consumption either on or off the premises.

The bill removes the annual license fees for these retail food establishments from statute and requires the state board of health to establish the fees by rule instead.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) The retail food establishment industry, consisting of
5 restaurants, grocery stores, convenience stores, and other establishments
6 across the state, is a critical industry that supports communities and
7 provides jobs;

8 (b) It is a core function of local government to keep the food
9 supply safe and avoid the human and financial costs of food-borne illness
10 through regular inspections and the investigation and control of illness
11 outbreaks;

12 (c) The annual license fees for retail food establishments are
13 currently outlined in statute and have not been increased in six years;

14 (d) There are seventeen different categories of retail food
15 establishments in statute, some of which are either unused or minimally
16 used, leading to a regulatory burden and confusion;

17 (e) Establishing annual license fees in statute does not allow for
18 regular, necessary increases to address rising costs due to inflation,
19 population growth, or growth in the retail food establishment industry;

20 (f) Current annual license fee revenue is less than the costs of
21 inspection and the investigation and control of food-borne illness
22 incidents. As a result, these costs are being incurred by county

1 governments through their local public health agencies, requiring county
2 governments to supplement the annual license fee revenue with county
3 general funds to cover costs of local food safety programs.

4 (g) Annual license fee revenue covers less than half of the
5 counties' costs. The share of these costs that are being paid with county
6 general funds grows each year that the statutory fees remain flat. As a
7 result, the state association of county commissioners has prioritized a
8 modest and reasonable annual license fee increase for this industry and
9 requests the legislature's assistance to do so.

10 (h) The state board of health currently promulgates rules regarding
11 retail food establishments and establishes fees for a number of industries,
12 including hospitals and health facilities, home care agencies, and
13 radiation control services;

14 (i) Members of the state board of health are appointed by the
15 governor and confirmed by the senate, with a required membership of
16 Democrats, Republicans, and independents from every congressional
17 district; and

18 (j) Therefore, the state board of health is an appropriate entity to
19 determine the annual license fees for retail food establishments so long
20 as it does so through a public process for the consideration of rules where
21 all stakeholders can have their voices heard and considered.

22 **SECTION 2.** In Colorado Revised Statutes, 25-4-1607, **repeal** (1)
23 (a), (1) (b), and (1) (c); and **add** (1) (c.3) as follows:

24 **25-4-1607. Fees - repeal.** (1) Each retail food establishment in
25 this state shall be assessed an annual license fee in accordance with the
26 following provisions:

27 (a) ~~A retail food establishment preparing or serving food in~~

1 individual portions for immediate on- or off-premises consumption shall
2 be assessed an annual fee based on the following schedule:

3 Seating Capacity	Fee
4 0 to 100	\$255
5 101 to 200	285
6 Over 200	310

7 (b) A retail food establishment offering food for retail sale to
8 consumers for off-premises consumption shall be assessed an annual fee
9 based on the following schedule:

10 Square Footage	Fee
11 Less than 3,500	\$115
12 3,501 to 15,000	180
13 15,001 to 25,000	200
14 25,001 to 45,000	235
15 45,001 to 65,000	290
16 65,001 to 85,000	415
17 over 85,000	500

18 (c) A retail food establishment offering food for retail sale to
19 consumers for off-premises consumption and preparing or serving food
20 in individual portions for immediate consumption either on- or
21 off-premises shall be assessed an annual fee based on the following
22 schedule:

23 Square Footage	Fee
24 Less than 3,500	\$207
25 3,501 to 15,000	338
26 15,001 to 25,000	360
27 25,001 to 45,000	395

1	45,001 to 65,000	450
2	65,001 to 85,000	575
3	over 85,000	690

4 (c.3) (I) THE STATE BOARD OF HEALTH SHALL ESTABLISH, BY
5 RULE, THE ANNUAL LICENSE FEE FOR THE FOLLOWING RETAIL FOOD
6 ESTABLISHMENTS:

7 (A) A RETAIL FOOD ESTABLISHMENT PREPARING OR SERVING FOOD
8 IN INDIVIDUAL PORTIONS FOR IMMEDIATE ON- OR OFF-PREMISES
9 CONSUMPTION;

10 (B) A RETAIL FOOD ESTABLISHMENT OFFERING FOOD FOR RETAIL
11 SALE TO CONSUMERS FOR OFF-PREMISES CONSUMPTION; AND

12 (C) A RETAIL FOOD ESTABLISHMENT OFFERING FOOD FOR RETAIL
13 SALE TO CONSUMERS FOR OFF-PREMISES CONSUMPTION AND PREPARING OR
14 SERVING FOOD IN INDIVIDUAL PORTIONS FOR IMMEDIATE CONSUMPTION
15 EITHER ON OR OFF THE PREMISES.

16 (II) IN ESTABLISHING THE ANNUAL LICENSE FEES, THE STATE
17 BOARD OF HEALTH SHALL:

18 (A) DEVELOP AND FOLLOW A STAKEHOLDER PROCESS TO COLLECT
19 AND CONSIDER THE COMMENTS OF ASSOCIATIONS OF RETAIL FOOD
20 ESTABLISHMENTS, INDIVIDUAL OWNERS OF RETAIL FOOD
21 ESTABLISHMENTS, COUNTY COMMISSIONERS, LOCAL PUBLIC HEALTH
22 AGENCIES, AND THE PUBLIC BEFORE ESTABLISHING OR MODIFYING THE
23 LICENSE FEES;

24 (B) BASE THE ANNUAL LICENSE FEES ON NATIONAL RETAIL FOOD
25 PROGRAM STANDARDS ADOPTED IN COLORADO IN SECTION 25-4-1604 (1)
26 (f) FOR ADEQUATE STAFFING AND FREQUENCY OF RESTAURANT
27 INSPECTIONS AND FOOD-BORNE ILLNESS INVESTIGATIONS AND CONTROL;

1 (C) MAKE REGULAR ADJUSTMENTS FOR INFLATION AND
2 POPULATION GROWTH AFTER THE INITIAL ANNUAL LICENSE FEES ARE SET;
3 AND

4 (D) CONSIDER THE IMPACT A LICENSE FEE INCREASE WILL HAVE
5 ON AN IMPORTANT INDUSTRY THAT SUPPORTS THE ECONOMY AND
6 PROVIDES JOBS, ESPECIALLY FOR SMALL BUSINESSES.

7 **SECTION 3.** In Colorado Revised Statutes, 25-4-1608, **amend**
8 (2) as follows:

9 **25-4-1608. Food protection cash fund - creation.**

10 (2) Forty-three dollars of each fee collected by the department and a
11 county or district board of health pursuant to section 25-4-1607 ~~(1) (a)~~;
12 ~~(1) (b)~~, ~~(1) (c)~~, (1) (c.3) and (1) (c.5) shall be transmitted to the state
13 treasurer, who shall credit such fee to the food protection cash fund
14 created in subsection (1) of this section. This portion of the fee shall be
15 used by the department to conduct the duties and responsibilities set forth
16 in section 25-4-1604 (1) (a), (1) (b), (1) (c), (1) (f), (1) (g), and (1) (i).
17 The remainder of such fee shall be retained by the county or district board
18 of health for deposit in the appropriate county or district public health
19 agency fund in accordance with section 25-1-511 or, if the fee is collected
20 by the department, it shall be deposited pursuant to subsection (1) of this
21 section, and used to pay a portion of the cost of conducting a retail food
22 establishment protection program.

23 **SECTION 4. Act subject to petition - effective date.** This act
24 takes effect at 12:01 a.m. on the day following the expiration of the
25 ninety-day period after final adjournment of the general assembly
26 (August 5, 2015, if adjournment sine die is on May 6, 2015); except that,
27 if a referendum petition is filed pursuant to section 1 (3) of article V of

1 the state constitution against this act or an item, section, or part of this act
2 within such period, then the act, item, section, or part will not take effect
3 unless approved by the people at the general election to be held in
4 November 2016 and, in such case, will take effect on the date of the
5 official declaration of the vote thereon by the governor.