



COLORADO

Department of Public Health & Environment

Dedicated to protecting and improving the health and environment of the people of Colorado

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| PROGRAM: | RETAIL FOOD |
| EFFECTIVE REGULATION: | <i>Colorado Retail Food Establishment Rules and Regulations, July 1, 2013</i> |
| INTERPRETIVE MEMO NO.: | 16-02 |
| DATE: | August 22, 2016 |
| SUBJECT: | Application of the new retail food establishment definition for limited operations |

House bill 1401 - “Concerning the Regulation of Retail Food Establishments” was passed in the 2016 legislative session. An aspect of the Bill was a new definition category commonly being referred to as a “Limited Retail Food Establishment.”

“(a.5) A RETAIL FOOD ESTABLISHMENT LIMITED TO PREPARING OR SERVING FOOD THAT DOES NOT REQUIRE TIME OR TEMPERATURE CONTROL FOR SAFETY, PROVIDING SELF-SERVICE BEVERAGES, OFFERING PREPACKAGED COMMERCIALLY PREPARED FOOD AND BEVERAGES REQUIRING TIME OR TEMPERATURE CONTROL, OR ONLY REHEATING COMMERCIALLY PREPARED FOODS THAT REQUIRE TIME OR TEMPERATURE CONTROL FOR SAFETY FOR RETAIL SALE TO CONSUMERS SHALL BE ASSESSED AN ANNUAL FEE ...”

The intent in creating this new category was to distinguish lower risk operations from the traditional restaurants or groceries with delis and to establish a fee commensurate with the risk and associated workload. With this in mind, based on their operations, a broad characterization would include most convenience stores, confectionaries and bakeries. However, because each operation is unique each would need to be evaluated to ensure consistent and uniform application of the definition and intent. Starbucks, as they are currently operating, offers a more specific example that illustrates the intent. All food and beverage (mixes) come prepackaged from approved commercial sources and are prepared to order and therefore this operation would be considered a limited retail food establishment.

A retail food establishment is “limited” if ANY of the following apply:

1. It is limited to preparing and/or serving food that does not require time or temperature control for safety.
2. It is limited to providing self-service beverages.
3. It is limited to offering prepackaged commercially prepared food and beverages requiring time or temperature control.
4. It is limited to only reheating commercially prepared foods that require time or temperature control for safety.

25-4-1601 C.R.S. provides CDPHE’s authority for the uniform statewide administration, implementation, interpretation, and enforcement of *The Colorado Retail Food Establishment Rules and Regulations*. This interpretive memo is issued in accordance with this authority and CDPHE expects its contents to be implemented uniformly.

All previous interpretive memoranda issued pertaining to this subject are hereby superseded as of the effective date above.

Jeff Lawrence, Director
Division of Environmental Health and Sustainability

