

STATE OF COLORADO

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

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Colorado Department
of Public Health
and Environment

PROGRAM:	RETAIL FOOD
EFFECTIVE REGULATION:	<i>Colorado Retail Food Establishment Rules and Regulations, July 1, 2013</i>
INTERPRETIVE MEMO NO.:	14-10
DATE:	January 1, 2014
SUBJECT:	Clarification on Continuing Enforcement Actions Against an Establishment after Transfer of Ownership

Due to a perceived “loophole” in the *Food Protection Act, 25-4-1601 C.R.S.*, which would cause an agency to cease an enforcement action when the ownership of a retail food establishment was transferred to a relative, the division requested an Attorney General’s (AG) opinion. Based upon the AG’s opinion, the department and its authorized agents have the authority to ensure the protection of public health and under current law to continue an enforcement action against a retail food establishment when there is a change in ownership as long as the new owner operator of the facility has notice and an opportunity to comply. The department and its authorized agents have discretion to continue an enforcement action or refrain from prosecuting an action depending on the particular circumstances of the ownership change (i.e. if it believes the change was fraudulent or undertaken to avoid compliance with state law). Additionally, the department and its authorized agents also have authority to refuse to issue a license to the new owner if continuing violations are not corrected.

All previous interpretive memoranda issued pertaining to this subject are hereby superseded as of the effective date above.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