

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 74

FINAL READING

Introduced by Erdman, 47

Read first time January 5, 2007

Committee: Agriculture

A BILL

1 FOR AN ACT relating to food regulation; to amend sections
2 81-2,244.01, 81-2,257, 81-2,272.10, 81-2,272.17,
3 81-2,272.24, and 81-2,272.25, Reissue Revised Statutes
4 of Nebraska, and sections 81-2,239 and 81-2,270, Revised
5 Statutes Cumulative Supplement, 2006; to change and
6 eliminate provisions relating to the Nebraska Pure Food
7 Act; to harmonize provisions; to provide an operative
8 date; to repeal the original sections; to outright
9 repeal sections 81-2,272.03, 81-2,272.04, 81-2,272.05,
10 81-2,272.06, 81-2,272.14, 81-2,272.15, 81-2,272.16,
11 81-2,272.19, 81-2,272.20, 81-2,272.21, 81-2,272.22,
12 81-2,272.23, 81-2,272.26, 81-2,272.28, 81-2,272.29,
13 81-2,272.30, 81-2,272.33, 81-2,272.35, and 81-2,272.37,

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1 Reissue Revised Statutes of Nebraska; and to declare an
2 emergency.
3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 81-2,239, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 81-2,239 Sections 81-2,239 to 81-2,292 and section 3 of
4 this act and the provisions of the Food Code, the Food Salvage
5 Code, and the Current Good Manufacturing Practice In Manufacturing,
6 Packing, or Holding Human Food adopted by reference in sections
7 81-2,257.01 to 81-2,259, shall be known and may be cited as the
8 Nebraska Pure Food Act.

9 Sec. 2. Section 81-2,244.01, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 81-2,244.01 Food Code shall mean the 2001 2005
12 Recommendations of the United States Public Health Service, Food
13 and Drug Administration, except the definitions of adulterated
14 food and food establishment and sections 1-201.10(B)(1), (3),
15 (36), (37), (57), (58), and (73), 2-102.11, 2-103.11(H) and
16 (K), 2-201.11, 2-201.12, 2-201.13, 2-201.14, 2-302.11, 2-303.11,
17 3-201.11(E), 3-202.11 (A) and (D), 3-301.11, 3-302.11(B)(4),
18 3-304.13, 3-304.17, 3-401.11(C)(2) and (D)(2), 3-403.11(C),
19 3-404.11(A), 3-501 3-501.17, 3-501.18, 3-502.11, 3-502.12,
20 3-603.11, 3-701.11(C), 4-204.111, 4-204.117, 4-301.12(C)(5), (D),
21 and (E), 4-302.12(B), 4-603.16(C), 4-603.17, 4-802.11(C), 5-103.12,
22 5-104.11, 5-104.12, 5-203.12, 5-203.15, 5-302.16, 6-301.14,
23 6-302.10, 8-101, 8-102, 8-201.11, 8-201.12, 8-201.13(A)(2) and (3)
24 and (B), 8-201.14(C), 8-202 through 8-304, 8-401.10(B)(2), 8-402.20
25 through 8-403.20, 8-403.50 through 8-404.12, and 8-405.20(B). The

1 term Food Code does not include the annexes of such federal
2 recommendations.

3 Sec. 3. Itinerant food vendor shall mean a person that
4 sells prepackaged, potentially hazardous food from an approved
5 source at a nonpermanent location such as a farmers market, craft
6 show, or county fair.

7 Sec. 4. Section 81-2,257, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 81-2,257 Critical violations are designated in the
10 Food Code and sections 81-2,272.02, ~~to 81-2,272.04, 81-2,272.06,~~
11 ~~81-2,272.10, 81-2,272.14 to 81-2,272.17, 81-2,272.21, 81-2,272.23~~
12 ~~to 81-2,272.24, 81-2,272.25, 81-2,272.27, 81-2,272.29, and~~
13 ~~81-2,272.35 to 81-2,272.37~~ 81-2,272.36 and subdivision (4) of
14 section 81-2,272.31.

15 Sec. 5. Section 81-2,270, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 81-2,270 (1) No person shall operate: (a) A food
18 establishment; (b) a food processing plant; or (c) a salvage
19 operation, without a valid permit which sets forth the types of
20 operation occurring within the establishment.

21 (2) Application for a permit shall be made to the
22 director on forms prescribed and furnished by the department. Such
23 application shall include the applicant's full name and mailing
24 address, the names and addresses of any partners, members, or
25 corporate officers, the name and address of the person authorized

1 by the applicant to receive the notices and orders of the
2 department as provided in the Nebraska Pure Food Act, whether
3 the applicant is an individual, partnership, limited liability
4 company, corporation, or other legal entity, the location and
5 type of proposed establishment or operation, and the signature
6 of the applicant. Application for a permit shall be made prior
7 to the operation of a food establishment, food processing plant,
8 or salvage operation. The application shall be accompanied by an
9 initial permit fee and an initial inspection fee in the same amount
10 as the annual inspection fee if inspections are required to be
11 done by the department. If the food establishment, food processing
12 plant, or salvage operation has been in operation prior to applying
13 for a permit, the applicant shall pay an additional fee of sixty
14 dollars.

15 (3) Payment of the initial permit fee, the initial
16 inspection fee, and the fee for failing to apply for a permit
17 prior to operation shall not preclude payment of the annual
18 inspection fees due on August 1 of each year. Except as provided in
19 subsections (7) through (10) of this section and subsection (1) of
20 section 81-2,281, a permitholder shall pay annual inspection fees
21 on or before August 1 of each year.

22 (4) (a) The director shall set the initial permit fee and
23 the annual inspection fees on or before July 1 of each fiscal year
24 to meet the criteria in this subsection. The director may raise or
25 lower the fees each year, but the fees shall not exceed the maximum

1 fees listed in subdivision (4)(b) of this section. The director
 2 shall determine the fees based on estimated annual revenue and
 3 fiscal year-end cash fund balance as follows:

4 (i) The estimated annual revenue shall not be greater
 5 than one hundred seven percent of program cash fund appropriations
 6 allocated for the Nebraska Pure Food Act;

7 (ii) The estimated fiscal year-end cash fund balance
 8 shall not be greater than seventeen percent of program cash fund
 9 appropriations allocated for the act; and

10 (iii) All fee increases or decreases shall be equally
 11 distributed between all categories; and

12 (b) The maximum fees are:

			Additional	
		First	Food	
		Food	Preparation	Unit
		Preparation	Area	Or
		Area	Annual	Units
18	Food	Initial	Annual	Inspection
19	Handling	Permit	Inspection	Fee
20	Activity	Fee	Fee	(per area) Fee
21	Convenience Store	\$61.72	\$61.72	\$30.86 N/A
22	Licensed Beverage			
23	Establishment	\$61.72	\$61.72	\$30.86 N/A
24	Limited Food Service			
25	Establishment	\$61.72	\$61.72	\$30.86 N/A

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1	Temporary Food				
2	Establishment	\$61.72	\$61.72	\$30.86	N/A
3	Mobile Food Unit				
4	(for each unit)	\$61.72	N/A	N/A	\$30.86
5	Pushcart (for each				
6	unit)	\$61.72	N/A	N/A	\$12.34
7	Vending Machine				
8	Operations:	\$61.72			
9	One to ten units		N/A	N/A	\$12.34
10	Eleven to twenty units		N/A	N/A	\$24.68
11	Twenty-one to thirty units		N/A	N/A	\$37.02
12	Thirty-one to forty units		N/A	N/A	\$49.36
13	Over forty units		N/A	N/A	\$61.70
14	Food Processing				
15	Plant	\$61.72	\$86.40	\$30.86	N/A
16	Salvage Operation	\$61.72	\$86.40	\$30.86	N/A
17	Commissary	\$61.72	\$86.40	\$30.86	N/A
18	All Other Food				
19	Establishments	\$61.72	\$86.40	\$30.86	N/A
20				<u>Additional</u>	
21			<u>First</u>	<u>Food</u>	
22			<u>Food</u>	<u>Preparation</u>	<u>Unit</u>
23			<u>Preparation</u>	<u>Area</u>	<u>Or</u>
24			<u>Area</u>	<u>Annual</u>	<u>Units</u>
25	<u>Food</u>	<u>Initial</u>	<u>Annual</u>	<u>Inspection</u>	<u>Annual</u>

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	<u>Permit</u>	<u>Inspection</u>	<u>Fee</u>	<u>Inspection</u>
<u>1 Handling</u>	<u>Fee</u>	<u>Fee</u>	<u>(per</u>	<u>Fee</u>
<u>2 Activity</u>			<u>area)</u>	
<u>4 Convenience</u>				
<u>5 Store</u>	<u>\$74.36</u>	<u>\$74.36</u>	<u>\$37.18</u>	<u>N/A</u>
<u>6 Itinerant Food Vendor</u>	<u>\$74.36</u>	<u>\$74.36</u>	<u>\$37.18</u>	<u>N/A</u>
<u>7 Licensed Beverage</u>				
<u>8 Establishment</u>	<u>\$74.36</u>	<u>\$74.36</u>	<u>\$37.18</u>	<u>N/A</u>
<u>9 Limited Food Service</u>				
<u>10 Establishment</u>	<u>\$74.36</u>	<u>\$74.36</u>	<u>\$37.18</u>	<u>N/A</u>
<u>11 Temporary Food</u>				
<u>12 Establishment</u>	<u>\$74.36</u>	<u>\$74.36</u>	<u>\$37.18</u>	<u>N/A</u>
<u>13 Mobile Food Unit</u>				
<u>14 (for each unit)</u>	<u>\$74.36</u>	<u>N/A</u>	<u>N/A</u>	<u>\$37.18</u>
<u>15 Pushcart (for each</u>				
<u>16 unit)</u>	<u>\$74.36</u>	<u>N/A</u>	<u>N/A</u>	<u>\$14.87</u>
<u>17 Vending Machine</u>				
<u>18 Operations:</u>	<u>\$74.36</u>			
<u>19 One to ten units</u>		<u>N/A</u>	<u>N/A</u>	<u>\$14.87</u>
<u>20 Eleven to twenty units</u>		<u>N/A</u>	<u>N/A</u>	<u>\$29.74</u>
<u>21 Twenty-one to thirty units</u>		<u>N/A</u>	<u>N/A</u>	<u>\$44.61</u>
<u>22 Thirty-one to forty units</u>		<u>N/A</u>	<u>N/A</u>	<u>\$59.48</u>
<u>23 Over forty units</u>		<u>N/A</u>	<u>N/A</u>	<u>\$74.34</u>
<u>24 Food Processing</u>				
<u>25 Plant</u>	<u>\$74.36</u>	<u>\$104.12</u>	<u>\$37.18</u>	<u>N/A</u>

1	<u>Salvage Operation</u>	<u>\$74.36</u>	<u>\$104.12</u>	<u>\$37.18</u>	<u>N/A</u>
2	<u>Commissary</u>	<u>\$74.36</u>	<u>\$104.12</u>	<u>\$37.18</u>	<u>N/A</u>
3	<u>All Other Food</u>				
4	<u>Establishments</u>	<u>\$74.36</u>	<u>\$104.12</u>	<u>\$37.18</u>	<u>N/A</u>

5 (5) If a food establishment is engaged in more than
6 one food handling activity listed in subsection (4) of this
7 section, the inspection fee charged shall be based upon the primary
8 activity conducted within the food establishment as determined by
9 the department and any fees assessed for each additional food
10 preparation area within the primary establishment as determined by
11 the department.

12 (6) ~~The department may impose a penalty for an inspection~~
13 ~~fee which is more than one month delinquent. The penalty may not~~
14 ~~exceed fifty percent of the fee for the first month of delinquency~~
15 ~~and one hundred percent of the fee for the second month of~~
16 ~~delinquency.~~ If a person fails to pay the inspection fee for more
17 than one month after the fee is due, such person shall pay a late
18 fee equal to fifty percent of the total fee for the first month
19 that the fee is late and one hundred percent for the second month
20 that the fee is late. The purpose of the late fee is to cover
21 the administrative costs associated with collecting fees. All money
22 collected as a late fee shall be remitted to the State Treasurer
23 for credit to the Pure Food Cash Fund.

24 (7) An educational institution, health care facility,
25 nursing home, or governmental organization operating any type of

1 food establishment, other than a mobile food unit or pushcart, is
2 exempt from the requirements in subsections (1) through (6) of this
3 section.

4 (8) A person whose primary food-related business activity
5 is determined by the department to be egg handling within the
6 meaning of the Nebraska Graded Egg Act and who is validly licensed
7 and paying fees pursuant to such act is exempt from the permit and
8 inspection fee requirements of the Nebraska Pure Food Act.

9 (9) A person holding a permit or license and regulated
10 under the Nebraska Manufacturing Milk Act or the Nebraska
11 Pasteurized Milk Law and an egg handler licensed and regulated
12 under the Nebraska Graded Egg Act are exempt from the Nebraska Pure
13 Food Act.

14 (10) A single event food vendor or a religious,
15 charitable, or fraternal organization operating any type of
16 temporary food establishment, mobile food unit, or pushcart is
17 exempt from the requirements of subsections (1) through (6) of
18 this section. Any such organization operating any nontemporary
19 food establishment prior to July 1, 1985, is exempt from the
20 requirements of subsection (2) of this section.

21 Sec. 6. Section 81-2,272.10, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 81-2,272.10 (1) Food employes shall wash their hands as
24 specified in the Nebraska Pure Food Act.

25 (2) Food employees shall be trained to wash their hands

1 as specified in the act.

2 (3) Except when washing fruits and vegetables, food
3 employees shall minimize bare hand and arm contact with exposed
4 food. This may be accomplished with the use of suitable utensils
5 such as deli tissues, spatulas, tongs, single-use gloves, or
6 dispensing equipment.

7 (4) Food employees not serving a highly susceptible
8 population may contact exposed, ready-to-eat food with their bare
9 hands if they have washed their hands as specified in the act prior
10 to handling the food. Except when washing fruits and vegetables,
11 food employees shall not contact exposed, ready-to-eat food with
12 their bare hands unless the food employee washes his or her hands
13 or washes his or her hands and uses suitable utensils such as
14 deli tissue, spatulas, tongs, single-use gloves, or dispensing
15 equipment. Food employees shall minimize bare hand and arm contact
16 with exposed food that is not in a ready-to-eat form.

17 Sec. 7. Section 81-2,272.17, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 81-2,272.17 ~~(1)~~ The person in charge of a food
20 establishment shall ensure that consumers who order raw or
21 partially cooked foods of animal origin are informed that the
22 food is not cooked sufficiently to assure its safety. If a raw
23 or undercooked animal food such as beef, eggs, fish, lamb, pork,
24 poultry, or shellfish is offered in a ready-to-eat form as a
25 deli, menu, vended, or other item, or as a raw ingredient in

1 another ready-to-eat form, the permitholder shall inform consumers
2 by brochures, deli case or menu advisories, label statements,
3 table tents, placards, or other written means of the significantly
4 increased risk associated with certain especially vulnerable
5 consumers eating such foods in a raw or undercooked form. The
6 following language will satisfy the consumer advisory requirements:

7 "Thoroughly cooking foods of animal origin such as beef,
8 eggs, fish, lamb, pork, poultry, or shellfish reduces the risk of
9 foodborne illness. Individuals with certain health conditions may
10 be at higher risk if these foods are consumed raw or undercooked.
11 Consult your physician or public health official for further
12 information."

13 ~~(2) This section shall not apply to beef meeting the~~
14 ~~requirements of subsection (3) of section 81-2,272.16.~~

15 Sec. 8. Section 81-2,272.24, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 81-2,272.24 (1) Except when packaging food using
18 a reduced oxygen packaging method as specified in section
19 81-2,272.27 and except as specified in this section, refrigerated,
20 ready-to-eat, potentially hazardous food (time and temperature
21 control for safety food) prepared and held in a food establishment
22 for more than twenty-four hours shall be clearly marked to indicate
23 the date of preparation. The food shall be sold, consumed on the
24 premises, or discarded within:

25 (a) Seven calendar days or less if the food is held

1 refrigerated at forty-one degrees Fahrenheit (five degrees Celsius)
2 or below; or

3 (b) Four calendar days or less if the food is held
4 refrigerated between forty-five degrees Fahrenheit (seven degrees
5 Celsius) and forty-one degrees Fahrenheit (five degrees Celsius).

6 (2) Except as specified in this section, refrigerated,
7 ready-to-eat, potentially hazardous food (time and temperature
8 control for safety food) prepared and packaged by a food processing
9 plant and held refrigerated at such food establishment, shall be
10 clearly marked, at the time the original container is opened in
11 a food establishment, to indicate the date the food container
12 was opened. The food shall be sold, consumed on the premises, or
13 discarded within:

14 (a) Seven calendar days or less if the food is held
15 refrigerated at forty-one degrees Fahrenheit (five degrees Celsius)
16 or below; or

17 (b) Four calendar days or less if the food is held
18 refrigerated between forty-five degrees Fahrenheit (seven degrees
19 Celsius) and forty-one degrees Fahrenheit (five degrees Celsius).

20 This subsection does not apply to fermented sausages
21 which retain an original casing or shelf stable salt-cured products
22 produced in a federally inspected food processing plant that are
23 not labeled "Keep Refrigerated" or to shelf stable, dry, fermented
24 sausages when the face has been cut, but the remaining portion is
25 whole and intact.

1 (3) A refrigerated, ready-to-eat, potentially hazardous
2 food (time and temperature control for safety food) ingredient or a
3 portion of a refrigerated, ready-to-eat, potentially hazardous food
4 (time and temperature control for safety food) that is subsequently
5 combined with additional ingredients or portions of food shall
6 retain the date marking of the earliest-prepared or first-prepared
7 ingredient.

8 (4) A date marking system that meets the criteria stated
9 in subsections (1) and (2) of this section may include:

10 (a) Using a method approved by the regulatory authority
11 for refrigerated, ready-to-eat, potentially hazardous food (time
12 and temperature control for safety food) that is frequently
13 rewrapped, such as lunchmeat or a roast, or for which date marking
14 is impractical, such as soft serve mix or milk in a dispensing
15 machine;

16 (b) Marking the date or day of preparation, with a
17 procedure to discard the food on or before the last date or day by
18 which the food must be consumed on the premises, sold, or discarded
19 as specified under subsection (1) of this section;

20 (c) Marking the date or day the original container is
21 opened in a food establishment, with a procedure to discard the
22 food on or before the last date or day by which the food must be
23 consumed on the premises, sold, or discarded as specified under
24 subsection (2) of this section; or

25 (d) Using calendar dates, days of the week, color-coded

1 marks, or other effective marking methods, if the marking system is
2 disclosed to the regulatory authority upon request.

3 (5) Subsections (1) and (2) of this section do not apply
4 to individual meal portions served or repackaged for sale from a
5 bulk container upon a consumer's request.

6 (6) Subsection (2) of this section does not apply to the
7 following foods prepared and packaged by a food processing plant
8 inspected by a regulatory authority:

9 (a) Deli salads, such as ham salad, seafood salad,
10 chicken salad, egg salad, pasta salad, potato salad, and macaroni
11 salad manufactured in accordance with 21 C.F.R. part 110, Current
12 Good Manufacturing Practice in Manufacturing, Packing, or Holding
13 Human Food, as such part existed on January 1, 2007;

14 (b) Hard cheeses containing not more than thirty-nine
15 percent moisture as defined in 21 C.F.R. part 133, Cheeses and
16 related cheese products, as such part existed on January 1, 2007,
17 such as cheddar, gruyere, parmesan and reggiano, and romano;

18 (c) Semi-soft cheeses containing more than thirty-nine
19 percent moisture, but not more than fifty percent moisture, as
20 defined in 21 C.F.R. part 133, Cheeses and related cheese products,
21 as such part existed on January 1, 2007, such as blue, edam,
22 gorgonzola, gouda, and monterey jack;

23 (d) Cultured dairy products as defined in 21 C.F.R. part
24 131, Milk and cream, as such part existed on January 1, 2007, such
25 as yogurt, sour cream, and buttermilk;

1 (e) Preserved fish products, such as pickled herring and
2 dried or salted cod and other acidified fish products, as defined
3 in 21 C.F.R. part 114, Acidified foods, as such part existed on
4 January 1, 2007;

5 (f) Shelf stable, dry fermented sausages, such as
6 pepperoni and Genoa salami that are not labeled "Keep Refrigerated"
7 as specified in 9 C.F.R. part 317, Labeling, marking devices, and
8 containers, as such part existed on January 1, 2007, and which
9 retain the original casing on the product; and

10 (g) Shelf stable salt-cured products such as prosciutto
11 and Parma (ham) that are not labeled "Keep Refrigerated" as
12 specified in 9 C.F.R. part 317, Labeling, marking devices, and
13 containers, as such part existed on January 1, 2007.

14 ~~(1) For refrigerated, ready-to-eat, potentially hazardous~~
15 ~~food prepared on the premises of a food establishment and~~
16 ~~held refrigerated for more than twenty-four hours in such food~~
17 ~~establishment, the container shall be clearly marked with the date~~
18 ~~of preparation. The food shall be consumed within:~~

19 ~~(a) Seven calendar days or less if the food is held~~
20 ~~refrigerated at forty-one degrees Fahrenheit (five degrees Celsius)~~
21 ~~or below; or~~

22 ~~(b) Four calendar days or less if the food is held~~
23 ~~refrigerated between forty-five degrees Fahrenheit (seven degrees~~
24 ~~Celsius) and forty-one degrees Fahrenheit (five degrees Celsius).~~

25 ~~(2) For refrigerated, ready-to-eat, potentially hazardous~~

1 food prepared and packaged by a food processing plant which is
2 opened in a food establishment and held refrigerated at such food
3 establishment, the container shall be clearly marked, at the time
4 the original container is opened, to indicate the date the food
5 container was opened. The food shall be consumed within:

6 (a) Seven calendar days or less if the food is held
7 refrigerated at forty-one degrees Fahrenheit (five degrees Celsius)
8 or below; or

9 (b) Four calendar days or less if the food is held
10 refrigerated between forty-five degrees Fahrenheit (seven degrees
11 Celsius) and forty-one degrees Fahrenheit (five degrees Celsius).

12 This subsection does not apply to fermented sausages
13 which retain an original casing or shelf stable salt-cured products
14 produced in a federally inspected food processing plant that are
15 not labeled "Keep Refrigerated" or to shelf stable, dry, fermented
16 sausages when the face has been cut, but the remaining portion is
17 whole and intact.

18 (3) A refrigerated, ready-to-eat, potentially hazardous
19 food that is frequently rewrapped or for which date marking is
20 impractical may be marked by an alternative method acceptable to
21 the regulatory authority.

22 (4) A refrigerated, ready-to-eat, potentially hazardous
23 food ingredient or a portion of a refrigerated, ready-to-eat,
24 potentially hazardous food that is subsequently combined with
25 additional ingredients or portions of food shall retain the date

1 ~~marking of the earliest-prepared or first-prepared ingredient.~~

2 ~~(5) This section does not apply to individual meal~~
3 ~~portions served or repackaged for sale from a bulk container upon a~~
4 ~~consumer's request.~~

5 Sec. 9. Section 81-2,272.25, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 81-2,272.25 (1) A food specified under subsections (1)
8 and (2) of section 81-2,272.24 shall be discarded if such food:

9 (a) Exceeds either of the temperature and time
10 combinations specified in subsection (1) of section 81-2,272.24,
11 except time that the food is frozen;

12 (b) Is in a container or package that does not bear a
13 date or day; or

14 (c) Is appropriately marked with a date or day that
15 exceeds a temperature and time combination as specified in
16 subsection (1) of section 81-2,272.24.

17 (2) Refrigerated, ready-to-eat, potentially hazardous
18 food prepared in a food establishment and dispensed through
19 a vending machine with an automatic shut-off control shall be
20 discarded if it exceeds a temperature and time combination as
21 specified in subsection (1) of section 81-2,272.24.

22 ~~(1) A food specified under subsection (1) of section~~
23 ~~81-2,272.24 shall be discarded if not consumed within, including~~
24 ~~the day of preparation.~~

25 ~~(a) Seven calendar days if the food is held refrigerated~~

1 at ~~forty-one degrees Fahrenheit (five degrees Celsius) or below, or~~

2 ~~(b) Four calendar days if the food is held refrigerated~~
3 ~~between forty-five degrees Fahrenheit (seven degrees Celsius) and~~
4 ~~forty-one degrees Fahrenheit (five degrees Celsius).~~

5 ~~(2) A ready-to-eat, potentially hazardous food prepared~~
6 ~~on premises or by a food processing plant and opened at a food~~
7 ~~establishment and subsequently frozen at such food establishment~~
8 ~~shall be discarded if not consumed within twenty-four hours after~~
9 ~~thawing.~~

10 ~~(3) A food specified under subsection (3) of section~~
11 ~~81-2,272.24 shall be discarded if not consumed within, including~~
12 ~~the day of opening the original container.~~

13 ~~(a) Seven calendar days if the food is held refrigerated~~
14 ~~at forty-one degrees Fahrenheit (five degrees Celsius) or below, or~~

15 ~~(b) Four calendar days if the food is held refrigerated~~
16 ~~between forty-five degrees Fahrenheit (seven degrees Celsius) and~~
17 ~~forty-one degrees Fahrenheit (five degrees Celsius).~~

18 ~~(4) A food specified under section 81-2,272.24 shall be~~
19 ~~discarded if the food is:~~

20 ~~(a) Not consumed before the most recent consumption date~~
21 ~~marked on the container;~~

22 ~~(b) In a container or package which is not marked with~~
23 ~~a preparation date or number of days held in refrigeration before~~
24 ~~freezing; or~~

25 ~~(c) Inappropriately marked with a consumption date or~~

1 number of days held refrigerated that exceeds the restrictions
2 under section ~~81-2,272.24.~~

3 ~~(5) Refrigerated, ready-to-eat, potentially hazardous~~
4 ~~food prepared in a food establishment and dispensed through~~
5 ~~a vending machine with an automatic shut-off control that is~~
6 ~~activated at a temperature of:~~

7 ~~(a) Forty-one degrees Fahrenheit (five degrees Celsius)~~
8 ~~shall be discarded if not sold within seven calendar days; or~~

9 ~~(b) Forty-five degrees Fahrenheit (seven degrees Celsius)~~
10 ~~shall be discarded if not sold within four calendar days.~~

11 Sec. 10. This act becomes operative on July 1, 2007.

12 Sec. 11. Original sections 81-2,244.01, 81-2,257,
13 81-2,272.10, 81-2,272.17, 81-2,272.24, and 81-2,272.25, Reissue
14 Revised Statutes of Nebraska, and sections 81-2,239 and 81-2,270,
15 Revised Statutes Cumulative Supplement, 2006, are repealed.

16 Sec. 12. The following sections are outright
17 repealed: Sections 81-2,272.03, 81-2,272.04, 81-2,272.05,
18 81-2,272.06, 81-2,272.14, 81-2,272.15, 81-2,272.16, 81-2,272.19,
19 81-2,272.20, 81-2,272.21, 81-2,272.22, 81-2,272.23, 81-2,272.26,
20 81-2,272.28, 81-2,272.29, 81-2,272.30, 81-2,272.33, 81-2,272.35,
21 and 81-2,272.37, Reissue Revised Statutes of Nebraska.

22 Sec. 13. Since an emergency exists, this act takes effect
23 when passed and approved according to law.