

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 748**

Introduced by Louden, 49; Avery, 28; Carlson, 38; Dubas, 34; Haar, 21; Stuthman, 22; Wallman, 30.

Read first time January 06, 2010

Committee: Agriculture

A BILL

1 FOR AN ACT relating to food establishments; to amend section  
2 81-2,245.01, Reissue Revised Statutes of Nebraska; to  
3 change provisions relating to an exemption; and to repeal  
4 the original section.

5 Be it enacted by the people of the State of Nebraska,

1                   Section 1. Section 81-2,245.01, Reissue Revised Statutes  
2 of Nebraska, is amended to read:

3                   81-2,245.01 Food establishment shall mean an operation  
4 that stores, prepares, packages, serves, sells, vends, or otherwise  
5 provides food for human consumption. The term does not include:

6                   (1) An establishment or vending machine operation that  
7 offers only prepackaged soft drinks, carbonated or noncarbonated;  
8 canned or bottled fruit and vegetable juices; prepackaged ice;  
9 candy; chewing gum; potato or corn chips; pretzels; cheese puffs  
10 and curls; crackers; popped popcorn; nuts and edible seeds; and  
11 cookies, cakes, pies, and other pastries, that are not potentially  
12 hazardous foods;

13                   (2) A produce stand that only offers whole, uncut fresh  
14 fruits and vegetables;

15                   (3) A food processing plant;

16                   (4) A salvage operation;

17                   (5) A private home where food is prepared or served for  
18 personal use, a small day care in the home, or a hunting lodge,  
19 guest ranch, or other operation where no more than ten paying  
20 guests eat meals in the home;

21                   (6) A private home or other area where food that is not  
22 potentially hazardous food is prepared: (a) For sale or service  
23 at a religious, charitable, or fraternal organization's bake sale  
24 or similar function; ~~or~~ (b) for sale directly to the consumer  
25 if the food is clearly marked that it was prepared in a kitchen

1 that is not subject to regulation and inspection by the regulatory  
2 authority; or (c) for sale directly to the consumer at a farmers  
3 market if the consumer is informed by a clearly visible placard  
4 at the sale location that the food was prepared in a kitchen  
5 that is not subject to regulation and inspection by the regulatory  
6 authority;

7 (7) A private home or other area where food is prepared  
8 for distribution at a fundraising event for a charitable purpose  
9 if the consumer is informed by a clearly visible placard at the  
10 serving location that the food was prepared in a kitchen that  
11 is not subject to regulation and inspection by the regulatory  
12 authority. This subdivision does not apply to a caterer or other  
13 establishment providing food for the event if the caterer or  
14 establishment receives compensation for providing the food;

15 (8) The location where food prepared by a caterer is  
16 served so long as the caterer only minimally handles the food at  
17 the serving location;

18 (9) Educational institutions, health care facilities,  
19 nursing homes, and governmental organizations which are inspected  
20 by a state agency or a political subdivision other than the  
21 regulatory authority for sanitation in the food preparation areas;

22 (10) A pharmacy as defined in section 71-425 if the  
23 pharmacy only sells prepackaged pharmaceutical, medicinal, or  
24 health supplement foods that are not potentially hazardous or  
25 foods described in subdivision (1) of this section; and

1                   (11) An establishment which is not a commercial food  
2 establishment and which sells only commercially packaged foods that  
3 are not potentially hazardous foods.

4                   Sec. 2. Original section 81-2,245.01, Reissue Revised  
5 Statutes of Nebraska, is repealed.