

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 558

Introduced by Kolowski, 31.

Read first time January 21, 2015

Committee: Agriculture

1 A BILL FOR AN ACT relating to the Nebraska Pure Food Act; to amend
2 section 81-2,245.01, Reissue Revised Statutes of Nebraska; to
3 redefine a term; to provide an exception for certain operations
4 preparing food for indirect sale to a consumer as prescribed; to
5 provide a duty for the Department of Agriculture; and to repeal the
6 original section.

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

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

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

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

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

14 (3) A food processing plant;

15 (4) A salvage operation;

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

20 (6) A private home or other area where food that is not potentially
21 hazardous food is prepared:

22 (a) For sale or service at a religious, charitable, or fraternal
23 organization's bake sale or similar function;~~or~~

24 (b) For ~~for~~ sale directly to the consumer at a farmer's ~~farmers~~
25 market if the consumer is informed by a clearly visible placard at the
26 sale location that the food was prepared in a kitchen that is not subject
27 to regulation and inspection by the regulatory authority;or

28 (c) For sale indirectly to a consumer through a third-party food
29 establishment if:

30 (i) The operation has registered with the department and complied
31 with any applicable food safety requirements;

1 (ii) The consumer is informed by a clearly visible placard at the
2 sale location or on the package or container label that the food was
3 prepared in a kitchen that is not subject to regulation and inspection by
4 the regulatory authority;

5 (iii) The operation has not more than fifty thousand dollars in
6 gross annual sales during a calendar year;

7 (iv) The operation does not employ more than one full-time
8 equivalent employee, not including a family member or a member of the
9 operator's household; and

10 (v) The owner of the operation and his or her employees have
11 undergone food handler training provided online on the department's web
12 site. The department shall develop and make available an online food
13 handler training program on its web site not later than December 31,
14 2015;

15 (7) A private home or other area where food is prepared for
16 distribution at a fundraising event for a charitable purpose if the
17 consumer is informed by a clearly visible placard at the serving location
18 that the food was prepared in a kitchen that is not subject to regulation
19 and inspection by the regulatory authority. This subdivision does not
20 apply to a caterer or other establishment providing food for the event if
21 the caterer or establishment receives compensation for providing the
22 food;

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

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

29 (10) A pharmacy as defined in section 71-425 if the pharmacy only
30 sells prepackaged pharmaceutical, medicinal, or health supplement foods
31 that are not potentially hazardous or foods described in subdivision (1)

1 of this section; and

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

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