

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 304

FINAL READING

Introduced by Crawford, 45; Blood, 3; Hansen, B., 16.

Read first time January 15, 2019

Committee: Agriculture

1 A BILL FOR AN ACT relating to the Nebraska Pure Food Act; to amend
2 sections 81-2,239 and 81-2,245.01, Revised Statutes Cumulative
3 Supplement, 2018; to exempt certain operations from the definition
4 of a food establishment as prescribed; to require registration of
5 certain operations; to harmonize provisions; and to repeal the
6 original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 81-2,239, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

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

8 Sec. 2. Section 81-2,245.01, Revised Statutes Cumulative Supplement,
9 2018, is amended to read:

10 81-2,245.01 Food establishment shall mean an operation that stores,
11 prepares, packages, serves, sells, vends, delivers, or otherwise provides
12 food for human consumption. The term does not include:

13 (1) An establishment or vending machine operation that offers only
14 prepackaged soft drinks, carbonated or noncarbonated; canned or bottled
15 fruit and vegetable juices; prepackaged ice; candy; chewing gum; potato
16 or corn chips; pretzels; cheese puffs and curls; crackers; popped
17 popcorn; nuts and edible seeds; and cookies, cakes, pies, and other
18 pastries, that are not time/temperature control for safety foods;

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

21 (3) A food processing plant;

22 (4) A salvage operation;

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

27 (6) A private home or other area where food that is not time/
28 temperature control for safety food is prepared for ~~÷ (a) For~~ sale or
29 service at a religious, charitable, or fraternal organization's bake sale
30 or similar function; ~~or~~

31 (7) A private home or other area where food that is not time/

1 temperature control for safety food is prepared ~~(b)~~ for sale directly to
2 the consumer including, but not limited to, at a farmers market, fair,
3 festival, craft show, or other public event or for pick up at or delivery
4 from such private home or other area, if: the

5 (a) The consumer is informed by a clearly visible notification
6 placard at the sale location that the food was prepared in a kitchen that
7 is not subject to regulation and inspection by the regulatory authority
8 and may contain allergens. For sales conducted at a farmers market, fair,
9 festival, craft show, or other public event, such notification shall be
10 at the sale location. For sales conducted for pick up at or delivery from
11 a private home or other area, such notification shall be at such private
12 home or other area, on the producer's web site if one exists, and in any
13 print, radio, television, or Internet advertisement for such sales;

14 (b) The name and address of the producer is provided to the consumer
15 on the package or container label;

16 (c) Product delivery is made directly from the producer to the
17 actual customer in a person-to-person transaction or by United States
18 mail or a commercial mail delivery service;

19 (d) The producer follows any food safety and handling guidelines for
20 sale at a farmers market, fair, festival, craft show, or other public
21 event required by the county, city, or village where the food is sold;

22 (e) Prior to conducting any food sales, the producer, other than one
23 selling directly to the consumer at a farmers market, has successfully
24 completed (i) a nationally accredited food safety and handling education
25 course that covers topics such as food safety issues, regulations, and
26 techniques to maintain a food-safe environment or (ii) a certified food
27 safety and handling training course offered at a culinary school or as
28 required by a county, city, or village to obtain a food handler permit;

29 (f) The producer, if using private well water to produce food sold
30 under this subdivision (7), has had such well water tested for
31 contamination by nitrates or bacteria prior to conducting any food

1 production and sales; and

2 (g) The producer complies with section 3 of this act;

3 (8) (7) A private home or other area where food is prepared for
4 distribution at a fundraising event for a charitable purpose if the
5 consumer is informed by a clearly visible placard at the serving location
6 that the food was prepared in a kitchen that is not subject to regulation
7 and inspection by the regulatory authority. This subdivision does not
8 apply to a caterer or other establishment providing food for the event if
9 the caterer or establishment receives compensation for providing the
10 food;

11 (9) (8) The location where food prepared by a caterer is served so
12 long as the caterer only minimally handles the food at the serving
13 location;

14 (10) (9) Educational institutions, health care facilities, nursing
15 homes, and governmental organizations which are inspected by a state
16 agency or a political subdivision other than the regulatory authority for
17 sanitation in the food preparation areas;

18 (11) (10) A pharmacy as defined in section 71-425 if the pharmacy
19 only sells prepackaged pharmaceutical, medicinal, or health supplement
20 foods that are not time/temperature control for safety or foods described
21 in subdivision (1) of this section; and

22 (12) (11) An establishment which is not a commercial food
23 establishment and which sells only commercially packaged foods that are
24 not time/temperature control for safety foods.

25 Sec. 3. A producer of food described in subdivision (7) of section
26 81-2,245.01 shall register with the department prior to conducting any
27 sales of food. The registration shall be made on forms prescribed by the
28 department and include (1) the name, address, and telephone number of the
29 producer, (2) the type of food safety and handling education or training
30 course taken and the date of its successful completion, and (3) proof of
31 private well water testing pursuant to subdivision (7)(f) of section

1 81-2,245.01, if applicable. This section shall not apply to a producer of
2 food selling directly to the consumer at a farmers market.

3 Sec. 4. Original sections 81-2,239 and 81-2,245.01, Revised
4 Statutes Cumulative Supplement, 2018, are repealed.