

AMENDMENTS TO LB321

Introduced by Brandt, 32.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 2-3966, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 2-3966 For purposes of the Nebraska Milk Act, unless the context
6 otherwise requires:

7 (1) 3-A Sanitary Standards has the same meaning as in the Grade A
8 Pasteurized Milk Ordinance;

9 (2) Acceptable milk means milk that qualifies under sections 2-3979
10 to 2-3982 as to sight and odor and that is classified acceptable for
11 somatic cells, bacterial content, drug residues, and sediment content;

12 (3) Components of milk means whey, whey and milk protein
13 concentrate, whey cream, cream, butter, skim milk, condensed milk, ultra-
14 filtered milk, milk powder, dairy blends that are at least fifty-one
15 percent dairy components, and any similar milk byproduct;

16 (4) C-I-P or cleaned-in-place means the procedure by which sanitary
17 pipelines or pieces of dairy equipment are mechanically cleaned in place
18 by circulation;

19 (5) Dairy products means products allowed to be made from milk for
20 manufacturing purposes and not required to be of Grade A quality;

21 (6) Department means the Department of Agriculture;

22 (7) Director means the Director of Agriculture or his or her duly
23 authorized agent or designee;

24 (8) Field representative means an individual qualified and trained
25 in the sanitary methods of production and handling of milk as set forth
26 in the Nebraska Milk Act and who is generally employed by a processing or
27 manufacturing milk plant or cooperative for the purpose of quality

1 control work;

2 (9) First purchaser means a person who purchases raw milk directly
3 from the farm for processing or for resale to a processor, who purchases
4 milk products or components of milk for processing or resale to a
5 processor, or who utilizes milk from the first purchaser's own farm for
6 the manufacturing of milk products or dairy products;

7 (10) Grade A Pasteurized Milk Ordinance means the documents
8 delineated in subsection (3) of section 2-3965;

9 (11) Milk for manufacturing purposes means milk produced for
10 processing and manufacturing into products not required by law to be of
11 Grade A quality;

12 (12) Milk distributor means a person who distributes milk, fluid
13 milk, milk products, or dairy products whether or not the milk is shipped
14 within or into the state. The term does not include (a) a milk plant, a
15 bulk milk hauler/sampler, or a milk producer, as such terms are defined
16 in the Grade A Pasteurized Milk Ordinance, ~~or (b) a food establishment,~~
17 as defined in the Nebraska Pure Food Act, ~~or (c) an operation not~~
18 included in the definition of a food establishment in section
19 81-2,245.01;

20 (13) Probational milk means milk classified undergrade for somatic
21 cells, bacterial content, or sediment content that may be accepted by
22 plants for specific time periods; and

23 (14) Reject milk means milk that does not qualify under sections
24 2-3979 to 2-3982.

25 Sec. 2. Section 81-2,245.01, Revised Statutes Cumulative Supplement,
26 2022, is amended to read:

27 81-2,245.01 Food establishment shall mean an operation that stores,
28 prepares, packages, serves, sells, vends, delivers, or otherwise provides
29 food for human consumption. The term does not include:

30 (1) An establishment or vending machine operation that offers only
31 prepackaged soft drinks, carbonated or noncarbonated; canned or bottled

1 fruit and vegetable juices; prepackaged ice; candy; chewing gum; potato
2 or corn chips; pretzels; cheese puffs and curls; crackers; popped
3 popcorn; nuts and edible seeds; and cookies, cakes, pies, and other
4 pastries, that are not time/temperature control for safety foods;

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

7 (3) A food processing plant;

8 (4) A salvage operation;

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

13 (6) A private home or other area where food that is not time/
14 temperature control for safety food is prepared for sale or service at a
15 religious, charitable, or fraternal organization's bake sale or similar
16 function;

17 (7) An operation ~~A private home or other area~~ where food that meets
18 the requirements of section 81-2,280 ~~is not time/temperature control for~~
19 ~~safety food~~ is prepared at a private home or onsite at a farmers market,
20 fair, festival, craft show, or other public event:

21 (a) For ~~for~~ sale directly to the consumer ~~including, but not limited~~
22 ~~to,~~ at such a farmers market, fair, festival, craft show, or other public
23 event; or

24 (b) For pickup ~~for pick-up~~ at or delivery from such private home or
25 such farmers market, fair, festival, craft show, or other public event;
26 ~~other area, if:~~

27 (a) ~~The consumer is informed by a clearly visible notification that~~
28 ~~the food was prepared in a kitchen that is not subject to regulation and~~
29 ~~inspection by the regulatory authority and may contain allergens. For~~
30 ~~sales conducted at a farmers market, fair, festival, craft show, or other~~
31 ~~public event, such notification shall be at the sale location. For sales~~

1 ~~conducted for pick up at or delivery from a private home or other area,~~
2 ~~such notification shall be at such private home or other area, on the~~
3 ~~producer's website if one exists, and in any print, radio, television, or~~
4 ~~Internet advertisement for such sales;~~

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

7 ~~(c) Product delivery is made directly from the producer to the~~
8 ~~actual customer in a person-to-person transaction or by United States~~
9 ~~mail or a commercial mail delivery service;~~

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

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

20 ~~(f) The producer, if using private well water to produce food sold~~
21 ~~under this subdivision (7), has had such well water tested for~~
22 ~~contamination by nitrates or bacteria prior to conducting any food~~
23 ~~production and sales; and~~

24 ~~(g) The producer complies with section 81-2,280;~~

25 (8) A private home or other area where food is prepared for
26 distribution at a fundraising event for a charitable purpose if the
27 consumer is informed by a clearly visible placard at the serving location
28 that the food was prepared in a kitchen that is not subject to regulation
29 and inspection by the regulatory authority. This subdivision does not
30 apply to a caterer or other establishment providing food for the event if
31 the caterer or establishment receives compensation for providing the

1 food;

2 (9) The location where food prepared by a caterer is served so long
3 as the caterer only minimally handles the food at the serving location;

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

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

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

15 Sec. 3. Section 81-2,280, Revised Statutes Cumulative Supplement,
16 2022, is amended to read:

17 81-2,280 (1) A producer of food at an operation described in
18 subdivision (7) of section 81-2,245.01 shall meet the requirements of
19 this section.

20 (2) The producer shall only provide food that is not adulterated and
21 is not any of the following types of time/temperature control for safety
22 food:

23 (a) Any part of an animal, vertebrate or invertebrate, or animal by-
24 product;

25 (b) Fluid milk or milk products as defined in the Grade A
26 Pasteurized Milk Ordinance adopted by reference in the Nebraska Milk Act;

27 (c) Raw eggs;

28 (d) Unpasteurized juice;

29 (e) Infused oils or honey;

30 (f) Sprouts;

31 (g) Low-acid canned food and hermetically sealed acidified food;

1 (h) Tofu, tempeh, or similar meat substitutes; or

2 (i) Kimchi, kombucha, or similar fermented foods.

3 (3) Prior to conducting any food sales, the producer, other than a
4 producer only selling food that is not time/temperature control for
5 safety food directly to the consumer at a farmers market, shall
6 successfully complete:

7 (a) A nationally accredited food safety and handling education
8 course that covers topics such as food safety issues, regulations, and
9 techniques to maintain a food-safe environment;

10 (b) A certified food safety and handling training course offered at
11 a culinary school or as required by a county, city, or village to obtain
12 a food handler permit; or

13 (c) A food safety and handling education course approved by the
14 department.

15 (4) The producer, other than a producer only selling food that is
16 not time/temperature control for safety food directly to the consumer at
17 a farmers market, shall register with the department prior to conducting
18 any sales of food. The registration shall be made on forms prescribed by
19 the department and include (a) ~~(1)~~ the name, address, and telephone
20 number of the producer, (b) ~~(2)~~ the type of food safety and handling
21 education or training course taken pursuant to this section and the date
22 of its successful completion, and (c) ~~(3)~~ proof of private well water
23 testing for contamination by nitrates or bacteria if the producer uses
24 private well water pursuant to subdivision ~~(7)(f)~~ of section ~~81-2,245.01,~~
25 if applicable. This section shall not apply to a producer of food selling
26 directly to the consumer at a farmers market.

27 (5) The producer shall inform the consumer by a clearly visible
28 notification that the food was prepared in a kitchen that is not subject
29 to regulation and inspection by a regulatory authority and may contain
30 allergens. For sales conducted at a farmers market, fair, festival, craft
31 show, or other public event, such notification shall be provided at the

1 sale location. For sales conducted for pickup or delivery, such
2 notification shall be provided at the pickup location, on the producer's
3 website, if such website exists, and in any print, radio, television, or
4 Internet advertisement for such sales.

5 (6) The producer shall label the food so that the name and address
6 of the producer is provided to the consumer on the package or container
7 label. Food that is time/temperature control for safety food shall also
8 have labeling that includes ingredients in descending order of
9 predominance.

10 (7) The producer shall deliver the food to the customer as follows:

11 (a) For food that is not time/temperature control for safety food,
12 the food may be delivered in person or by United States mail or a
13 commercial mail delivery service; and

14 (b) For food that is time/temperature control for safety food, the
15 food shall be delivered only by the producer to the consumer in person
16 and when transported, maintained at a temperature in accordance with the
17 Nebraska Pure Food Act and not transported for longer than two hours.

18 (8) The provisions of this section supersede and preempt any
19 ordinance, rule, regulation, or resolution regulating food safety and
20 handling adopted or enacted by a political subdivision that is not in
21 conformance with this section.

22 Sec. 4. Original section 2-3966, Reissue Revised Statutes of
23 Nebraska, and sections 81-2,245.01 and 81-2,280, Revised Statutes
24 Cumulative Supplement, 2022, are repealed.