

**ONE HUNDRED NINTH LEGISLATURE - FIRST SESSION - 2025**  
**COMMITTEE STATEMENT**  
**LB245**

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**Hearing Date:** Tuesday February 04, 2025  
**Committee On:** Agriculture  
**Introducer:** DeKay  
**One Liner:** Change provisions of the Nebraska Pure Food Act

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**

**Aye:** 8 Senators DeKay, Hansen, Holdcroft, Ibach, Kauth, McKeon,  
Raybould, Storm

**Nay:**

**Absent:**

**Present Not Voting:**

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**Testimony:**

**Proponents:**

Senator Barry DeKay  
Sherry Vinton

**Representing:**

Opening Presenter  
Nebraska Department of Agriculture

**Opponents:**

John K. Hansen

**Representing:**

Nebraska Farmers Union

**Neutral:**

Ansley Fellers

**Representing:**

Nebraska Grocery Industry Association, Nebraska  
Hospitality Association  
Nebraska Department of Agriculture

Ashley Dempsey

\* ADA Accommodation Written Testimony

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**Summary of purpose and/or changes:**

LB 245 amends the Nebraska Pure Food Act to incorporate the 2022 recommendations of the Food Code, a publication of the federal Food and Drug Administration, which sets forth model regulations for sanitation, storage, preparation, serving and presentation of foods to mitigate risks of food borne illness from foods sold or served by commercial food establishments. Nebraska currently incorporates the 2017 edition of the Food Code. The bill also adopts the current Good Manufacturing Practice regulation. LB 245 further revises the schedule of license and inspection fees with the intent to fully cash fund the Department of Agriculture's licensure and inspection program under the Act. Finally, LB 245 would enact series of clarifications to terms and procedures to aid in the administration of the Act as described in the section-by-section summary.

Section-by-section summary:



Sec. 1: Amends Sec. 81-2,239 updating the name of federal regulations adopted by reference in the Nebraska Pure Food Act.

Sec. 2: Amends Sec. 81-2,244.01 defining the term "Food Code" incorporated by reference into the Nebraska Pure Food Act to mean the 2022 editions except for cited sections of the Food Code that are either not utilized or replicated in modified form in other sections of the Nebraska Pure Food Act. LB 245 would discontinue exclusions of a number of Food Code sections cited.

Sec. 3: Amends Sec. 81-2,245.01 which defines the term "food establishment" to exclude operations that only deliver food.

Sec. 4: Amends Sec. 81-2,254 to revise the definition of single event food vendors who are exempted from the requirement to be licensed as a food establishment. Currently, single event food vendors are those who only operate at one annual event lasting no more than two days. LB 245 increases the event duration to four days.

Sec. 5: Amends Sec. 81-2,257 which designate priority items by removing references to other sections of the Act repealed by section 13 of the bill. Section 2 of the bill would no longer exclude the Food Code provisions designating priority items and this section and Section 13 would remove what becomes obsolete variances from the Food Code.

Sec. 6: Amends Sec. 81-2,259 to incorporate current food manufacturing regulations at 21 CFR 117 replacing outdated regulations at 21 CFR 110.

Sec. 7: Amends §81-2,268 which provides a grandfathering exemption for facilities and equipment utilized by regulated entities that were in use prior to Sept. 13, 1997. LB 245 requires such facilities and equipment to meet food temperature requirements.

Sec. 8: Amends Sec. 81-2,270 which requires a valid permit to operate a food establishment, processing plant, or salvage operation and establishes a schedule of initial permit and annual inspection fees. LB 245 revises this section as follows:

- Establishes a new schedule of statutory maximum fees that may be charged across all permit categories and changes the designation of the "annual inspection" fee to an "annual" fee. Currently, fee revenues support approximately 50% of the costs of the Department of Agriculture's license and inspection program. The new statutory maximums are intended to provide sufficient fee authority to fully cash fund the inspection program
- Provides that third-party commercial food service utilized by institutional entities to provide food service to residents and or patrons are subject to the permit and fee requirements of this section even though the institutional entity is exempt.

Sec. 9: Amends Sec. 81-2,271 to eliminate a requirement that a permit holder return the permit if the food establishment for which the permit is issued is permanently closed.

Sec. 10: Amends Sec. 81-2,274 to eliminate certain parties designated for serving notices or orders and change service requirements.

Sec. 11: Harmonize a reference to federal regulations establishing sanitary standards in food manufacturing operations to be consistent with the adoption of the current Good Manufacturing Practice in section 6 of the bill.

Sec. 12: Repealer



Sec 13: LB 245 outright repeals sections of the Nebraska Pure Food Act that currently set out state variances from Food Code provisions that have been excluded from incorporation into the Nebraska Pure Food Act by section 81-2,244.01. Section 2 of the bill amends section 81-2,244.01 to remove a number of current exclusions of Food Code provisions, making the existing variances in the sections outright repealed unnecessary and obsolete.

Sec 14: Emergency clause

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**Explanation of amendments:**

The Committee Amendment (AM501) is a white copy amendment which strikes the original provisions and becomes the bill. AM501 retains the provisions of LB 245 except for two revisions described below. The amendment also incorporates revised provisions of LB 394 which, similarly to LB 245, incorporates current editions of model publications utilized as standards for purposes of the Weights and Measures Act and revises the schedule of permit and inspection fees paid by weighing and measuring establishments which partially support the Department of Agriculture's inspection program.

LB 245 revisions:

Sections 1 – 11 of AM501 contain the substantive provisions of LB 245 as introduced with the following revisions:

-- Replaces the new statutory maximum food establishment fees in section 81-2,270 in the bill as introduced with a revised fee schedule (section 8 of AM501). The revised fee authority contained in the amendment would be sufficient to continue funding the Nebraska Pure Food Act inspection program at the current policy of approximately 50% cash funds and 50% general funds.

-- inserts a revision in subsection (11) of Sec. 81-2,244.01 (section 3 of AM 501), which currently excludes pharmacies that sell only non-potentially hazardous pharmaceutical, medicinal, or health supplement foods from the definition of a food establishment. The revision would expand the exemption to facilities similar to existing pharmacies.

LB 394

Sections 12 – 15 of AM501 incorporate revised provisions of LB 394. LB 394 incorporates current publications of the National Conference on Weights and Measures utilized as standards enforced under the Weights and Measures Act and revises the schedule of permit and inspection fees paid by weighing and measuring establishments which support the Department of Agriculture's permitting and inspection duties assigned the Act. Differences between LB 394 as introduced and as contained in AM 501 are noted in the following summary of sections 12 – 15 of AM501:

Sec. 12: Amends Sec. 89-186 to incorporate current publications (2025 editions) of the standards of the National Conference on Weights and Measures published by the National Institute of Standards and Technology. These include: Specifications, Tolerances and other Technical Requirements for Weighing and Measuring Devices contained in Handbook 44; Uniform Regulation for the Method of Sale of Commodities and the Uniform Packaging and Labeling Regulation contained in Handbook 130 (Uniform Laws and Regulations in the areas of Legal Metrology and Engine Fuel Quality); and Checking the Net Contents of Packaged Goods contained in Handbook 133. Current law incorporates the 2019 versions of these publications.

Sec. 13: Amends Sec. 89-187 which assigns duties and authorities to the Department of Agriculture to carry out the Weights and Measures Act. Subdivision (19) authorizes the Department to require a permit to operate a weighing and measuring establishment and to collect a permit application fee of \$5. Subdivision (20) authorizes the assessment



and collection of annual inspection fees for various categories of weighing and measuring devices, designating an initial fee and annual adjustments to the fee within prescribed fee-setting limitations, up to a maximum fee amount.

This section strikes a reference to a permit application fee that is eliminated by section 14 of AM501 and prescribes a new schedule of beginning year and maximum inspection fees. LB 394 as introduced proposed a schedule of fees providing sufficient fee authority to fully cash fund the Department of Agriculture's permitting and inspection activities assigned by the Weights and Measures Act. The fee revisions contained in AM501 provide for an inflationary only increase in the base fees and statutory maximums to provide sufficient fee authority to continue funding the inspection program at current policy of approximately 50% cash funds and 50% general funds.

As introduced, LB 394 would have created a new fee category for electric vehicle chargers which are now included as regulated weighing and measuring devices under current editions of Handbooks 44 and 130 adopted in section 12 of AM501. This new fee category is omitted from AM501. Section 13 further provides that a delinquency in paying the annual fee voids the device permit.

Sec. 14: Amends Sec. 89-187.02 which prescribes permit application requirements. AM 501 eliminates the permit application fee.

Sec. 15: Amends Sec. 89-187.05 to strike a duty of weighing and measuring establishment permit holders to return the permit if the establishment is permanently closed.

The remaining sections of AM 501 correlate repealed and outright repealed sections to accommodate the incorporation of LB 394. The amendment retains the emergency clause to enable the new fee authorizations to be in effect for the annual fees that are due August 1, 2025.

Committee Vote to add the provisions of LB 394: 8 yes, 0 no, 0 absent or abstain

Testifiers:

Proponent: Senator Barry DeKay – Introducer, Sherry Vinton – Director, Dept. of Agriculture

Opponent: John Hansen – Nebraska Farmers Union

Neutral: Ashley Dempsey – Dept. of Agriculture

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Barry DeKay, Chairperson

