

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 546**

Introduced by Conrad, 46.

Read first time January 17, 2023

Committee: Urban Affairs

1 A BILL FOR AN ACT relating to bed and breakfast establishments; to amend  
2 sections 81-2,242 and 81-2,292, Reissue Revised Statutes of  
3 Nebraska, and section 81-503.01, Revised Statutes Cumulative  
4 Supplement, 2022; to redefine a term and change provisions of the  
5 Nebraska Pure Food Act relating to bed and breakfast establishments;  
6 to require the State Fire Code to include provisions relating to bed  
7 and breakfast establishments as prescribed; and to repeal the  
8 original sections.

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

1       Section 1. Section 81-2,242, Reissue Revised Statutes of Nebraska,  
2 is amended to read:

3       81-2,242 Bed and breakfast establishment means a building originally  
4 designed as, built as, or converted to a single-family dwelling unit that  
5 provides sleeping accommodations and breakfast to transient guests for a  
6 single fee. A bed and breakfast establishment does not include any  
7 establishment that provides services at any given time to: (1) More than  
8 ten guest rooms or (2) more than twenty guests. shall mean any place of  
9 lodging that provides rented rooms to ten or fewer people, that is the  
10 personal residence of the owner, that is occupied by the owner at the  
11 time of rental, and in which the only meal served to renters is  
12 breakfast.

13      Sec. 2. Section 81-2,292, Reissue Revised Statutes of Nebraska, is  
14 amended to read:

15       81-2,292 (1) Except as provided in this section, the The Nebraska  
16 Pure Food Act shall not apply to bed and breakfast establishments.

17       (2) Food served to guests by any bed and breakfast establishment  
18 shall be clean, wholesome, free from spillage, free from adulteration,  
19 free from misbranding, and safe for human consumption.

20       (3) Containers of food shall be stored above the floor, on clean  
21 racks, shelves, or other clean surfaces in such a manner as to be  
22 protected from splashes or other contamination.

23       (4) The only milk that shall be used is pasteurized Grade A milk.

24       (5) The use of home canned food is prohibited except for jams and  
25 jellies.

26       (6) Food shall be protected from contamination while being stored,  
27 prepared, served, and transported.

28       (7) Perishable foods shall be stored at a temperature that will  
29 prevent spoilage. Potentially hazardous food shall be maintained at a  
30 temperature of forty-five degrees Fahrenheit or colder or one hundred  
31 forty degrees Fahrenheit or hotter, as appropriate, except during

1   necessary periods of preparation and serving. Frozen food shall be kept  
2   at a temperature that will keep such food frozen, except when being  
3   thawed for preparation. Potentially hazardous frozen food shall be thawed  
4   at refrigeration temperatures or below, quick-thawed as part of the  
5   cooking process, or thawed by another method approved by the department.  
6   An indicating thermometer shall be located in each refrigerator. Raw  
7   fruits and vegetables shall be washed thoroughly before use. Stuffings,  
8   poultry, and pork products shall be cooked to heat all parts of the food  
9   to at least one hundred sixty-five degrees Fahrenheit before being served  
10   to a guest for consumption. Salads made of meat, poultry, potatoes, fish,  
11   shellfish, or eggs and other potentially hazardous prepared food, shall  
12   be prepared from chilled products with a minimum of manual contact.  
13   Portions of food once served to an individual shall not be served again.

14       (8) Any person who prepares or serves food or washes utensils shall  
15   wear clean outer garments and maintain a high degree of personal  
16   cleanliness. Such person shall wash his or her hands thoroughly before  
17   starting work and as often as necessary while working to remove soil and  
18   contaminants. After visiting a toilet room, such person shall wash his or  
19   her hands thoroughly in a lavatory, but never in the kitchen sink.

20       (9) No person shall use tobacco in any form while preparing or  
21   serving food.

22       (10) Utensils shall be kept clean and in good repair.

23       (11) Multiuse eating and drinking utensils shall be thoroughly  
24   cleaned after each use. Facilities needed for the operations of washing,  
25   rinsing, and sanitizing shall be provided.

26       (12) Any person who knows that he or she is infected with a  
27   communicable disease that is transmissible through the handling of food  
28   shall not work in a bed and breakfast establishment.

29       (13) Laundry facilities shall be separated from food preparation  
30   areas.

31       (14) Live animals shall be excluded from food preparation areas.

1       (15) Any operator of a bed and breakfast establishment shall be  
2 certified to handle food. Such certification shall be achieved by  
3 successfully completing an examination offered by the department.

4       Sec. 3. Section 81-503.01, Revised Statutes Cumulative Supplement,  
5 2022, is amended to read:

6       81-503.01 (1) The State Fire Marshal shall adopt and promulgate  
7 rules and regulations constituting a State Fire Code. At a minimum, the  
8 State Fire Code shall cover:

9           (a) The prevention of fires;

10          (b) The storage, sale, and use of flammable liquids, combustibles,  
11 and fireworks;

12          (c) Electrical wiring and heating, protection equipment devices,  
13 materials, furnishings, and other safeguards within structures necessary  
14 to promote safety and reduce loss by fire;

15          (d) The means and adequacy of exits, in case of fire, in assembly,  
16 educational, institutional, residential, mercantile, office, storage, and  
17 industrial-type occupancies as such structures are defined in the State  
18 Fire Code;

19          (e) All other buildings, structures, and enclosures in which numbers  
20 of persons congregate from time to time for any purpose, whether  
21 privately or publicly owned;

22          (f) Design, construction, location, installation, and operation of  
23 equipment for storing, handling, and utilization of liquefied petroleum  
24 gases, specifying the odorization of such gases and the degree thereof;

25          (g) Chemicals, prozylin plastics, X-ray nitrocellulose films, or any  
26 other hazardous material that may now or hereafter exist;

27          (h) Tanks used for the storage of regulated substances pursuant to  
28 the Petroleum Products and Hazardous Substances Storage and Handling Act;  
29 and

30          (i) Accessibility standards and specifications adopted pursuant to  
31 section 81-5,147; and -

1       (j) The provisions of section 4 of this act relating to bed and  
2 breakfast establishments as defined in section 81-2,242.

3           (2) Not later than July 1, 2019, the rules and regulations adopted  
4 and promulgated as part of the State Fire Code shall conform generally to  
5 the standards recommended by the National Fire Protection Association,  
6 Pamphlet Number 1, known as the Fire Code, 2012 edition, the National  
7 Fire Protection Association, Pamphlet Number 101, known as the Life  
8 Safety Code, 2012 edition, and associated pamphlets, but not when doing  
9 so would impose an unduly severe or costly burden without substantially  
10 contributing to the safety of persons or property.

11          (3) The State Fire Marshal shall enforce the State Fire Code through  
12 inspections, code compliance, and orders. Plans for compliance with the  
13 State Fire Code shall be reviewed by the State Fire Marshal. Plans  
14 submitted after remodeling or construction has begun shall be accompanied  
15 by a penalty of fifty dollars in addition to the plan review fee  
16 established pursuant to subdivision (4)(a) of section 81-505.01.

17          (4) Rules and regulations adopted and promulgated as part of the  
18 State Fire Code shall apply to sites or structures in public ownership  
19 listed on the National Register of Historic Places but without destroying  
20 the historic quality thereof.

21           Sec. 4. (1) For purposes of this section:

22            (a) Bed and breakfast establishment has the same meaning as in  
23 section 81-2,242; and

24            (b) Sprinkler system means a device that opens automatically by  
25 operation of a heat responsive releasing mechanism and discharges water  
26 or another medium in a specific pattern over a designated area to  
27 extinguish or control fire.

28            (2) Each bed and breakfast shall have operational smoke alarms and  
29 heat detectors in all common areas, guest rooms, and hallways. Battery-  
30 powered smoke alarms are permitted where the bed and breakfast  
31 establishment has demonstrated that the testing, maintenance, and battery

1    replacement procedures will ensure reliable power to the smoke alarms.

2        (3) Smoking is prohibited inside a bed and breakfast establishment.

3        (4) Each bed and breakfast shall have operational hard-wired,  
4    battery-powered, or plug-in emergency lighting that indicates available  
5    means of egress. Battery-powered or plug-in emergency lighting devices  
6    are permitted where the establishment has demonstrated that the testing,  
7    maintenance, and battery replacement procedures will ensure reliable  
8    power to the emergency lighting devices.

9        (5) Each guest room shall have one primary and at least one  
10   secondary means of egress. Any window with an area of at least five and  
11   seven-tenths square feet qualifies as a secondary means of egress if such  
12   window is located on either the first or second floor. Any guest rooms  
13   located on a floor with a sprinkler system covering guest rooms and  
14   common areas, excluding bathrooms and closet areas, is exempt from the  
15   requirement of a secondary means of egress.

16        (6) Each bed and breakfast establishment has eighteen months from  
17   the effective date of this act to install (a) a secondary means of egress  
18   from the bed and breakfast establishment or (b) a sprinkler system.

19        (7) At least one fire extinguisher with a 2A:10BC rating or higher  
20   shall be provided on each floor of an existing bed and breakfast  
21   establishment. At least one 40BC rated fire extinguisher shall be  
22   provided in the kitchen area.

23        (8) A bed and breakfast establishment that accommodates more than  
24   ten guests at any time and that serves hot meals shall equip its kitchen  
25   with a fire suppression hood.

26           Sec. 5. Original sections 81-2,242 and 81-2,292, Reissue Revised  
27   Statutes of Nebraska, and section 81-503.01, Revised Statutes Cumulative  
28   Supplement, 2022, are repealed.