

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 74

Introduced by Erdman, 47

Read first time January 5, 2007

Committee: Agriculture

A BILL

1 FOR AN ACT relating to food regulation; to amend sections
2 81-2,244.01, 81-2,257, 81-2,263, 81-2,272.10,
3 81-2,272.17, 81-2,272.24, and 81-2,272.25, Reissue
4 Revised Statutes of Nebraska, and sections 81-2,239
5 and 81-2,270, Revised Statutes Cumulative Supplement,
6 2006; to change and eliminate provisions relating to
7 the Nebraska Pure Food Act; to harmonize provisions;
8 to provide an operative date; to repeal the original
9 sections; to outright repeal sections 81-2,272.03,
10 81-2,272.04, 81-2,272.05, 81-2,272.06, 81-2,272.14,
11 81-2,272.15, 81-2,272.16, 81-2,272.19, 81-2,272.20,
12 81-2,272.21, 81-2,272.22, 81-2,272.23, 81-2,272.26,
13 81-2,272.28, 81-2,272.29, 81-2,272.30, 81-2,272.33,
14 81-2,272.35, and 81-2,272.37, Reissue Revised Statutes of

1 Nebraska; and to declare an emergency.

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

1 Section 1. Section 81-2,239, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

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

9 Sec. 2. Section 81-2,244.01, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 81-2,244.01 Food Code shall mean the 2001 2005
12 Recommendations of the United States Public Health Service, Food
13 and Drug Administration, except the definitions of adulterated
14 food and food establishment and sections 1-201.10(B)(1), (3),
15 (36), (37), (57), (58), and (73), 2-102.11, 2-103.11(H) and
16 (K), 2-201.11, 2-201.12, 2-201.13, 2-201.14, 2-302.11, 2-303.11,
17 3-201.11(E), 3-202.11 (A) and (D), 3-301.11, 3-302.11(B)(4),
18 3-304.13, 3-304.17, 3-401.11(C)(2) and (D)(2), 3-403.11(C),
19 3-404.11(A), 3-501 3-501.17, 3-501.18, 3-502.11, 3-502.12,
20 3-603.11, 3-701.11(C), 4-204.111, 4-204.117, 4-301.12(C)(5), (D),
21 and (E), 4-302.12(B), 4-603.16(C), 4-603.17, 4-802.11(C), 5-103.12,
22 5-104.11, 5-104.12, 5-203.12, 5-203.15, 5-302.16, 6-301.14,
23 6-302.10, 8-101, 8-102, 8-201.11, 8-201.12, 8-201.13(A)(2) and (3)
24 and (B), 8-201.14(C), 8-202 through 8-304, 8-401.10(B)(2), 8-402.20
25 through 8-403.20, 8-403.50 through 8-404.12, and 8-405.20(B). The

1 term Food Code does not include the annexes of such federal
2 recommendations.

3 Sec. 3. Itinerant food vendor shall mean a person that
4 sells prepackaged, potentially hazardous food from an approved
5 source at a nonpermanent location such as a farmers market, craft
6 show, or county fair.

7 Sec. 4. Section 81-2,257, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 81-2,257 Critical violations are designated in the
10 Food Code and sections 81-2,272.02, ~~to 81-2,272.04, 81-2,272.06,~~
11 ~~81-2,272.10, 81-2,272.14 to 81-2,272.17, 81-2,272.21, 81-2,272.23~~
12 ~~to 81-2,272.24, 81-2,272.25, 81-2,272.27, 81-2,272.29, and~~
13 ~~81-2,272.35 to 81-2,272.37~~ 81-2,272.36 and subdivision (4) of
14 section 81-2,272.31.

15 Sec. 5. Section 81-2,270, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 81-2,270 (1) No person shall operate: (a) A food
18 establishment; (b) a food processing plant; or (c) a salvage
19 operation, without a valid permit which sets forth the types of
20 operation occurring within the establishment.

21 (2) Application for a permit shall be made to the
22 director on forms prescribed and furnished by the department. Such
23 application shall include the applicant's full name and mailing
24 address, the names and addresses of any partners, members, or
25 corporate officers, the name and address of the person authorized

1 by the applicant to receive the notices and orders of the
2 department as provided in the Nebraska Pure Food Act, whether
3 the applicant is an individual, partnership, limited liability
4 company, corporation, or other legal entity, the location and
5 type of proposed establishment or operation, and the signature
6 of the applicant. Application for a permit shall be made prior
7 to the operation of a food establishment, food processing plant,
8 or salvage operation. The application shall be accompanied by an
9 initial permit fee and an initial inspection fee in the same amount
10 as the annual inspection fee if inspections are required to be
11 done by the department. If the food establishment, food processing
12 plant, or salvage operation has been in operation prior to applying
13 for a permit, the applicant shall pay an additional fee of sixty
14 dollars.

15 (3) Payment of the initial permit fee, the initial
16 inspection fee, and the fee for failing to apply for a permit
17 prior to operation shall not preclude payment of the annual
18 inspection fees due on August 1 of each year. Except as provided in
19 subsections (7) through (10) of this section and subsection (1) of
20 section 81-2,281, a permitholder shall pay annual inspection fees
21 on or before August 1 of each year.

22 (4) (a) The director shall set the initial permit fee and
23 the annual inspection fees on or before July 1 of each fiscal year
24 to meet the criteria in this subsection. The director may raise or
25 lower the fees each year, but the fees shall not exceed the maximum

1 fees listed in subdivision (4)(b) of this section. The director
 2 shall determine the fees based on estimated annual revenue and
 3 fiscal year-end cash fund balance as follows:

4 (i) The estimated annual revenue shall not be greater
 5 than one hundred seven percent of program cash fund appropriations
 6 allocated for the Nebraska Pure Food Act;

7 (ii) The estimated fiscal year-end cash fund balance
 8 shall not be greater than seventeen percent of program cash fund
 9 appropriations allocated for the act; and

10 (iii) All fee increases or decreases shall be equally
 11 distributed between all categories; and

12 (b) The maximum fees are:

			Additional	
		First	Food	
		Food	Preparation	Unit
		Preparation	Area	Or
		Area	Annual	Units
18	Food	Initial	Annual	Inspection
19	Handling	Permit	Inspection	Fee
20	Activity	Fee	Fee	(per area) Fee
21	Convenience Store	\$61.72	\$61.72	\$30.86 N/A
22	Licensed Beverage			
23	Establishment	\$61.72	\$61.72	\$30.86 N/A
24	Limited Food Service			

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1	Establishment	\$61.72	\$61.72	\$30.86	N/A
2	Temporary Food				
3	Establishment	\$61.72	\$61.72	\$30.86	N/A
4	Mobile Food Unit				
5	(for each unit)	\$61.72	N/A	N/A	\$30.86
6	Pusheart (for each				
7	unit)	\$61.72	N/A	N/A	\$12.34
8	Vending Machine				
9	Operations:	\$61.72			
10	One to ten units		N/A	N/A	\$12.34
11	Eleven to twenty units		N/A	N/A	\$24.68
12	Twenty-one to thirty units		N/A	N/A	\$37.02
13	Thirty-one to forty units		N/A	N/A	\$49.36
14	Over forty units		N/A	N/A	\$61.70
15	Food Processing				
16	Plant	\$61.72	\$86.40	\$30.86	N/A
17	Salvage Operation	\$61.72	\$86.40	\$30.86	N/A
18	Commissary	\$61.72	\$86.40	\$30.86	N/A
19	All Other Food				
20	Establishments	\$61.72	\$86.40	\$30.86	N/A
21				<u>Additional</u>	
22			<u>First</u>	<u>Food</u>	
23			<u>Food</u>	<u>Preparation</u>	<u>Unit</u>
24			<u>Preparation</u>	<u>Area</u>	<u>Or</u>

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	<u>Initial</u>	<u>Annual</u>	<u>Annual</u>	<u>Units</u>
<u>Food</u>	<u>Permit</u>	<u>Inspection</u>	<u>Fee</u>	<u>Inspection</u>
<u>Handling</u>	<u>Fee</u>	<u>Fee</u>	<u>(per</u>	<u>Fee</u>
<u>Activity</u>			<u>area)</u>	
1 <u>Convenience</u>				
2 <u>Store</u>	\$74.36	\$74.36	\$37.18	N/A
3 <u>Itinerant Food Vendor</u>	\$74.36	\$74.36	\$37.18	N/A
4 <u>Licensed Beverage</u>				
5 <u>Establishment</u>	\$74.36	\$74.36	\$37.18	N/A
6 <u>Limited Food Service</u>				
7 <u>Establishment</u>	\$74.36	\$74.36	\$37.18	N/A
8 <u>Temporary Food</u>				
9 <u>Establishment</u>	\$74.36	\$74.36	\$37.18	N/A
10 <u>Mobile Food Unit</u>				
11 <u>(for each unit</u>	\$74.36	N/A	N/A	\$37.18
12 <u>Pushcart (for each</u>				
13 <u>unit)</u>	\$74.36	N/A	N/A	\$14.87
14 <u>Vending Machine</u>				
15 <u>Operations:</u>	\$74.36			
16 <u>One to ten units</u>		N/A	N/A	\$14.87
17 <u>Eleven to twenty units</u>		N/A	N/A	\$29.74
18 <u>Twenty-one to thirty units</u>		N/A	N/A	\$44.61
19 <u>Thirty-one to forty units</u>		N/A	N/A	\$59.48
20 <u>Over forty units</u>		N/A	N/A	\$74.34
21 <u>Food Processing</u>				

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1	<u>Plant</u>	<u>\$74.36</u>	<u>\$104.12</u>	<u>\$37.18</u>	<u>N/A</u>
2	<u>Salvage Operation</u>	<u>\$74.36</u>	<u>\$104.12</u>	<u>\$37.18</u>	<u>N/A</u>
3	<u>Commissary</u>	<u>\$74.36</u>	<u>\$104.12</u>	<u>\$37.18</u>	<u>N/A</u>
4	<u>All Other Food</u>				
5	<u>Establishments</u>	<u>\$74.36</u>	<u>\$104.12</u>	<u>\$37.18</u>	<u>N/A</u>

6 (5) If a food establishment is engaged in more than
7 one food handling activity listed in subsection (4) of this
8 section, the inspection fee charged shall be based upon the primary
9 activity conducted within the food establishment as determined by
10 the department and any fees assessed for each additional food
11 preparation area within the primary establishment as determined by
12 the department.

13 (6) ~~The department may impose a penalty for an inspection~~
14 ~~fee which is more than one month delinquent. The penalty may not~~
15 ~~exceed fifty percent of the fee for the first month of delinquency~~
16 ~~and one hundred percent of the fee for the second month of~~
17 ~~delinquency. If a person fails to pay the inspection fee for more~~
18 ~~than one month after the fee is due, such person shall pay a late~~
19 ~~fee equal to fifty percent of the total fee for the first month~~
20 ~~that the fee is late and one hundred percent for the second month~~
21 ~~that the fee is late. The purpose of the late fee is to cover~~
22 ~~the administrative costs associated with collecting fees. All money~~
23 ~~collected as a late fee shall be remitted to the State Treasurer~~
24 ~~for credit to the Pure Food Cash Fund.~~

1 (7) An educational institution, health care facility,
2 nursing home, or governmental organization operating any type of
3 food establishment, other than a mobile food unit or pushcart, is
4 exempt from the requirements in subsections (1) through (6) of this
5 section.

6 (8) A person whose primary food-related business activity
7 is determined by the department to be egg handling within the
8 meaning of the Nebraska Graded Egg Act and who is validly licensed
9 and paying fees pursuant to such act is exempt from the permit and
10 inspection fee requirements of the Nebraska Pure Food Act.

11 (9) A person holding a permit or license and regulated
12 under the Nebraska Manufacturing Milk Act or the Nebraska
13 Pasteurized Milk Law and an egg handler licensed and regulated
14 under the Nebraska Graded Egg Act are exempt from the Nebraska Pure
15 Food Act.

16 (10) A single event food vendor or a religious,
17 charitable, or fraternal organization operating any type of
18 temporary food establishment, mobile food unit, or pushcart is
19 exempt from the requirements of subsections (1) through (6) of
20 this section. Any such organization operating any nontemporary
21 food establishment prior to July 1, 1985, is exempt from the
22 requirements of subsection (2) of this section.

23 Sec. 6. Section 81-2,272.10, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 81-2,272.10 (1) Food employes shall wash their hands as

1 specified in the Nebraska Pure Food Act.

2 (2) Food employees shall be trained to wash their hands
3 as specified in the act.

4 (3) Except when washing fruits and vegetables, food
5 employees shall minimize bare hand and arm contact with exposed
6 food. This may be accomplished with the use of suitable utensils
7 such as deli tissues, spatulas, tongs, single-use gloves, or
8 dispensing equipment.

9 (4) Food employees not serving a highly susceptible
10 population may contact exposed, ready-to-eat food with their bare
11 hands if they have washed their hands as specified in the act prior
12 to handling the food. Except when washing fruits and vegetables,
13 food employees shall not contact exposed, ready-to-eat food with
14 their bare hands unless the food employee washes his or her hands
15 or washes his or her hands and uses suitable utensils such as
16 deli tissue, spatulas, tongs, single-use gloves, or dispensing
17 equipment. Food employees shall minimize bare hand and arm contact
18 with exposed food that is not in a ready-to-eat form.

19 Sec. 7. Section 81-2,272.17, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 81-2,272.17 (1) The person in charge of a food
22 establishment shall ensure that consumers who order raw or
23 partially cooked foods of animal origin are informed that the
24 food is not cooked sufficiently to assure its safety. If a raw
25 or undercooked animal food such as beef, eggs, fish, lamb, pork,

1 poultry, or shellfish is offered in a ready-to-eat form as a
2 deli, menu, vended, or other item, or as a raw ingredient in
3 another ready-to-eat form, the permitholder shall inform consumers
4 by brochures, deli case or menu advisories, label statements,
5 table tents, placards, or other written means of the significantly
6 increased risk associated with certain especially vulnerable
7 consumers eating such foods in a raw or undercooked form. The
8 following language will satisfy the consumer advisory requirements:

9 "Thoroughly cooking foods of animal origin such as beef,
10 eggs, fish, lamb, pork, poultry, or shellfish reduces the risk of
11 foodborne illness. Individuals with certain health conditions may
12 be at higher risk if these foods are consumed raw or undercooked.
13 Consult your physician or public health official for further
14 information."

15 ~~(2) This section shall not apply to beef meeting the~~
16 ~~requirements of subsection (3) of section 81-2,272.16.~~

17 Sec. 8. Section 81-2,272.24, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 81-2,272.24 (1) Except when packaging food using
20 a reduced oxygen packaging method as specified in section
21 81-2,272.27 and except as specified in this section, refrigerated,
22 ready-to-eat, potentially hazardous food (time and temperature
23 control for safety food) prepared and held in a food establishment
24 for more than twenty-four hours shall be clearly marked to indicate
25 the date of preparation. The food shall be sold, consumed on the

1 premises, or discarded within:

2 (a) Seven calendar days or less if the food is held
3 refrigerated at forty-one degrees Fahrenheit (five degrees Celsius)
4 or below; or

5 (b) Four calendar days or less if the food is held
6 refrigerated between forty-five degrees Fahrenheit (seven degrees
7 Celsius) and forty-one degrees Fahrenheit (five degrees Celsius).

8 (2) Except as specified in this section, refrigerated,
9 ready-to-eat, potentially hazardous food (time and temperature
10 control for safety food) prepared and packaged by a food processing
11 plant and held refrigerated at such food establishment, shall be
12 clearly marked, at the time the original container is opened in
13 a food establishment, to indicate the date the food container
14 was opened. The food shall be sold, consumed on the premises, or
15 discarded within:

16 (a) Seven calendar days or less if the food is held
17 refrigerated at forty-one degrees Fahrenheit (five degrees Celsius)
18 or below; or

19 (b) Four calendar days or less if the food is held
20 refrigerated between forty-five degrees Fahrenheit (seven degrees
21 Celsius) and forty-one degrees Fahrenheit (five degrees Celsius).

22 This subsection does not apply to fermented sausages
23 which retain an original casing or shelf stable salt-cured products
24 produced in a federally inspected food processing plant that are
25 not labeled "Keep Refrigerated" or to shelf stable, dry, fermented

1 sausages when the face has been cut, but the remaining portion is
2 whole and intact.

3 (3) A refrigerated, ready-to-eat, potentially hazardous
4 food (time and temperature control for safety food) ingredient or a
5 portion of a refrigerated, ready-to-eat, potentially hazardous food
6 (time and temperature control for safety food) that is subsequently
7 combined with additional ingredients or portions of food shall
8 retain the date marking of the earliest-prepared or first-prepared
9 ingredient.

10 (4) A date marking system that meets the criteria stated
11 in subsections (1) and (2) of this section may include:

12 (a) Using a method approved by the regulatory authority
13 for refrigerated, ready-to-eat, potentially hazardous food (time
14 and temperature control for safety food) that is frequently
15 rewrapped, such as lunchmeat or a roast, or for which date marking
16 is impractical, such as soft serve mix or milk in a dispensing
17 machine;

18 (b) Marking the date or day of preparation, with a
19 procedure to discard the food on or before the last date or day by
20 which the food must be consumed on the premises, sold, or discarded
21 as specified under subsection (1) of this section;

22 (c) Marking the date or day the original container is
23 opened in a food establishment, with a procedure to discard the
24 food on or before the last date or day by which the food must be
25 consumed on the premises, sold, or discarded as specified under

1 subsection (2) of this section; or

2 (d) Using calendar dates, days of the week, color-coded
3 marks, or other effective marking methods, if the marking system is
4 disclosed to the regulatory authority upon request.

5 (5) Subsections (1) and (2) of this section do not apply
6 to individual meal portions served or repackaged for sale from a
7 bulk container upon a consumer's request.

8 (6) Subsection (2) of this section does not apply to the
9 following foods prepared and packaged by a food processing plant
10 inspected by a regulatory authority:

11 (a) Deli salads, such as ham salad, seafood salad,
12 chicken salad, egg salad, pasta salad, potato salad, and macaroni
13 salad manufactured in accordance with 21 C.F.R. part 110, Current
14 Good Manufacturing Practice in Manufacturing, Packing, or Holding
15 Human Food, as such part existed on January 1, 2007;

16 (b) Hard cheeses containing not more than thirty-nine
17 percent moisture as defined in 21 C.F.R. part 133, Cheeses and
18 related cheese products, as such part existed on January 1, 2007,
19 such as cheddar, gruyere, parmesan and reggiano, and romano;

20 (c) Semi-soft cheeses containing more than thirty-nine
21 percent moisture, but not more than fifty percent moisture, as
22 defined in 21 C.F.R. part 133, Cheeses and related cheese products,
23 as such part existed on January 1, 2007, such as blue, edam,
24 gorgonzola, gouda, and monterey jack;

25 (d) Cultured dairy products as defined in 21 C.F.R. part

1 131, Milk and cream, as such part existed on January 1, 2007, such
2 as yogurt, sour cream, and buttermilk;

3 (e) Preserved fish products, such as pickled herring and
4 dried or salted cod and other acidified fish products, as defined
5 in 21 C.F.R. part 114, Acidified foods, as such part existed on
6 January 1, 2007;

7 (f) Shelf stable, dry fermented sausages, such as
8 pepperoni and Genoa salami that are not labeled "Keep Refrigerated"
9 as specified in 9 C.F.R. part 317, Labeling, marking devices, and
10 containers, as such part existed on January 1, 2007, and which
11 retain the original casing on the product; and

12 (g) Shelf stable salt-cured products such as prosciutto
13 and Parma (ham) that are not labeled "Keep Refrigerated" as
14 specified in 9 C.F.R. part 317, Labeling, marking devices, and
15 containers, as such part existed on January 1, 2007.

16 ~~(1) For refrigerated, ready-to-eat, potentially hazardous~~
17 ~~food prepared on the premises of a food establishment and~~
18 ~~held refrigerated for more than twenty-four hours in such food~~
19 ~~establishment, the container shall be clearly marked with the date~~
20 ~~of preparation. The food shall be consumed within:~~

21 ~~(a) Seven calendar days or less if the food is held~~
22 ~~refrigerated at forty-one degrees Fahrenheit (five degrees Celsius)~~
23 ~~or below; or~~

24 ~~(b) Four calendar days or less if the food is held~~
25 ~~refrigerated between forty-five degrees Fahrenheit (seven degrees~~

1 Celsius) and forty-one degrees Fahrenheit (five degrees Celsius).

2 (2) For refrigerated, ready-to-eat, potentially hazardous
3 food prepared and packaged by a food processing plant which is
4 opened in a food establishment and held refrigerated at such food
5 establishment, the container shall be clearly marked, at the time
6 the original container is opened, to indicate the date the food
7 container was opened. The food shall be consumed within:

8 (a) Seven calendar days or less if the food is held
9 refrigerated at forty-one degrees Fahrenheit (five degrees Celsius)
10 or below; or

11 (b) Four calendar days or less if the food is held
12 refrigerated between forty-five degrees Fahrenheit (seven degrees
13 Celsius) and forty-one degrees Fahrenheit (five degrees Celsius).

14 This subsection does not apply to fermented sausages
15 which retain an original casing or shelf stable salt-cured products
16 produced in a federally inspected food processing plant that are
17 not labeled "Keep Refrigerated" or to shelf stable, dry, fermented
18 sausages when the face has been cut, but the remaining portion is
19 whole and intact.

20 (3) A refrigerated, ready-to-eat, potentially hazardous
21 food that is frequently rewrapped or for which date marking is
22 impractical may be marked by an alternative method acceptable to
23 the regulatory authority.

24 (4) A refrigerated, ready-to-eat, potentially hazardous
25 food ingredient or a portion of a refrigerated, ready-to-eat,

1 potentially hazardous food that is subsequently combined with
2 additional ingredients or portions of food shall retain the date
3 marking of the earliest-prepared or first-prepared ingredient.

4 ~~(5) This section does not apply to individual meal~~
5 ~~portions served or repackaged for sale from a bulk container upon a~~
6 ~~consumer's request.~~

7 Sec. 9. Section 81-2,272.25, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 81-2,272.25 (1) A food specified under subsections (1)
10 and (2) of section 81-2,272.24 shall be discarded if such food:

11 (a) Exceeds either of the temperature and time
12 combinations specified in subsection (1) of section 81-2,272.24,
13 except time that the food is frozen;

14 (b) Is in a container or package that does not bear a
15 date or day; or

16 (c) Is appropriately marked with a date or day that
17 exceeds a temperature and time combination as specified in
18 subsection (1) of section 81-2,272.24.

19 (2) Refrigerated, ready-to-eat, potentially hazardous
20 food prepared in a food establishment and dispensed through
21 a vending machine with an automatic shut-off control shall be
22 discarded if it exceeds a temperature and time combination as
23 specified in subsection (1) of section 81-2,272.24.

24 ~~(1) A food specified under subsection (1) of section~~
25 ~~81-2,272.24 shall be discarded if not consumed within, including~~

1 ~~the day of preparation.~~

2 ~~(a) Seven calendar days if the food is held refrigerated~~
3 ~~at forty-one degrees Fahrenheit (five degrees Celsius) or below; or~~

4 ~~(b) Four calendar days if the food is held refrigerated~~
5 ~~between forty-five degrees Fahrenheit (seven degrees Celsius) and~~
6 ~~forty-one degrees Fahrenheit (five degrees Celsius).~~

7 ~~(2) A ready-to-eat, potentially hazardous food prepared~~
8 ~~on premises or by a food processing plant and opened at a food~~
9 ~~establishment and subsequently frozen at such food establishment~~
10 ~~shall be discarded if not consumed within twenty-four hours after~~
11 ~~thawing.~~

12 ~~(3) A food specified under subsection (3) of section~~
13 ~~81-2,272.24 shall be discarded if not consumed within, including~~
14 ~~the day of opening the original container.~~

15 ~~(a) Seven calendar days if the food is held refrigerated~~
16 ~~at forty-one degrees Fahrenheit (five degrees Celsius) or below; or~~

17 ~~(b) Four calendar days if the food is held refrigerated~~
18 ~~between forty-five degrees Fahrenheit (seven degrees Celsius) and~~
19 ~~forty-one degrees Fahrenheit (five degrees Celsius).~~

20 ~~(4) A food specified under section 81-2,272.24 shall be~~
21 ~~discarded if the food is:~~

22 ~~(a) Not consumed before the most recent consumption date~~
23 ~~marked on the container;~~

24 ~~(b) In a container or package which is not marked with~~
25 ~~a preparation date or number of days held in refrigeration before~~

1 ~~freezing, or~~

2 ~~(c) Inappropriately marked with a consumption date or~~
3 ~~number of days held refrigerated that exceeds the restrictions~~
4 ~~under section 81-2,272.24.~~

5 ~~(5) Refrigerated, ready-to-eat, potentially hazardous~~
6 ~~food prepared in a food establishment and dispensed through~~
7 ~~a vending machine with an automatic shut-off control that is~~
8 ~~activated at a temperature of:~~

9 ~~(a) Forty-one degrees Fahrenheit (five degrees Celsius)~~
10 ~~shall be discarded if not sold within seven calendar days, or~~

11 ~~(b) Forty-five degrees Fahrenheit (seven degrees Celsius)~~
12 ~~shall be discarded if not sold within four calendar days.~~

13 Sec. 10. This act becomes operative on July 1, 2007.

14 Sec. 11. Original sections 81-2,244.01, 81-2,257,
15 81-2,263, 81-2,272.10, 81-2,272.17, 81-2,272.24, and 81-2,272.25,
16 Reissue Revised Statutes of Nebraska, and sections 81-2,239
17 and 81-2,270, Revised Statutes Cumulative Supplement, 2006, are
18 repealed.

19 Sec. 12. The following sections are outright
20 repealed: Sections 81-2,272.03, 81-2,272.04, 81-2,272.05,
21 81-2,272.06, 81-2,272.14, 81-2,272.15, 81-2,272.16, 81-2,272.19,
22 81-2,272.20, 81-2,272.21, 81-2,272.22, 81-2,272.23, 81-2,272.26,
23 81-2,272.28, 81-2,272.29, 81-2,272.30, 81-2,272.33, 81-2,272.35,
24 and 81-2,272.37, Reissue Revised Statutes of Nebraska.

25 Sec. 13. Since an emergency exists, this act takes effect

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1 when passed and approved according to law.