

AMENDMENTS TO LB558

Introduced by Kolowski, 31.

1 1. Strike original section 1 and insert the following new section:

2 Section 1. Section 81-2,245.01, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 81-2,245.01 Food establishment shall mean an operation that stores,  
5 prepares, packages, serves, sells, vends, or otherwise provides food for  
6 human consumption. The term does not include:

7 (1) An establishment or vending machine operation that offers only  
8 prepackaged soft drinks, carbonated or noncarbonated; canned or bottled  
9 fruit and vegetable juices; prepackaged ice; candy; chewing gum; potato  
10 or corn chips; pretzels; cheese puffs and curls; crackers; popped  
11 popcorn; nuts and edible seeds; and cookies, cakes, pies, and other  
12 pastries, that are not potentially hazardous foods;

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

15 (3) A food processing plant;

16 (4) A salvage operation;

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

21 (6) A private home or other area where food that is not potentially  
22 hazardous food is prepared:

23 (a) For sale or service at a religious, charitable, or fraternal  
24 organization's bake sale or similar function;~~or~~

25 (b) For ~~for~~ sale directly to the consumer at a farmer's ~~farmers~~  
26 market if the consumer is informed by a clearly visible placard at the  
27 sale location that the food was prepared in a kitchen that is not subject

1 to regulation and inspection by the regulatory authority; or

2 (c) For sale directly to a consumer or indirectly to a consumer  
3 through a food establishment if:

4 (i) The private home or other area is required to obtain a permit by  
5 the department on forms developed by the department. The permit shall  
6 identify a specific listing of the food products allowed to be produced  
7 by the permittee. Prior to issuing a permit, the department shall inspect  
8 the premises of the private home or other area to determine that it is in  
9 substantial compliance with the following requirements:

10 (A) Only those specific foods identified on the permit may be  
11 produced;

12 (B) No person other than the permittee, or a person under the direct  
13 supervision of the permittee, may be engaged in the processing,  
14 preparing, packaging, or handling of any food products or be in the  
15 kitchen during the preparation, packaging, or handling of any food  
16 products;

17 (C) No preparation, packaging, or handling of food products occurs  
18 in the kitchen concurrent with any other domestic activities such as  
19 family meal preparation, dishwashing, clothes washing or ironing, kitchen  
20 cleaning, or guest entertainment;

21 (D) No infants, small children, or pets are in the kitchen during  
22 the preparation, packaging, or handling of any food products;

23 (E) All food contact surfaces, equipment, and utensils used for the  
24 preparation, packaging, or handling of any food products are washed,  
25 rinsed, and sanitized before each use;

26 (F) All food preparation and food and equipment storage areas are  
27 maintained free of rodents and insects;

28 (G) All persons involved in the preparation and packaging of food  
29 products:

30 (I) Are not working in the kitchen when ill;

31 (II) Wash their hands before any food preparation and food packaging

1 activities; and

2 (III) Avoid bare hand contact with ready-to-eat foods through the  
3 use of single-service gloves, bakery papers, tongs, or other utensils;  
4 and

5 (H) Any private home or other area which has a private water supply  
6 has had the water supply tested prior to initial permitting and at least  
7 annually thereafter and demonstrates through a written record of testing  
8 that the water supply is potable. The department may require more  
9 frequent testing as deemed necessary.

10 After the initial inspection, the department may inspect at any time  
11 and whenever the department has reason to believe the permittee is in  
12 violation of the requirements of this subdivision or is operating in an  
13 unsanitary manner. The department may also inspect the permitted area in  
14 response to a foodborne illness outbreak, consumer complaint, or other  
15 public health emergency. All permittees under this subdivision shall sign  
16 a document attesting that the permittee expressly grants to the  
17 department the right to enter the private home or other area during  
18 normal business hours, or at other reasonable times, for the purposes of  
19 inspection, including the collection of food samples. The initial permit  
20 fee charged under this subdivision shall be eighty-six dollars. The  
21 initial and annual inspection fee charged under this subdivision shall be  
22 eighty-six dollars. The initial permit fee and initial inspection fee  
23 shall be paid at the time of application. The annual inspection fee shall  
24 be due on August 1 of each year thereafter.

25 (ii) The consumer is informed by a clearly visible placard at the  
26 sale location or on the package or container label that contains the  
27 following information printed in English:

28 (A) The name and address of the permittee;

29 (B) The name of the food product;

30 (C) The ingredients of the food product in descending order of  
31 predominance by weight;

1           (D) The net weight or net volume of the food product;

2           (E) Allergen information as specified by federal labeling  
3 requirements; and

4           (F) The following statement printed in at least ten-point type in a  
5 color that provides a clear contrast to the background label: "Homemade  
6 Food that is not Subject to Routine Government Food Safety Inspection";

7           (iii) The permittee has not more than fifty thousand dollars in  
8 gross annual sales during a calendar year. The department may request, in  
9 writing, documentation to verify the calendar year gross annual sales of  
10 the permittee;

11           (iv) The permittee does not employ more than one full-time  
12 equivalent employee, not including a family member or a member of the  
13 permittee's household; and

14           (v) The permittee and his or her employees have undergone food  
15 handler training provided online on the department's web site. The  
16 department shall develop and make available an online food handler  
17 training program on its web site not later than December 31, 2015;

18           (7) A private home or other area where food is prepared for  
19 distribution at a fundraising event for a charitable purpose if the  
20 consumer is informed by a clearly visible placard at the serving location  
21 that the food was prepared in a kitchen that is not subject to regulation  
22 and inspection by the regulatory authority. This subdivision does not  
23 apply to a caterer or other establishment providing food for the event if  
24 the caterer or establishment receives compensation for providing the  
25 food;

26           (8) The location where food prepared by a caterer is served so long  
27 as the caterer only minimally handles the food at the serving location;

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

1           (10) A pharmacy as defined in section 71-425 if the pharmacy only  
2 sells prepackaged pharmaceutical, medicinal, or health supplement foods  
3 that are not potentially hazardous or foods described in subdivision (1)  
4 of this section; and

5           (11) An establishment which is not a commercial food establishment  
6 and which sells only commercially packaged foods that are not potentially  
7 hazardous foods.