

LEGISLATIVE BILL 304

Approved by the Governor May 01, 2019

Introduced by Crawford, 45; Blood, 3; Hansen, B., 16.

A BILL FOR AN ACT relating to the Nebraska Pure Food Act; to amend sections 81-2,239 and 81-2,245.01, Revised Statutes Cumulative Supplement, 2018; to exempt certain operations from the definition of a food establishment as prescribed; to require registration of certain operations; to harmonize provisions; and to repeal the original sections.
Be it enacted by the people of the State of Nebraska,

Section 1. Section 81-2,239, Revised Statutes Cumulative Supplement, 2018, is amended to read:

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

Sec. 2. Section 81-2,245.01, Revised Statutes Cumulative Supplement, 2018, is amended to read:

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

(1) An establishment or vending machine operation that offers only prepackaged soft drinks, carbonated or noncarbonated; canned or bottled fruit and vegetable juices; prepackaged ice; candy; chewing gum; potato or corn chips; pretzels; cheese puffs and curls; crackers; popped popcorn; nuts and edible seeds; and cookies, cakes, pies, and other pastries, that are not time/temperature control for safety foods;

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

(3) A food processing plant;

(4) A salvage operation;

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

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

(7) A private home or other area where food that is not time/temperature control for safety food is prepared (b) for sale directly to the consumer including, but not limited to, at a farmers market, fair, festival, craft show, or other public event or for pick up at or delivery from such private home or other area, if: the

(a) The consumer is informed by a clearly visible notification placard at the sale location that the food was prepared in a kitchen that is not subject to regulation and inspection by the regulatory authority and may contain allergens. For sales conducted at a farmers market, fair, festival, craft show, or other public event, such notification shall be at the sale location. For sales conducted for pick up at or delivery from a private home or other area, such notification shall be at such private home or other area, on the producer's web site if one exists, and in any print, radio, television, or Internet advertisement for such sales;

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

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

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

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

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

(g) The producer complies with section 3 of this act;

(8) ~~(7)~~ A private home or other area where food is prepared for distribution at a fundraising event for a charitable purpose if the consumer is informed by a clearly visible placard at the serving location that the food was prepared in a kitchen that is not subject to regulation and inspection by the

regulatory authority. This subdivision does not apply to a caterer or other establishment providing food for the event if the caterer or establishment receives compensation for providing the food;

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

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

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

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

Sec. 3. A producer of food described in subdivision (7) of section 81-2,245.01 shall register with the department prior to conducting any sales of food. The registration shall be made on forms prescribed by the department and include (1) the name, address, and telephone number of the producer, (2) the type of food safety and handling education or training course taken and the date of its successful completion, and (3) proof of private well water testing pursuant to subdivision (7)(f) of section 81-2,245.01, if applicable. This section shall not apply to a producer of food selling directly to the consumer at a farmers market.

Sec. 4. Original sections 81-2,239 and 81-2,245.01, Revised Statutes Cumulative Supplement, 2018, are repealed.