

LEGISLATIVE BILL 131

Approved by the Governor April 7, 2005

Introduced by Cunningham, 40; Connealy, 16; Kremer, 34

AN ACT relating to the Nebraska Pure Food Act; to amend section 81-2,245.01, Reissue Revised Statutes of Nebraska, and sections 81-2,239 and 81-2,240, Revised Statutes Supplement, 2004; to define and redefine terms; 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 Supplement, 2004, 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, the Food Salvage Code, and the Current Good Manufacturing Practice In Manufacturing, Packing, or Holding Human Food adopted by reference in sections 81-2,257.01 to 81-2,259, shall be known and may be cited as the Nebraska Pure Food Act.

Sec. 2. Section 81-2,240, Revised Statutes Supplement, 2004, is amended to read:

81-2,240. For purposes of the Nebraska Pure Food Act, unless the context otherwise requires, the definitions found in sections 81-2,241 to 81-2,254.01 and section 3 of this act shall be used. In addition, the definitions found in the codes and practice adopted by reference in sections 81-2,257.01 to 81-2,259, shall be used.

Sec. 3. Commercial food establishment means an operation with a permanent sales location and such location has more than one hundred cubic feet of area containing food.

Sec. 4. Section 81-2,245.01, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,245.01. Food establishment shall mean an operation that stores, prepares, packages, serves, sells, vends, 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; ~~that do not contain a primary dairy product or dairy ingredient base or that contain less than fifteen percent natural fruit or vegetable juice~~ 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 potentially hazardous 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 potentially hazardous food is prepared: (a) For sale or service at a religious, charitable, or fraternal organization's bake sale or similar function; or (b) for sale directly to the consumer at a farmers market if the consumer is informed by a clearly visible 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;

(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;

(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;

~~(9)~~ (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; ~~and~~

~~(10)~~ (10) A pharmacy as defined in section 71-425 if the pharmacy only sells prepackaged pharmaceutical, medicinal, or health supplement foods

that are not potentially hazardous or foods described in subdivision (1) of this section; and

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

Sec. 5. Original section 81-2,245.01, Reissue Revised Statutes of Nebraska, and sections 81-2,239 and 81-2,240, Revised Statutes Supplement, 2004, are repealed.