

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 304

Introduced by Crawford, 45.

Read first time January 15, 2019

Committee:

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

1 Section 1. Section 81-2,245.01, Revised Statutes Cumulative
2 Supplement, 2018, is amended to read:

3 81-2,245.01 Food establishment shall mean an operation that stores,
4 prepares, packages, serves, sells, vends, delivers, or otherwise provides
5 food for human consumption. The term does not include:

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

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

14 (3) A food processing plant;

15 (4) A salvage operation;

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

20 (6) A private home or other area where food that is not time/
21 temperature control for safety food is prepared:

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

24 (b) For sale directly to the consumer including, but not limited
25 to, (i) at a farmers market, fair, festival, craft show, or other public
26 event or (ii) for pick up at or delivery from such private home or other
27 area, if: the

28 (A) The consumer is informed by a clearly visible notification (I)
29 placard at the sale location for sales conducted under subdivision (6)(b)
30 (i) of this section or (II) at such private home or other area, on the
31 web site of the producer if such web site exists, and in any print,

1 radio, television, or Internet advertisement for sales conducted under
2 subdivision (6)(b)(ii) of this section that the food was prepared in a
3 kitchen that is not subject to regulation and inspection by the
4 regulatory authority and may contain allergens;

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

7 (C) Product delivery must be directly from the producer to the
8 actual customer in a person-to-person transaction or by United States
9 mail or a commercial mail delivery service; and

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

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

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

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

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

31 (11) An establishment which is not a commercial food establishment

1 and which sells only commercially packaged foods that are not time/
2 temperature control for safety foods.

3 Sec. 2. Original section 81-2,245.01, Revised Statutes Cumulative
4 Supplement, 2018, is repealed.