

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 764**

Introduced by Crawford, 45; Blood, 3.

Read first time January 03, 2018

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, 2016;
- 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, 2016, 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 ~~for~~ sale directly to the consumer at a farmers market if the  
25 consumer is informed by a clearly visible placard at the sale location  
26 that the food was prepared in a kitchen that is not subject to regulation  
27 and inspection by the regulatory authority;or

28 (c) For sale directly to the consumer if:

29 (i) The consumer is informed by a clearly visible placard at the  
30 sale location or on the package or container label that the food was  
31 prepared in a kitchen that is not subject to regulation and inspection by

1 the regulatory authority;

2 (ii) The operation has not more than twenty-five thousand dollars in  
3 gross annual sales during a calendar year; and

4 (iii) Use of the Internet for the operation is limited to  
5 advertising products and taking orders, except that Internet payments may  
6 be made only if such payments are made in Nebraska intrastate commerce.  
7 Products produced cannot be shipped by mail or a courier service to  
8 consumers. Product delivery must be directly from the producer to the  
9 actual customer in a person-to-person transaction that takes place within  
10 the State of Nebraska;

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

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

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

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

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

- 1           Sec. 2.   Original section 81-2,245.01, Revised Statutes Cumulative
- 2   Supplement, 2016, is repealed.