

## LEGISLATIVE BILL 199

Approved by the Governor March 13, 1997

Introduced by Agriculture Committee: Dierks, 40, Chairperson; Chambers, 11; Cudaback, 36; Hudkins, 21; Schrock, 38; Vrtiska, 1

AN ACT relating to agriculture; to amend sections 2-3508, 81-2,239, 81-2,240, 81-2,258, 81-2,262, 81-2,263, 81-2,267, 81-2,268, 81-2,270, 81-2,271, 81-2,272, 81-2,273, 81-2,275, 81-2,276, 81-2,281, 81-2,284, and 81-2,288, Reissue Revised Statutes of Nebraska, and section 54-1902, Revised Statutes Supplement, 1996; to change egg identification provisions; to define and redefine terms and change and eliminate certain provisions and codes adopted in the Nebraska Pure Food Act; to harmonize provisions; to repeal the original sections; and to outright repeal sections 81-2,245, 81-2,246, 81-2,248, 81-2,249, 81-2,250, 81-2,251.01, 81-2,253, 81-2,254, 81-2,255, 81-2,256, 81-2,257, 81-2,259, 81-2,260, 81-2,261, 81-2,264, 81-2,265, 81-2,266, 81-2,269, 81-2,272.01, 81-2,277, 81-2,278, 81-2,279, and 81-2,280, Reissue Revised Statutes of Nebraska.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 2-3508, Reissue Revised Statutes of Nebraska, is amended to read:

2-3508. It shall be unlawful to sell any carton or container of shell eggs to the consumer that does not have imprinted on each carton or container, in a conspicuous manner, (1) the name of the distributor or packer and (2) ~~and, in addition thereto,~~ the official code number identifying the packer of the eggs used by plants under federal supervision, the state identification number assigned under the federal Egg Products Inspection Act, 21 U.S.C. 1031 et seq., or a code number assigned by the director under the Nebraska Graded Egg Act. Applications for code numbers to be assigned by the director may be made to the department upon forms provided for that purpose.

Sec. 2. Section 54-1902, Revised Statutes Supplement, 1996, is amended to read:

54-1902. For purposes of the Nebraska Meat and Poultry Inspection Law, unless the context otherwise requires:

- (1) Director shall mean the Director of Agriculture;
- (2) Department shall mean the Department of Agriculture;
- (3) Person shall include individuals, partnerships, limited liability companies, corporations, and associations and any officer, agent, partner, limited liability company member, or employee thereof;
- (4) Intrastate commerce shall mean commerce within this state;
- (5) Livestock shall mean any cattle, sheep, swine, goats, horses, mules, other equines, and other mammalian species as the director may determine, either living or dead;
- (6) Livestock product shall mean any carcass, part thereof, meat, or meat food product of any livestock;
- (7) Meat food product shall mean any product capable of use as human food which is made wholly or in part from any meat or other portion of the carcass of any cattle, sheep, swine, or goats, except products which contain meat or other portions of such carcasses only in a relatively small proportion or historically have not been considered by consumers as products of the meat food industry and which are exempt from definition as a meat food product by the director under such conditions as he or she may prescribe to assure that the meat or other portions of such carcass contained in such product are not adulterated and that such products are not represented as meat food products. This term as applied to food products of equines or other mammalian species as designated by the director shall have a meaning comparable to that provided in this subdivision with respect to cattle, sheep, swine, and goats;
- (8) Poultry shall mean any domesticated bird or other avian species as the director may designate, either living or dead;
- (9) Poultry product shall mean any poultry carcass or part thereof or any product which is made wholly or in part from any poultry carcass or part thereof, except products which contain poultry ingredients only in a relatively small proportion or historically have not been considered by consumers as products of the poultry food industry and which are exempt by the director from definition as a poultry product under such conditions as he or she may prescribe to assure that the poultry ingredients in such products are not adulterated and that such products are not represented as poultry

products;

(10) Capable of use as human food shall apply to any wholesome livestock or poultry carcass or part or product of any such carcass, unless it is denatured or otherwise identified as required by regulations prescribed by the director to preclude its use as human food or it is naturally inedible by humans;

(11) Prepared shall mean slaughtered, canned, salted, stuffed, rendered, boned, cut up, frozen, or otherwise manufactured or processed in any manner;

(12) Adulterated shall apply to any livestock product or poultry product under one or more of the following circumstances:

(a) If it fails to conform to the requirements established by the Nebraska Pure Food Act, and the codes adopted by reference in sections 81-27257 to 81-27261;

(b) If it has been subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to section 409 of the Federal Food, Drug and Cosmetic Act approved June 25, 1938, (52 Stat. 1040) and acts amendatory thereof or supplementary thereto;

(c) If it is margarine containing animal fat and any of the raw material used therein consists in whole or in part of any filthy, putrid, or decomposed substance;

(13) Misbranded shall apply to any livestock product or poultry product under one or more of the following circumstances:

(a) If it fails to conform to the requirements established by the Nebraska Pure Food Act; or

(b) If it fails to bear directly thereon and on its containers, as the director may by regulation prescribe, the official inspection legend and establishment number of the establishment where the product was prepared and, unrestricted by any of the foregoing, such other information as the director may require in such regulations to assure that it will not have false or misleading labeling and that the public will be informed of the manner of handling required to maintain the article in a wholesome condition. Exemptions as to livestock products not in containers may be established by regulations prescribed by the director and exemptions as to small packages may be established for livestock products or poultry products in the same manner;

(14) Label shall mean a display of written, printed, or graphic matter upon any article or the immediate container, not including package liners, of any article;

(15) Labeling shall mean all labels and other written, printed, or graphic matter (a) upon any article or any of its containers or wrappers or (b) accompanying such article;

(16) Container or package shall mean any box, can, tin, cloth, plastic, or other receptacle, wrapper, or cover;

(17) Shipping container shall mean any container used or intended for use in packaging the product packed in an immediate container;

(18) Immediate container shall mean any consumer package or any other container in which livestock products or poultry products which are not consumer-packaged are packed;

(19) Federal Meat Inspection Act shall mean the act so entitled approved March 4, 1907, (34 Stat. 1260) as amended by the Wholesome Meat Act (81 Stat. 584), ~~Federal~~ federal Poultry Products Inspection Act shall mean the act so entitled approved August 28, 1957, (71 Stat. 441) as amended by the Wholesome Poultry Products Act (82 Stat. 791), and federal acts shall mean the Federal Meat Inspection Act and the ~~Federal~~ federal Poultry Products Inspection Act;

(20) Pesticide chemical, food additive, color additive, and raw agricultural commodity shall have the same meanings for purposes of the Nebraska Meat and Poultry Inspection Law as under the Federal Food, Drug and Cosmetic Act approved June 25, 1938, (52 Stat. 1040);

(21) Official mark shall mean the official inspection legend or any other symbol prescribed by regulations of the director to identify the status of any article, livestock, or poultry under the Nebraska Meat and Poultry Inspection Law;

(22) Official inspection legend shall mean any symbol prescribed by regulations of the director showing that an article was inspected and passed in accordance with the Nebraska Meat and Poultry Inspection Law;

(23) Official certificate shall mean any certificate prescribed by regulations of the director for issuance by an inspector or other person performing official functions under the Nebraska Meat and Poultry Inspection Law;

(24) Official device shall mean any device prescribed or authorized by the director for use in applying any official mark;

(25) Establishment shall mean any building or structure in which slaughtering, butchering, meat canning, meat packing, meat manufacturing, poultry canning, poultry packing, poultry manufacturing, pet feed manufacturing, or rendering is carried on, except where such operations are under federal inspection, and the ground upon which such building or structure is erected and so much ground adjacent thereto as is used in carrying on the business of such establishment, including drains, gutters, and cesspools used in connection with the establishment and any place or vehicle where livestock, poultry, livestock products, poultry products, meat food products, or poultry food products are prepared, manufactured, stored, sold, offered for sale, or exposed for sale;

(26) Rendering shall mean the business of processing livestock or poultry or carcasses or parts thereof not intended or capable for use as human food;

(27) Pet feed manufacturing shall mean the business of processing livestock or poultry or carcasses or parts thereof into small animal feed;

(28) Official establishment shall mean any establishment as determined by the director at which ante mortem and post mortem inspection of livestock or poultry or the inspection of the manufacturing of livestock products or poultry products for human consumption is maintained under the authority of the Nebraska Meat and Poultry Inspection Law;

(29) Inspector shall mean an employee or official or agent of the State of Nebraska authorized by the director, or any employee or official of the federal government or any governmental subdivision of this state authorized by the director, to perform any inspection functions under the Nebraska Meat and Poultry Inspection Law under an agreement between the director and any governmental subdivision or other governmental agency;

(30) License shall mean a license issued under the Nebraska Meat and Poultry Inspection Law by the director;

(31) Licensed establishment shall mean any of the establishments as defined in this section which are licensed under the terms of the Nebraska Meat and Poultry Inspection Law or pursuant to the terms of any other act administered by the director; and

(32) Reinspection shall include inspection of the preparation of livestock products and poultry products, as well as reexamination of articles previously inspected.

Sec. 3. Section 81-2,239, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,239. Sections 81-2,239 to 81-2,292 and sections 5 to 17, 24, 27 to 54, and 61 of this act and the provisions of the Food Service Code, Retail Food Code, Food Code and the Food Salvage Code, Food Vending Code, and Food Processing and Storage Code adopted by reference in sections 81-2,257 to 81-2,261 section 81-2,258 and section 17 of this act shall be known and may be cited as the Nebraska Pure Food Act.

Sec. 4. Section 81-2,240, Reissue Revised Statutes of Nebraska, 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 81-2,256 81-2,252 and sections 5 to 16 of this act shall be used. In addition, the definitions found in the codes adopted by reference in sections 81-2,257 to 81-2,261 section 81-2,258 and section 17 of this act shall be used.

Sec. 5. Caterer shall mean a person in the business of providing food to a customer for parties, banquets, or other similar functions at a location owned, rented, or otherwise controlled by the customer.

Sec. 6. Commissary shall mean a food establishment where food, food containers, or food supplies are kept, handled, prepared, packaged, or stored for use in mobile food units, pushcarts, or vending machines.

Sec. 7. Convenience store shall mean a food establishment or section of an establishment where the food offered to the consumer is intended for off-premise consumption and there are no meat processing or produce processing areas.

Sec. 8. Food Code shall mean the 1995 Recommendations of the United States Public Health Service, Food and Drug Administration, except sections 1-201.10(B)(2), (31), (32), (53) and (68), 2-102.11, 2-103.11(H), 2-201.2-301.12, 2-301.13, 2-301.14, 2-301.16, 2-402.11, 2-403.11, 3-201.14, 3-201.17(D), 3-202.11, 3-301.11, 3-304.16, 3-401.11(A)(4), 3-501, 3-502.11, 3-502.12, 3-603.11, 4-301.12(C)(5) and (D), 4-603.16(C), 4-603.17, 5-203.15, 5-302.16, 6-301.11(B), 8-101, 8-102, 8-201.11, 8-201.12, 8-201.13(A)(2) and (3) and (B), 8-201.14(C), 8-202 through 8-304, 8-402.20 through 8-403.20, and 8-403.50 through 8-404.12. The term Food Code does not include the annexes of such federal recommendations.

Sec. 9. 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 that offers only prepackaged foods that are not potentially hazardous;

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

(3) A food processing plant;

(4) A salvage establishment;

(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 is prepared for sale or service at a religious, charitable, or fraternal organization's bake sale or similar function;

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

(8) 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.

Sec. 10. Food processing plant shall mean a commercial operation that manufactures, packages, labels, or stores food for human consumption and does not provide food directly to the consumer.

Sec. 11. Licensed beverage establishment shall mean an establishment that serves alcoholic beverages and may or may not provide limited food service.

Sec. 12. Limited food service establishment shall mean an establishment that serves or otherwise provides only snack items or commercially prepared and wrapped foods that require little or no preparation.

Sec. 13. Mobile food unit shall mean a vehicle mounted food establishment designed to be readily movable that returns to a commissary daily for cleanup and service.

Sec. 14. Person in charge shall mean the individual who is responsible for the operation of the food establishment and who is present at the establishment or is readily accessible to communicate with employees and the regulatory authority.

Sec. 15. Salvage operation shall mean an operation which reconditions, sells, distributes, brokers, or otherwise supplies any distressed or salvaged food.

Sec. 16. Temporary food establishment shall mean a food establishment that operates for a period of no more than fourteen consecutive days in conjunction with a single event or celebration.

Sec. 17. The Legislature hereby adopts by reference the Food Code as defined in section 8 of this act as a part of the Nebraska Pure Food Act.

Sec. 18. Section 81-2,258, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,258. The Legislature hereby adopts by reference the Food Salvage Code as defined in section 81-2,247 as a part of the Nebraska Pure Food Act.

Sec. 19. Section 81-2,262, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,262. Certified copies of the codes adopted by reference pursuant to sections 81-2,257 to 81-2,261 section 81-2,258 and section 17 of this act shall be filed in the offices of the Secretary of State, Clerk of the Legislature, and department. The department shall also insure that a copy of 21 C.F.R. part 110 is duly filed in such offices.

Sec. 20. Section 81-2,263, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,263. Whenever there exists if there is an inconsistency between sections 81-2,241 to 81-2,256 and 81-2,264 to 81-2,292 81-2,239 to 81-2,292 and sections 5 to 17, 24, 27 to 54, and 61 of this act and any of the codes adopted by reference, the requirements of the sections shall control.

Sec. 21. Section 81-2,267, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,267. Prior to construction of, conversion to, or remodeling of a food establishment, food processing plant, or salvage operation, conversion to a food establishment, or remodeling of a food establishment which affects the facilities or equipment required by the Nebraska Pure Food Act, properly prepared plans and specifications for such construction, conversion, or remodeling shall be submitted to the regulatory authority for review and approval. The plans and specifications shall indicate the proposed layout,

arrangement, mechanical plans, construction materials of work areas, type and model of proposed fixed equipment and facilities, and description of the type of food to be served or sold. The regulatory authority shall treat such plans and specifications as confidential or trade secret information and shall approve the plans and specifications if they meet the requirements of the act Nebraska Pure Food Act. No food establishment, food processing plant, or salvage operation shall be constructed, converted, or remodeled except in accordance with plans and specifications approved by the regulatory authority.

Sec. 22. Section 81-2,268, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,268. Food establishment, food processing plant, or salvage operation facilities and equipment in use or new facilities and equipment for which contractual obligations are incurred before September 6, 1991 the effective date of this act, and which do not meet fully all the design and fabrication requirements of the Nebraska Pure Food Act shall be acceptable if they are in good repair and capable of being maintained in a sanitary condition and the food-contact surfaces are of safe materials, as defined in the Retail Food Code. A food establishment, food processing plant, or salvage operation which has a change of ownership or extensive remodeling after the effective date of this act shall comply with all applicable facility and equipment requirements of the act.

Sec. 23. Section 81-2,270, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,270. (1) No person shall operate: (a) A food service establishment; (b) a food processing plant; or (c) a salvage operation, mobile food unit or pushcart; (c) a temporary food service establishment; (d) a food processing establishment; (e) a food storage establishment; (f) a retail food store; (g) a salvage processing plant; (h) as a salvage distributor; or (i) one or more vending machines other than controlled location vending machines, as defined in the Food Vending Code, without a valid permit which sets forth the types of operation occurring within the establishment.

(2) Application for a permit shall be made to the director on forms prescribed and furnished by the department. Such application shall include the applicant's full name and mailing address, the names and addresses of any partners, members, or corporate officers, the name and address of the person authorized by the applicant to receive the notices and orders of the department as provided in the Nebraska Pure Food Act, whether the applicant is an individual, partnership, limited liability company, corporation, or other legal entity, the location and type of proposed establishment or operation, and the signature of the applicant. Application for a permit shall be made prior to the operation of a food establishment, food processing plant, or salvage operation or vending machines and shall be accompanied by an initial permit fee of fifty dollars and an initial inspection fee in the same amount as is annually required pursuant to subsection (3) of this section if inspections are required to be done by the department. If the food establishment, food processing plant, or salvage operation or vending machine operation has been in operation prior to applying for a permit, the applicant shall pay an additional fee of fifty dollars.

(3) Payment of the initial permit fee, the initial inspection fee, and the fee for failing to apply for a permit prior to operation shall not preclude payment of the annual inspection fees due on August 1 of each year. Except as provided in subsections (6) through (9) of this section and subsection (1) of section 81-2,281, permit holders a permitholder shall pay annual inspection fees on or before August 1 of each year as follows:

(a) Food service establishments, nontemporary, fifty dollars plus fifteen dollars for each separate and distinct food preparation area within the establishment other than the first such area;

(b) Mobile food units or pushcarts, fifty dollars plus five dollars per unit or pushcart;

(c) Temporary food service establishment, fifty dollars plus fifteen dollars for each additional food handling operation;

(d) Food processing establishment, fifty dollars plus fifteen dollars for each additional food handling operation within the establishment;

(e) Food storage establishment, fifty dollars plus fifteen dollars for each additional food handling operation within the establishment;

(f) Retail food store, fifty dollars plus fifteen dollars for each food preparation area within the store except the meat processing and produce handling areas;

(g) Salvage processing plant, fifty dollars plus fifteen dollars for each additional food handling operation within the establishment;

(h) Salvage distributor, fifty dollars plus fifteen dollars for each additional food handling operation within the establishment; and

(\*) A convenience store, licensed beverage establishment, limited food service establishment, and temporary food establishment, fifty dollars plus twenty-five dollars for each separate and distinct food preparation area within the establishment other than the first such area.

(b) A mobile food unit, twenty-five dollars per food unit in addition to the inspection fee due for the commissary.

(c) A pushcart, ten dollars per pushcart in addition to the inspection fee due for the commissary.

(d) One to ten vending machines, ten dollars; eleven to twenty vending machines, twenty dollars; twenty-one to thirty vending machines, thirty dollars; thirty-one to forty vending machines, forty dollars; and over forty vending machines, fifty dollars. This fee, based upon the number of vending machines, is in addition to the inspection fee due for the commissary; and

(e) A food processing plant, a salvage operation, and any other food establishment, including a commissary, seventy dollars plus twenty-five dollars for each separate and distinct food preparation area within the establishment other than the first such area.

(4) Whenever an establishment is engaged in more than one of the food handling activities activity listed under subsection (3) of this section, the inspection fee charged shall be based upon the primary activity conducted within the establishment as determined by the department.

(5) The department may impose a penalty for an inspection fees which are fee which is more than one month delinquent. Such The penalty may not exceed twenty fifty percent of the fee for each the first month of delinquency and one hundred percent of the fee for the second month of delinquency.

(6) Educational institutions An educational institution, health care facilities facility, nursing homes home, and or governmental organizations organization operating any type of food service establishment other than a mobile food unit or pushcart shall be is exempt from the requirements in subsections (1) through (5) of this section.

(7) Persons A person whose primary food-related business activity is determined by the department to be egg handling within the meaning of the Nebraska Graded Egg Act and who are is validly licensed and paying fees pursuant to such act shall be is exempt from the permit and inspection fee requirements of the Nebraska Pure Food Act.

(8) Persons A person holding permits or licenses a permit or license and regulated under the Nebraska Manufacturing Milk Act or the Nebraska Pasteurized Milk Law and an egg handlers handler licensed and regulated under the Nebraska Graded Egg Act shall be are exempt from the provisions of the Nebraska Pure Food Act.

(9) Religious A religious, charitable, and or fraternal organizations organization operating any type of temporary food service establishment, mobile food unit, or pushcart shall be is exempt from the requirements of subsections (1) through (5) of this section. Any such organization operating any nontemporary food service establishment prior to July 1, 1985, shall be is exempt from the requirements of subsection (2) of this section.

Sec. 24. The permit holder shall be the person in charge or designate a person in charge and shall ensure that the person in charge is present at the food establishment or is readily accessible to communicate with food employees and the regulatory authority during all hours of operation. The permit holder shall further ensure that a food employee or other designated individual is present at the food establishment during all hours of operation.

Sec. 25. Section 81-2,271, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,271. (1) The permit required by section 81-2,270 shall be posted in a location in the food establishment, food processing plant, or salvage operation which is conspicuous to the public. A salvage operation Salvage processing plants and salvage distributors shall also have a copy of the permit in each vehicle.

(2) The permit shall is not be transferable to any other person or location. Any permit issued shall lapse lapses automatically upon a change of ownership or location except as provided in subsection (3) of this section. The permit holder shall notify the department in writing at least thirty days prior to any change in ownership, name, or address. A The permit holder shall notify the department in writing before there is a change of the name or address of the person authorized to receive the notices and orders of the department. When an establishment is to be permanently closed, the permit holder shall return the permit to the department within one week after the closing.

(3) Mobile A mobile food units, pushcarts unit, pushcart, or vending

Machine and vending machines may be moved if the permitholder is able to provide the location of such units, pushcarts, and machines unit, pushcart, or machine to the regulatory authority upon request and the person authorized by the permitholder to receive the notices and orders of the department maintains a permanent mailing address on file with the department.

Sec. 26. Section 81-2,272, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,272. Before approving an application for a permit pursuant to section 81-2,270, the regulatory authority shall inspect the food establishment, food processing plant, or salvage operation or vending machine operation to determine whether the applicant qualifies to hold a permit pursuant to subsection (1) of section 81-2,273. An applicant found to qualify to hold a permit pursuant to such subsection shall be issued a permit. An applicant who does not receive a permit shall be afforded the opportunity of a hearing to present evidence that the applicant is qualified to hold a permit pursuant to such subsection and should be issued a permit. All such hearings shall be in accordance with the Administrative Procedure Act.

Sec. 27. The individual who is responsible for the food establishment shall have knowledge of the risks of foodborne illness inherent to the food operation, foodborne disease prevention, and the requirements of the Nebraska Pure Food Act. The individual shall demonstrate this knowledge by the passing of routine sanitation inspections by the food establishment, successfully completing an approved food handler training course, or responding correctly to the regulatory authority's questions as they relate to the areas of the food establishment's noncompliance in order to bring that area into compliance.

Sec. 28. The permitholder shall require a food employee to report to the person in charge information about his or her health and activities as they relate to diseases that are transmissible through food. The food employee shall report the information in a manner that allows the person in charge to prevent the likelihood of foodborne disease transmission, if the food employee:

(1) Is diagnosed with an illness due to:

- (a) Salmonella typhi;
- (b) Shigella spp.;
- (c) Escherichia coli 0157:H7; or
- (d) Hepatitis A virus;

(2) Has a symptom caused by illness, infection, or other source that

is:

(a) Associated with an acute gastrointestinal illness such as:

- (i) Fever;
- (ii) Vomiting;
- (iii) Jaundice;
- (iv) Sore throat with fever; or
- (v) Diarrhea with one or more of the symptoms described in

subdivisions (2)(a)(i) through (iv) of this section; or

(b) A lesion containing pus such as a boil or infected wound that is open or draining and is:

(i) On a hand or wrist, unless an impermeable cover protects the lesion and a single-use glove is worn over the impermeable cover;

(ii) On an exposed portion of an arm, unless the lesion is protected by an impermeable cover; or

(iii) On any other part of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage;

(3) Had a past illness from an infectious agent specified in subdivision (1) of this section; or

(4) Meets one or more of the following high-risk conditions:

(a) Is suspected of causing, or being exposed to, a confirmed disease outbreak caused by Salmonella typhi, Shigella spp., Escherichia coli 0157:H7, or hepatitis A virus, including an outbreak at an event such as a family meal, church supper, or ethnic festival because the food employee:

- (i) Prepared food implicated in the outbreak;
- (ii) Consumed food implicated in the outbreak; or
- (iii) Consumed food at the event prepared by a person who is

infected or ill with the infectious agent that caused the outbreak or who is suspected of being a carrier of the infectious agent;

(b) Lives in the same household as a person who is diagnosed with a disease caused by Salmonella typhi, Shigella spp., Escherichia coli 0157:H7, or hepatitis A virus;

(c) Lives in the same household as a person who attends or works in a setting where there is a confirmed disease outbreak caused by Salmonella typhi, Shigella spp., Escherichia coli 0157:H7, or hepatitis A virus; or

(d) Traveled out of the country within the last fifty calendar days.  
Sec. 29. To prevent the likelihood of foodborne disease  
transmission, the person in charge of the food establishment shall:

(1) Exclude a food employee from a food establishment if the food  
employee is diagnosed with an infectious agent specified in subdivision (1) of  
section 28 of this act;

(2) Except as specified under subdivision (3) of this section,  
restrict a food employee from working with exposed food, clean equipment,  
utensils, and linens, and unwrapped single-service and single-use articles in  
a food establishment if the food employee:

(a) Is suffering from a symptom specified in subdivision (2) of  
section 28 of this act; or

(b) Is not experiencing a symptom of acute gastroenteritis specified  
in subdivision (2)(a) of section 28 of this act but has a stool that yields a  
specimen culture that is positive for Salmonella typhi;

(3) If the population served is highly susceptible, exclude a food  
employee who:

(a) Is experiencing a symptom of acute gastrointestinal illness  
specified in subdivision (2)(a) of section 28 of this act and meets a  
high-risk condition specified in subdivision (4) of such section;

(b) Is not experiencing a symptom of acute gastroenteritis specified  
in subdivision (2)(a) of section 28 of this act but has a stool that yields a  
specimen culture that is positive for Salmonella typhi, Shigella spp., or  
Escherichia coli O157:H7;

(c) Had a past illness from Salmonella typhi within the last three  
months; or

(d) Had a past illness from Shigella spp. or Escherichia coli  
O157:H7 within the last month; and

(4) For a food employee who is jaundiced:

(a) If the onset of jaundice occurred within the last seven calendar  
days, exclude the food employee from the food establishment; or

(b) If the onset of jaundice occurred more than seven calendar days  
before:

(i) Exclude the food employee from a food establishment that serves  
a highly susceptible population; or

(ii) Restrict the food employee from activities specified in  
subdivision (2) of this section, if the food establishment does not serve a  
highly susceptible population.

Sec. 30. (1) The person in charge of a food establishment may  
remove a medical exclusion imposed upon a food employee as specified in  
subdivision (1) of section 29 of this act if the person in charge obtains  
approval from the regulatory authority and if the excluded food employee  
provides to the person in charge written medical documentation from a  
physician licensed to practice medicine that specifies that the excluded food  
employee:

(a) May work in an unrestricted capacity in a food establishment,  
including an establishment that serves a highly susceptible population,  
because the food employee is free of:

(i) The infectious agent of concern; or

(ii) Symptoms, if hepatitis A virus is the infectious agent of  
concern; or

(b) May only work in an unrestricted capacity in a food  
establishment that does not serve a highly susceptible population because the  
food employee:

(i) Is free of the symptoms specified in subdivision (2)(a) of  
section 28 of this act; and

(ii) Has a stool that yields a specimen culture that is positive for  
Shigella spp. or Escherichia coli O157:H7.

(2) The person in charge may remove a restriction specified in:

(a) Subdivision (2)(a) of section 29 of this act if the restricted  
food employee:

(i) Is free of the symptoms specified in subdivision (2) of section  
28 of this act and no foodborne illness occurs that may have been caused by  
the restricted food employee;

(ii) Is suspected of causing foodborne illness but is free of the  
symptoms specified in subdivision (2) of section 28 of this act and provides  
written medical documentation from a physician licensed to practice medicine  
stating that the restricted food employee is free of the infectious agent that  
is suspected of causing the employee's symptoms or causing foodborne illness;  
or

(iii) Provides written medical documentation from a physician  
licensed to practice medicine stating that the symptoms experienced result



from a chronic noninfectious condition such as ulcerative colitis or irritable bowel syndrome; or

(b) Subdivision (2)(b) of section 29 of this act if the restricted food employee provides written medical documentation that indicates the employee's stools are free of Salmonella typhi.

(3) The person in charge may remove an exclusion specified under subdivision (3) of section 29 of this act if the excluded food employee provides written medical documentation from a physician licensed to practice medicine that the employee is free of Salmonella typhi, Shigella spp., Escherichia coli 0157:H7, or hepatitis A virus, whichever is the infectious agent of concern.

(4) The person in charge may remove an exclusion specified in subdivision (4) of section 29 of this act if:

(a) No foodborne illness occurs that may have been caused by the excluded or restricted food employee and the employee;

(i) Provides written medical documentation from a physician licensed to practice medicine stating that the food employee is free of hepatitis A virus infection; or

(ii) Is no longer jaundiced; or

(b) The excluded or restricted food employee is suspected of causing foodborne illness and complies with subdivisions (4)(a)(i) and (ii) of this section.

Sec. 31. A food employee shall comply with medical exclusions and restrictions and report to the person in charge of the food establishment the information specified in section 28 of this act.

Sec. 32. The person in charge of a food establishment shall notify the regulatory authority of a food employee who is diagnosed with or is suspected of having an illness due to Salmonella typhi, Shigella spp., Escherichia coli 0157:H7, or hepatitis A virus.

Sec. 33. A food employee shall clean his or her hands and exposed portions of his or her arms with a cleaning compound in a lavatory that is equipped as specified in the Food Code by vigorously rubbing together the surfaces of his or her lathered hands and arms for at least twenty seconds and thoroughly rinsing with clean water. A food employee shall pay particular attention to the areas underneath the fingernails and between the fingers. A food employee shall clean his or her hands and exposed portions of his or her arms:

(1) After touching bare human body parts other than clean hands and clean, exposed portions of arms;

(2) After using the toilet room;

(3) After caring for or handling any animals;

(4) After coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking;

(5) After handling soiled equipment or utensils;

(6) Immediately before engaging in food preparation including working with exposed food, clean equipment and utensils, and unwrapped single-service and single-use articles;

(7) During food preparation, as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks;

(8) When switching between working with raw foods and working with ready-to-eat foods; and

(9) After engaging in other activities that contaminate the hands.

Sec. 34. (1) A food employee may use an alcohol-based, instant hand sanitizer lotion or a chemical hand sanitizing solution used as a hand dip, when the hand dip:

(a) Consists of, or is made up of, a chemical formulation specifically listed for use as a hand sanitizer in 21 C.F.R. 178.1010 sanitizing solutions or the components are generally recognized as safe as specified in 21 C.F.R. 182 - Substances Generally Recognized As Safe and 21 C.F.R. 184 - Direct Food Substances Affirmed As Generally Recognized As Safe; or

(b) Consists of, or is made up of, a chemical formulation that is not generally recognized as safe or listed for use as a hand sanitizer and:

(i) Is followed by a thorough hand rinsing in clean water or the use of gloves; or

(ii) Is used only where there is no direct contact with food by the hands; and

(c) Is applied only to hands that are cleaned as specified under section 33 of this act.

(2) A chemical hand sanitizing solution used as a hand dip shall be maintained clean and at a strength equivalent to one hundred milligrams per liter chlorine or above.

Sec. 35. Except when washing fruits and vegetables, food employees shall not contact exposed, ready-to-eat food with their bare hands unless the food employee washes his or her hands as specified in section 33 of this act or washes his or her hands and uses suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment. Food employees shall minimize bare hand and arm contact with exposed food that is not in a ready-to-eat form.

Sec. 36. (1) Except as provided under subsection (2) of this section, a food employee shall wear a hair restraint such as a hat, hair covering or net, beard restraint, and clothing that covers body hair, that is designed and worn to effectively keep hair from contacting exposed food, clean equipment, utensils, and linens, and unwrapped single-service and single-use articles.

(2) This section does not apply to a food employee such as a counter staff person who only serves beverages and wrapped or packaged foods, a host staff person, and a wait staff person if he or she presents a minimal risk of contaminating exposed food, clean equipment, utensils, and linens, and unwrapped single-service and single-use articles.

Sec. 37. A food employee shall not care for or handle any animal that may be present in the food establishment, except that a food employee with a support animal may care for his or her support animal if he or she washes his or her hands as specified in section 33 of this act before working with exposed food, clean equipment, utensils, and linens, or unwrapped single-service and single-use articles.

Sec. 38. Fish shall not be received for sale or service unless it has been commercially and legally caught or harvested and processed.

Sec. 39. (1) A take-home food container returned to a food establishment shall not be refilled at a food establishment with a potentially hazardous food.

(2) Except as specified in subsections (3) and (4) of this section, empty containers intended for cleaning and refilling with food shall be cleaned and refilled in a regulated food processing plant.

(3) A food-specific container for beverages may be refilled at a food establishment if:

(a) Only beverages that are not potentially hazardous are used;

(b) The design of the container and of the rinsing equipment and the nature of the beverage, when considered together, allow effective cleaning at home or in the establishment;

(c) The consumer-owned container returned to the food establishment for refilling is refilled for sale or service only to the same consumer; and

(d) The container is refilled by a food employee of the establishment, or the owner of the container if the beverage system includes a contamination-free transfer process that cannot be bypassed by the owner of the container.

(4) Consumer-owned containers that are not food-specific may be filled at a water vending station.

Sec. 40. Except as otherwise provided by law, potentially hazardous food shall be at a temperature of forty-five degrees Fahrenheit (seven degrees Celsius) or below when received at a food establishment. Potentially hazardous food that is cooked and received hot shall be at a temperature of one hundred forty degrees Fahrenheit (sixty degrees Celsius) or above and shall be free of evidence of previous temperature abuse.

Sec. 41. (1) Except as otherwise provided in the Nebraska Pure Food Act, raw animal foods such as eggs, fish, poultry, meat, and foods containing these raw animal foods shall be cooked to heat all parts of the food to a temperature and for a time that are in accordance with the act.

(2) Poultry, stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, or stuffing containing fish, meat, or poultry shall be cooked to heat all parts of the food to one hundred sixty-five degrees Fahrenheit (seventy-four degrees Celsius) or above for fifteen seconds.

(3) When ordered by the immediate consumer, whole-muscle intact beef steaks, which have been seared on both sides, shall be exempted from the minimum cooking temperatures specified in the act.

Sec. 42. (1) The person in charge of a food establishment shall ensure that consumers who order raw or partially cooked foods of animal origin are informed that the food is not cooked sufficiently to assure its safety. If a raw or undercooked animal food such as beef, eggs, fish, lamb, pork, poultry, or shellfish is offered in a ready-to-eat form as a deli, menu, vended, or other item, or as a raw ingredient in another ready-to-eat form, the permitholder shall inform consumers by brochures, deli case or menu advisories, label statements, table tents, placards, or other written means of the significantly increased risk associated with certain especially vulnerable

consumers eating such foods in a raw or undercooked form. The following language will satisfy the consumer advisory requirements:

"Thoroughly cooking foods of animal origin such as beef, eggs, fish, lamb, pork, poultry, or shellfish reduces the risk of foodborne illness. Individuals with certain health conditions may be at higher risk if these foods are consumed raw or undercooked. Consult your physician or public health official for further information."

(2) This section shall not apply to beef meeting the requirements of subsection (3) of section 41 of this act.

Sec. 43. Raw animal foods cooked in a microwave oven shall be:

(1) Rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat;

(2) Covered to retain surface moisture;

(3) Heated an additional twenty-five degrees Fahrenheit (fourteen degrees Celsius) above the temperature specified in the Nebraska Pure Food Act to compensate for shorter cooking times; and

(4) Allowed to stand covered for two minutes after cooking to obtain temperature equilibrium.

Sec. 44. Stored frozen foods shall be maintained frozen. Frozen potentially hazardous food that is slacked to moderate the temperature shall be held under refrigeration that maintains the food temperature at forty-five degrees Fahrenheit (seven degrees Celsius) or below or at any temperature if the food remains frozen.

Sec. 45. Potentially hazardous food shall be thawed:

(1) Under refrigeration that maintains the food temperature at forty-five degrees Fahrenheit (seven degrees Celsius) or below;

(2) Completely submerged under running water;

(a) At a water temperature of seventy degrees Fahrenheit (twenty-one degrees Celsius) or below;

(b) With sufficient water velocity to agitate and float off loose particles in an overflow; and

(c) For a period of time that does not allow thawed portions of ready-to-eat food to rise above forty-five degrees Fahrenheit (seven degrees Celsius), or for a period of time that does not allow thawed portions of a raw animal food requiring cooking to be above forty-five degrees Fahrenheit (seven degrees Celsius) for more than four hours, including the time the food is exposed to the running water and the time needed for preparation for cooking or the time it takes under refrigeration to lower the food temperature to forty-five degrees Fahrenheit (seven degrees Celsius);

(3) As part of a cooking process if the food that is frozen is:

(a) Cooked as specified in the Nebraska Pure Food Act; or

(b) Thawed in a microwave oven and immediately transferred to conventional cooking equipment, with no interruption in the process; or

(4) Using any procedure that thaws a portion of frozen ready-to-eat food that is prepared for immediate service in response to an individual consumer's order.

Sec. 46. (1) Cooked potentially hazardous food shall be cooled:

(a) From one hundred forty degrees Fahrenheit (sixty degrees Celsius) to seventy degrees Fahrenheit (twenty-one degrees Celsius) within two hours; and

(b) From seventy degrees Fahrenheit (twenty-one degrees Celsius) to forty-five degrees Fahrenheit (seven degrees Celsius) or below within four hours.

(2) Potentially hazardous food shall be cooled to forty-five degrees Fahrenheit (seven degrees Celsius) or below within four hours if prepared from ingredients at ambient temperature.

(3) A potentially hazardous food received at a temperature above forty-five degrees Fahrenheit (seven degrees Celsius) during shipment from the supplier shall be cooled to forty-five degrees Fahrenheit (seven degrees Celsius) or below within four hours.

Sec. 47. (1) Cooling shall be accomplished in accordance with the time and temperature criteria specified under section 46 of this act by using one or more of the following methods based on the type of food being cooled:

(a) Placing the food in shallow pans;

(b) Separating the food into smaller or thinner portions;

(c) Using rapid cooling equipment;

(d) Stirring the food in a container placed in an ice water bath;

(e) Using containers that facilitate heat transfer;

(f) Adding ice as an ingredient; or

(g) Other effective methods.

(2) When placed in cooling or cold holding equipment, food containers in which food is being cooled shall be:

(a) Arranged in the equipment to provide maximum heat transfer through the container walls; and

(b) Loosely covered, or uncovered if protected from overhead contamination during the cooling period to facilitate heat transfer from the surface of the food.

Sec. 48. Except during preparation, cooking, or cooling or when time is used as the public health control as specified in section 51 of this act, potentially hazardous food shall be maintained:

(1) At one hundred forty degrees Fahrenheit (sixty degrees Celsius) or above, except that roasts cooked to a temperature and for a time specified in the Nebraska Pure Food Act may be held at a temperature of one hundred thirty degrees Fahrenheit (fifty-four degrees Celsius); or

(2) At forty-five degrees Fahrenheit (seven degrees Celsius) or below, except as specified in section 40 of this act.

Sec. 49. Except for individual meal portions served or repackaged for sale from a bulk container upon a consumer's request:

(1) Refrigerated, ready-to-eat, potentially hazardous food prepared and held for more than twenty-four hours in a food establishment shall be marked with the date of preparation and consumed by a date which is no more than ten calendar days after preparation. The food shall be discarded if not consumed within ten calendar days after the date of preparation; and

(2) A container of refrigerated, ready-to-eat, potentially hazardous food prepared and packaged by a food processing plant shall be marked to indicate the date by which the food shall be consumed. Such food shall be discarded if it is not consumed within ten calendar days after being opened in a food establishment. This subdivision does not apply to whole, unsliced portions of a cured and processed product with original casing maintained on the remaining portion, such as bologna, salami, or other sausage in a cellulose casing.

Sec. 50. A vending machine which dispenses ready-to-eat, potentially hazardous food shall be equipped with an automatic cutoff control that is activated at a temperature of forty-five degrees Fahrenheit (seven degrees Celsius). Refrigerated, ready-to-eat, potentially hazardous food in a vending machine shall be discarded if not sold or served within ten calendar days. Refrigerated, ready-to-eat, potentially hazardous food in a vending machine in which the automatic cutoff control has been activated shall be discarded if the time constraint specified in subdivision (2) of section 51 of this act has been exceeded.

Sec. 51. Time only, rather than time in conjunction with temperature, may be used as the public health control for a working supply of potentially hazardous food before cooking, or for ready-to-eat potentially hazardous food that is displayed or held for service for immediate consumption, if:

(1) The food is marked or otherwise identified with the time within which it shall be cooked, served, or discarded;

(2) The food is served or discarded within four hours from the point in time when the food is removed from temperature control;

(3) Food in unmarked containers or packages, or for which the time expires, is discarded; and

(4) Written procedures are maintained in the food establishment and made available to the regulatory authority, upon request, to ensure compliance with this section and section 46 of this act for food that is prepared, cooked, and refrigerated before time is used as a public health control.

Sec. 52. A food establishment may use a reduced oxygen packaging method if a variance has been granted by the regulatory authority or under the following conditions:

(1) A food establishment shall only use a reduced oxygen packaging method with potentially hazardous food that does not support the growth of the bacteria Clostridium botulinum because it:

(a) Has an AW (water activity) of ninety-one hundredths or less;

(b) Has a pH of four and six-tenths or less; or

(c) Is a meat product cured and processed in the food establishment that at the time of processing had a concentration of sodium nitrite of one hundred twenty milligrams per liter or higher and has a brine concentration of at least three and one-half percent.

(2) A food with a high level of competing organisms such as raw meat, raw poultry, or semi-soft cheese containing live active starter culture organisms may be packaged using a reduced oxygen method. Such products shall be labeled with a "sell by" or "use by" date not to exceed fourteen days and shall be discarded if not sold by that date.

(3) Products packaged using a reduced oxygen method shall be maintained at forty-five degrees Fahrenheit (seven degrees Celsius) or below.

(4) Except as provided in subdivision (2) of this section, products packaged using a reduced oxygen method shall be discarded if not sold within thirty days from processing if the food is processed at the food establishment. Food processed by a food processing plant that has been repackaged by the food establishment shall be discarded if not sold within fourteen days from packaging by the food establishment or the original manufacturer's "sell by" or "use by" date, whichever occurs first.

(5) Except as provided in subdivision (2) of this section, products packaged using a reduced oxygen method shall be labeled with a "sell by" or "use by" date which is not more than thirty days from the date it was processed by the food establishment. Food processed by a food processing plant that has been repackaged by the food establishment shall be labeled with a "sell by" or "use by" date which is not more than fourteen days from the date it was repackaged by the food establishment or the original manufacturer's "sell by" or "use by" date, whichever occurs first.

(6) Food establishments which process and package food using a reduced oxygen method shall have written policies for operational procedures that:

(a) Prohibit contacting ready-to-eat foods with bare hands without proper handwashing;

(b) Identify a designated area for reduced oxygen packaging which separates raw foods and ready-to-eat foods to minimize cross contamination;

(c) Restrict access to the processing equipment to only responsible trained personnel familiar with the potential hazards of the operation; and

(d) Delineate cleaning and sanitation procedures for food contact surfaces.

(7) Food establishments which package food using a reduced oxygen method shall have a training program to ensure that the individual responsible for the reduced oxygen packaging operation understands the requirements of the Nebraska Pure Food Act and the procedures, equipment, and facilities required for safe operation.

(8) A food establishment shall not package fish using a reduced oxygen method unless the fish remains frozen before, during, and after packaging or a variance has been granted by the regulatory authority.

Sec. 53. In a food establishment, a hose used for conveying drinking water from a water tank shall have a smooth interior surface, be of food grade material, and, if not permanently attached, be clearly and durably identified as to its use.

Sec. 54. A carbonating device in a food establishment shall have a dual check valve. Such valve shall be installed so that it is upstream from a carbonating device and downstream from any copper in the water supply line.

Sec. 55. Section 81-2,273, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,273. (1) A holder of a permit issued under the Nebraska Pure Food Act shall comply with the act, the rules and regulations adopted pursuant thereto, and any order of the director issued pursuant thereto. The permitholder shall not interfere with the department in the performance of its duties.

(2) A permitholder may be put on probation requiring such person to comply with the conditions set out in an order of probation issued by the director after: (a) The director determines the permitholder has not complied with subsection (1) of this section; (b) the permitholder is given written notice to comply and written notice of the right to a hearing to show cause why an order of probation should not be issued; and (c) the director finds that issuing an order of probation is appropriate based on the hearing record or on the available information if the hearing is waived by the permitholder.

(3) A permit may be suspended after: (a) The director determines the permitholder has not complied with subsection (1) of this section; (b) the permitholder is given written notice to comply and written notice of the right to a hearing to show cause why the permit should not be suspended; and (c) the director finds that issuing an order suspending the permit is appropriate based on the hearing record or on the available information if the hearing is waived by the permitholder.

(4) A permit may be immediately suspended and the director may order the permitholder's food establishment, food processing plant, or salvage operation or vending machine operation closed prior to hearing when: (a) the director determines an immediate danger to the public health, safety, or welfare exists in or is caused by the permitholder's food establishment, food processing plant, or salvage operation; or is caused by the permitholder's vending machine operation; and (b) the permitholder receives the written notice to comply and written notice of the right to a hearing to show cause why the suspension should not be sustained. Within fifteen days after the

suspension, the permitholder may request, in writing, a date for a hearing and the director shall consider the interests of the permitholder when the director establishes the date and time of the hearing, except that no hearing shall be held sooner than is reasonable under the circumstances. When a permitholder does not request a hearing date within such fifteen-day period, the director shall establish a hearing date and shall notify the permitholder of the date and time of such hearing.

(5) A permit may be revoked after: (a) The director determines the permitholder has committed serious, repeated, or multiple violations of any of the requirements of subsection (1) of this section; (b) the permitholder is given written notice to comply and written notice of the right to a hearing to show cause why the permit should not be revoked; and (c) the director finds that issuing an order revoking the permit is appropriate based on the hearing record or on the available information if the hearing is waived by the permitholder.

(6) Any food establishment, food processing plant, or salvage operation or vending machine operation for which the permit has been suspended shall close and remain closed until the permit is reinstated. Any food establishment, food processing plant, or salvage operation or vending machine operation for which the permit has been revoked shall close and remain closed until a new permit is issued.

(7) The director may terminate proceedings to suspend or revoke a permit or to subject a permitholder to an order of probation at any time if the reasons for such proceedings no longer exist. A permit which has been suspended may be reinstated, a person with a revoked permit may be issued a new permit, or a permitholder may no longer be subject to an order of probation if the director determines the conditions which prompted the suspension, revocation, or probation no longer exist.

(8) Proceedings for suspension, revocation, or probation shall not preclude the department from pursuing other civil or criminal actions.

Sec. 56. Section 81-2,275, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,275. It shall be is unlawful for a person to operate a food establishment, food processing plant, or salvage operation or vending machine operation in any manner which is not in conformity with the Nebraska Pure Food Act or the rules and regulations adopted and promulgated pursuant thereto or to interfere with the duties of the department or any final order of the director pursuant to such act.

Sec. 57. Section 81-2,276, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,276. It shall be unlawful for a food service establishment to operate in a manner not in conformity with the provisions of the Food Service Code. It shall be is the responsibility of the department to regulate the operation of food service establishments, food processing plants, and salvage operations in the manner set out in the Food Service Code Nebraska Pure Food Act.

Sec. 58. Section 81-2,281, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,281. (1) The department shall enforce the Nebraska Pure Food Act. The department may contract with any political subdivision it deems qualified to conduct any or all regulatory functions authorized pursuant to the act except those functions relating to the issuance, suspension, or revocation of permits or any order of probation. Holders of permits issued pursuant to the act who are regularly inspected by political subdivisions under contract with the department shall be exempt from the inspection fees prescribed in section 81-2,270 if such holders pay license or inspection fees to the political subdivision performing the inspections.

(2) It shall be the responsibility of the regulatory authority to inspect food establishments and vending machine operations food processing plants as often as required by the act. An inspection of a food service establishment or a retail food store shall be performed at least once every one hundred eighty days each establishment or store is in operation. An inspection of a salvage processing plant, a salvage distributor's operation, a food processing establishment, or a food storage establishment shall be performed at least once every three hundred sixty-five days of each plant, operation, or establishment is in operation. Vending machines shall be inspected pursuant to the Food Vending Code. Additional inspections shall be performed as often as is necessary for the efficient and effective enforcement of the act.

(3) All inspections conducted pursuant to the act shall be performed by persons who are registered environmental health specialists or trainees as defined in section 71-3702.

(4) Duly authorized personnel of the regulatory authority after showing proper identification shall have access at all reasonable times to food establishments, food processing plants, or salvage operations and vending machine operations required by the act to obtain a permit to perform authorized regulatory functions. Such functions shall include, but not be limited to, inspections, checking records maintained in the establishment or other locations to obtain information pertaining to food and supplies purchased, received, used, sold, or distributed, copying and photographing violative conditions, and examining and sampling food. When samples are taken, the inspectors shall pay or offer to pay for samples taken. The authorized personnel shall also have access to the records of salvage operations processing plants and salvage distributors pertaining to distressed salvageable and salvaged merchandise purchased, received, used, sold, or distributed.

(5) Regulatory activities performed by a political subdivision under contract shall conform with the provisions of the act and such activities shall have the same effect as those performed by the department. Any interference with the regulatory authority's duty to inspect shall be an interference with the department's duties for the purposes of section 81-2,273.

Sec. 59. Section 81-2,284, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,284. (1) It shall be unlawful for any person to deceptively pack or package any food or for any person to distribute, offer for sale, or sell any food that has been deceptively packed or packaged.

(2) A food shall be deemed to be deceptively packed or packaged if:

(a) Any substance has been added to, mixed with, or packed with the food so as to increase its bulk or weight, reduce its quality or strength, or make it appear to be better or of greater value than it actually is; or

(b) Any inferiority or damage to the food has been concealed in any manner.

(3) It shall be unlawful for any person to offer for sale in the same display case or refrigerated cabinet at any retail establishment any meat, fish, or poultry, including any meat, fish, or poultry product containing binders, blenders, or extenders, together with the display of any natural food product in such manner that the purchaser may be misled or in any way deceived in the selection of such product. Notwithstanding any other provision of this subsection, the same display case or refrigerated cabinet may be used for both meat, fish, or poultry or the products made from such meat, fish, or poultry and meat, fish, or poultry products containing binders, blenders, or extenders if (a) notice to purchasers is conspicuously posted on the display case or refrigerated cabinet that the case or cabinet contains both natural product and natural product with binders, blenders, or extenders added and (b) the meat, fish, or poultry or meat, fish, or poultry products containing binders, blenders, or extenders are correctly and conspicuously labeled with the term product containing binders, product containing blenders, or product containing extenders, or a comparable term when applicable, in print of the same size used to identify the product. Such label shall contain a detailed statement of the ingredients and nutritional value together with pricing information.

Sec. 60. Section 81-2,288, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,288. (1) The department may adopt and promulgate rules and regulations to aid in the administration and enforcement of the Nebraska Pure Food Act.

(2) The department may contract with agencies of the federal government for the performance by the department of inspections and other regulatory functions at food establishments, food processing plants, or salvage operations within the state which are subject to federal jurisdiction and may receive federal funds for work performed under such contracts.

(3) Except as provided in subsection (2) of this section, the provisions of the act shall not apply to establishments or specific portions of establishments regularly inspected for proper sanitation by an agency of the federal government.

Sec. 61. (1) The regulatory authority shall document on an inspection report form:

(a) Administrative information about the food establishment's legal identity, street and mailing addresses, type of establishment and operation, inspection date, status of the permit, and personnel certificates that may be required;

(b) Specific factual observations of violative conditions, omissions, or other deviations from the requirements of the Nebraska Pure Food

Act that require correction by the permit holder; and

(c) Whether the violations listed are critical or repeated.

(2) The regulatory authority shall specify on the inspection report form the time frame for correction of the violations as specified in the Nebraska Pure Food Act.

(3) All procedures and requirements related to the inspection of food establishments in the act apply to salvage operations.

(4) The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it according to law.

Sec. 62. Original sections 2-3508, 81-2,239, 81-2,240, 81-2,258, 81-2,262, 81-2,263, 81-2,267, 81-2,268, 81-2,270, 81-2,271, 81-2,272, 81-2,273, 81-2,275, 81-2,276, 81-2,281, 81-2,284, and 81-2,288, Reissue Revised Statutes of Nebraska, and section 54-1902, Revised Statutes Supplement, 1996, are repealed.

Sec. 63. The following sections are outright repealed: Sections 81-2,245, 81-2,246, 81-2,248, 81-2,249, 81-2,250, 81-2,251.01, 81-2,253, 81-2,254, 81-2,255, 81-2,256, 81-2,257, 81-2,259, 81-2,260, 81-2,261, 81-2,264, 81-2,265, 81-2,266, 81-2,269, 81-2,272.01, 81-2,277, 81-2,278, 81-2,279, and 81-2,280, Reissue Revised Statutes of Nebraska.