



# The National Agricultural Law Center

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Cottage Food Law Statutes:

*Nebraska*



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# A National Agricultural Law Center Research Publication

## Cottage Food Laws: Nebraska

NE Code § 81-2,245.01  
NE Code § 81-2,280

### **NE Code § 81-2,245.01. Food establishment, defined.**

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 sale or service at a religious, charitable, or fraternal organization's bake sale or similar function;
- (7) A private home where a producer of food that meets the requirements of section 81-2,280 is prepared 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;
- (8) 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) 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) 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) 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) 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.

**NE Code § 81-2,280. Producer of food at private home; requirements; registration; contents.**

- (1) A producer of food at a private home as described in subdivision (7) of section 81-2,245.01 shall meet the requirements of this section.
- (2) Such producer shall only provide food that is not adulterated and is not any of the following types of time/temperature control for safety food:
  - (a) Any part of an animal, vertebrate or invertebrate, or animal by-product;
  - (b) Fluid milk or milk products as defined in the Grade A Pasteurized Milk Ordinance adopted by reference in the Nebraska Milk Act;
  - (c) Raw eggs;
  - (d) Unpasteurized juice;
  - (e) Infused oils or honey;
  - (f) Sprouts;
  - (g) Low-acid canned food and hermetically sealed acidified food;
  - (h) Tofu, tempeh, or similar meat substitutes; or
  - (i) Kimchi, kombucha, or similar fermented foods.
- (3) Prior to conducting any food sales, the producer, other than a producer selling food that is not time/temperature control for safety food directly to the consumer at a farmers market, shall successfully complete:
  - (a) 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;

(b) 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; or

(c) A food safety and handling education course approved by the department.

(4) The producer 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

(a) the name, address, and telephone number of the producer,

(b) the type of food safety and handling education or training course taken pursuant to subsection (3) of this section and the date of its successful completion, and

(c) proof of private well water testing for contamination by nitrate or bacteria if the producer uses private well water. This subsection shall not apply to a producer of food that is not time/temperature control for safety food selling directly to the consumer at a farmers market.

(5)

(a) The producer shall inform the consumer by a clearly visible notification that the food:

(i) Was prepared in a kitchen that is not subject to regulation and inspection by a regulatory authority; and

(ii) May contain allergens.

(b) For sales conducted at a farmers market, fair, festival, craft show, or other public event, such notification shall be provided at the sale location.

(c) For sales conducted for pickup or delivery, such notification shall be provided at the producer's private home, on the producer's website, if such website exists, and in any print, radio, television, or Internet advertisement for such sales.

(6) The producer shall label the food so that the name and address of the producer is provided to the consumer on the package or container label. Food that is time/temperature control for safety food shall also have labeling that includes ingredients in descending order of predominance.

(7)

(a) Food that is not time/temperature control for safety food may be delivered by United States mail or a commercial mail delivery service.



(b) Food that is time/temperature control for safety food shall be delivered only by the producer to the consumer in person. When transported, such food shall be maintained at a temperature in accordance with the Nebraska Pure Food Act and not be transported for longer than two hours.

(8) The provisions of this section supersede and preempt any ordinance, rule, regulation, or resolution regulating food safety and handling adopted or enacted by a political subdivision that is not in conformance with this section.

