

## LEGISLATIVE BILL 245

Approved by the Governor April 29, 2025

Introduced by DeKay, 40.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 81-2,239, 81-2,244.01, 81-2,245.01, 81-2,254, 81-2,257, 81-2,259, 81-2,268, 81-2,270, 81-2,271, 81-2,274, 81-2,277, 89-186, 89-187, 89-187.02, and 89-187.05, Reissue Revised Statutes of Nebraska; to change and eliminate provisions of the Nebraska Pure Food Act; to change provisions of the Weights and Measures Act; to harmonize provisions; to repeal the original sections; to outright repeal sections 81-2,272.01, 81-2,272.10, 81-2,272.24, and 81-2,272.32, Reissue Revised Statutes of Nebraska; and to declare an emergency.

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

**Section 1.** 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 the provisions of the Food Code and the Current Good Manufacturing Practice ~~In Manufacturing, Packing, or Holding Human Food~~ adopted by reference in sections 81-2,257.01 and 81-2,259, shall be known and may be cited as the Nebraska Pure Food Act.

**Sec. 2.** Section 81-2,244.01, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,244.01 Food Code shall mean the 2022 ~~2017~~ Recommendations of the United States Public Health Service, Food and Drug Administration, except the definitions of adulterated food and food establishment, person in charge, regulatory authority, and sections ~~2-102.12, 2-102.20(B), 2-103.11(I) and (M), 3-301.11(B), (C), (D), and (E), 3-501.16, 4-301.12(C)(5), (D), and (E), 4-603.16(C), 4-802.11(C), 8-101, 8-102, 8-201.11, 8-201.12, 8-202.10 through 8-304.20, 8-401.10(B)(2), 8-402.20 through 8-403.20, 8-403.50 through 8-404.12, and 8-405.20(B).~~ The term Food Code does not include the annexes of such federal recommendations.

**Sec. 3.** 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, ~~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 or a similar facility if the pharmacy or the similar facility 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.

**Sec. 4.** Section 81-2,254, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,254 Single event food vendor shall mean a temporary food establishment that operates at no more than one event per calendar year for a period of no more than four ~~two~~ days.

**Sec. 5.** Section 81-2,257, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,257 Priority items are designated in the Food Code and ~~sections 81-2,272.01, 81-2,272.10, and 81-2,272.24.~~ Priority foundation items are designated in the Food Code.

**Sec. 6.** Section 81-2,259, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,259 The Legislature hereby adopts by reference the federal Current Good Manufacturing Practice In Manufacturing, Packing, or Holding Human Food found in 21 C.F.R. 117.4 and 117.10 to 117.110 as such regulations ~~part 110~~ as it existed on April 1, ~~2015~~ 2024.

**Sec. 7.** Section 81-2,268, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,268 (1) 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 13, 1997, and which do not meet fully all the design and fabrication requirements of the Nebraska Pure Food Act shall be acceptable if:

(a) They meet food temperature requirements;

(b) They ~~they~~ are in good repair and capable of being maintained in a sanitary condition; and

(c) The ~~the~~ food-contact surfaces are of safe materials.

(2) A food establishment, food processing plant, or salvage operation which has a change of ownership or extensive remodeling after September 13, 1997, shall comply with all applicable facility and equipment requirements of the act.

**Sec. 8.** Section 81-2,270, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,270 (1) No person shall operate without a valid permit:

(a) A food establishment conducting those food handling activities authorized by such permit;

(b) A food processing plant; or

(c) A salvage operation.

(2) Application for a permit shall be made to the director on forms prescribed and furnished by the department. Such application shall include (a) the applicant's full name and mailing address and the names and addresses of any partners, members, or corporate officers, (b) whether the applicant is an individual, partnership, limited liability company, corporation, or other legal entity, (c) the location and type of proposed establishment or operation, and (d) 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. The application shall be accompanied by an initial permit fee and an initial ~~inspection~~ fee in the same amount as the annual ~~inspection~~ fee if inspections are required to be done by the department. If any food establishment, food processing plant, or salvage operation is operating without a valid permit, such establishment, plant, or operation shall pay an additional fee of sixty dollars prior to the issuance of a valid permit.

(3) Payment of the initial permit fee, the initial ~~annual inspection~~ fee, and the fee for operating without a valid permit shall not preclude payment of the annual ~~inspection~~ fees due on August 1 of each year. Except as provided in subsections (7) through (10) of this section and subsection (2) of section 81-2,281, a permitholder shall pay annual ~~inspection~~ fees on or before August 1 of each year regardless of when the initial permit was obtained.

(4)(a) The director shall set the initial permit fee and the annual ~~inspection~~ fees on or before July 1 of each fiscal year to meet the criteria in this subsection. The director may raise or lower the fees each year, but the fees shall not exceed the maximum fees listed in subdivision (4)(b) of this section. The director shall determine the fees based on the estimated annual revenue and fiscal year-end cash fund balance as follows:

(i) The estimated annual revenue shall not be greater than one hundred seven percent of program cash fund appropriations allocated for the Nebraska Pure Food Act;

(ii) The estimated fiscal year-end cash fund balance shall not be greater than seventeen percent of program cash fund appropriations allocated for the act; and

(iii) All fee increases or decreases shall be equally distributed between all categories to the nearest dollar.

(b) The maximum fees are:

Secondary

or

Additional

Food

Secondary

Permit Type	Initial Permit Fee	Annual Inspection Fee	Preparation Area Annual Inspection Fee (per area)	Unit Or Units Annual Inspection Fee
Limited Retail				
<u>Food Establishment</u>	<u>\$122.00</u>	<u>\$122.00</u>	<u>\$61.00</u>	<u>N/A</u>
<del>Food Establishment</del>	<del>\$86.19</del>	<del>\$86.19</del>	<del>\$43.09</del>	<del>N/A</del>
<u>Itinerant Food Vendor</u>	<u>\$122.00</u>	<u>\$122.00</u>	<u>\$61.00</u>	<u>N/A</u>
<del>Itinerant Food Vendor</del>	<del>\$86.19</del>	<del>\$86.19</del>	<del>\$43.09</del>	<del>N/A</del>
Limited Food Service				
<u>Establishment</u>	<u>\$122.00</u>	<u>\$122.00</u>	<u>\$61.00</u>	<u>N/A</u>
<del>Establishment</del>	<del>\$86.19</del>	<del>\$86.19</del>	<del>\$43.09</del>	<del>N/A</del>
Mobile Food Unit				
<u>(for each unit)</u>	<u>\$122.00</u>	<u>N/A</u>	<u>N/A</u>	<u>\$61.00</u>
<del>(for each unit)</del>	<del>\$86.19</del>	<del>N/A</del>	<del>N/A</del>	<del>\$43.09</del>
<u>Pushcart (for each unit)</u>	<u>\$122.00</u>	<u>N/A</u>	<u>N/A</u>	<u>\$24.00</u>
<del>Pushcart (for each unit)</del>	<del>\$86.19</del>	<del>N/A</del>	<del>N/A</del>	<del>\$17.23</del>
Vending Machine				
<u>Operations:</u>	<u>\$122.00</u>			
<del>Operations:</del>	<del>\$86.19</del>			
<u>One to ten units</u>		<u>N/A</u>	<u>N/A</u>	<u>\$24.00</u>
<del>One to ten units</del>		<del>N/A</del>	<del>N/A</del>	<del>\$17.23</del>
<u>Eleven to twenty units</u>		<u>N/A</u>	<u>N/A</u>	<u>\$49.00</u>
<del>Eleven to twenty units</del>		<del>N/A</del>	<del>N/A</del>	<del>\$34.46</del>
Twenty-one to thirty				
<u>units</u>		<u>N/A</u>	<u>N/A</u>	<u>\$73.00</u>
<del>units</del>		<del>N/A</del>	<del>N/A</del>	<del>\$51.69</del>
Thirty-one to forty				
<u>units</u>		<u>N/A</u>	<u>N/A</u>	<u>\$98.00</u>
<del>units</del>		<del>N/A</del>	<del>N/A</del>	<del>\$68.92</del>
<u>Over forty units</u>		<u>N/A</u>	<u>N/A</u>	<u>\$122.00</u>
<del>Over forty units</del>		<del>N/A</del>	<del>N/A</del>	<del>\$86.15</del>
<u>Food Processing Plant</u>	<u>\$122.00</u>	<u>\$171.00</u>	<u>\$61.00</u>	<u>N/A</u>
<del>Food Processing Plant</del>	<del>\$86.19</del>	<del>\$120.64</del>	<del>\$43.09</del>	<del>N/A</del>
<u>Salvage Operation</u>	<u>\$122.00</u>	<u>\$171.00</u>	<u>\$61.00</u>	<u>N/A</u>
<del>Salvage Operation</del>	<del>\$86.19</del>	<del>\$120.64</del>	<del>\$43.09</del>	<del>N/A</del>
<u>Commissary</u>	<u>\$122.00</u>	<u>\$171.00</u>	<u>\$61.00</u>	<u>N/A</u>

Commissary	\$86.19	\$120.64	\$43.09	N/A
All Other Food				
Establishment	\$122.00	\$171.00	\$61.00	N/A.
Establishment	\$86.19	\$120.64	\$43.09	N/A

(5) For a food establishment, a base annual inspection fee includes one food preparation area and one food handling activity based upon the primary food handling activity conducted within the food establishment as determined by the department. The annual inspection fee shall also include any fees assessed for each additional food preparation area within the primary establishment and any applicable secondary food handling activity as determined by the department. Any mobile food establishment that does not return to a commissary each day shall obtain a separate permit and pay the annual base inspection fee for the mobile food establishment.

(6) If a person fails to pay any fee due under this section the ~~inspection~~ fee for more than one month after the fee is due, such person shall pay a late fee equal to fifty percent of the total fee for the first month that the fee is late and one hundred percent for the second month that the fee is late. The purpose of the late fee is to cover the administrative costs associated with collecting fees. All money collected as a late fee shall be remitted to the State Treasurer for credit to the Pure Food Cash Fund. If the total fees due remain unpaid ninety days after the original due date, the permit shall no longer be valid.

~~(7)(a) Any of the following entities that is (7) An educational institution, health care facility, nursing home, or governmental organization operating any type of food establishment, other than a mobile food unit or pushcart, is exempt from the requirements in subsections (1) through (6) of this section: -~~

- ~~(i) Any educational institution;~~
- ~~(ii) Any health care facility;~~
- ~~(iii) Any nursing home; or~~
- ~~(iv) Any governmental organization.~~

(b) If any entity described in subdivision (a) of this subsection utilizes an outside food service provider, such outside food service provider shall pay any applicable fee regardless of whether the entity described in subdivision (a) of this subsection is listed as the owner on the permit.

(8) A food establishment which produces eggs and only stores, packages, sells, delivers, or otherwise provides for human consumption the eggs it produces, or only stores, packages, sells, delivers, or otherwise provides for human consumption eggs produced from no more than four producers at the same time, is exempt from the requirements of subsections (1) through (6) of this section.

(9) A food establishment or food processing plant holding a permit under the Nebraska Milk Act is exempt from the requirements of subsections (1) through (6) of this section.

(10) A single event food vendor or a religious, charitable, or fraternal organization operating any type of temporary food establishment, mobile food unit, or pushcart is exempt from the requirements of subsections (1) through (6) of this section. Any such organization operating any nontemporary food establishment prior to July 1, 1985, is exempt from the requirements of subsection (2) of this section.

(11) A permitholder may sell food prepared by the permitholder at the location of another permitholder without obtaining a separate permit at such location so long as the permitholder preparing the food is not a food processing plant. Both the permitholder preparing the food and the permitholder selling the food are responsible for compliance with the Nebraska Pure Food Act.

**Sec. 9.** 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 conspicuous manner at the food establishment, each location where food handling activity included under a permit is occurring, the food processing plant, or the salvage operation. For a food establishment that does not have a permanent location, the permit location shall be a permanent address where the permitholder may be contacted.

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

(3) A permitholder shall provide information regarding the current location of any food handling activity included under the permitholder's permit to the regulatory authority upon request.

(4) Every mobile food unit or pushcart operator shall have a copy of the permit to operate available at the mobile food unit or pushcart when in operation.

**Sec. 10.** Section 81-2,274, Reissue Revised Statutes of Nebraska, is

amended to read:

81-2,274 (1) Any notice or order provided for in the Nebraska Pure Food Act shall be personally served on the permitholder ~~at or on the person authorized by the permitholder to receive notices and orders of the department or shall be sent by certified mail, return receipt requested, to the last-known address of the permitholder or at the permitted location the person authorized to receive such notices and orders.~~ A copy of the notice and the order shall be filed in the records of the department.

(2) A notice to comply provided for in section 81-2,273 shall set forth the acts or omissions with which the permitholder is charged.

(3) A notice of the permitholder's right to a hearing provided for in the act shall set forth the time and place of the hearing except as provided in subsection (4) of section 81-2,273. A notice of the permitholder's right to such hearing shall include notice that a permitholder's right to a hearing may be waived pursuant to subsection (5) of this section. A notice of the permitholder's right to a hearing to show cause why the permit should not be revoked shall include notice to the permitholder that the permit may be revoked or suspended, that the permitholder may be subject to an order of probation, or that the permit may be suspended and the permitholder subject to an order of probation, if the director determines such action is more appropriate. A notice of the permitholder's right to a hearing to show cause why the permit should not be suspended shall include notice to the permitholder that the permit may be suspended or that the permitholder may also be subject to an order of probation if the director determines such action is more appropriate.

(4) The hearings provided for in the act shall be conducted by the director at the time and place he or she designates. The director shall make a final finding based upon the complete hearing record and issue an order. If the director has suspended a permit pursuant to subsection (4) of section 81-2,273, the director shall sustain, modify, or rescind the order. All hearings shall be in accordance with the Administrative Procedure Act.

(5) A permitholder shall be deemed to waive the right to a hearing if such permitholder does not come to the hearing at the time and place set forth in the notice described in subsection (3) of this section without requesting the director at least two days before the designated time to change the time and place for the hearing, except that before an order of the director becomes final, the director may designate a different time and place for the hearing if the permitholder shows the director that the permitholder had a justifiable reason for not coming to the hearing and not timely requesting a change in the time and place for such hearing. If the permitholder waives the right to a hearing, the director shall make a final finding based upon the available information and issue an order. If the director has suspended a permit pursuant to subsection (4) of section 81-2,273, the director shall sustain, modify, or rescind the order.

(6) Any person aggrieved by the finding of the director shall have ten days from the entry of the director's order to request a new hearing if such person can show that a mistake of fact has been made which affected the director's determination. Any order of the director shall become final upon the expiration of ten days after its entry if no request for a new hearing is made.

**Sec. 11.** Section 81-2,277, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,277 Food processing plants and salvage operations shall comply with the federal Current Good Manufacturing Practice ~~In Manufacturing, Packing, or Holding Human Food~~ adopted in section 81-2,259.

**Sec. 12.** Section 89-186, Reissue Revised Statutes of Nebraska, is amended to read:

89-186 (1) The Legislature hereby adopts by reference the following:

(a) The standards of the National Conference on Weights and Measures published in National Institute of Standards and Technology Handbook 44 entitled Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices as it existed on January 1, 2025 ~~2019~~, except Section 3.31. Vehicle - Tank meters. UR.2.2. Ticket Printer, Customer Ticket, Section 2.20. Scales, N.3. Minimum Test Weights and Test Loads; and Table 4, are not adopted. In addition to the language found in Section 3.30. Liquid-Measuring Devices, S.1.6.4., S.1.6.5., UR.3.2., and UR.3.3. of such handbook, any computing device in which a product or grade is offered for sale at more than one unit price may also compute at the lowest possible unit price for such transaction. All prices shall still be displayed or posted on the face of the dispenser. Such handbook shall govern all commercial and law enforcement weighing and measuring devices in the state;

(b) The Uniform Regulation for the Method of Sale of Commodities of the National Conference on Weights and Measures published in National Institute of Standards and Technology Handbook 130 entitled Uniform Laws and Regulations in the Areas of Legal Metrology and Engine Fuel Quality as it existed on January 1, 2025 ~~2019~~. Such handbook shall be used to determine the proper units of measurement to be used in the keeping for sale or sale of commodities;

(c) The Uniform Packaging and Labeling Regulation of the National Conference on Weights and Measures published in National Institute of Standards and Technology Handbook 130 entitled Uniform Laws and Regulations in the Areas of Legal Metrology and Engine Fuel Quality as it existed on January 1, 2025 ~~2019~~. Such handbook shall govern the packaging and labeling by weight, measure, or count of commodities kept for sale or sold in this state; and

(d) The procedures designated in National Institute of Standards and Technology Handbook 133 entitled Checking the Net Contents of Packaged Goods as

it existed on January 1, ~~2025~~ 2019.

(2) Copies of the handbooks adopted by reference in this section shall be filed with the Secretary of State, Clerk of the Legislature, and Department of Agriculture. Copies filed with the Clerk of the Legislature shall be filed electronically.

(3) Whenever there exists an inconsistency between the provisions of the Weights and Measures Act other than this section and any of the handbooks adopted by reference, the requirements of such provisions of the act shall control.

**Sec. 13.** Section 89-187, Reissue Revised Statutes of Nebraska, is amended to read:

89-187 For purposes of administering and enforcing the Weights and Measures Act, the director is authorized to:

(1) Maintain traceability of the primary standards to the National Institute of Standards and Technology;

(2) Enforce the provisions of the Weights and Measures Act;

(3) Adopt and promulgate reasonable rules and regulations for the enforcement of the act including the following:

(a) Requirements for the voluntary registration of sales and repair personnel for commercial weighing and measuring devices including:

(i) Registration fees for such personnel which shall not exceed the actual cost to defray the operation of the voluntary registration program;

(ii)(A) Qualifications for registration, which may include examinations, (B) performance standards to maintain registration, (C) types of equipment necessary for the work to be performed by the personnel, (D) responsibilities and privileges of registration, and (E) revocation and suspension of such registration and probation of the registrant; and

(iii) Minimum standards for the installation and maintenance of commercial weighing and measuring devices;

(b) Additional standards not specifically provided for in the act;

(c) Standards for (i) attachments or parts entering into the construction or installation of commercial weighing and measuring devices which shall tend to secure correct results in the use of such devices and (ii) the setting of laboratory fees which shall not exceed the actual cost for testing, correcting, calibrating, and verifying secondary standards and the establishment of standard laboratory operating procedures;

(d) Requirements for the suitable use of commercial weighing and measuring devices; and

(e) Guidelines for the appropriate method of weighing or measuring whenever the director determines that such guidelines would further the purpose of the act;

(4) Establish standards of weight, measure, or count, reasonable standards of fill, and standards for the presentation of cost-per-unit information for any commodity;

(5) Upon an application filed with the department by the applicant, grant exemptions, including specific exemptions for single-use commercial weighing and measuring devices, from the provisions of the act or the rules and regulations when the applicant on such application provides assurances, acceptable to the director, that such exemption is appropriate to the maintenance of good commercial practices within the state. Notwithstanding any other provision of the act, meters used by a public utility system for the measurement of electricity, natural or manufactured gas, water, or the usage of communication services, the appliances or accessories associated with such meters, and all weighing and measuring devices inspected or tested by the Public Service Commission shall be exempt from the registration, inspection, and testing requirements of the act, except that this exemption shall not apply to meters which determine the weight or measurement of motor fuel;

(6) Conduct investigations to insure compliance with the act;

(7) Delegate to appropriate personnel any of these responsibilities for the proper administration of the director's office;

(8) In his or her discretion, inspect and test weighing and measuring devices kept for sale or sold;

(9) Inspect and test annually and from time to time, as in the director's judgment seems necessary, to ascertain whether commercial weighing and measuring devices are correct;

(10) Register and test as far as practical all commercial weighing and measuring devices used in checking the receipt or disbursement of supplies in every institution for which funds are appropriated by the Legislature;

(11) Test annually and at the request of the Nebraska State Patrol all weighing and measuring devices used for the enforcement of sections 60-3,144, 60-3,147, and 60-6,294. The agency responsible for such weighing and measuring devices shall pay the department for the actual cost of such tests. The department shall bill test fees to such agency upon completion of the test;

(12) Approve for use and may mark commercial weighing and measuring devices which the director finds to be correct and shall reject and mark or tag as rejected such commercial weighing and measuring devices which the director finds to be not correct or not registered and inspected in accordance with the Weights and Measures Act. Commercial weighing and measuring devices that have been rejected may be seized if not made correct within the time specified or if used or disposed of in a manner not specifically authorized. The director shall condemn and may seize commercial weighing and measuring devices which are found not to be correct and not capable of being made correct;

(13) Weigh, measure, or inspect commodities kept for sale, sold, or in the

process of delivery to determine whether they contain the amounts represented and whether they are kept for sale or sold in accordance with the act or the rules and regulations. When commodities are found not to contain the amounts represented or are found to be kept for sale, sold, or in the process of delivery in violation of the act, the director may issue stop-sale, hold, or removal orders and may mark or tag such commodities as being in violation of the act. In carrying out the provisions of this section, the director shall employ recognized procedures pursuant to subdivisions (1)(b) through (d) of section 89-186;

(14) Provide for the weights and measures training of inspection personnel and adopt and promulgate by rule and regulation minimum training requirements which shall be met by all inspection personnel;

(15) Adopt and promulgate rules and regulations prescribing the appropriate term or unit of measurement to be used whenever the director determines in the case of a specific commodity that an existing practice of declaring the quantity by weight, measure, numerical count, or combination thereof does not facilitate value comparisons by consumers or offers an opportunity for consumer confusion;

(16) Allow reasonable variations from the stated quantity of contents which shall include those caused by loss or gain of moisture during the course of good distribution practice or by unavoidable deviations in good manufacturing practice only after the commodity has entered intrastate commerce;

(17) Verify advertised prices, price representations, and point-of-sale systems, as deemed necessary, to determine: (a) The accuracy of prices, quantity, and computations; (b) the correct use of the equipment; and (c) if such systems utilize scanning or coding means in lieu of manual entry, the accuracy of prices and quantity printed or recalled from a database;

(18) On or before July 1 of each year, notify all persons who have registered any commercial weighing or measuring device of the amount of fees which are due and that the fees are due on August 1 and shall be delinquent after such date;

(19) Require all persons who operate a weighing and measuring establishment to obtain a permit to operate such establishment pursuant to section 89-187.01 and to pay to the department an application permit fee pursuant to section 89-187.02;

(20) Require all persons who operate a weighing and measuring establishment to, on or before August 1 of each year:

(a) Register each commercial weighing and measuring device with the department upon forms furnished by the director;

(b) Pay to the department a registration fee of four dollars; and

(c) Pay to the department a device inspection fee.

(i) The device inspection fee shall be due each August 1 and shall be set by the director on or before July 1 of each year. The director may raise or lower the device inspection fees each year to meet the criteria in this subdivision, but the fee shall not be greater than the amount in column B of subdivision (20)(c)(ii) of this section. The same percentage shall be applied to each device category for all device inspection fee increases or decreases to the nearest one-half dollar. The director shall use the amounts in column A of subdivision (20)(c)(ii) of this section as a base for future fee increases or decreases. The director shall determine the fees based on the estimated annual revenue and fiscal year-end cash fund balances as follows:

(A) The estimated annual revenue shall not be greater than one hundred seven percent of program cash fund appropriations allocated for the Weights and Measures Act; and

(B) The estimated fiscal year-end cash fund balance shall not be greater than seventeen percent of program cash fund appropriations allocated for the act.

(ii)

Scales:	A	B
<u>Up through 35 pounds capacity</u>	<u>15.00</u>	<u>20.00</u>
<del>Up through 35 pounds capacity</del>	<del>7.96</del>	<del>14.34</del>
<u>Multiunit Scales</u>	<u>84.00</u>	<u>114.00</u>
<del>Multiunit Scales</del>	<del>51.00</del>	<del>80.37</del>
<u>Over 35 through 1,000 pounds capacity</u>	<u>27.00</u>	<u>36.00</u>
<del>Over 35 through 1,000 pounds capacity</del>	<del>15.13</del>	<del>25.35</del>
<u>Over 1,000 through 4,000 pounds capacity</u>	<u>54.00</u>	<u>72.00</u>
<del>Over 1,000 through 4,000 pounds capacity</del>	<del>31.87</del>	<del>51.03</del>
<u>Over 4,000 through 50,000 pounds capacity</u>	<u>61.00</u>	<u>83.00</u>
<del>Over 4,000 through 50,000 pounds capacity</del>	<del>36.65</del>	<del>58.36</del>

LB245		LB245
2025		2025
<u>Over 50,000 through 150,000 pounds capacity</u>	<u>65.00</u>	<u>88.00</u>
<del>Over 50,000 through 150,000 pounds capacity</del>	<del>39.04</del>	<del>62.03</del>
<u>Over 150,000 pounds capacity</u>	<u>142.00</u>	<u>192.00</u>
<del>Over 150,000 pounds capacity</del>	<del>86.87</del>	<del>135.40</del>
Length Measuring Devices:		
<u>Cordage or fabric</u>	<u>29.00</u>	<u>40.00</u>
<del>Cordage or fabric</del>	<del>16.56</del>	<del>27.55</del>
Pumps:		
Service Station Dispensers—per		
<u>measuring element</u>	<u>10.00</u>	<u>14.00</u>
<del>measuring element</del>	<del>5.09</del>	<del>9.94</del>
High-capacity service station		
dispensers over 20 gallons per		
<u>minute—per dispensing element</u>	<u>30.00</u>	<u>41.00</u>
<del>minute—per dispensing element</del>	<del>17.52</del>	<del>29.02</del>
Compressed natural gas—per		
<u>dispensing element</u>	<u>150.00</u>	<u>202.00</u>
<del>dispensing element</del>	<del>91.65</del>	<del>142.74</del>
Meters:		
<u>Vehicle tank meters</u>	<u>25.00</u>	<u>34.00</u>
<del>Vehicle tank meters</del>	<del>14.17</del>	<del>23.88</del>
<u>Loading rack meters</u>	<u>54.00</u>	<u>72.00</u>
<del>Loading rack meters</del>	<del>31.87</del>	<del>51.03</del>
<u>Liquid petroleum gas meters</u>	<u>67.00</u>	<u>90.00</u>
<del>Liquid petroleum gas meters</del>	<del>40.00</del>	<del>63.50</del>
<u>Liquid fertilizer and herbicide meters</u>	<u>61.00</u>	<u>83.00</u>
<del>Liquid fertilizer and herbicide meters</del>	<del>36.65</del>	<del>58.36</del>
<u>Liquid feed meters</u>	<u>61.00</u>	<u>83.00</u>
<del>Liquid feed meters</del>	<del>36.65</del>	<del>58.36</del>
<u>Cryogenic</u>	<u>88.00</u>	<u>119.00</u>
<del>Cryogenic</del>	<del>53.39</del>	<del>84.04</del>
Mass Flow Metering Systems:		
<u>Mass flow meters (all liquid)</u>	<u>128.00</u>	<u>173.00;</u>
<del>Mass flow meters (all liquid)</del>	<del>78.26</del>	<del>122.19;</del>

and

(21) Require persons delinquent under subdivision (20) of this section to pay an administrative fee of fifty ~~twenty-five~~ percent of the annual fees due for each month any such fees are delinquent not to exceed one hundred percent of such fees. Such administrative fees paid shall be in addition to the annual fees due. The purpose of the additional administrative fee is to cover the administrative costs associated with collecting fees. All money collected as an additional administrative fee shall be remitted to the State Treasurer for credit to the Weights and Measures Administrative Fund. If any fee remains unpaid at the end of the ninetieth day after the original due date for such fee, the weighing and measuring establishment permit relating to such fee is



void.

**Sec. 14.** Section 89-187.02, Reissue Revised Statutes of Nebraska, is amended to read:

89-187.02 Application for a permit to operate a weighing and measuring establishment shall be made to the director on forms prescribed and furnished by the department. Such application shall include the full name and mailing address of the applicant; the names and addresses of any partners, members, or corporate officers; the name and address of the person authorized by the applicant to receive notices and orders of the department as provided in the Weights and Measures Act; whether the applicant is an individual, partnership, limited liability company, corporation, or other legal entity; and the location and type of all commercial weighing and measuring devices. An application for a permit shall be made prior to the operation of a weighing and measuring establishment. The application shall be accompanied by ~~a one-time permit fee of five dollars~~ and the annual device registration and ~~device inspection~~ fees required in section 89-187. The full annual device registration and device inspection fees are required regardless of when during the year the device is put into operation.

**Sec. 15.** Section 89-187.05, Reissue Revised Statutes of Nebraska, is amended to read:

89-187.05 (1) A weighing and measuring establishment which has a permanent location for commercial weighing and measuring devices shall have a valid permit posted in a conspicuous place at the establishment, and there shall not be a change in ownership, location, or business name without the permitholder obtaining a new permit. Any permit for such establishment shall lapse automatically upon a change of ownership, location, or business name.

(2) A weighing and measuring establishment which does not have a permanent location for commercial weighing and measuring devices shall have a copy of a valid permit posted on or about each device and shall not have a change in ownership, business name, or permanent mailing address without the permitholder obtaining a new permit. Any permit for such establishment shall lapse automatically upon a change of ownership, business name, or permanent mailing address.

(3) The holder of any weighing and measuring establishment permit shall notify the department in writing at least thirty days prior to any change requiring a new permit under subsection (1) or (2) of this section. A permitholder shall notify the department in writing before there is a change of the name or address of the person authorized to receive notices and orders of the department. ~~When an establishment is to be permanently closed, the permitholder shall return the permit to the department within one week after the closing.~~

**Sec. 16.** Original sections 81-2,239, 81-2,244.01, 81-2,245.01, 81-2,254, 81-2,257, 81-2,259, 81-2,268, 81-2,270, 81-2,271, 81-2,274, 81-2,277, 89-186, 89-187, 89-187.02, and 89-187.05, Reissue Revised Statutes of Nebraska, are repealed.

**Sec. 17.** The following sections are outright repealed: Sections 81-2,272.01, 81-2,272.10, 81-2,272.24, and 81-2,272.32, Reissue Revised Statutes of Nebraska.

**Sec. 18.** Since an emergency exists, this act takes effect when passed and approved according to law.