

**ONE HUNDRED FIFTH LEGISLATURE - FIRST SESSION - 2017**  
**CORRECTED COMMITTEE STATEMENT**  
**LB134**

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**Hearing Date:** Tuesday January 17, 2017  
**Committee On:** Agriculture  
**Introducer:** Brasch  
**One Liner:** Change provisions of the Nebraska Pure Food Act as prescribed and repeal the Nebraska Graded Egg Act and terminate the Graded Egg Fund

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File

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**Vote Results:**

<b>Aye:</b>	6	Senators Albrecht, Blood, Brasch, Halloran, Harr, Lowe
<b>Nay:</b>		
<b>Absent:</b>	1	Senator Chambers
<b>Present Not Voting:</b>	1	Senator Krist

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**Verbal Testimony:**

**Proponents:**

Rick Leonard  
Greg Ibach  
Melva Ball  
Kathy Siefken  
Jim Partington  
John Hansen

**Representing:**

Introducer, Research Analyst  
Nebraska Department of Agriculture  
Nebraska Department of Agriculture  
Nebraska Grocery Industry Association  
Nebraska Restaurant Association  
Nebraska Farmers Union

**Opponents:**

**Representing:**

**Neutral:**

**Representing:**

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**Summary of purpose and/or changes:**

LB 134 outright repeals the Nebraska Graded Egg Act but expands authorities of the Department of Agriculture under the Nebraska Pure Food Act to promulgate any necessary regulatory standards governing those who provide eggs for human consumption. The bill makes other revisions to the Pure Food Act to strengthen the Department's general inspection authority, to clarify a fee schedule for food delivery services and applicability of other Pure Food Act standards to food delivery services, and to make other minor clarifications.

Repeal Graded Egg Act:

Section 16 of LB 134 outright repeals the Graded Egg Act (sections 2-3501 to 2-3525). In conjunction with repeal of the Graded Egg Act, LB 134 makes the following changes within the Pure Food Act and conforming changes elsewhere in state law:

-- Inserts a new section into the Pure Food Act (LB 134 Section 8) assigning a duty to persons packing, selling or otherwise providing eggs for human consumption to comply with applicable packaging utilizing a packer ID # assigned by the USDA or the Department.

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-- Sections 81-2,270(8) of the Pure Food Act currently excludes persons licensed under the Graded Egg Act from the permit and annual inspection and permit fee requirements applicable to food establishments set forth in subsections 1-6 of this section. With repeal of the Graded Egg Act, this exclusion becomes obsolete and is stricken. LB 134 would continue to exempt from the permit and fee requirements of this section a) egg producers whose only food establishment activity is the handling and sale for human consumption of their own egg production, b) those whose food establishment activity is limited to handling and selling eggs for human consumption sources from no more than four producers, and c) until August 1, 2018, any current holder of a valid egg handler license under the Graded Egg Act. For purposes of this latter exclusion, section 3 of the bill inserts "egg handler" as a new defined term. Its definition mirrors the description of those currently subject to, or exempt from, licensure under the Graded Egg Act.

-- Conforming or harmonizing revisions due to the outright repeal of sections 2-2521 (Graded Egg Cash Fund) are made as appropriate elsewhere in state statutes as follows:

---- Section 13 inserts a new section directing the State Treasurer to transfer any remaining funds in the Graded Egg Act to the Pure Food Cash Fund upon the effective date of the Act. (The Graded Egg Act Cash Fund ceases to exist with the outright repeal of the Graded Egg Act).

---- Section 14 strikes a reference to the Graded Egg Act Cash Fund from cash fund expenditure authority provided by sections 99-538.

#### Food Delivery Services:

LB 134 inserts "food delivery services" as a new defined term for the purposes of the Pure Food act (Section 4). A food delivery service is defined as an operation that falls within the definition of food establishment only by virtue of delivering food to a final consumer through home delivery drivers or contract carriers. (Delivery services do not prepare, store or otherwise handle food). The insertion of "food delivery service" as a defined term in effect distinguishes food delivery services as a category of food establishments for the following purposes elsewhere within the Pure Food Act:

-- Sets forth food delivery service as a distinct subcategory of food establishment for purposes of the annual license and inspection fee schedule in sections 81-2,270 (Section 7). Food delivery services is added as a distinct fee category in the fee table within within sections 81,2,270(4)(b). Currently, food delivery services are included within the "all other food establishments" category. The resulting fee would reduce the annual inspection fee from a statutory maximum of \$120.64 to \$17.23.

-- Clarifying the requirements of a food delivery service under sections 81-2,271, which assigns a duty to food establishments to display a copy of their permit to operate a food establishment on the premises. LB 134 (Section 9) is amended to require that the permit be displayed at the business' contact location.

-- Adding food delivery services to the types of food establishments for which standards for water service and toilet facilities under sections 81-2,272.31 are not applicable.

#### Food Act Enforcement Authority

Section 11 amends sections 81-2,281 of the Pure Food act which currently authorizes the Department to delegate certain Pure Food Act functions to qualified political subdivisions or other state agencies and states standards and inspection authorities for delegated activities performed by such entities acting as regulatory authorities for Pure Food Act purposes. LB 134 inserts what becomes new subsection (1) enumerating express authorities of the Department of Agriculture with respect to inspection, as follows:

-- To enter or examine property of food establishments, processing plants or salvage operations including associated

structures, vehicles, equipment, containers, and records. Such entry shall be at a reasonable time and shall not be subject to actions for trespass or damage provided the Department exercises reasonable care

- To hold food for inspection and sampling suspected of non-compliance
- To inspect food in transport through the state and to take any enforcement action
- To obtain an inspection warrant.

Miscellaneous:

Rewrites for clarity the exemption of persons regulated under the Nebraska Milk Act from the permit and inspection fee requirements of the Pure Food Act.

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Lydia Brasch, Chairperson