
A BILL FOR AN ACT

RELATING TO HEALTH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that more than thirty-
2 five thousand Hawaii households are food insecure and receive
3 food assistance through nonprofit organizations and government
4 programs. These households include tens of thousands of the
5 State's most vulnerable residents: children and seniors.
6 Despite the high level of food insecurity, Hawaii businesses and
7 residents discard more than 237,000 tons of food waste annually.

8 The legislature further finds that the Bill Emerson Good
9 Samaritan Act was passed by the United States Congress in 1996
10 to encourage the donation of food that would otherwise go to
11 waste by protecting good faith food donors from civil and
12 criminal liability. Extending similar liability protections to
13 good faith food donors in Hawaii will discourage food waste and
14 encourage food donation to needy recipients.

15 The purpose of this Act is to:

16 (1) Require that education about food donation liability
17 protections be made a part of the health inspection



1 process so that food establishments are aware of these
2 provisions;

3 (2) Allow the donation of expired food when the donor
4 makes a good faith judgment that the food is
5 unspoiled; and

6 (3) Clarify and expand liability protections for good-
7 faith food donors.

8 SECTION 2. Chapter 321, Hawaii Revised Statutes, is
9 amended by adding a new section to part I to be appropriately
10 designated and to read as follows:

11 "§321- Promotion of food donation. The inspection of
12 food establishments pursuant to this chapter shall include
13 educating owners, managers, or appropriate agents of food
14 establishments on the existence and operation of chapter 145D.
15 The department shall publish and distribute to food
16 establishments materials that include an explanation of the
17 exceptions to liability in section 145D-2."

18 SECTION 3. Section 145D-2, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "[~~f~~]§145D-2[~~}]~~ **Exceptions to liability.** (a) Any donor of
21 food products, who in good faith donates the food [~~for~~]:



1 (1) Directly; or

2 (2) For the use or distribution by a charitable,
3 religious, or nonprofit organization, or government
4 entity;

5 to needy persons shall not be liable for any civil damages or
6 criminal penalties for any injuries or illnesses including, but
7 not limited to injuries or illnesses resulting from the nature,
8 age, condition, packaging, or handling of the donated food
9 products, except for [~~such~~] damages [~~as may~~] that result from
10 the donor's gross negligence or wanton acts or omissions.

11 (b) A charitable, religious, or nonprofit organization
12 [~~which~~], or government entity that, pursuant to subsection (a),
13 in good faith receives food, apparently fit for human
14 consumption, and distributes it to needy persons at no charge,
15 shall not be liable for any civil damages or criminal penalties
16 resulting from the condition of the food unless an injury or
17 illness results from its gross negligence, or wanton acts or
18 omissions.

19 (c) This section shall not relieve any organization or
20 government entity from any other duty imposed [~~upon them~~] by law



1 for the inspection of donated food products or for any
2 provisions regarding the handling of [~~such~~] those products.

3 (d) The exceptions to liability specified in subsection

4 (a) shall include:

5 (1) The donation of perishable or nonperishable food that
6 has exceeded the labeled shelf life date recommended
7 by the manufacturer; and

8 (2) The donation of farm produce, including where the
9 needy person is directly involved in the harvest of
10 the donated food;

11 provided that the donor that donates, or the organization or
12 government entity that distributes, the food in good faith to
13 the needy person reasonably believes that the food is fit for
14 human consumption.

15 As used in this section, "farm produce" means all
16 agricultural, horticultural, and vegetable produce of the soil,
17 poultry, poultry products, livestock, and livestock products,
18 but shall not include timber or timber products."

19 SECTION 4. Section 663-10.6, Hawaii Revised Statutes, is
20 amended by amending subsections (a) and (b) to read as follows:



1 "(a) Any charitable or nonprofit organization that in good
2 faith provides shelter or proper means of subsistence to needy
3 persons as part of its bona fide and customary charitable
4 activities, rendered without remuneration or expectation of
5 remuneration, shall be exempt from civil liability for injuries
6 and damages resulting from the organization's acts or omissions
7 in providing [~~such~~] the shelter or subsistence, except for gross
8 negligence or wanton acts or omissions of the organization.

9 (b) Any [~~person~~] donor who donates goods, [~~food,~~]
10 materials, or services [~~to~~]:

11 (1) Directly to a needy person; or

12 (2) To a charitable or nonprofit organization described in
13 subsection (a);

14 shall be exempt from civil liability for injuries and damages
15 resulting from the donation, except for gross negligence or
16 wanton acts or omissions."

17 SECTION 5. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun before its effective date.

20 SECTION 6. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



H.B. NO. 675

1 SECTION 7. This Act shall take effect on January 1, 2020.

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INTRODUCED BY:

John M. ...
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Calvin K. ...
JAN 18 2019



H.B. NO. 675

Report Title:

Food Donation; Liability Protection; DOH

Description:

Requires the Department of Health to educate food establishments about liability protections. Expands liability protection for donors to include donations of food and similar donations made directly to needy persons. Authorizes the donation of expired food when the donor believes in good faith that the food remains fit for human consumption.

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