

---

---

# A BILL FOR AN ACT

RELATING TO FOOD DONATION.

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

1           SECTION 1. The legislature finds that more than ten per  
2 cent of Hawaii residents, including tens of thousands of  
3 children and seniors, are food insecure and receive food  
4 assistance through nonprofit organizations and government  
5 programs. Despite high levels of food insecurity, Hawaii  
6 businesses and residents discard more than 237,000 tons of food  
7 waste per year.

8           The legislature further finds that approximately twenty-six  
9 per cent of food grown in or imported to Hawaii is thrown away,  
10 amounting to approximately \$1,000,000,000 in annual food waste.  
11 Worldwide, an estimated one-third of the food raised or prepared  
12 goes to waste, despite more than eight hundred million people  
13 worldwide experiencing hunger.

14           The legislature recognizes that food production is a direct  
15 contributor to local and global climate change. Food production  
16 requires energy, fertilizer, irrigation, livestock feed, and  
17 other resources that contribute to greenhouse gas emissions and



1 add pollutants to the environment. Food waste entering  
2 landfills creates methane gas, a greenhouse gas that is eighty-  
3 four times more potent than carbon dioxide. Worldwide, wasted  
4 food accounts for approximately eight per cent of all human-  
5 based greenhouse gas emissions.

6 The Bill Emerson Good Samaritan Food Donation Act was  
7 passed by the United States Congress in 1996 to protect good-  
8 faith food donors from civil and criminal liability and to  
9 encourage the donation of food that would otherwise go to waste.  
10 Despite these protections, much of the wholesome surplus food in  
11 Hawaii and in other states is discarded instead of donated. A  
12 California survey found that forty-four per cent of  
13 manufacturers, forty-one per cent of restaurants, and twenty-  
14 five per cent of retailers identified fear of liability as their  
15 primary barrier to donating surplus food.

16 The purpose of this Act is to discourage food waste and  
17 encourage food donation to needy recipients by:

18 (1) Requiring that education about food donation liability  
19 protections be made a part of the health inspection  
20 process so that food establishments are aware of these  
21 provisions; and



1 (2) Allowing the donation of perishable and nonperishable  
 2 food from institutions that comply with commercial  
 3 food safety requirements if the donor reasonably  
 4 believes that the food is fit for human consumption.

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

8 "§321- Promotion of food donation. The inspection of  
 9 food establishments pursuant to this chapter shall include  
 10 education of the establishments' owners, managers, or  
 11 appropriate agents on the existence and operation of chapter  
 12 145D. The department shall publish and distribute to food  
 13 establishments materials that explain the exceptions to  
 14 liability in section 145D-2."

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

17 "[+] §145D-2 [+] **Exceptions to liability.** (a) Any donor of  
 18 food products, who in good faith donates the food for the use or  
 19 distribution by a charitable, religious, or nonprofit  
 20 organization to needy persons shall not be liable for any civil  
 21 damages or criminal penalties for any injuries or illnesses



1 including, but not limited to, injuries or illnesses resulting  
2 from the nature, age, condition, packaging, or handling of the  
3 donated food products, except for [~~sueh~~] damages [~~as may~~] that  
4 result from the donor's gross negligence or wanton acts or  
5 omissions.

6 (b) A charitable, religious, or nonprofit organization  
7 [~~which in good faith~~] that receives food[7] pursuant to  
8 subsection (a) that is apparently fit for human consumption[7]  
9 and distributes it in good faith to needy persons at no charge,  
10 shall not be liable for any civil damages or criminal penalties  
11 resulting from the condition of the food unless an injury or  
12 illness results from its gross negligence[7] or wanton acts or  
13 omissions.

14 (c) This section shall not relieve any organization from  
15 any other duty imposed [~~upon them~~] by law for the inspection of  
16 donated food products or for any provisions regarding the  
17 handling of [~~sueh~~] those products.

18 (d) The exception to liability specified in subsection (a)  
19 shall include the donation of perishable or nonperishable food  
20 from institutions that comply with commercial food safety



1 requirements; provided that the good-faith donor or distributor  
2 reasonably believes that the food is fit for human consumption."

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

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

13 (b) Any [~~person~~] donor who donates goods, [~~feed,~~]  
14 materials, or services to a charitable or nonprofit organization  
15 described in subsection (a) shall be exempt from civil liability  
16 for injuries and damages resulting from the donation, except for  
17 gross negligence or wanton acts or omissions."

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



1 SECTION 6. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 7. This Act shall take effect on July 1, 2050.



**Report Title:**

Food Donation; Charitable Donations; Liability Protection

**Description:**

Exempts donations of perishable and nonperishable food from institutions that comply with commercial food safety requirements when the donor believes in good faith that the food remains fit for human consumption from liability risk. Includes education about exemption from food donation liability in the health inspection process. (HB854 HD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

