
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 shorter lived greenhouse gas
3 than carbon dioxide but which is eighty-four times more potent
4 than carbon dioxide in the two decades after its release.
5 Worldwide, wasted food accounts for approximately eight per cent
6 of all human-based greenhouse gas emissions.

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

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

19 (1) Requiring education about food donation liability
20 protections to be made a part of the health inspection



1 process, for purposes of educating food
 2 establishments; and
 3 (2) Allowing the donation of perishable and nonperishable
 4 food from institutions that comply with commercial
 5 food safety requirements if the donor or distributor
 6 reasonably believes that the food is fit for human
 7 consumption.

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 education of the establishments' owners, managers, or
 14 appropriate agents on the existence and operation of chapter
 15 145D. The department shall publish and distribute to food
 16 establishments materials that explain the exceptions to
 17 liability in section 145D-2."

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

20 "[+]§145D-2[+] Exceptions to liability. (a) Any donor of
 21 food products, who in good faith donates the food for the use or



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

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

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



1 (d) The exception to liability specified in subsection (a)
2 shall include the donation of perishable or nonperishable food
3 from institutions that comply with commercial food safety
4 requirements; provided that the good-faith donor or distributor
5 reasonably believes that the food is fit for human consumption."

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

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

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



1 SECTION 5. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 6. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 7. This Act shall take effect on July 1, 2019.



Report Title:

Food Donation; Charitable Donations; Liability Protection

Description:

Includes education about exemption from food donation liability in the health inspection process for food establishments. Provides an exception from liability for good-faith donors and distributors of perishable and nonperishable food who comply with commercial food safety requirements and reasonably believe that the food is fit for human consumption. (SD1)

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