
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 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, in spite of existing
16 liability protections.

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

19 (1) Clarifying and expanding liability protections for
20 good-faith food donors;



(2) Allowing the donation of expired food when the donor makes a good-faith judgment that the food is unspoiled; and

(3) Allowing for the education of potential donors on reasonable and safe food donation protocols.

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

"§321- Promotion of food donation. The inspection of food establishments pursuant to this chapter shall include education of food establishment owners, managers, or appropriate agents of potential donors on reasonable and safe food donation protocols."

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

"[~~§~~145D-2(~~1~~)] Exceptions to liability. (a) Any donor of food products, who in good faith donates the food for the use or distribution by a charitable, religious, or nonprofit organization to needy persons shall not be liable for any civil damages or criminal penalties for any injuries or illnesses including, but not limited to, injuries or illnesses resulting



1 from the nature, age, condition, packaging, or handling of the
2 donated food products, except [~~such~~] damages [~~as may~~] that
3 result from the donor's gross negligence or wanton acts or
4 omissions.

5 (b) A charitable, religious, or nonprofit organization
6 [~~which in good faith receives~~] that:

7 (1) Receives food[~~τ~~] pursuant to subsection (a) that is
8 apparently fit for human consumption[~~τ~~]; and
9 [~~distributes it~~]

10 (2) Distributes the food in good faith to needy persons at
11 no charge,

12 shall not be liable for any civil damages or criminal penalties
13 resulting from the condition of the food unless an injury or
14 illness results from its gross negligence, or wanton acts or
15 omissions.

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

20 (d) The exceptions to liability specified in subsection

21 (a) shall include:



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

4 (2) The donation of farm produce, including where the
5 needy person is directly involved in the harvest of
6 the donated food; provided that the good-faith donor
7 or distributor reasonably believes that the food is
8 fit for human consumption.

9 For the purposes of this section:

10 "Donor" means any individual, food vendor, food
11 manufacturer, food distributor, grocery or convenience store,
12 charitable or nonprofit organization, or government agency that
13 donates food to hungry persons where the food in question has
14 been prepared and packaged in a facility meeting all relevant
15 food safety guidelines, certifications, and requirements and
16 having passed all food safety inspections.

17 "Farm produce" means all agricultural, horticultural, and
18 vegetable produce of the soil, but shall not include poultry,
19 poultry products, livestock and livestock products, aquaculture
20 and aquaculture products, and timber or timber products."



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

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

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

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

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

21 SECTION 7. This Act shall take effect upon its approval.



Report Title:

Food Donation; Charitable Donations; Liability Protection

Description:

Expands liability protection for donors to include donations of food and similar donations made to needy persons by organizations. Authorizes the donation of expired food when the donor reasonably believes in good faith that the food remains fit for human consumption. (SD1)

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