

§166. Immunity for certain food donations

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Canned food" means any food commercially processed and prepared for human consumption. [PL 1981, c. 300 (NEW).]

B. "Perishable food" means any food which may spoil or otherwise become unfit for human consumption because of its nature, type or physical condition. It includes, but is not limited to, fresh and processed meats, poultry, seafood, dairy products, bakery products, eggs in the shells, fresh fruits and vegetables and foods which have been packaged, refrigerated or frozen. [PL 1981, c. 300 (NEW).]
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2. Immunity for donor. Notwithstanding any other provision of law, a good faith donor of canned or perishable food, which is apparently fit for human consumption at the time it is donated, to a bona fide charitable or not-for-profit organization for free distribution, is immune from civil liability arising from injury or death due to the condition of the food, unless the injury or death is a direct result of the gross negligence, recklessness or intentional misconduct of the donor. [PL 1981, c. 300 (NEW).]

3. Immunity of distributor. Notwithstanding any other provision of law, a bona fide charitable or not-for-profit organization and any employee or volunteer of that organization who in good faith receive and distribute food, which is apparently fit for human consumption at the time it is distributed, without charge, are immune from civil liability arising from an injury or death due to the condition of the food, unless the injury or death is a direct result of the gross negligence, recklessness or intentional misconduct of the organization. [PL 1981, c. 300 (NEW).]

4. Application. This section applies to all good faith donations of perishable food that is not readily marketable due to appearance, freshness, grade, surplus or other conditions, including food that is beyond the date by which the manufacturer recommends that the food be sold, but nothing in this section restricts the authority of any appropriate agency to regulate or bar the use of that food for human consumption. [PL 2009, c. 168, §1 (AMD).]

5. Immunity of facilities and establishments. Notwithstanding any other provision of law, a hospital or other health care facility licensed by the Department of Health and Human Services, or an eating establishment licensed under Title 22, chapter 562 that, in good faith and in accordance with guidelines established by the recipient organization, donates food that is apparently fit for human consumption at the time it is donated to a bona fide charitable or nonprofit organization for free distribution is immune from civil liability arising from injury, illness or death due to the condition or content of the food, unless the injury, illness or death is a direct result of intentional misconduct of the donor. Nothing in this subsection prevents a licensed hospital, health care facility or eating establishment from receiving the immunity provided in subsection 2 if the donor qualifies for immunity under the terms of that subsection. [PL 1991, c. 739, §1 (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

SECTION HISTORY

PL 1981, c. 300 (NEW). PL 1991, c. 739, §1 (AMD). PL 2003, c. 689, §B6 (REV). PL 2009, c. 168, §1 (AMD).

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