

2018 -- S 2589

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO FOOD AND DRUGS - FOOD DONATIONS

Introduced By: Senators Lombardi, Nesselbush, Lynch Prata, Ciccone, and Conley

Date Introduced: March 01, 2018

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 21-34-1, 21-34-2 and 21-34-3 of the General Laws in Chapter 21-
2 34 entitled "Food Donations" are hereby repealed.

3 ~~21-34-1. Immunity from liability for food donors.~~

4 ~~A person, or organization including, but not limited to, a farmer, a processor, distributor,~~
5 ~~wholesaler, or retailer of food, or restaurant, or accredited culinary arts school, who in good faith~~
6 ~~donates food, including surplus, prepared food that has been maintained at a safe temperature,~~
7 ~~which appears to be fit for human consumption at the time it is donated to a bona fide charitable~~
8 ~~or nonprofit organization for the use or distribution to the needy shall not be liable for civil~~
9 ~~damages or criminal penalties for any injury or illness resulting from the nature, age, condition, or~~
10 ~~packaging of the donated food unless the injury or illness is a direct result of the intentional~~
11 ~~misconduct or recklessness of the donor.~~

12 ~~21-34-2. Immunity from liability for distributors.~~

13 ~~A bona fide nonprofit or charitable organization which in good faith receives, prepares~~
14 ~~and distributes to the needy, without charge, food which appears to be fit for human consumption~~
15 ~~at the time it is distributed, including food prepared on the premises of the organization, shall not~~
16 ~~be liable for civil damages or criminal penalties for any injury or illness resulting from the nature,~~
17 ~~age, condition, or packaging of the food unless the injury or illness is a direct result of the~~
18 ~~intentional misconduct or recklessness of the organization.~~

19 ~~21-34-3. Authority of department of health not restricted.~~

1 ~~Nothing contained in this chapter is intended to restrict the authority of the department of~~
2 ~~health to regulate or ban the use of donated food.~~

3 SECTION 2. Title 21 of the General Laws entitled "FOOD AND DRUGS" is hereby
4 amended by adding thereto the following chapter:

5 CHAPTER 34.1

6 RHODE ISLAND FOOD DONATION ACT

7 **21-34.1-1. Short title.**

8 This chapter shall be known, and may be cited as "The Rhode Island Food Donation
9 Act."

10 **21-34.1-2. Definitions.**

11 For the purposes of this section:

12 (1) "Director" means director of department of health.

13 (2) "Enforcement officers" means authorized agents of the director responsible for
14 inspecting food, food establishments, dairies or foodborne disease outbreaks.

15 (3) "Food bank" means a surplus food collection and distribution system operated and
16 established to assist in bringing donated food to nonprofit charitable organizations and
17 individuals for the purposes of reducing hunger and supplying nutritional needs.

18 (4) "Food facility" means a food establishment that sells food for human consumption to
19 the general public.

20 (5) "Gleaner" means a person who harvests for free distribution to the needy, or for
21 donation to a nonprofit organization for ultimate distribution to the needy, an agricultural crop
22 that has been donated by the owner.

23 (6) "Person" means an individual, school, local educational agency, corporation,
24 partnership, limited liability company, organization, association, or governmental entity,
25 including a retail grocer, wholesaler, hotel, motel, manufacturer, restaurant, caterer, farmer, and
26 nonprofit food distributor or hospital. In the case of a corporation, partnership, organization,
27 association, or governmental entity, the term includes an officer, director, partner, manager or
28 managing member, deacon, trustee, council member, or other elected or appointed individual
29 responsible for the governance of the entity.

30 **21-34.1-3. Immunity from liability for food donors.**

31 (a) A person, gleaner, or food facility may donate food to a food bank or to any other
32 nonprofit charitable organization for distribution to persons free of charge. Food facilities may
33 donate food directly to end recipients for consumption.

34 (b) Except for injury resulting from gross negligence or intentional misconduct in the

1 preparation or handling of donated food, no person, gleaner, or food facility that donates food that
2 is fit for human consumption at the time it was donated to a nonprofit charitable organization or
3 food bank shall be liable for any damage or injury resulting from the consumption of the donated
4 food. Food facilities may donate food directly to end recipients for consumption.

5 (c) The immunity from civil liability provided by this chapter applies regardless of
6 compliance with any laws, regulations, or ordinances regulating the packaging or labeling of
7 food, and regardless of compliance with any laws, regulations, or ordinances regulating the
8 storage or handling of the food by the donee after the donation of the food. The donation of
9 nonperishable food that is fit for human consumption but that has exceeded the labeled shelf life
10 date recommended by the manufacturer is protected under the Rhode Island food donation act.
11 The donation of perishable food that is fit for human consumption but that has exceeded the
12 labeled shelf life date recommended by the manufacturer is protected under the Rhode Island
13 food donation act if the person that distributes the food to the end recipient makes a good faith
14 evaluation that the food to be donated is wholesome.

15 (d) A nonprofit charitable organization or a food bank that, in good faith, receives and
16 distributes food without charge that is fit for human consumption at the time it was distributed is
17 not liable for an injury or death due to the food unless the injury or death is a direct result of the
18 gross negligence or intentional misconduct of the organization.

19 (e) Nothing in this chapter shall be construed to limit the ability of a person, gleaner, or
20 food facility to donate food.

21 (f) A person or gleaner engaged in the business of processing, distributing, or selling an
22 agricultural product may donate, free of charge, a product that is in a condition that it may be
23 used as food for human consumption to a nonprofit charitable organization within the state. Food
24 facilities may donate food directly to end recipients for consumption. The donation of
25 nonperishable food that is fit for human consumption, but that has exceeded the labeled shelf life
26 date recommended by the manufacturer is protected under the Rhode Island food donation act.
27 The donation of perishable food that is fit for human consumption, but that has exceeded the
28 labeled shelf life date recommended by the manufacturer is protected under the Rhode Island
29 food donation act if the person that distributes the food to the end recipient makes a good faith
30 evaluation that the food to be donated is wholesome.

31 (g) To assist in accomplishing the purposes of this chapter, the director may redistribute
32 donated agricultural products to organizations operating pursuant to this chapter.

33 **21-34.1-4. Expiration dates.**

34 A person, gleaner, or food facility that donates food as permitted by law shall not be

1 subject to civil or criminal liability or penalty for violation of any laws, regulations, or ordinances
2 regulating the labeling or packaging of the donated product or, with respect to any other laws,
3 regulations, or ordinances, for a violation occurring after the time of the donation. The donation
4 of nonperishable food that is fit for human consumption but that has exceeded the labeled shelf
5 life date recommended by the manufacturer is protected under the Rhode Island food donation
6 act. The donation of perishable food that is fit for human consumption but that has exceeded the
7 labeled shelf life date recommended by the manufacturer is protected under the Rhode Island
8 food donation act if the person that distributes the food to the end recipient makes a good faith
9 evaluation that the food to be donated is wholesome.

10 **21-34.1-5. Public education.**

11 In implementing this chapter, enforcement officers shall promote the recovery of food fit
12 for human consumption during their normal, routine inspections. Promotion shall include, but not
13 be limited to, newsletters, bulletins, and handouts that inform retail food facility operators about
14 the protections from civil and criminal liability when donating food.

15 **21-34.1-6. Implementing rules and regulations.**

16 The director shall adopt rules and regulations to implement the provisions of this chapter.

17 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO FOOD AND DRUGS - FOOD DONATIONS

1 This act would repeal the current chapter 21-34 of the general laws regarding immunity
2 for food donors to food banks, and would adopt a new chapter 21-34.1 with comprehensive
3 immunity provisions for persons involved in donating food to food banks.

4 This act would take effect upon passage.

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