

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 664 Session of  
1995

INTRODUCED BY BAKER, CLARK, WAUGH, GEIST, STABACK, FLICK,  
RUBLEY, GODSHALL, MELIO, GRUPPO, PITTS, D. R. WRIGHT,  
FICHTER, SURRA, RUDY, ZUG, SCHRODER, NICKOL, HENNESSEY,  
PETRONE, STAIRS, HERMAN, SCRIMENTI, FLEAGLE, MILLER, HERSHEY,  
LYNCH, McCALL, READSHAW, E. Z. TAYLOR, NAILOR, TIGUE, BUNT,  
TRELLO, BELFANTI, YOUNGBLOOD, EGOLF, HUTCHINSON, SAYLOR,  
DeLUCA, CLYMER, MERRY, STERN, LAUGHLIN, FARGO, PETTIT,  
MARSICO, HESS, GRUITZA, CAPPABIANCA, CIVERA, PHILLIPS,  
B. SMITH, BARLEY, COLAIZZO, GANNON AND SCHULER,  
FEBRUARY 13, 1995

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
JANUARY 30, 1996

## AN ACT

1 Amending the act of July 10, 1981 (P.L.234, No.76), entitled "An  
2 act providing limited civil and criminal immunity to persons  
3 donating food to charitable or religious organizations for  
4 distribution to needy persons and imposing certain powers and  
5 duties on counties," ~~providing for game~~ FURTHER PROVIDING FOR <—  
6 DEFINITIONS AND FOR CHARITABLE OR RELIGIOUS IMMUNITY; AND  
7 PROVIDING FOR WILDLIFE donated as food.

8 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby enacts as follows:

10 Section 1. Sections 3 and 5 of the act of July 10, 1981  
11 (P.L.234, No.76), known as the Donated Food Limited Liability  
12 Act, are amended to read:

13 Section 3. Definitions.

14 The following words and phrases as used in this act shall  
15 have the meanings given them in this section unless the context  
16 clearly indicates otherwise:

1 "Charitable organization." A charitable organization as  
2 defined in section 2 of the act of August 9, 1963 (P.L.628,  
3 No.337), known as the "Solicitation of Charitable Funds Act" and  
4 which has a current approved registration statement on file with  
5 the Department of State pursuant to the "Solicitation of  
6 Charitable Funds Act."

7 "Food." Any fowl, animal, vegetable or other stuff, product  
8 or article which is customary food or which is proper food for  
9 human beings. ~~The term shall include game animals and game~~ <—  
10 ~~birds. WILDLIFE, OR PORTIONS THEREOF.~~ "Food" shall specifically <—  
11 exclude canned goods that are rusted, leaking or swollen, or  
12 canned goods that are defective or cannot, for health reasons,  
13 otherwise be offered for sale to members of the general public.

14 ~~"Game animals." As defined in 34 Pa.C.S. § 102 (relating to~~ <—  
15 ~~definitions).~~

16 ~~"Game birds." As defined in 34 Pa.C.S. § 102 (relating to~~  
17 ~~definitions).~~

18 ~~"WILDLIFE." AS DEFINED IN 34 PA.C.S. § 102 (RELATING TO~~ <—  
19 ~~DEFINITIONS) AND TAKEN BY LAWFUL HUNTING IN ACCORDANCE WITH 34~~  
20 ~~PA.C.S. (RELATING TO GAME) AND 58 PA. CODE (RELATING TO~~  
21 ~~RECREATION).~~

22 Section 5. Charitable or religious organization immunity.

23 (a) General rule.--Notwithstanding any other provision of  
24 law, except as provided in subsection (b), any bona fide  
25 charitable or religious organization which receives, in good  
26 faith, donated food for ultimate distribution to needy  
27 individuals, either for free or for a nominal fee, shall not be  
28 subject to criminal or civil liability arising from the  
29 condition of such food, if the charitable or religious  
30 organization [reasonably] does all of the following:

1           (1) Reasonably inspects the food, at the time of  
2           donation and at the time of distribution, and finds the food  
3           fit for human consumption.

4           (2) In the case of ~~game animals or game birds~~ WILDLIFE, <—  
5           reasonably processes, prepares and distributes the food.

6           (b) Exception.--The immunity provided by this section shall  
7           not extend to charitable or religious organizations where  
8           damages result from the negligence, recklessness, or intentional  
9           misconduct of the charitable or religious organization, or if  
10          the charitable or religious organization has or should have had  
11          actual or constructive knowledge that the food is tainted,  
12          contaminated, or harmful to the health or well-being of the  
13          ultimate recipient.

14          ~~Section 2. This act shall take effect in 60 days.~~ <—

15          SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ: <—

16          SECTION 5.1. WILDLIFE DONATED AS FOOD.

17          (A) AUTHORIZATION.--WILDLIFE MAY BE DONATED TO, AND  
18          PROCESSED, PREPARED AND DISTRIBUTED BY, A CHARITABLE  
19          ORGANIZATION WHICH SERVES OR DISTRIBUTES FOOD WITHOUT COST TO  
20          NEEDY INDIVIDUALS.

21          (B) INFORMATION.--THE DEPARTMENT OF AGRICULTURE SHALL ENTER  
22          INTO A MEMORANDUM OF UNDERSTANDING WITH A RECOGNIZED, NOT-FOR-  
23          PROFIT ORGANIZATION REGISTERED WITH THE BUREAU OF CHARITABLE  
24          ORGANIZATIONS, UNDER WHICH THE ORGANIZATION WILL SERVE AS  
25          PROGRAM COORDINATOR TO MAKE AVAILABLE INFORMATION, INCLUDING  
26          COOPERATING PROCESSORS AND CHARITABLE AND RELIGIOUS  
27          ORGANIZATIONS WHICH WILL ACCEPT DONATIONS OF WILDLIFE.  
28          PROCESSORS AND CHARITABLE AND RELIGIOUS ORGANIZATIONS MAY NOTIFY  
29          THE PROGRAM COORDINATOR OF THEIR INTENTION TO PARTICIPATE IN  
30          DISTRIBUTION OF WILDLIFE. THE COORDINATOR SHALL INCLUDE THEM IN

1 ITS LISTS UNLESS GOOD CAUSE OTHERWISE EXISTS.

2 SECTION 3. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.