

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 643**Session of
1981

INTRODUCED BY FREIND, KUKOVICH, MACKOWSKI, PETRARCA, VAN HORNE,
TRELLO, MICOZZIE, E. Z. TAYLOR, COHEN, TELEK, J. L. WRIGHT,
CUNNINGHAM, SEVENTY, SALVATORE, PISTELLA, ARTY, GRAY, BOWSER,
MAIALE, SPITZ, MORRIS, O'DONNELL, ALDEN, CALTAGIRONE, WOGAN,
F. E. TAYLOR, MERRY, LETTERMAN, VROON, ROCKS, PENDLETON
AND MICHLOVIC, FEBRUARY 18, 1981

AS REPORTED FROM COMMITTEE ON LOCAL GOVERNMENT, HOUSE OF
REPRESENTATIVES, AS AMENDED, MARCH 9, 1981

AN ACT

1 Providing limited civil and criminal immunity to persons
2 donating food to charitable organizations for distribution to
3 needy persons and imposing certain powers and duties on
4 counties.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the "Donated Food
9 Limited Liability Act."

10 Section 2. Declaration of policy and legislative findings.

11 The General Assembly, in order to promote the general
12 welfare, hereby declares as public policy that the
13 Commonwealth's abundance of food should be utilized to its
14 utmost extent. The General Assembly hereby finds that the
15 limited food purchasing power of low income households
16 contributes to hunger and malnutrition. In an effort to

1 alleviate such hunger and malnutrition and supplement other
2 Federal and State food assistance programs, the provisions of
3 this act are intended to stimulate the donation of food to
4 charitable organizations and thereby assist low income
5 households in need.

6 Section 3. Definitions.

7 The following words and phrases as used in this act shall
8 have the meanings given them in this section unless the context
9 clearly indicates otherwise:

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

16 "Food." Any fowl, animal, vegetable or other stuff, product
17 or article which is customary food or which is proper food for
18 human beings. "Food" shall specifically exclude canned goods
19 that are rusted, leaking or swollen, or canned goods that are
20 defective or cannot, for health reasons, otherwise be offered
21 for sale to members of the general public.

22 Section 4. Donor immunity.

23 (a) General rule.--Notwithstanding any other provision of
24 law, any person who, in good faith, donates food to a charitable
25 organization for ultimate free distribution to needy
26 individuals, shall not be subject to criminal or civil liability
27 arising from the condition of such food, if the donor reasonably
28 inspects the food at the time of donation and finds the food fit
29 for human consumption. The immunity provided by this subsection
30 shall not extend to donors where damages result from the

1 negligence, recklessness or intentional misconduct of the donor,
2 or if the donor has, or should have had, actual or constructive
3 knowledge that the food is tainted, contaminated or harmful to
4 the health or well-being of the ultimate recipient.

5 (b) Condition of food.--The immunity provided by this
6 section is applicable to the good faith donation of food not
7 readily marketable due to appearance, freshness, grade, surplus,
8 or other considerations, but shall not be deemed or construed to
9 restrict the authority of any authorized agency to otherwise
10 regulate or ban the use of such food for human consumption.

11 Section 5. Charitable organization immunity.

12 Notwithstanding any other provision of law, any bona fide
13 charitable organization which receives, in good faith, donated
14 food for ultimate distribution to needy individuals, either for
15 free or for a nominal fee, shall not be subject to criminal or
16 civil liability arising from the condition of such food, if the
17 charitable organization reasonably inspects the food, at the
18 time of donation and at the time of distribution, and finds the
19 food fit for human consumption. The immunity provided by this
20 subsection shall not extend to charitable organizations where
21 damages result from the negligence, recklessness, or intentional
22 misconduct of the charitable organization, or if the charitable
23 organization has or should have had actual or constructive
24 knowledge that the food is tainted, contaminated, or harmful to
25 the health or well-being of the ultimate recipient.

26 Section 6. Penalty for sale of donated food.

27 Any person or any employee of or volunteer for a charitable
28 organization who sells, or offers to sell, for profit, food that
29 such person knows to be donated pursuant to this act commits a
30 misdemeanor of the third degree. The assessment of a nominal fee

1 by the charitable organization shall not be considered a sale.

2 Section 7. Inspection of food.

3 Charitable organizations which regularly accept donated food
4 for distribution pursuant to this act shall request the
5 appropriate local health authorities to inspect the food at
6 regular intervals.

7 Section 8. County information and referral system.

8 The governing body of each county ~~shall~~ MAY develop an <—
9 informational and referral system to make prospective donors and
10 charitable organizations aware of each other and to make needy
11 individuals aware of the existence of food donated in each
12 county pursuant to this act. UNDER THE PROVISIONS OF THIS ACT <—
13 THE COUNTY SHALL BE IMMUNE FROM ALL CRIMINAL AND CIVIL
14 LIABILITY, UNLESS DAMAGES RESULT FROM THE GROSS NEGLIGENCE,
15 RECKLESSNESS OR INTENTIONAL MISCONDUCT OF THE COUNTY OR IF THE
16 COUNTY HAS, OR SHOULD HAVE HAD, ACTUAL OR CONSTRUCTIVE KNOWLEDGE
17 THAT THE FOOD IS TAINTED, CONTAMINATED OR HARMFUL TO THE HEALTH
18 OR WELL-BEING OF THE ULTIMATE RECIPIENT.

19 Section 9. Effective date.

20 This act shall take effect in 60 days.