

2019 -- H 5322 AS AMENDED

LC001318

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

A N A C T

RELATING TO FOOD AND DRUGS - FOOD DONATIONS

Introduced By: Representatives Marszalkowski, Shanley, Maldonado, McKiernan, and Millea

Date Introduced: February 07, 2019

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 21-34 of the General Laws entitled "Food Donations" is hereby  
2 repealed in its entirety.

3 ~~CHAPTER 21-34~~

4 ~~Food Donations~~

5 ~~**21-34-1. Immunity from liability for food donors.**~~

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

14 ~~**21-34-2. Immunity from liability for distributors.**~~

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

1 ~~intentional misconduct or recklessness of the organization.~~

2 ~~**21-34-3. Authority of department of health not restricted.**~~

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

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

7 CHAPTER 34.1

8 RHODE ISLAND FOOD DONATION ACT

9 **21-34.1-1. Short title.**

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

12 **21-34.1-2. Definitions.**

13 For the purposes of this chapter:

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

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

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

20 (4) "Food facility" means a food establishment that sells food for human consumption to  
21 the general public and shall include nonprofit food distributors, hospitals, and school and  
22 educational facilities.

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

26 (6) "Person" means an individual.

27 **21-34.1-3. Immunity from liability for food donors.**

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

31 (b) Except for injury resulting from gross negligence or intentional misconduct in the  
32 preparation or handling of donated food, no person, gleaner, or food facility that donates food that  
33 is fit for human consumption at the time it was donated to a nonprofit charitable organization or  
34 food bank shall be liable for any damage or injury resulting from the consumption of the donated

1 food. Food facilities may donate food directly to end recipients for consumption.

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

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

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

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

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

30 **21-34.1-4. Expiration dates.**

31 A person, gleaner, or food facility that donates food as permitted by law shall not be  
32 subject to civil or criminal liability or penalty for violation of any laws, regulations, or ordinances  
33 regulating the labeling or packaging of the donated product or, with respect to any other laws,  
34 regulations, or ordinances, for a violation occurring after the time of the donation. The donation

1 of nonperishable food that is fit for human consumption but that has exceeded the labeled shelf  
2 life date recommended by the manufacturer is protected under the Rhode Island food donation  
3 act. The donation of perishable food that is fit for human consumption but that has exceeded the  
4 labeled shelf life date recommended by the manufacturer is protected under the Rhode Island  
5 food donation act if the person that distributes the food to the end recipient makes a good faith  
6 evaluation that the food to be donated is wholesome.

7 **21-34.1-5. Public education.**

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

12 **21-34.1-6. Implementing rules and regulations.**

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

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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1           This act would repeal the current chapter of the general laws regarding immunity for food  
2 donors to food banks, and would adopt a new chapter with comprehensive immunity provisions  
3 for persons involved in donating food to food banks.

4           This act would take effect upon passage.

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