

By Representative Jones

1 A bill to be entitled
2 An act relating to distribution of surplus
3 food; providing legislative intent; providing
4 application; requiring certain persons and
5 organizations to make reasonable efforts to
6 provide, collect, transport, and distribute
7 certain excess or surplus food; amending s.
8 768.136, F.S.; providing definitions;
9 clarifying application; providing an effective
10 date.

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12 Be It Enacted by the Legislature of the State of Florida:

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14 Section 1. (1) It is the intent of the Legislature
15 that each potential donor, to the greatest extent possible and
16 practicable, make available to any bona fide charitable or
17 nonprofit organization, or any representative or volunteer
18 acting on behalf of such organization, or an uncompensated
19 person acting in a philanthropic manner providing services
20 similar to those of such an organization, or a transporter,
21 any surplus or excess canned or perishable food for use by
22 such organization or person to feed homeless persons or any
23 other persons who are in need of food and are otherwise unable
24 to provide food for themselves.

25 (2) The provisions of s. 768.136, Florida Statutes,
26 apply to this section.

27 (3) Each donor shall make every reasonable effort to
28 contact bona fide charitable or nonprofit organizations in the
29 community in which such donor operates in order to provide for
30 the collection by such organizations of any surplus or excess
31 canned food or perishable food from such donor.

1 (4) Each bona fide charitable or nonprofit
2 organization in this state which, as a part of the services
3 such organization provides to the community in which it
4 operates, provides food for persons who are in need of food or
5 are otherwise unable to provide food for themselves, or
6 collects and transports such food to such organizations, shall
7 make every reasonable effort to contact any donors within such
8 organization's area of operation for purposes of collecting
9 any surplus or excess canned food or perishable food for use
10 in providing such services.

11 Section 2. Section 768.136, Florida Statutes, is
12 amended to read:

13 768.136 Liability for canned or perishable food
14 distributed free of charge.--

15 (1) As used in this section:

16 (a) "Donor" means any ~~a~~ person who, or any public or
17 private~~business~~, organization, agency,~~or~~ institution which,
18 owns, rents, leases, or operates:

19 1. Any building, vehicle, place, or structure, or any
20 room or division in a building, vehicle, place, or structure,
21 that is maintained and operated as a place where food is
22 regularly prepared, served, or sold for immediate consumption
23 on or in the vicinity of the premises; or to be called for or
24 taken out by customers; or to be delivered to factories,
25 construction camps, airlines, locations where catered events
26 are being held, and other similar locations for consumption at
27 any place;

28 2. Any public location with vending machines
29 dispensing prepared meals; or

30 3. Any retail grocery store.

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1 (b) "Gleaner" means a person who harvests for free
2 distribution an agricultural crop that has been donated by the
3 owner.

4 (c) "Canned food" means any food which has been
5 commercially processed and prepared for human consumption and
6 which has been commercially packaged in such a manner as to
7 remain nonperishable without refrigeration for a reasonable
8 length of time.

9 (d) "Perishable food" means any food that may spoil or
10 otherwise become unfit for human consumption because of its
11 nature, type, or physical condition. "Perishable food"
12 includes, but is not limited to, fresh or processed meats,
13 poultry, seafood, dairy products, bakery products, eggs in the
14 shell, fresh fruits or vegetables, and foods that have been
15 noncommercially packaged or that have been frozen or otherwise
16 require refrigeration to remain nonperishable for a reasonable
17 length of time.

18 (e) "Transporter" means any bona fide charitable or
19 nonprofit organization, or any representative or volunteer
20 acting on behalf of such organization, which elects as part of
21 the service such organization provides to the community, to
22 pick up and transport, without cost, surplus or excess canned
23 food or perishable food from donors and delivers such food to
24 bona fide charitable or nonprofit organizations which provide
25 food to persons who are in need of food or who are unable to
26 provide food for themselves.

27 (2) A good faith donor, transporter, or gleaner of any
28 canned or perishable food, apparently fit for human
29 consumption, which provides such food to a bona fide
30 charitable or nonprofit organization for free distribution
31 shall not be subject to criminal penalty or civil damages

1 arising from the condition of the food, unless an injury is
2 caused by the gross negligence, recklessness, or intentional
3 misconduct of the donor or gleaner.

4 (3) A transporter or bona fide charitable or nonprofit
5 organization, or any representative or volunteer acting on
6 behalf of such organization or an uncompensated person acting
7 in a philanthropic manner providing services similar to those
8 of such an organization, which accepts, collects, transports,
9 or distributes any canned or perishable food, apparently fit
10 for human consumption, from a good faith donor, transporter,
11 or gleaner for free distribution shall not be subject to
12 criminal penalty or civil damages arising from the condition
13 of the food, unless an injury is caused by the gross
14 negligence, recklessness, or intentional misconduct of an
15 agent of the charitable or nonprofit organization.

16 (4) The provisions of this section apply to the good
17 faith donation or transportation of canned or perishable food
18 regardless of whether such food is readily marketable due to
19 appearance, freshness, grade, surplus, or other such
20 considerations.

21 (5) The provisions of this section shall not be
22 construed to restrict the authority of any lawful agency to
23 otherwise regulate or ban the use of food for human
24 consumption, and the immunity from liability granted herein
25 shall not be construed to relieve any donor of its duty to
26 comply with any law regulating such donor with respect to
27 health or sanitation.

28 Section 3. This act shall take effect October 1, 1997.
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HOUSE SUMMARY

Requires persons or organizations which have surplus or excess canned food or perishable food and bona fide charitable or nonprofit organizations which provide food to the hungry to contact each other to provide for the donation, collection, transport, and distribution of such food. See bill for details.