

By the Committee on Children & Family Empowerment and
Representatives Jones and Lacasa

1 A bill to be entitled
2 An act relating to distribution of surplus
3 food; amending s. 570.0725, F.S.; providing
4 legislative intent; providing application;
5 requiring certain persons and organizations to
6 make reasonable efforts to provide, collect,
7 transport, and distribute certain excess or
8 surplus food; amending s. 768.136, F.S.;
9 providing definitions; clarifying application;
10 providing an effective date.

11

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

13

14 Section 1. Subsection (6) is added to section
15 570.0725, Florida Statutes, to read:

16 570.0725 Food recovery; legislative intent; department
17 functions.--

18 (6) It is the intent of the Legislature that each
19 potential donor, to the greatest extent possible and
20 practicable, make available to any bona fide charitable or
21 nonprofit organization, or any representative or volunteer
22 acting on behalf of such organization, or an uncompensated
23 person acting in a philanthropic manner providing services
24 similar to those of such an organization, or a transporter,
25 any surplus or excess canned or perishable food for use by
26 such organization or person to feed homeless persons or any
27 other persons who are in need of food and are otherwise unable
28 to provide food for themselves. To achieve this intent, the
29 following provisions shall be followed:

30 (a) The provisions of s. 768.136 apply to this
31 subsection.

1 (b) Each donor shall make every reasonable effort to
2 contact bona fide charitable or nonprofit organizations in the
3 community in which such donor operates in order to provide for
4 the collection by such organizations of any surplus or excess
5 canned food or perishable food from such donor.

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

16 Section 2. Section 768.136, Florida Statutes, is
17 amended to read:

18 768.136 Liability for canned or perishable food
19 distributed free of charge.--

20 (1) As used in this section:

21 (a) "Donor" means any a person who, or any public or
22 private, business, organization, agency, or institution which,
23 owns, rents, leases, or operates:

24 1. Any building, vehicle, place, or structure, or any
25 room or division in a building, vehicle, place, or structure,
26 that is maintained and operated as a place where food is
27 regularly prepared, served, or sold for immediate consumption
28 on or in the vicinity of the premises; or to be called for or
29 taken out by customers; or to be delivered to factories,
30 construction camps, airlines, locations where catered events
31

1 are being held, and other similar locations for consumption at
2 any place;

3 2. Any public location with vending machines
4 dispensing prepared meals; or

5 3. Any retail grocery store.

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

9 (c) "Canned food" means any food which has been
10 commercially processed and prepared for human consumption and
11 which has been commercially packaged in such a manner as to
12 remain nonperishable without refrigeration for a reasonable
13 length of time.

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

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

1 (2) A good faith donor, transporter, or gleaner of any
2 canned or perishable food, apparently fit for human
3 consumption, which provides such food to a bona fide
4 charitable or nonprofit organization for free distribution
5 shall not be subject to criminal penalty or civil damages
6 arising from the condition of the food, unless an injury is
7 caused by the gross negligence, recklessness, or intentional
8 misconduct of the donor or gleaner.

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

21 (4) The provisions of this section apply to the good
22 faith donation or transportation of canned or perishable food
23 regardless of whether such food is readily marketable due to
24 appearance, freshness, grade, surplus, or other such
25 considerations.

26 (5) The provisions of this section shall not be
27 construed to restrict the authority of any lawful agency to
28 otherwise regulate or ban the use of food for human
29 consumption, and the immunity from liability granted herein
30 shall not be construed to relieve any donor of its duty to
31

1 comply with any law regulating such donor with respect to
2 health or sanitation.

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

4

5

6

HOUSE SUMMARY

7

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

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31