

By Senator Crist

20-436-98

See HB

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.

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

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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 an 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 an 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. In achieving this intent, the
29 following provisions must be followed:

30 (a) Section 768.136 applies to this subsection.
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1 (b) Each donor shall make every reasonable effort to
2 contact bona fide charitable or nonprofit organizations in the
3 community in which the 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 the donor.

6 (c) Each bona fide charitable or nonprofit
7 organization in this state which, as a part of the services
8 that the 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 which
11 collects and transports such food to such organizations, shall
12 make every reasonable effort to contact any donors within the
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, the term:

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
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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 that ~~which~~ has been
10 commercially processed and prepared for human consumption and
11 that ~~which~~ has been commercially packaged in such a manner as
12 to 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 an organization, which elects as part
26 of the service that the organization provides to the
27 community, to pick up and transport, without cost, surplus or
28 excess canned food or perishable food from donors and delivers
29 the food to bona fide charitable or nonprofit organizations
30 that provide food to persons who are in need of food or who
31 are unable to provide food for themselves.

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

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

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

1 donor of its duty to comply with any law regulating the ~~such~~
2 donor with respect to health or sanitation.

3 Section 3. This act shall take effect October 1, 1998.

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LEGISLATIVE SUMMARY

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

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