

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Education

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BILL: SB 160

INTRODUCER: Senator Bullard

SUBJECT: Canned or Perishable Food Distributed Free of Charge

DATE: February 3, 2014

REVISED: 02/05/14

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	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McLaughlin	Klebacha	ED	<b>Favorable</b>
2.			CF	
3.			JU	

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**I. Summary:**

SB 160 adds public schools to the list of defined donors protected from civil and criminal liability when they donate food to charitable organizations. Current law protects most donors who give food to a charitable organization from civil and criminal liability related to injury caused by such donated food.

The bill takes effect July 1, 2014.

**II. Present Situation:**

Section 768.136, F.S., provides that a donor or gleaner of canned or perishable food apparently fit for human consumption may donate the food to charity while enjoying liability protection.<sup>1</sup> The term "donor" includes grocery stores and any place where food is regularly prepared for sale, take-out, or delivery. A "gleaner" is a person who harvests for free distribution an agricultural crop that has been donated by the owner. Where the food is apparently fit for human consumption and donated for free distribution to a bona fide charitable or nonprofit organization, the donor is not liable for an injury caused by the food unless the injury is caused by the gross negligence, recklessness, or intentional misconduct of the donor or gleaner.<sup>2</sup> Likewise, a nonprofit or charitable organization or a representative of such organization which distributes donated food for free is protected from criminal and civil penalties under the same conditions.

Public schools in Florida participate in school lunch and breakfast programs subsidized by the federal government, but are not specifically included in the list of donors protected from liability by state law. Federal law governing the requirements for the National School Lunch Program was amended in 2011 to include: "[e]ach school and local educational agency participating in the

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<sup>1</sup> Section 768.136, F.S.

<sup>2</sup> Section 768.136(2), F.S.

school lunch program under this chapter may donate any food not consumed under such program to eligible local food banks or charitable organizations."<sup>3</sup>

### **III. Effect of Proposed Changes:**

The bill adds public schools to the list of defined donors protected from civil and criminal liability when they donate food to charitable organizations under the terms set forth in the statute.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

### **V. Fiscal Impact Statement:**

#### **A. Tax/Fee Issues:**

None.

#### **B. Private Sector Impact:**

None.

#### **C. Government Sector Impact:**

None.

### **VI. Technical Deficiencies:**

None.

### **VII. Related Issues:**

None.

### **VIII. Statutes Affected:**

This bill amends section 768.136 of the Florida Statutes.

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<sup>3</sup> 42 U.S.C. §1758(l)(1)

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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