



GOV. MSG. NO. 1261

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

July 1, 2021

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirty First State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty First State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on July 1, 2021, the following bill was signed into law:

SB244 SD2 HD1 CD1

RELATING TO FOOD DONATION
ACT 159 (21)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

Approved by the Governor

on JUL 01 2021

THE SENATE
THIRTY-FIRST LEGISLATURE, 2021
STATE OF HAWAII

ACT 159
S.B. NO.

244
S.D. 2
H.D. 1
C.D. 1

A BILL FOR AN ACT

RELATING TO FOOD DONATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that more than ten per
2 cent of Hawaii residents, including tens of thousands of
3 children and seniors, are food insecure and receive food
4 assistance through nonprofit organizations and government
5 programs. Despite high levels of food insecurity, Hawaii
6 businesses and residents discard more than 237,000 tons of food
7 waste per year.

8 The legislature further finds that approximately twenty-six
9 per cent of food grown in or imported to Hawaii is thrown away,
10 amounting to approximately \$1,000,000,000 in annual food waste.
11 Worldwide, an estimated one-third of the food raised or prepared
12 goes to waste, despite more than eight hundred million people
13 experiencing hunger.

14 The legislature recognizes that food production is a direct
15 contributor to local and global climate change. Food production
16 requires energy, fertilizer, irrigation, livestock feed, and
17 other resources that contribute to greenhouse gas emissions and
18 add pollutants to the environment. Food waste entering



1 landfills creates methane gas, a greenhouse gas that is
2 eighty-four times more potent than carbon dioxide. Worldwide,
3 wasted food accounts for approximately eight per cent of all
4 human-based greenhouse gas emissions.

5 The Bill Emerson Good Samaritan Food Donation Act was
6 passed by the United States Congress in 1996 to protect good-
7 faith food donors from civil and criminal liability and to
8 encourage the donation of food that would otherwise go to waste.
9 Despite these protections, much of the wholesome surplus food in
10 Hawaii and in other states is discarded instead of donated. A
11 California survey found that forty-four per cent of
12 manufacturers, forty-one per cent of restaurants, and
13 twenty-five per cent of retailers identified fear of liability
14 as their primary barrier to donating surplus food, in spite of
15 existing liability protections.

16 The purpose of this Act is to discourage food waste and
17 encourage food donation to needy persons by:

- 18 (1) Clarifying and expanding liability protections for
19 good-faith food donors; and

1 (2) Allowing the donation of expired food when the donor
2 makes a good-faith judgment that the food is
3 unspoiled.

4 SECTION 2. Section 145D-2, Hawaii Revised Statutes, is
5 amended to read as follows:

6 " ~~[+] §145D-2 [+]~~ **Exceptions to liability.** (a) Any donor of
7 food products, who in good faith donates the food for the use or
8 distribution by a charitable, religious, or nonprofit
9 organization to needy persons shall not be liable for any civil
10 damages or criminal penalties for any injuries or illnesses,
11 including ~~[]~~ but not limited to injuries or illnesses resulting
12 from the nature, age, condition, packaging, or handling of the
13 donated food products, except for ~~[such]~~ damages ~~[as may]~~ that
14 result from the donor's gross negligence or wanton acts or
15 omissions.

16 (b) A charitable, religious, or nonprofit organization
17 ~~[which in good faith receives]~~ that:

18 (1) Receives food [] pursuant to subsection (a) that is
19 apparently fit for human consumption ~~[]~~; and
20 ~~[distributes it]~~

1 (2) Distributes the food in good faith to needy persons at
2 no charge,
3 shall not be liable for any civil damages or criminal penalties
4 resulting from the condition of the food unless an injury or
5 illness results from its gross negligence, or wanton acts or
6 omissions.

7 (c) This section shall not relieve any organization from
8 any other duty imposed [~~upon them~~] by law for the inspection of
9 donated food products or for any provisions regarding the
10 handling of [~~such~~] those products.

11 (d) The exceptions to liability specified in subsection

12 (a) shall include:

13 (1) The donation of perishable or nonperishable food that
14 has exceeded the labeled shelf life date recommended
15 by the manufacturer; and

16 (2) The donation of farm produce; provided that the good-
17 faith donor or distributor reasonably believes that
18 the food is fit for human consumption.

19 (e) For the purposes of this section:

20 "Donor" means any individual, food vendor, food
21 manufacturer, food distributor, grocery or convenience store,

1 charitable or nonprofit organization, or government agency that
2 donates food to needy persons where the food in question has
3 been prepared and packaged in a facility meeting all relevant
4 food safety guidelines, certifications, and requirements and has
5 passed all food safety inspections.

6 "Farm produce" means all agricultural, horticultural, and
7 vegetable produce of the soil, but does not include poultry,
8 poultry products, livestock and livestock products, aquaculture
9 and aquaculture products, and timber or timber products."

10 SECTION 3. Section 663-10.6, Hawaii Revised Statutes, is
11 amended by amending subsections (a) and (b) to read as follows:

12 "(a) Any charitable or nonprofit organization that in good
13 faith provides shelter or proper means of subsistence to needy
14 persons as part of its bona fide and customary charitable
15 activities, rendered without remuneration or expectation of
16 remuneration, shall be exempt from civil liability for injuries
17 and damages resulting from the organization's acts or omissions
18 in providing [~~such~~] the shelter or subsistence, except for gross
19 negligence or wanton acts or omissions of the organization.

20 (b) Any [~~person~~] donor who donates goods, [~~feed,~~]
21 materials, or services to a charitable or nonprofit organization



1 described in subsection (a) shall be exempt from civil liability
2 for injuries and damages resulting from the donation, except for
3 gross negligence or wanton acts or omissions."

4 SECTION 4. This Act does not affect rights and duties that
5 matured, penalties that were incurred, and proceedings that were
6 begun before its effective date.

7 SECTION 5. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 6. This Act shall take effect upon its approval.

APPROVED this 01 day of ~~JULY~~ ^{JUN}, 2021



GOVERNOR OF THE STATE OF HAWAII

THE SENATE OF THE STATE OF HAWAI‘I

Date: April 27, 2021
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-First Legislature of the State of Hawai‘i, Regular Session of 2021.


President of the Senate


Clerk of the Senate

SB No. 244, SD 2, HD 1, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 27, 2021
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2021.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives