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# 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



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

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

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

19 (1) Clarifying and expanding liability protections for  
20 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 ~~(1)~~ **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 ~~[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, including where the  
17           needy person is directly involved in the harvest of  
18           the donated food; provided that the good-faith donor  
19           or distributor reasonably believes that the food is  
20           fit for human consumption.

21       For the purposes of this section:



1       "Donor" means any individual, food vendor, food  
2 manufacturer, food distributor, grocery or convenience store,  
3 charitable or nonprofit organization, or government agency that  
4 donates food to hungry persons where the food in question has  
5 been prepared and packaged in a facility meeting all relevant  
6 food safety guidelines, certifications, and requirements and  
7 having passed all food safety inspections.

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

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

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



1           (b) Any [~~person~~] donor who donates goods, [~~feed~~]  
2 materials, or services to a charitable or nonprofit organization  
3 described in subsection (a) shall be exempt from civil liability  
4 for injuries and damages resulting from the donation, except for  
5 gross negligence or wanton acts or omissions."

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

9           SECTION 5. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

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



**Report Title:**

Food Donation; Charitable Donations; Liability Protection

**Description:**

Expands liability protection for donors to include donations of food and similar donations made to needy persons by organizations. Authorizes the donation of expired food when the donor reasonably believes in good faith that the food remains fit for human consumption. (SD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

