

ACT 260

H.B. NO. 1963-82

A Bill for an Act Relating to the Donation of Food.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Findings and Purpose.** The legislature finds that over the past several years, spiraling food costs have had an adverse effect on the budgets of all consumers, especially those in lower income brackets. Although the food stamp program serves approximately ninety thousand of Hawaii's people, there are still an estimated eighty to ninety thousand people who are either hungry or malnourished.

Accordingly, it is the purpose of this Act to encourage persons engaged in farming, processing distributing, wholesaling, or retailing of food products to donate these items to charitable, religious, and non-profit organizations which distribute food to the needy.

**SECTION 2.** The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
DONATION OF FOOD**

§ **-1 Definitions.** (a) Whenever used in this chapter unless the context otherwise requires:

- (1) “Charitable, religious, or nonprofit organization” means any organization which was organized and is operating in the State for charitable or religious purposes or to promote social welfare, as defined in section 235-9(a)(2) and which distributes food products at no cost to needy persons.
- (2) “Donor” means any person, partnership, corporation, company, or association engaged in the farming, processing, distribution, wholesaling, or retailing of food products who donates such products, without remuneration, to a charitable, religious, or nonprofit organization.
- (3) “Food product” means any fowl, seafood, animal, vegetable, or other stuff, product, or article which is customary food fit for human consumption.
- (4) “Needy person” means any person who lacks adequate or proper means of subsistence.

§ **-2 Exceptions to liability.** (a) Any donor of food products, who in good

faith donates the food for the use or distribution by a charitable, religious, or non-profit organization to needy persons shall not be liable for any civil damages or criminal penalties for any injuries or illnesses including, but not limited to injuries or illnesses resulting from the nature, age, condition, packaging, or handling of the donated food products, except for such damages as may result from the donor's gross negligence or wanton acts or omissions.

(b) A charitable, religious, or nonprofit organization which in good faith receives food, apparently fit for human consumption, and distributes it to needy persons at no charge, shall not be liable for any civil damages or criminal penalties resulting from the condition of the food unless an injury or illness results from its gross negligence, or wanton acts or omissions.

(c) This section shall not relieve any organization from any other duty imposed upon them by law for the inspection of donated food products or for any provisions regarding the handling of such products.

§ -3 **Sale of donated food, prohibited; fines.** (a) No person or organization shall sell, or offer for sale, any food product donated or distributed under this chapter.

(b) Any violation of this section is punishable by a fine not to exceed one thousand dollars.

§ -4 **Labeling of donated food.** Any charitable, religious, or nonprofit organization which receives and distributes donated food pursuant to this chapter shall affix a label upon such food or upon the individual container or package of such food stating that the food is not for resale and stating that it was fit for human consumption at the date that it left control of the charitable organization.

§ -5 **Reserving the State's authority to regulate, inspect, or ban the use of donated food.** Nothing in this chapter is intended to restrict the authority of the department of health or the department of agriculture to regulate, inspect, or ban the use of such donated foods for human consumption."

SECTION 3. This Act shall take effect upon its approval.

(Approved June 16, 1982.)