



## Am I Protected From Liability?

As a donor, you are protected by the Good Faith Donor bill and the Bill Emerson Good Samaritan Donation Act. Below is a summary of both bills. Attached is the full text.

### **Good Faith Donor Bill**

#### **Section 1**

Any donor who makes a good faith donation of food which is at the time of donation fit for human consumption to a charitable organization or non-profit corporation shall not be liable for damages in any civil suit or subject to criminal prosecution for any injury resulting from the nature, age, condition or packaging of the donated food, unless the injury or death is a direct result of the gross negligence, recklessness or intentional misconduct of the donor.

#### **Section 2**

Section 1 of this act shall be codified in the Oklahoma Statutes as Section 5.6 of Title 76, unless there is a created duplication in numbering.

#### **Section 3**

It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

A complete version of the bill follows.

### **Bill Emerson Good Samaritan Food Donation Act**

In 1996 the Bill Emerson Good Samaritan Food Donation Act was passed. It encourages the donation of food and grocery products to non-profit organizations for distribution to needy individuals. This new law makes it easier to donate. Here's how:

It protects donors from liability when donating to a non-profit organization.

It protects donors from civil and criminal liability should the product donated in good faith later cause harm to the needy recipient.

It standardizes donor liability exposure. Donors and their legal counsel no longer have to investigate liability laws in 50 states.

It sets a liability floor of "gross negligence" or intentional misconduct for persons who donate grocery products.

It recognizes that the provision of food close to recommended date of sale is, in and of itself, not grounds for finding gross negligence. For example, cereal can be donated if it is marked close to code date for retail sale.

A complete version of the act follows.

### **Good Faith Donor Act**

This Oklahoma state law protects you as a donor.

#### **Section 1**

A. Any donor who makes a good faith donation of food which is at the time of donation fit for human consumption to a charitable organization or nonprofit corporation shall not be liable for damages in any civil suit or subject to criminal prosecution for any injury resulting from the nature, age, condition or packaging of the donated food, unless the injury or death is a direct result of the gross negligence, recklessness or intentional misconduct of the donor.

#### **Section 2**

Section 1 of this act shall be codified in the Oklahoma Statutes as Section 5.6 of Title 76, unless there is a created duplication in numbering.

#### **Section 3**

It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

### **House Bill 1052**

#### **Section 1**

A. Any donor who makes a good faith donation of food which is at the time of donation fit for human consumption to a charitable organization or nonprofit corporation shall not be liable for damages in any civil suit or subject to criminal prosecution for any injury resulting from the nature, age, condition, or packaging of the donated food, unless the injury or death is a direct result of the gross negligence, recklessness or intentional misconduct of the donor.

B. This section shall apply to all good faith donations of perishable or nonperishable food which is not readily marketable due to appearance, freshness, grade or other conditions.

C. This section shall not restrict the authority of any appropriate agency to regulate or ban the use of such food for human consumption.

D. For purposes of this section:

1. "Donor" means any person, profit or nonprofit food distributor or person who harvests perishable foods who makes a good faith donation of food;

2. "Good faith donation" means a gift conferred without condition or consideration;

3. "Charitable organization" means any benevolent, philanthropic, patriotic, eleemosynary, educational, social, civic, recreational, religious group or association or any other person performing or purporting to perform acts beneficial to the public;

4. "Nonprofit organization" means a corporation formed for a purpose not involving pecuniary gain to its shareholders or members, paying no dividends or other pecuniary remuneration, directly or indirectly, to its shareholders or members as such, and having no capital stock;

5. "Food" includes any packaged, prepared, perishable or nonperishable food items.

**Section 2**

Section 1 of this act shall be codified in the Oklahoma Statutes as Section 5.6 of Title 76, unless there is a created duplication in numbering.

**Section 3**

It being immediately necessary for the preservation of the public peace, health, and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

**The Good Faith Donor Bill has been in effect since April 1981.**



## **The Bill Emerson Food Donation Act**

**One Hundred Fourth Congress of the United States of America  
At the Second Session**

**Begun and held at the City of Washington on Wednesday, the third day of January,  
one thousand nine hundred and ninety-six.**

### **An Act**

To encourage the donation of food and grocery products to nonprofit organizations for distribution to needy individuals by giving the Model Good Samaritan Food Donation Act the full force and effect of law.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Conversion to Permanent law of Model Good Samaritan Food Donation Act and Transfer of that act to Child Nutrition Act of 1966.

(a) Conversion to Permanent Law. -- Title IV of the National and Community Service Act of 1990 is amended --

(1) by striking the title heading and sections 401 and 403 (42 U.S.C. 12671 and 12673); and  
(2) in section 402 (42 U.S.C. 12672) --

(A) in the section heading, by striking "Model" and inserting "Bill Emerson";

(B) in subsection (a), by striking "Good Samaritan" and inserting "Bill Emerson Good Samaritan";

(C) in subsection (b)(7), to read as follows:

"(7) GROSS NEGLIGENCE. -- The term 'gross negligence' means voluntary and conscious conduct (including a failure to act) by a person who, at the time of conduct, knew that the conduct was likely to be harmful to the health or well-being of another person.";

(D) by striking subsection (c) and inserting the following:

"(c) LIABILITY FOR DAMAGES FROM DONATED FOOD AND GROCERY PRODUCTS. --

"(1) LIABILITY OF PERSON OR GLEANER. -- A person or gleaner shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the person or gleaner donates in good faith to a nonprofit organization for ultimate distribution to needy individuals.

"(2) LIABILITY OF NONPROFIT ORGANIZATION. -- A nonprofit organization shall nor be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fir grocery product that the nonprofit organization received as a donation in good faith from a person or gleaner for ultimate distribution to needy individuals.

"(3) EXCEPTION. -- Paragraphs (1) and (2) shall not apply to an injury to or death of an ultimate user or recipient of the food or grocery product that results from an act or omission of the person, gleaner, or nonprofit organization, as applicable, constituting gross negligence or intentional misconduct."; and

(E) in subsection (f), by adding at the end of the following: "Nothing in this section shall be construed to supersede State or local health regulations.".

(b) TRANSFER TO CHILD NUTRITION ACT OF 1966. -- Section 402 of the National and Community Service Act of 1990 (42 U.S.C. 12762) (as amended by subsection (a)) --

(1) is transferred from the National and Community Service Act of 1990 to the Child Nutrition Act of 1966;

(2) is redesigned as section 22 of the Child Nutrition Act of 1966; and

(3) is added at the end of such Act.

(c) CONFORMING AMENDMENT. -- The table of contents for the National and Community Service Act of 1990 is amended by striking the items related to title IV.

Newt Gingrich Speaker of the House of Representatives  
Strom Thurmond President of the Senate Pro Tempore  
Approved 10/01/96