

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend Chapter 18 of Title 47 of the District of Columbia Official Code to create a tax credit for individual taxpayers, corporations, and unincorporated businesses that donate food to nonprofit organizations; and to amend the Good Faith Donor and Donee Act of 1981 to expand liability protections for food donations to cover food donors that donate food directly to individuals, to enhance liability protection to cover bona fide charitable and nonprofit organizations that distribute food and those that charge a fee that covers the cost of handling or preparing the food, to require the Department of Health to not require date labels on certain food products and to not limit the sale or donation of food products that do not pose an increased safety risk to consumers after their date labels have passed, to require the Department of Health and the Office of Waste Diversion within the Department of Public Works to create a guide on food donation, and to require the Department of Health to train certain health inspectors on the information in the guide; and to amend the Department of Health Functions Clarification Act of 2001 to make a conforming amendment.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Save Good Food Amendment Act of 2018”.

TITLE I. FOOD DONATION TAX CREDIT.

Sec. 101. Chapter 18 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended as follows:

(1) A new section designation is added to read as follows:

"47-1806.15. Tax on residents and nonresidents - Credits - Tax credit for food donations.”.

(2) A new section designation is added to read as follows:

"47-1807.14. Tax on corporations and financial institutions - Credits -Tax credit for food donations.”.

(3) A new section designation is added to read as follows:

"47-1808.14. Tax on unincorporated businesses - Credits - Tax credit for food donations."

(b) A new section 47-1806.15 is added to read as follows:

"§ 47-1806.15. Tax on residents and nonresidents - Credits - Tax credit for food donations.

"(a) Beginning on January 1 of the tax year following the applicability of this section, a taxpayer may claim a nonrefundable credit against taxes imposed by this subchapter for food donations made during the tax year to a nonprofit organization recognized as a tax-exempt organization pursuant to section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. § 501(c)(3)) and § 47-1802.01.

"(b)(1) The credit claimed under subsection (a) of this section shall equal 50% of the fair market value of the food donation and shall not exceed \$2,500 per tax year for a single individual, head of household, or a married individual or registered domestic partner filing a separate return or \$5,000 per tax year for married individuals or registered domestic partners filing a joint return.

"(2) If a taxpayer elects to claim the credit for a food donation, no deduction under § 47-1803.03(b) shall be allowed on account of the food donation.

"(c) For a taxpayer to claim the credit for a food donation provided by this section, the food donation must be food intended for human consumption and meet all quality and labeling standards under District or federal law or regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, or size.

"(d) Notwithstanding subsection (a) of this section, if the amount of a tax credit under this section exceeds a taxpayer's tax liability under this chapter for a tax year, the amount of the tax credit that exceeds the taxpayer's income liability may be carried forward for a period not to exceed the following 5 tax years.

"(e) A taxpayer claiming the tax credit provided by this section shall provide documentation supporting the tax credit claim in a form and manner prescribed by the Chief Financial Officer.

"(f) For the purposes of this section, the term "food donation" means:

"(1) Vegetables, fruits, and other food products grown in the District at an urban farm, as defined in § 48-401(4), or in a community garden;

"(2) Prepared food made in a kitchen and stored in conditions that meet District and federal health regulations; or

"(3) Vegetables, fruits, fresh and frozen meat, eggs, or dairy products donated by a retailer licensed under §§ 47-2851.02 and 47-2851.03(a)(10)(J)."

(c) A new section 47-1807.14 is added to read as follows:

"§ 47-1807.14. Tax on corporations and financial institutions - Credits - Tax credit for food donations.

“(a) Beginning on January 1 of the tax year following the applicability of this section, a corporation qualified under § 6-1504 may claim a nonrefundable credit against taxes imposed by this subchapter for food donations made during the tax year to a nonprofit organization recognized as a tax-exempt organization pursuant to section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. § 501(c)(3)) and § 47-1802.01.

“(b)(1) The credit claimed under subsection (a) of this section shall equal 50% of the fair market value of food donations and shall not exceed \$5,000 per corporation per tax year. Notwithstanding the foregoing, the credit shall not reduce the minimum tax liability under § 47-1807.02(b).

“(2) If the corporation elects to claim the credit for a food donation, no deduction under § 47-1803.03(a)(8) shall be allowed on account of the food donation.

“(c) For a taxpayer to claim the credit for a food donation provided by this section, the food donation must be food intended for human consumption and meet all quality and labeling standards under District or federal law or regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, or size.

“(d) A corporation claiming the tax credit shall provide documentation supporting the tax credit claim in a form and manner prescribed by the Chief Financial Officer.

“(e) For the purposes of this section, the term "food donation" means:

“(1) Vegetables, fruits, and other food products grown in the District at an urban farm, as defined in § 48-401(4), or in a community garden;

“(2) Prepared food made in a kitchen and stored in conditions that meet District and federal health regulations; or

“(3) Vegetables, fruits, fresh and frozen meat, eggs, or dairy products donated by a retailer licensed under §§ 47-2851.02 and 47-2851.03(a)(10)(J).”.

(d) A new section 47-1808.14 is added to read as follows:

"§ 47-1808.14. Tax on unincorporated businesses - Credits - Tax credit for food donations.

“(a) Beginning on January 1 of the tax year following the applicability of this section, an unincorporated business qualified under § 6-1504 may claim a nonrefundable credit against taxes imposed by this subchapter for food donations made during the tax year to a nonprofit organization recognized as a tax-exempt organization pursuant to section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. § 501(c)(3)) and § 47-1802.01.

“(b)(1) The credit claimed under subsection (a) of this section shall equal 50% of the fair market value of food donations and shall not exceed \$5,000 per unincorporated business per tax year. Notwithstanding the foregoing, the credit shall not reduce the minimum tax liability under § 47-1808.03(b).

“(2) If the unincorporated business elects to claim the credit for a food donation, no deduction under § 47-1803.03(a)(8) shall be allowed on account of the food donation.

“(c) For a taxpayer to claim the credit for a food donation provided by this section, the food donation must be food intended for human consumption and meet all quality and labeling standards under District or federal law or regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, or size.

“(d) An unincorporated business claiming the tax credit shall provide documentation supporting the tax credit claim in a form and manner prescribed by the Chief Financial Officer.

“(e) For the purposes of this section, the term "food donation" means:

“(1) Vegetables, fruits, and other food products grown in the District at an urban farm, as defined in § 48-401(4), or in a community garden;

“(2) Prepared food made in a kitchen and stored in conditions that meet District and federal health regulations; or

“(3) Vegetables, fruits, fresh and frozen meat, eggs, or dairy products donated by a retailer licensed under §§ 47-2851.02 and 47-2851.03(a)(10)(J).”.

TITLE II. FOOD DATE LABELING AND DONATION REFORM.

Sec. 201. The Good Faith Donor and Donee Act of 1981, effective October 8, 1981 (D.C. Law 4-39; D.C. Official Code § 48-301 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 48-301) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “a bona-fide charitable or not-for-profit organization” and inserting the phrase “a bona fide charitable or nonprofit organization or directly to an individual for consumption” in its place.

(2) Subsection (b) is amended by striking the phrase “without charge or at a nominal charge, shall not be” and inserting the phrase “without charge or at a charge sufficient to cover the cost of handling and preparing such food, shall not be” in its place.

(b) New sections 3a and 3b are added to read as follows:

“Sec. 3a. Date labels.

“(a) The Department of Health shall not:

“(1) Require a date label on food products that, based on current scientific evidence, do not pose an increased safety risk to consumers by a stated period; or

“(2) Limit the sale or donation of food products after their date label has passed, except for those food products that pose an increased safety risk to consumers when consumed after the date on the label.

“(b) Within 120 days after the effective date of this section, the Department of Health shall issue rules to implement the provisions of this section.

“(c) For the purposes of this section, the term “date label” refers to any date labeled on a food product, including those accompanied by the phrase “Best By”, “Use By”, “Sell By”, “Best Before”, “Expiration date”, or any other descriptive phrase or date that is determined by the manufacturer to estimate when the food product might expire for use or be at its peak quality if it was handled and stored in a certain manner.

“Sec. 3b. Food donation guide and training.

“(a) The Department of Health, in conjunction with the Office of Waste Diversion within the Department of Public Works, shall create a guide for food donors and donees that includes:

“(1) All food safety regulations that apply to food donations in the District, including liability protections, tax credits, or incentives available to food donors;

“(2) What foods may be donated safely;

“(3) The best practices for storing and handling food donations; and

“(4) A list of organizations in the District that accept food donations.

“(b) The Department of Health shall train its employees who are involved in health inspections of businesses that donate food and organizations that receive donated food on the information in the guide developed pursuant to this section.

“(c) Within 180 days after the effective date of this section, the Department of Health and the Office of Waste Diversion shall each make the guide available on its website.”.

Sec. 202. Section 4902(a) of the Department of Health Functions Clarification Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 7-731(a)), is amended by adding a new paragraph (5A) to read as follows:

“(5A) Regulate food labeling, pursuant to section 3a of the Good Faith Donor and Donee Act of 1981, passed on 2nd reading on October 16, 12018 (Enrolled version of Bill 22-72);”.

TITLE III. GENERAL PROVISIONS.

Sec. 301. Applicability.

(a) Title I shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

(b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan, and provide notice to the Budget Director of the Council of the certification.

(c)(1) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

(2) The date of publication of the notice of the certification shall not affect the applicability of this act.

Sec. 302. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

ENROLLED ORIGINAL

Sec. 303. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia