

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2477 Session of 2020

INTRODUCED BY ROWE, CAUSER, BERNSTINE, DRISCOLL, JONES, LEWIS, GLEIM, KLUNK, FEE, M. K. KELLER, KEEFER, POLINCHOCK, GROVE, MOUL, ZIMMERMAN AND ZABEL, APRIL 30, 2020

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, MAY 19, 2020

AN ACT

1 Amending the act of July 10, 1981 (P.L.234, No.76), entitled "An
2 act providing limited civil and criminal immunity to persons
3 donating food to charitable or religious organizations for
4 distribution to needy persons and imposing certain powers and
5 duties on counties," further providing for donor immunity.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Section 4(b) 4 of the act of July 10, 1981 <--
9 (P.L.234, No.76), known as the Donated Food Limited Liability
10 Act, is amended to read:

11 Section 4. Donor immunity.

12 \* \* \* <--

13 (A) GENERAL RULE.--NOTWITHSTANDING ANY OTHER PROVISION OF <--
14 LAW, ANY PERSON WHO, IN GOOD FAITH, DONATES FOOD [TO A
15 CHARITABLE OR RELIGIOUS ORGANIZATION] FOR ULTIMATE FREE
16 DISTRIBUTION TO NEEDY INDIVIDUALS, SHALL NOT BE SUBJECT TO
17 CRIMINAL OR CIVIL LIABILITY ARISING FROM THE CONDITION OF SUCH
18 FOOD, IF THE DONOR REASONABLY INSPECTS THE FOOD AT THE TIME OF

1 DONATION AND FINDS THE FOOD FIT FOR HUMAN CONSUMPTION. THE  
2 IMMUNITY PROVIDED BY THIS SUBSECTION SHALL NOT EXTEND TO DONORS  
3 WHERE DAMAGES RESULT FROM THE NEGLIGENCE, RECKLESSNESS OR  
4 INTENTIONAL MISCONDUCT OF THE DONOR, OR IF THE DONOR HAS, OR  
5 SHOULD HAVE HAD, ACTUAL OR CONSTRUCTIVE KNOWLEDGE THAT THE FOOD  
6 IS TAINTED, CONTAMINATED OR HARMFUL TO THE HEALTH OR WELL-BEING  
7 OF THE ULTIMATE RECIPIENT.

8 (b) Condition of food.--The immunity provided by this  
9 section is applicable to the good faith donation of food not  
10 readily marketable due to considerations not [effecting]  
11 affecting its fitness for human consumption, including, but not  
12 limited to, appearance, AGE, freshness, grade [or], surplus OR <--  
13 LABELED DATE CODE RECOMMENDED BY THE MANUFACTURER, but shall not  
14 be deemed or construed to restrict the authority of any  
15 authorized agency to otherwise regulate or ban the use of such  
16 food for human consumption. The following shall apply: <--

17 ~~(1) No person that donates food as permitted by law may~~  
18 ~~be subject to civil or criminal liability or penalty for~~  
19 ~~violation of any laws, regulations or ordinances regulating~~  
20 ~~the labeling or packaging of the donated product or, with~~  
21 ~~respect to any other laws, regulations or ordinances, for a~~  
22 ~~violation occurring after the time of the donation.~~

23 ~~(2) No person that donates food that is fit for human~~  
24 ~~consumption but has exceeded the labeled date code~~  
25 ~~recommended by the manufacturer may be subject to criminal or~~  
26 ~~civil liability arising from the condition of the food if the~~  
27 ~~person that distributes the food to the end recipient makes a~~  
28 ~~good faith evaluation that the food to be donated is fit for~~  
29 ~~human consumption in accordance with this act.~~

30 ~~(3) A donation under this subsection shall not be~~

1 ~~considered negligent or reckless.~~

2 Section 2. This act shall take effect immediately.