

**672.1 Donations of perishable food — donor liability — penalty.**

1. As used in this section unless the context otherwise requires:

a. “*Canned foods*” means canned foods that have been hermetically sealed or commercially processed and prepared for human consumption.

b. “*Charitable or nonprofit organization*” means an organization which is exempt from federal or state income taxation, except that the term does not include organizations which sell or offer to sell donated items of food. The assessment of a nominal fee or request for a donation in connection with the distribution of food by the charitable or nonprofit organization is not a sale.

c. “*Gleaner*” means a person who harvests, for free distribution, an agriculture crop that has been donated by the owner.

d. “*Perishable food*” means food which may spoil or otherwise become unfit for human consumption because of its nature or type of physical condition. This term includes, but is not limited to, fresh and processed meats, poultry, seafood, dairy products, eggs in the shell, fresh fruits and vegetables, and foods which have been packaged, refrigerated, or frozen.

2. A gleaner, or a restaurant, food establishment, food service establishment, school, manufacturer of foodstuffs, meat or poultry establishment licensed pursuant to chapter 189A, or other person who, in good faith, donates food to a charitable or nonprofit organization for ultimate free distribution to needy individuals, or to the department of natural resources or a county conservation board for use in a free interpretive educational program, is not subject to criminal or civil liability arising from the condition of the food if the donor reasonably inspects the food at the time of the donation and finds the food fit for human consumption. The immunity provided by this subsection does not extend to a donor or gleaner if damages result from the negligence, recklessness, or intentional misconduct of the donor, or if the donor or gleaner has, or should have had, actual or constructive knowledge that the food is tainted, contaminated, or harmful to the health or well-being of the ultimate recipient.

3. A bona fide charitable or nonprofit organization which receives, in good faith, donated food for ultimate distribution to needy individuals either for free or for a nominal fee is not subject to criminal or civil liability arising from the condition of the food, if the charitable or nonprofit organization reasonably inspects the food at the time of donation and at the time of distribution and finds the food fit for human consumption. The immunity provided by this subsection does not extend to a charitable or nonprofit organization if damages result from the negligence, recklessness, or intentional misconduct of the charitable or nonprofit organization or if the charitable or nonprofit organization has or should have had actual or constructive knowledge that the food is tainted, contaminated, or harmful to the health or well-being of the ultimate recipient.

4. The immunity provided by this section is applicable to the good faith donation of canned or perishable food or farm products not readily marketable due to appearance, freshness, grade, surplus or other considerations, but does not apply to canned goods that are defective or cannot be otherwise offered for sale to members of the general public. This does not restrict the authority of a lawful agency to otherwise regulate or ban the use of such food for human consumption. Charitable or nonprofit organizations which regularly accept donated food for distribution pursuant to this section shall request the appropriate local health authorities to inspect the food at regular intervals.

5. A person, including an employee or volunteer for a charitable or nonprofit organization, who sells, or offers to sell, for profit, food that the person knows to be donated pursuant to this section is guilty of a simple misdemeanor. For purposes of this subsection, the assessment of a nominal fee or request for a donation by the charitable or nonprofit organization is not a sale.

[82 Acts, ch 1168, §1]

C83, §122B.1

89 Acts, ch 181, §1

C93, §672.1

2001 Acts, ch 23, §2; 2002 Acts, ch 1050, §52; 2008 Acts, ch 1081, §1