

Reprinted 2/25

HOUSE FILE 2340

BY COMMITTEE ON JUDICIARY AND
LAW ENFORCEMENT

FEB - 6 1982

Place On Calendar

(Formerly House File 2041)

(P. 1104)

Passed House, Date 2-23-82 (p. 500) Passed Senate, Date 4-8-82
Vote: Ayes 94 Nays 0 Vote: Ayes 46 Nays 0
Approved May 10, 1982

A BILL FOR

1 An Act to limit the criminal or civil liability of donors
2 of perishable food to charitable or nonprofit organizations
3 and the liability of the organizations.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

2340

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

1 Section 1. Chapter 122, Code 1981, is amended by adding
2 the following new section:

3 NEW SECTION. DONATIONS OF PERISHABLE FOOD--DONOR NOT
4 LIABLE--PENALTY.

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

7 a. "Perishable food" means food which may spoil or
8 otherwise become unfit for human consumption because of its
9 nature or type of physical condition. This term includes,
10 but is not limited to, fresh and processed meats, poultry,
11 seafood, dairy products, eggs in the shell, fresh fruits and
12 vegetables, and foods which have been packaged, refrigerated,
13 or frozen.

14 b. "Canned foods" means canned foods that have been
15 hermetically sealed or commercially processed and prepared
16 for human consumption.

17 c. "Charitable or nonprofit organization" means an
18 organization which is exempt from federal or state income
19 taxation, except that the term does not include organizations
20 which sell or offer to sell donated items of food.

21 2. A person who, in good faith, donates food to a
22 charitable or nonprofit organization for ultimate free
23 distribution to needy individuals is not subject to criminal
24 or civil liability arising from the condition of the food
25 if the donor reasonably inspects the food at the time of the
26 donation and finds the food fit for human consumption. The
27 immunity provided by this subsection does not extend to a
28 donor if damages result from the negligence, recklessness,
29 or intentional misconduct of the donor, or if the donor has,
30 or should have had, actual or constructive knowledge that
31 the food is tainted, contaminated, or harmful to the health
32 or well-being of the ultimate recipient.

33 3. A bona fide charitable or nonprofit organization which
34 receives, in good faith, donated food for ultimate distribution
35 to needy individuals either for free or for a nominal fee

1 is not subject to criminal or civil liability arising from
2 the condition of the food, if the charitable or nonprofit
3 organization reasonably inspects the food at the time of
4 donation and at the time of distribution and finds the food
5 fit for human consumption. The immunity provided by this
6 subsection does not extend to a charitable or nonprofit
7 organization if damages result from the negligence,
8 recklessness, or intentional misconduct of the charitable
9 or nonprofit organization or if the charitable or nonprofit
10 organization has or should have had actual or constructive
11 knowledge that the food is tainted, contaminated, or harmful
12 to the health or well-being of the ultimate recipient.

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

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

32 6. A person or a charitable or nonprofit organization
33 is not subject to criminal penalty or civil damages for injury
34 arising from the condition of the food unless the injury is
35 caused by the gross negligence, recklessness, or intentional

1 conduct of the organization.

2 7. This section applies only to perishable food not readily
3 marketable due to appearance, freshness, grade, surplus, or
4 other considerations, but does not restrict the authority
5 of any appropriate agency to ban the use of such food for
6 human consumption.

7 EXPLANATION

8 This bill allows donations and distribution of perishable
9 food apparently fit for human consumption with no liability
10 for injury arising from the condition of the food unless it
11 is caused by gross negligence, recklessness, or intentional
12 misconduct of the donor or charitable organization distributing
13 it. This does not restrict any appropriate agency from the
14 banning of such food for human consumption.

15 This bill takes effect July 1 following enactment.

16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

HOUSE FILE 2340

H-5140

- 1 Amend House File 2340 as follows:
5176-2 1. Page 1, line 20, by inserting after the words
3 "to sell" the words ", for profit,".

H-5140 FILED FEBRUARY 15, 1982 BY SPEAR of Lee

*Adopted as amended by 5176
2/23 (p. 499)*

HOUSE FILE 2340

H-5142

- 1 Amend House File 2340 as follows:
2 1. By striking page 2, line 32 through page 3,
3 line 6.

H-5142 FILED FEBRUARY 15, 1982 BY ROSENBERG of Story

Adopted 2/23 (p. 499)

HOUSE FILE 2340

H-5176

- 1 Amend amendment H-5140 to House File 2340 as follows:
2 1. Page 1, by striking lines 2 and 3 and inserting
3 in lieu thereof the following:
4 "1. Page 1, line 20, by inserting after the word
5 "food." the following: "The assessment of a nominal fee
6 or request for a donation in connection with the
7 distribution of food by the charitable or nonprofit
8 organization is not a sale."

H-5176 FILED FEBRUARY 18, 1982 BY SPEAR of Lee

Adopted 2/23 (p. 498)

HOUSE FILE 2340

H-5201

- 1 Amend House File 2340 as follows:
2 1. Page 1, by adding after line 20, the following:
3 "d. "Gleaner" means a person who harvests, for
4 free distribution, an agriculture crop that has been
5 donated by the owner."
6 2. Page 1, line 21, by inserting after the word
7 "A" the words "gleaner or".
8 3. Page 1, line 28, by inserting after the word
9 "donor" the words "or gleaner".
10 4. Page 1, line 29, by inserting before the word
11 "has" the words "or gleaner".

H-5201 FILED FEBRUARY 22, 1982 BY POFFENBERGER of Dallas

Adopted 2/23 (p. 499)

Sen. Judiciary 2/26

HOUSE FILE 2340

Do Pass 3/24 (p. 899)

Judiciary
Rush, Chair
Kudart
Carr

HOUSE FILE 2340

BY COMMITTEE ON JUDICIARY AND
LAW ENFORCEMENT

(As Amended and Passed by the House)

Passed House, Date 2-23-82 (p. 500) Passed Senate, Date 4-8-82 (p. 1104)

Vote: Ayes 94 Nays 0 Vote: Ayes 46 Nays 0

Approved May 10, 1982

A BILL FOR

1 An Act to limit the criminal or civil liability of donors
2 of perishable food to charitable or nonprofit organizations
3 and the liability of the organizations.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

House Amendments _____

Deleted Language *

1 Section 1. Chapter 122, Code 1981, is amended by adding
2 the following new section:

3 NEW SECTION. DONATIONS OF PERISHABLE FOOD--DONOR NOT
4 LIABLE--PENALTY.

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

7 a. "Perishable food" means food which may spoil or
8 otherwise become unfit for human consumption because of its
9 nature or type of physical condition. This term includes,
10 but is not limited to, fresh and processed meats, poultry,
11 seafood, dairy products, eggs in the shell, fresh fruits and
12 vegetables, and foods which have been packaged, refrigerated,
13 or frozen.

14 b. "Canned foods" means canned foods that have been
15 hermetically sealed or commercially processed and prepared
16 for human consumption.

17 c. "Charitable or nonprofit organization" means an
18 organization which is exempt from federal or state income
19 taxation, except that the term does not include organizations
20 which sell or offer to sell donated items of food. The
21 assessment of a nominal fee or request for a donation in
22 connection with the distribution of food by the charitable
23 or nonprofit organization is not a sale.

24 d. "Gleaner" means a person who harvests, for free
25 distribution, an agriculture crop that has been donated by
26 the owner.

27 2. A gleaner or person who, in good faith, donates food
28 to a charitable or nonprofit organization for ultimate free
29 distribution to needy individuals is not subject to criminal
30 or civil liability arising from the condition of the food
31 if the donor reasonably inspects the food at the time of the
32 donation and finds the food fit for human consumption. The
33 immunity provided by this subsection does not extend to a
34 donor or gleaner if damages result from the negligence,
35 recklessness, or intentional misconduct of the donor, or if

1 the donor or gleaner has, or should have had, actual or
2 constructive knowledge that the food is tainted, contaminated,
3 or harmful to the health or well-being of the ultimate
4 recipient.

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

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

32 5. A person, including an employee or volunteer for a
33 charitable or nonprofit organization, who sells, or offers
34 to sell, for profit, food that the person knows to be donated
35 pursuant to this section is guilty of a simple misdemeanor.

1 For purposes of this subsection, the assessment of a nominal
2 fee or request for a donation by the charitable or nonprofit
3 organization is not a sale.

- *4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35

HOUSE FILE 2340

AN ACT

TO LIMIT THE CRIMINAL OR CIVIL LIABILITY OF DONORS OF PERISHABLE FOOD TO CHARITABLE OR NONPROFIT ORGANIZATIONS AND THE LIABILITY OF THE ORGANIZATIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Chapter 122, Code 1981, is amended by adding the following new section:

NEW SECTION. DONATIONS OF PERISHABLE FOOD--DONOR NOT LIABLE--PENALTY.

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

a. "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.

b. "Canned foods" means canned foods that have been hermetically sealed or commercially processed and prepared for human consumption.

c. "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.

d. "Gleaner" means a person who harvests, for free distribution, an agriculture crop that has been donated by the owner.

2. A gleaner or person who, in good faith, donates food to a charitable or nonprofit organization for ultimate free distribution to needy individuals 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.

DELWYN STROMER
Speaker of the House

TERRY E. BRANSTAD
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2340, Sixty-ninth General Assembly.

ELIZABETH A. ISAACSON
Chief Clerk of the House

Approved May 10, 1982

ROBERT D. RAY
Governor