

CHAPTER 311

AN ACT concerning liability for food donations and gleaning activities, amending and supplementing P.L.1982, c.178, and supplementing Title 4 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 2 of P.L.1982, c.178 (C.24:4A-2) is amended to read as follows:

C.24:4A-2 Definitions.

2. As used in this act:

“Donate” means to provide food free of charge or for a fee sufficient only to cover the cost of storing, transporting, or otherwise handling the food.

“Donor” includes, but is not limited to, any farmer, processor, distributor, or wholesaler or retailer of perishable or prepared food, a public or nonpublic school, or an institution of higher education in this State.

“Food” means articles used for food or drink for humans and articles used for components of any such article.

“Food bank” means a nonprofit food clearinghouse that solicits, stores, and distributes donations of edible but unmarketable surplus food. The food is distributed to nonprofit organizations that feed the needy.

“Gleaner” means a person who harvests for distribution an agricultural food that has been donated by the owner.

“Nonprofit organization” means an organization incorporated under the provisions of Title 15 or Title 16 of the Revised Statutes of New Jersey, an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code or an entity to which a charitable contribution as defined under subsection (c) of section 170 of the Internal Revenue Code is deductible under section 170.

“Perishable food” means any food that may spoil or otherwise become unfit for human consumption because of its nature, type or physical condition. Perishable food includes, but is not limited to, fresh or processed meats, poultry, seafood, dairy products, bakery products, eggs in the shell, fresh fruits or vegetables and foods that have been canned or otherwise processed and packaged and which may or may not require refrigeration or freezing.

“Prepared food” means food commercially processed and prepared for human consumption.

2. Section 3 of P.L.1982, c.178 (C.24:4A-3) is amended to read as follows:

C.24:4A-3 Nonliability for food donated.

3. a. Any donor of prepared or perishable food or any gleaner of agricultural food, which food appears to be fit for human consumption at the time it is donated to a nonprofit organization or any other person, shall not be liable for damages in any civil action or subject to criminal prosecution for any injury or death due to the condition of the food, unless the injury or death is a direct result of the gross negligence, recklessness or knowing misconduct of the donor or gleaner.

- b. A food bank, nonprofit organization, or their agents who in good faith receive and distribute prepared or perishable food which appears to be fit for human consumption at the time it is distributed shall not be liable for damages in any civil action or subject to criminal prosecution for any injury or death due to the condition of the food, unless the injury or death is a direct result of the gross negligence, recklessness or knowing misconduct of the organization or an agent of the organization.

c. An owner of agricultural food who gives permission to a gleaner to enter upon his land for the purpose of harvesting donated agricultural food for distribution shall not be liable for damages in any civil action due to the presence of the gleaner on the land and shall not be liable for damages in any civil action or subject to criminal prosecution resulting from the consumption of the food gleaned or donated.

d. This section applies to good faith donations of perishable or prepared food which is not readily marketable due to appearance, freshness, grade, passage of the “best by” or other open date, surplus supply, or other conditions which do not affect its fitness for human consumption. The protections provided in this section shall apply regardless of compliance with any laws, rules, regulations, or ordinances regulating the quality or labeling of food.

C.24:4A-3.1 Immunity from liability.

3. A nonprofit organization that organizes or hosts volunteers on agricultural land for the purpose of collecting or gleaning agricultural food from the land for ultimate distribution to needy individuals shall not be liable for damages in any civil action due to the presence or activity of the organization or volunteers on the land, unless the damage is a direct result of the gross negligence, recklessness, or knowing misconduct of the nonprofit organization or volunteer.

C.4:10-25.2d Guidance document.

4. Within 90 days after the effective date of P.L.2017, c.311 (C.24:4A-3.1 et al.), the Department of Agriculture shall prepare and publish on its Internet website a guidance document that provides information to farmers, food banks, donors, nonprofit organizations, and other persons on the State and federal liability protections available for food donations, gleaning, and other related activities.

5. This act shall take effect immediately.

Approved January 16, 2018.