

## LEGISLATIVE BILL 38

Approved by the Governor March 16, 1981

Introduced by Kahle, 37

AN ACT relating to food; to provide an exception to civil liability for certain donations; and to provide penalties.

Be it enacted by the people of the State of Nebraska,

Section 1. (1) For the purposes of this section, the definitions provided in section 81-217.12 shall apply.

(2) Notwithstanding any other provisions of the law of this state, any person who makes a good faith donation to a charitable or nonprofit organization of prepared or perishable food or raw agricultural products which appear to be fit for human consumption at the time it is donated shall not be liable for damages in any civil action for any injury or death because of the condition of such food unless the injury or death is a direct result of the gross negligence, recklessness, or intentional misconduct of the donor.

(3) Notwithstanding any other provisions of the law of this state, a charitable or nonprofit organization which in good faith receives and distributes, without charge, food which the organization reasonably determines to be fit for human consumption at the time it is distributed shall not be liable for damages in any civil action based on the doctrine of strict liability in tort for any injury or death because of the condition of such food.

(4) This section shall apply to all good faith donations of perishable food or raw agricultural products which are not readily marketable because of appearance, freshness, grade, surplus supply, or other conditions.

Sec. 2. (1) Any charitable or nonprofit organization distributing food pursuant to this act shall affix a label upon such food or upon the individual container or package of such food stating that the food is not for resale and stating that pursuant to state law this organization shall not be liable in any civil action based on strict liability in tort for any injury or death because of the condition of such food.

(2) Violation of the provisions of subsection (1) of this section shall be a Class V misdemeanor.

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Sec. 3. (1) It shall be unlawful for any person or charitable or nonprofit organization receiving food pursuant to this act to sell or offer to sell such food.

(2) Violation of the provisions of subsection (1) of this section shall be a Class V misdemeanor.

Sec. 4. The Director of Agriculture may adopt and promulgate rules and regulations necessary to carry out the provisions of this act.