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Bannister  
4/9/15

**CS FOR HOUSE BILL NO. 179( )**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

**BY**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVES KREISS-TOMKINS, Millett, Ortiz, Kito, Stutes, Muñoz, Wilson, Foster, Nageak**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to donations of certain food items to certain food service organizations**  
2 **and to food banks."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 **\* Section 1.** AS 16.05 is amended by adding a new section to read:

5 **Sec. 16.05.931. Donation of food items to meal programs. (a)**

6 Notwithstanding any other provision of this chapter, to the extent consistent with  
7 federal law, a person may donate covered food items to a covered organization located  
8 in the state or a food bank located in the state, except that a person who takes a  
9 covered food item as a proxy on behalf of another person under AS 16.05.405 may not  
10 donate the covered food item to a covered organization under this section unless the  
11 person on whose behalf the proxy took the covered food item is a user of the covered  
12 organization.

13 (b) The food items that a person may donate under (a) of this section are

14 (1) lawfully taken game, marine plants, and aquatic plants, or parts of

1 game, marine plants, or aquatic plants;

2 (2) lawfully taken nests or eggs of fish or game; and

3 (3) fish or parts of a fish, if taken lawfully for subsistence or sport use.

4 (c) A covered organization that may accept covered food items under this  
5 section is

6 (1) a public, nonprofit, or private school or child care facility,  
7 including a preschool facility and a head start facility;

8 (2) a public or nonprofit residential child care facility or residential  
9 psychiatric treatment center licensed under AS 47.32;

10 (3) a public or nonprofit hospital, medical clinic, long-term health care  
11 facility, or other medical facility;

12 (4) a senior center facility or a food program for senior individuals.

13 (d) A covered organization may provide meals with the covered food items to  
14 the covered organization's staff and

15 (1) the students attending the covered organization, if the covered  
16 organization is a public, nonprofit, or private school, including a preschool facility and  
17 a head start facility;

18 (2) the patients of the covered organization, if the covered organization  
19 is a public or nonprofit hospital, medical clinic, long-term health care facility, or  
20 residential psychiatric treatment center;

21 (3) the children whom the covered organization provides care for, if  
22 the covered organization is a public, nonprofit, or private child care facility, or  
23 residential child care facility;

24 (4) the senior individuals using the services of the covered  
25 organization, if the covered organization is a senior center or a senior food program.

26 (e) Notwithstanding any other provision of law, a covered organization may  
27 accept local, state, and federal funding for a meal service program of the covered  
28 organization and may charge fees for meals that it provides to its users and staff.  
29 However, a covered organization may not sell its meals to persons other than its users  
30 and staff.

31 (f) In this section,

(1) "covered food item" means a food item identified in (b) of this section;

(2) "covered organization" means a facility identified in (c) of this section;

(3) "food bank" has the meaning given in AS 17.20.347;

(4) "head start facility" means a facility operating as a head start facility under AS 14.38.010;

(5) "meal" means a meal provided for immediate consumption using covered food items;

(6) "meal service program" means a program under which a covered organization provides meals to its users and its staff under this section;

(7) "residential child care facility" has the meaning given in AS 47.32.900;

(8) "residential psychiatric treatment center" has the meaning given in AS 47.32.900;

(9) "senior center facility" means a facility that provides senior individuals with services and activities;

(10) "senior food program" means a program that provides senior individuals with food;

(11) "senior individual" means an individual who is 60 years of age or older;

(12) "users" means the individuals identified in (d) of this section.

\* **Sec. 2.** AS 17.20.345(a) is amended to read:

(a) Notwithstanding the provisions of AS 17.20.290, 17.20.305, or 17.20.315, a donor of food for free distribution by a food bank **or a donor of covered food items under AS 16.05.931** is not subject to civil or criminal liability arising from an injury or death attributable to the condition of the donated food **or covered food item** if the injury or death is not a result of the gross negligence, recklessness, or intentional misconduct of the donor.

\* **Sec. 3.** AS 17.20.346(a) is amended to read:

(a) Notwithstanding the provisions of AS 17.20.290, 17.20.305, or 17.20.315,

1 a food bank that receives and distributes food, **including a covered food item under**  
2 **AS 16.05.931, and a covered organization are** [IS] not subject to civil or criminal  
3 liability arising from an injury or death attributable to the condition of the food **or**  
4 **covered food item** if

5 (1) the food bank **or covered organization** inspects the food received  
6 in a reasonable manner, [AND] finds it to be apparently fit for human consumption at  
7 the time of distribution, **and, if the food is a covered food item, receives, processes,**  
8 **and stores the covered food item as required by the Department of**  
9 **Environmental Conservation;**

10 (2) the food bank **or covered organization** has no actual or  
11 constructive knowledge at the time the food **or covered food item** is distributed that it  
12 is adulterated, tainted, contaminated, or would be harmful to the health or well-being  
13 of an individual consuming it; and

14 (3) the injury or death is not a direct result of the negligence,  
15 recklessness, or intentional misconduct of the food bank **or the covered organization.**

16 \* **Sec. 4.** AS 17.20.346 is amended by adding a new subsection to read:

17 (c) In this section, "covered organization" means a covered organization that  
18 provides meals under AS 16.05.931. In this subsection, "covered organization" and  
19 "meal" have the meanings given in AS 16.05.931.

20 \* **Sec. 5.** AS 17.20.347 is amended by adding a new paragraph to read:

21 (3) "covered food item" has the meaning given in AS 16.05.931.