

HOUSE BILL NO. 186

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE TALERICO

Introduced: 3/17/17

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the donation of food; and relating to food banks."

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

3 * Section 1. AS 17.20.345 is amended to read:

4 Sec. 17.20.345. Liability of food donor. (a) Notwithstanding the provisions of
5 AS 17.20.290, 17.20.305, or 17.20.315, a donor of food for free distribution by a food
6 bank or charitable organization is not subject to civil or criminal liability arising
7 from an injury or death attributable to the condition of the donated food if the injury or
8 death is not a result of the gross negligence, recklessness, or intentional misconduct of
9 the donor.

10 (b) Nothing in this section, AS 17.20.290, 17.20.305, 17.20.315, or
11 AS 45.50.471 - 45.50.561 prohibits the donation by a donor of food apparently fit for
12 human consumption at the time of its donation solely because

13 (1) the label on the food is missing or the food is otherwise
14 misbranded; this paragraph does not apply to the label required under (d)(2) of
15 this section; [OR]

1 (2) the food, if offered for sale commercially, would not be readily
2 marketable because of appearance or grade, or because it is surplus; or

3 (3) a date on the food indicating when the food is best eaten by or
4 used by has expired.

5 (c) A person who donates to a food bank or charitable organization salmon
6 from a hatchery that operates under a permit issued under AS 16.10.400 - 16.10.470 is
7 immune from liability as provided in this section if the salmon is apparently fit for
8 human consumption at the time of its donation, even if the hatchery does not have a
9 permit issued by the Department of Environmental Conservation under this chapter or
10 other statute to process fisheries products for human consumption.

11 * **Sec. 2.** AS 17.20.345 is amended by adding a new subsection to read:

12 (d) A donor of unsold hot food to a food bank or charitable organization is
13 immune from liability as provided in this section if

14 (1) at the time the food is donated, the food is apparently fit for human
15 consumption;

16 (2) the donor labels the food with a statement that reads: "This food
17 has been previously heated. Best if kept frozen until ready to eat."

18 * **Sec. 3.** AS 17.20.346 is amended to read:

19 **Sec. 17.20.346. Liability of food bank or charitable organization.** (a)
20 Notwithstanding the provisions of AS 17.20.290, 17.20.305, or 17.20.315, a food bank
21 or charitable organization that receives and distributes food is not subject to civil or
22 criminal liability arising from an injury or death attributable to the condition of the
23 food if

24 (1) the food bank or charitable organization inspects the food
25 received in a reasonable manner and finds it to be apparently fit for human
26 consumption at the time of distribution;

27 (2) the food bank or charitable organization has no actual or
28 constructive knowledge at the time the food is distributed that it is adulterated, tainted,
29 contaminated, or would be harmful to the health or well-being of an individual
30 consuming it; and

31 (3) the injury or death is not a direct result of the negligence,

1 reckless, or intentional misconduct of the food bank or charitable organization.

2 (b) Nothing in this section, AS 17.20.290, 17.20.305, 17.20.315, or
3 AS 45.50.471 - 45.50.561 prohibits the distribution by a food bank or charitable
4 organization of food apparently fit for human consumption at the time of its
5 distribution solely because

6 (1) the label on the food is missing or the food is otherwise
7 misbranded; [OR]

8 (2) the food, if sold commercially, would not be readily marketable
9 because of appearance or grade, or because it is surplus; or

10 (3) a date on the food indicating when the food is best eaten or
11 used by has expired.

12 * **Sec. 4.** AS 17.20.347 is amended to read:

13 **Sec. 17.20.347. Definitions ["DONOR" AND "FOOD BANK" DEFINED].**

14 In AS 17.20.345 - 17.20.347 [AS 17.20.345 AND 17.20.346],

15 (1) "donor" includes a person, farmer, retailer, delicatessen,
16 restaurant, hotel, store, slaughterhouse under state supervision, freight company,
17 distributor, wholesaler, meat processor, seafood processor, or similar entity, and a
18 person who acts in a commercial capacity as a manufacturer, packer, processor,
19 bottler, or similar entity, even if that activity is the person's primary activity;

20 (2) "food bank" means a nonprofit organization that operates
21 principally to collect, inspect, and salvage donated food for free distribution either to
22 needy persons or to nonprofit organizations for free distribution to needy persons; [IN
23 THIS PARAGRAPH, "NONPROFIT ORGANIZATION" MEANS AN
24 ORGANIZATION RECOGNIZED BY THE STATE OR FEDERAL
25 GOVERNMENT AS A NONPROFIT ORGANIZATION].

26 * **Sec. 5.** AS 17.20.347 is amended by adding new paragraphs to read:

27 (3) "charitable organization" means a nonprofit organization that
28 provides food without charge to individuals who do not have money to pay for the
29 food or who do not have homes;

30 (4) "food" includes unsold hot food;

31 (5) "nonprofit organization" means an organization recognized by the

1 state or federal government as a nonprofit organization.