

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1206

H. P. 1010

House of Representatives, March 10, 1981

Referred to the Committee on Judiciary. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Kany of Waterville.

Cosponsors: Representative Moholland of Princeton, Representative Michael of Auburn and Representative Benoit of South Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Limit Liability Regarding Donations to Food Banks.

Be it enacted by the People of the State of Maine, as follows:

14 MRSA § 166 is enacted to read:

§ 166. Immunity for certain food donations

1. **Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Canned food" means any food commercially processed and prepared for human consumption.

B. "Perishable food" means any food which may spoil or otherwise become unfit for human consumption because of its nature, type, or physical condition. It includes, but is not limited to, fresh and processed meats, poultry, seafood, dairy products, bakery products, eggs in the shells, fresh fruits and vegetables and foods which have been packaged, refrigerated or frozen.

2. **Immunity for donor.** Notwithstanding any other provision of law, a good faith donor of canned or perishable food, which is apparently fit for human consumption at the time it is donated, to a bona fide charitable or not-for-profit organization for free distribution, is not subject to civil liability arising from

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 intentional misconduct of the donor.

3. Immunity of distributor. Notwithstanding any other provision of law, a bona fide charitable or not-for-profit organization which in good faith receives and distributes food, which is apparently fit for human consumption at the time it is distributed, without charge, is not subject to civil liability arising from an 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 intentional misconduct of the organization.

4. Application. This section applies to all good faith donations of perishable food which is not readily marketable due to appearance, freshness, grade, surplus or other conditions, but nothing in this section restricts the authority of any appropriate agency to regulate or bar the use of that food for human consumption.

STATEMENT OF FACT

This bill provides an immunity from civil liability for donors and distributors of food, free of charge. The distributors would be limited to charitable or not-for-profit organizations. Other states have created similar immunity for so-called food banks.