

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 1514

H.P. 1041

House of Representatives, April 12, 1991

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative OLIVER of Portland.

Cosponsored by Representative GEAN of Alfred, Representative LAWRENCE of Kittery and Senator CONLEY of Cumberland.

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STATE OF MAINE

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

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**An Act to Limit the Liability of Nonprofit Food Providers Who Supply  
Meals and Other Food to Low-income and Homeless Persons.**

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

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4       Sec. 1. 14 MRSA §166, sub-§§2 and 3, as enacted by PL 1981, c.  
300, are amended to read:

6       2. **Immunity for donor.** Notwithstanding any other provision  
8 of law, a good faith donor of canned or perishable food, which is  
apparently fit for human consumption at the time it is donated,  
10 including open-dated food, the date on which has passed, to a  
bona fide charitable or not-for-profit organization for free  
12 distribution, is immune from civil liability arising from injury  
or death due to the condition of the food, unless the injury or  
14 death is a direct result of the gross negligence, recklessness or  
intentional misconduct of the donor and provided that the food is  
16 not misbranded and has not been manufactured, processed,  
prepared, handled or stored in violation of applicable state laws  
and rules.

18       3. **Immunity of distributor.** Notwithstanding any other  
20 provision of law, a bona fide charitable or not-for-profit  
organization and any employee or volunteer of that organization  
22 who in good faith receive and distribute food, which is  
apparently fit for human consumption at the time it is  
24 distributed, without charge, are immune from civil liability  
arising from an injury or death due to the condition of the food,  
26 unless the injury or death is a direct result of the gross  
negligence, recklessness or intentional misconduct of the  
28 organization or any person employed by or under the control of  
the organization and provided that the food is not misbranded and  
30 has not been manufactured, processed, prepared, handled or stored  
in violation of applicable state laws and rules. No charitable  
32 or not-for-profit organization may distribute or serve food from  
any establishment unless that organization has been inspected and  
34 is in compliance with all inspection or permit requirements of  
the Department of Human Services and the local health officer in  
36 the city or town in which food is to be distributed or served.

38       Sec. 2. 14 MRSA §166, sub-§3-A is enacted to read:

40       3-A. **Private homes.** The preparation of food in private  
42 homes for donation to a charitable or not-for-profit organization  
for distribution without charge or at a charge sufficient to  
44 cover the cost of handling such food is not subject to  
licensure. The Department of Human Services shall provide  
46 advisory guidelines and interpretations for the safe and sanitary  
preparation of this type of food.

## STATEMENT OF FACT

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This bill clarifies and adds specificity to current law providing immunity to persons who donate food or distribute donated food for charitable activities at little or no charge.