

# MAINE STATE LEGISLATURE

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R. of S.

L.D. 2150

(Filing No. S- 603 )

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**STATE OF MAINE  
SENATE  
115TH LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT " A" to S.P. 846, L.D. 2150, Bill, "An Act to Provide Immunity to Nonprofit Institutions That Donate Surplus Food"

Amend the bill by striking out the title and substituting the following:

**'An Act to Provide Broader Immunity to Licensed Facilities and Establishments Donating Food'**

Further amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

**'Emergency preamble. Whereas,** Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** the goal of this legislation is to encourage people to donate food to nonprofit organizations for free distribution to needy people; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 14 MRSA §166, sub-§5 is enacted to read:**

**5. Immunity of facilities and establishments.**  
**Notwithstanding any other provision of law, a hospital or other health care facility licensed by the Department of Human Services, or an eating establishment licensed under Title 22, chapter 562 that, in good faith and in accordance with guidelines established by the recipient organization, donates food that is**

**COMMITTEE AMENDMENT**

2 apparently fit for human consumption at the time it is donated to  
3 a bona fide charitable or nonprofit organization for free  
4 distribution is immune from civil liability arising from injury,  
5 illness or death due to the condition or content of the food,  
6 unless the injury, illness or death is a direct result of  
7 intentional misconduct of the donor. Nothing in this subsection  
8 prevents a licensed hospital, health care facility or eating  
9 establishment from receiving the immunity provided in subsection  
10 2 if the donor qualifies for immunity under the terms of that  
11 subsection.

12  
13 **Emergency clause.** In view of the emergency cited in the  
14 preamble, this Act takes effect when approved.'

15  
16 **STATEMENT OF FACT**

17  
18 The amendment replaces the bill and provides broader  
19 immunity for a narrower group of food donors than that provided  
20 in the bill. Immunity would exist for all conduct other than  
21 intentional misconduct. Only hospitals, health care facilities,  
22 restaurants and other eating establishments that are licensed by  
23 the State are eligible to receive this immunity, and the immunity  
24 only applies if the donor donates in accordance with guidelines  
25 established by the recipient organization. If there are no  
26 guidelines, or the donation does not meet the guidelines, the  
27 donor may receive the more limited immunity provided by current  
28 law.

Reported by Senator Gauvreau for the Committee on Judiciary.  
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(3/9/92) (Filing No. S-603)