CHAPTER 74

Liability Exemption for Donors of Food

**SECTION 15‑74‑10.** Definitions.

 For the purposes of this chapter, “distressed food” means canned or packaged foods and prepared foods which are foods prepared by restaurants and other establishments and donors in excess amounts which do not affect the edibility of the food or other considerations and perishable foods which are not readily marketable due to appearance, freshness, grade surplus, dented or damaged containers which do not affect the edibility of the food or other considerations. “Prepared and perishable food” means food that may spoil or become unfit for human consumption because of its nature, type, or physical condition, and includes, but is not limited to, fresh or processed meats, poultry, seafood, dairy products, bakery products, eggs in the shell, fresh fruits and vegetables, and foods that have been packaged, refrigerated, or frozen. Perishable food also includes any consumable agricultural products remaining after commercial harvesting which the donor allows to be removed from his land.

 “Food bank and prepared and perishable food program” means a surplus food collection and distribution system operated and established to assist in bringing donated food to nonprofit or charitable organizations and individuals for the purpose of reducing hunger and meeting nutritional needs.

HISTORY: 1981 Act No. 95, Section 1; 1990 Act No. 415, Section 1; 1992 Act No. 317, Section 1; 1992 Act No. 362, Section 1.

CROSS REFERENCES

Liability of producer or processor for defects existing in food product before it becomes distressed food, see Section 15‑74‑40.

LIBRARY REFERENCES

Westlaw Key Number Searches: 178k5; 178k25.

Food 5, 25.

**SECTION 15‑74‑20.** Good faith charitable donor of distressed food exempt from civil and criminal liability; exception.

 The donor, in good faith, of distressed food apparently fit for human consumption, to a bona fide charitable or nonprofit organization or food bank or prepared and perishable food program for free distribution, is not subject to criminal penalty or civil damages arising from the condition of the food or the nature or condition of the land entered, unless an injury is caused by gross negligence, recklessness, or intentional misconduct of the donor.

HISTORY: 1981 Act No. 95, Section 1; 1990 Act No. 415, Section 2; 1992 Act No. 317, Section 2; 1992 Act No. 362, Section 1.

LIBRARY REFERENCES

Westlaw Key Number Searches: 178k5; 178k25.

Food 5, 25.

RESEARCH REFERENCES

Treatises and Practice Aids

American Law of Products Liability 3d Section 80:6, Food Donor Immunity.

American Law of Products Liability 3d PS STATESTATS, State Statutes.

**SECTION 15‑74‑30.** Charitable or nonprofit organization receiving distressed food in good faith exempt from civil and criminal liability; exception.

 A bona fide charitable or nonprofit organization or food bank or prepared and perishable food program which in good faith receives distressed food apparently fit for human consumption is not subject to criminal penalty or civil damages arising from the condition of the food unless an injury results from the gross negligence, recklessness, or intentional misconduct of the organization.

HISTORY: 1981 Act No. 95, Section 1; 1990 Act No. 415, Section 3; 1992 Act No. 362, Section 1.

LIBRARY REFERENCES

Westlaw Key Number Searches: 178k5; 178k25.

Food 5, 25.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Charities Section 5, Charitable Immunity.

Treatises and Practice Aids

American Law of Products Liability 3d Section 80:7, Food Donee Immunity.

American Law of Products Liability 3d PS STATESTATS, State Statutes.

**SECTION 15‑74‑40.** Neither regulatory authority of Department of Health and Environmental Control nor liability of producer or processor of defective food affected.

 The provisions of this act shall not be deemed to in any manner restrict the authority of the Department of Health and Environmental Control to regulate or ban the use or consumption of distressed food donated, collected or received for charitable purposes but deemed unfit for human consumption, nor shall the exemption from liability provided for in this chapter in any manner affect the liability of a producer or processor of food products for defects existing in a food product prior to the time such product became “distressed food” as defined in Section 15‑74‑10.

HISTORY: 1981 Act No. 95, Section 1.

CROSS REFERENCES

Department of Health and Environmental Control, generally, see Sections 44‑1‑20 et seq.

LIBRARY REFERENCES

Westlaw Key Number Searches: 178k1; 178k5; 178k25.

Food 1, 5, 25.