

Assembly Bill No. 332—Assemblymen Dondero Loop, Buckley, Manendo, Smith, Conklin; Aizley, Anderson, Arberry, Atkinson, Bobzien, Claborn, Denis, Goicoechea, Kirkpatrick, Koivisto, Leslie, McClain, Munford, Ocegueda, Segerblom, Settelmeyer, Spiegel, Stewart and Woodbury

CHAPTER.....

AN ACT relating to civil liability; revising provisions governing immunity from liability for donating, receiving or distributing certain grocery products or food; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes immunity from civil liability for certain persons who donate certain grocery products or wholesome foods for consumption or use and for certain persons who receive or distribute such products or foods for consumption or use. This bill adds perishable food to the definition of "wholesome food," to clarify that the immunity applies to donating perishable foods or receiving and distributing perishable foods.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 41.491 is hereby amended to read as follows:

41.491 1. No civil action for an injury or illness which results from the consumption or use of wholesome food or a grocery product that is fit for human use may be brought against:

(a) A person or an employee of a person who, in good faith, donates the food or grocery product to a nonprofit charitable organization for free distribution or to any other person for consumption or use;

(b) A nonprofit charitable organization or an employee of a nonprofit charitable organization which, in good faith, receives or distributes without charge, the food or grocery product;

(c) A person who harvests wholesome food and who, in good faith, donates that food to a nonprofit charitable organization for free distribution or to any other person for consumption; or

(d) A person to whom wholesome food or a grocery product that is fit for human use has been donated without charge who, in good faith, distributes without charge that food or grocery product to a member of his immediate family,

↳ unless the injury or illness directly resulted from the gross negligence or willful misconduct of the donor, donee, organization or employee.



2. If an owner or a manager of property allows a person to glean food from that property in order to distribute that food without charge to other persons or donate the food to a nonprofit charitable organization for free distribution, no civil action for an injury or death resulting from that gleaning may be brought against the owner or manager of the property unless the injury or death directly resulted from the gross negligence or willful misconduct of the owner or manager.

3. No civil action for an injury or illness which results from the consumption or use of food or a grocery product which does not comply with all of the applicable standards for quality and labeling imposed by federal and state statutes and regulations and local ordinances, may be brought against:

(a) A person or an employee of a person who, in good faith, donates the food or grocery product to a nonprofit charitable organization for free distribution if, before the food or grocery product is donated:

(1) The person or employee fully informs the organization that the food or grocery product does not comply with the applicable standards; and

(2) The organization agrees to recondition the food or grocery product before it is distributed so that it complies with the applicable standards; or

(b) A nonprofit organization which receives and distributes without charge the food or grocery product if the organization, or any officer, employee or volunteer of the organization, reconditions the food or grocery product before it is distributed so that it complies with the applicable standards,

➔ unless the injury or illness directly resulted from the gross negligence or willful misconduct of the donor, organization, officer, employee or volunteer.

4. As used in this section:

(a) "Donate" means to:

(1) Give food or a grocery product to another person without requiring anything of monetary value from that person; or

(2) Sell food or a grocery product for a fee that is significantly less than the cost of the item sold.

(b) "Glean" means to gather or collect an agricultural crop which is donated by an owner or manager of property.

(c) "Grocery product that is fit for human use" means a grocery product, other than food, which complies with all the applicable standards for quality and labeling imposed by federal and state statutes and regulations and local ordinances. The term includes:



(1) Products which are not readily marketable because of packaging, appearance, age, surplus, size or other condition; and

(2) Household or industrial cleaning products, personal hygiene products, cleaning equipment and cooking utensils.

(d) *“Perishable food” means any food that may spoil or otherwise become unfit for human consumption after a period of time because of its nature, type or physical condition. The term includes, without limitation, fresh or processed meats, poultry, seafood, dairy products, eggs in the shell, fresh fruits or vegetables, and food that has been:*

(1) Noncommercially packaged;

(2) Frozen or otherwise requires refrigeration to remain nonperishable for a reasonable length of time; or

(3) Prepared at a public food service establishment.

(e) “Wholesome food” means any raw, cooked, processed or prepared food or beverage which is intended for human consumption and which complies with all the applicable standards for quality and labeling imposed by federal and state statutes and regulations and local ordinances. The term includes , *without limitation, perishable food and* food which is not readily marketable because of packaging, appearance, age, freshness, grade, surplus, size or other condition.

Sec. 2. This act becomes effective on July 1, 2009.

