

## CHAPTER 19

( HB 237 )

AN ACT relating to donations of food and grocery products.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

*As used in Sections 1 to 4 of this Act:*

- (1) *"Apparently fit grocery product" means a grocery product that meets all consumer safety standards imposed by federal, state, and local laws and regulations even though the product may not be readily marketable because of appearance, age, date labeling, freshness, grade, size, surplus, or other conditions;*
- (2) *"Apparently wholesome food" means food that meets all consumer safety standards imposed by federal, state, and local laws and regulations even though the food may not be readily marketable because of appearance, age, date labeling, freshness, grade, size, surplus, or other conditions;*
- (3) *"Donate" means to give without requiring anything of monetary value from the recipient. The term donate includes giving by a nonprofit organization to another nonprofit organization, even if the donor organization has charged a fee to the donee organization, if the ultimate recipient or user is not required to give anything of monetary value;*
- (4) *"Food" means any raw, cooked, processed, or prepared edible substance, ice, beverage, or ingredient used or intended for use in whole or in part for human consumption;*
- (5) *"Gleaner" means a person who harvests an agriculture crop that has been donated by the owner for:*
  - (a) *Free distribution to people; or*
  - (b) *Donation to a nonprofit organization for ultimate distribution to people;*
- (6) *"Grocery product" means a nonfood grocery product, including but not limited to a disposable paper or plastic product, household cleaning product, laundry detergent cleaning product, or miscellaneous household item;*
- (7) *"Intentional misconduct" means conduct by a person with actual knowledge at the time of the conduct that the conduct is harmful to the health and well-being of another person;*
- (8) *"Nonprofit organization" means an incorporated or unincorporated entity that:*
  - (a) *Is operating for religious, charitable, or educational purposes; and*
  - (b) *Does not provide net earnings to, or operate in any manner that inures to the benefit of any officer, employee, or shareholder of the entity; and*
- (9) *"Person" means an individual, corporation, partnership, organization, association, or governmental entity, including a retail grocer, wholesaler, hotel, motel, restaurant, caterer, farmer, nonprofit food distributor, or hospital. In the case of a corporation, partnership, organization, association, or governmental entity, the term includes an officer, director, partner, deacon, trustee, council member, or other elected or appointed individual responsible for the governance of the entity.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *A person, gleaner, or paid or unpaid representative of a nonprofit organization shall not be subject to any civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the person or gleaner donates in good faith to a nonprofit organization for ultimate distribution to people, unless the acts constitute intentional misconduct.*
- (b) *The protection from liability created by this subsection extends to an apparently wholesome food or apparently fit grocery product bearing a past-date expiration date, sell-by date, use-by date, or other date.*

- (2) (a) *A nonprofit organization or paid or unpaid representative of a nonprofit organization shall not be subject to any civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the nonprofit organization received as a donation in good faith from a person or gleaner for ultimate distribution to people, unless the acts constitute intentional misconduct.*
- (b) *The protection from liability created by this subsection extends to an apparently wholesome food or apparently fit grocery product bearing a past-due expiration date, sell-by date, use-by date, or other date.*
- (3) *A person who allows the collection or gleaning of donations on property owned or occupied by the person, by gleaners or by paid or unpaid representatives of a nonprofit organization for ultimate distribution to people, shall not be subject to civil or criminal liability that arises due to the injury or death of the gleaner or representative unless the acts constitute intentional misconduct.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

*If some or all of any food or grocery products donated by a person or gleaner to a nonprofit organization do not meet consumer safety standards imposed by federal, state, and local laws and regulations, the person or the gleaner who donates the food or grocery products shall not be subject to civil or criminal liability in accordance with this section, if the nonprofit organization that receives the donated food or grocery products:*

- (1) *Is informed by the donor of the distressed or defective condition of the donated food or grocery product;*
- (2) *Agrees to recondition the donated food or grocery product to comply with consumer safety standards prior to distribution; and*
- (3) *Is knowledgeable about the standards to properly recondition the donated food or grocery product.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

*Sections 1 to 4 of this Act shall not be construed to create any liability for any person or entity. Nothing in Sections 1 to 4 of this Act shall be construed to supersede any federal or state regulations.*

➔Section 5. The following KRS sections are repealed:

413.247 Definitions.

413.248 Liability of donor for damages resulting from condition of donated food.

**Signed by Governor March 16, 2017.**