

1           AN ACT relating to the donation of food.

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

3           ➔Section 1. KRS 217.127 is amended to read as follows:

4    (1) The secretary shall adopt regulations for the effective administration and  
5       enforcement of KRS 217.005 to 217.215.

6    (2) The secretary shall adopt a state retail food code which shall include, among other  
7       things, provisions for regulating the issuance, suspension, and revocation of permits  
8       to operate; submission of plans for construction and equipment layout including  
9       plumbing, lighting, ventilation, water supply, sewage disposal, and other facilities;  
10      food supply source and protection; health, disease control and cleanliness of  
11      personnel; design, construction, installation, and cleanliness of equipment and  
12      utensils; toilet and hand-washing facilities; solid waste disposal and vermin control;  
13      and any other matters deemed necessary to insure a safe and sanitary operation of a  
14      retail food establishment. Standards for construction, plumbing, lighting, and  
15      ventilation of fixed retail food establishments shall be effective only if they are  
16      approved by the Department of Housing, Buildings and Construction and are  
17      included in the Uniform State Building Code, or if they conform to the State  
18      Plumbing Code in the case of plumbing fixtures. Any review of plans for  
19      construction, plumbing, lighting, and ventilation required before construction of a  
20      fixed retail food establishment shall be conducted by the Department of Housing,  
21      Buildings and Construction or authorized local building official pursuant to KRS  
22      Chapter 198B.

23    (3) The donation of safe and apparently wholesome food by a retail food establishment  
24      or any other entity regulated under subsections (1) and (2) of this section shall be  
25      exempt from any further inspection or regulation if the donated food has been  
26      inspected under subsections (1) and (2) of this section.

27    (4) (a) As used in this subsection, "charitable food donor" means:

1        1. A nonprofit or religious organization that is recognized as tax exempt  
2        under Section 501(c)(3) of the Internal Revenue Code; or

3        2. A home-based processor;  
4        that produces food solely for the purpose of distributing the food for free at  
5        a homeless shelter to individuals in need or for distribution to individuals  
6        displaced due to a declared natural disaster.

7        (b) A charitable food donor shall be exempt from the licensing requirements of  
8        KRS 217.005 to 217.215 and administrative regulations pertaining to the  
9        State Plumbing Code promulgated under subsections (1) and (2) of this  
10        section as long as:

11        1. The donation is safe and apparently wholesome food as defined in  
12        KRS 411.240; and  
13        2. The charitable food donor is in compliance with any other applicable  
14        provisions of KRS 217.005 to 217.215 and administrative regulations  
15        promulgated thereunder.

16        (c) This subsection shall not be construed to exempt any other entity, including  
17        a retail food establishment or home-based microprocessor, from the  
18        requirements of KRS 217.005 to 217.215 and the state retail food code  
19        adopted under subsection (2) of this section regulating the production of  
20        food for, or donation of food to, a homeless shelter or individuals displaced  
21        due to a declared natural disaster.

22        ➔Section 2. KRS 217.218 is amended to read as follows:

23        Nothing in this chapter shall be construed to prohibit or regulate the donation of safe and  
24        apparently wholesome food by a retail food establishment, a nonprofit or religious  
25        organization that is recognized as tax exempt under Section 501(c)(3) of the Internal  
26        Revenue Code, or a home-based processor in accordance with Section 1 of this Act.

27        ➔Section 3. KRS 411.241 is amended to read as follows:

- 1    (1) (a) A person, gleaner, or paid or unpaid representative of a nonprofit organization  
2        shall not be subject to any civil or criminal liability arising from the nature,  
3        age, packaging, or condition of apparently wholesome food or an apparently  
4        fit grocery product that the person or gleaner donates in good faith to a  
5        nonprofit organization for ultimate distribution to people, unless the acts  
6        constitute intentional misconduct.
- 7        (b) The protection from liability created by this subsection extends to an  
8        apparently wholesome food or apparently fit grocery product bearing a past-  
9        date expiration date, sell-by date, use-by date, or other date.
- 10      (2) (a) A nonprofit organization or paid or unpaid representative of a nonprofit  
11        organization shall not be subject to any civil or criminal liability arising from  
12        the nature, age, packaging, or condition of apparently wholesome food or an  
13        apparently fit grocery product that the nonprofit organization received as a  
14        donation in good faith from a person or gleaner for ultimate distribution to  
15        people, unless the acts constitute intentional misconduct.
- 16        (b) The protection from liability created by this subsection extends to an  
17        apparently wholesome food or apparently fit grocery product bearing a past-  
18        due expiration date, sell-by date, use-by date, or other date.
- 19      (3) A person who allows the collection or gleaning of donations on property owned or  
20        occupied by the person, by gleaners or by paid or unpaid representatives of a  
21        nonprofit organization for ultimate distribution to people, shall not be subject to  
22        civil or criminal liability that arises due to the injury or death of the gleaner or  
23        representative unless the acts constitute intentional misconduct.
- 24      (4) **A nonprofit or religious organization that is recognized as tax exempt under**  
25        **Section 501(c)(3) of the Internal Revenue Code or a home-based processor shall**  
26        **not be subject to any civil or criminal liability arising from the production or**  
27        **donation of safe and apparently wholesome food to a homeless shelter or to**

1        *individuals displaced due to a declared natural disaster in accordance with*  
2        *subsection (4) of Section 1 of this Act.*