



Washington Food Coalition

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Protections Afforded by the Good Samaritan Food Donation Act

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Washington's Good Samaritan Food Donation Act was enacted to encourage individuals and gleaners to donate food to charitable organizations. It purports to protect from civil and criminal liability individuals or gleaners who donate food products or make their land available to others.

The Food Donation Act was enacted in 1994 in Washington. It was based on a model act that in 1998 was enacted into federal law as the "Bill Emerson Good Samaritan Food Donation Act."

While these food donation laws appear to offer some protection for individuals donating food, the actual liability protection offered by these statutes is minimal.

The Act covers individuals and gleaners who:

- donate "apparently wholesome food" to a nonprofit organization; or
- allow the collection or gleaning of donations on your land.

This means that if a person is harmed by the "apparently wholesome food" that you donate, or is injured while on your property, he or she cannot recover from you in a lawsuit.

This does not mean, however, that you are protected from civil or criminal liability in all situations. You may be held liable if you:

- act intentionally to harm others in any way; or
- are "grossly negligent"—meaning you knew that your actions would likely be harmful to the health or well-being of another.

Unfortunately, the application of the Act is further limited by the requirement that donated food meet the Act's definition of "apparently wholesome." That is:

Food that meets all quality and labeling standards imposed by federal, state, and local laws and regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.

Accordingly, the Act protects you from liability only when the food you donate already meets all quality and labeling standards imposed by federal, state, and local laws.

As a practical matter, the Act does not afford many protections. For example, foods contaminated with E. coli or salmonella are not likely to meet the definition of "apparently wholesome food" and, because of that, would not likely be covered by the Act. Similarly, a piece of produce that is putrid or decomposing would be considered adulterated under federal standards and also not be covered by the Act.

An example of food that may fall under the Act would be a piece of produce that may no longer be marketable, perhaps due to appearance and age, but still meets all quality standards. In practice, however, such produce is not likely to cause harm resulting in liability in the first place.

Where the Good Samaritan Food Donation Act is most effective is in the context of land owners who make their land available for the harvest of food to be donated. As long as any harm caused was not a result of intentional or grossly negligent actions, a landowner will not be liable for injuries occurring on his or her land.

Because the Good Samaritan Food Donation Act, when scrutinized more closely, does not provide much protection for those that donate food directly to charitable organizations, the best course and standard of conduct to follow is to use the same care in donating food as you would in preparing food for sale to the public or for consumption by your own family.

To view the full Act, RCW 69.80.031, please visit the Washington State Legislature website at <http://apps.leg.wa.gov/rcw/default.aspx?cite=69.80.031>

For additional questions on food donation and safety, contact Washington Food Coalition:

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