

HOUSE BILL No. 4544

April 6, 1989, Introduced by Reps. Bandstra, Trim, Profit, Fitzgerald, Perry Bullard, Strand, Van Regenmorter, Camp, Stacey, Crandall, Gnodtke, Miller, Palamara, Stupak, Gubow, Honigman, Van Singel, Emmons, Bender, Ciaramitaro, Saunders and Bankes and referred to the Committee on Judiciary.

A bill to amend the title and sections 1 and 2 of Act No. 339 of the Public Acts of 1982, entitled

"An act to provide immunity from civil liability to persons who donate food for use or distribution by a nonprofit corporation, organization, or association,"

being sections 691.1531 and 691.1532 of the Michigan Compiled Laws; to add section 2a; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 1 and 2 of Act No. 339 of
2 the Public Acts of 1982, being sections 691.1531 and 691.1532 of
3 the Michigan Compiled Laws, are amended and section 2a is added
4 to read as follows:

5 TITLE

6 An act to provide immunity from civil liability to persons
7 who donate food for use or distribution by a nonprofit
8 corporation, organization, or association, TO CERTAIN NONPROFIT

1 CORPORATIONS, ORGANIZATIONS, OR ASSOCIATIONS THAT COLLECT, STORE,
 2 AND DISTRIBUTE DONATED FOOD, AND TO CERTAIN AGRICULTURAL PRODUC-
 3 ERS WHO ALLOW GLEANING ON THEIR PREMISES OR PROPERTY.

4 Sec. 1. As used in this act: ~~, "person"~~

5 (A) "AGRICULTURAL PRODUCER" MEANS A FARMER, GROWER, RANCHER,
 6 OR OTHER INDIVIDUAL WHO GROWS OR RAISES TREES, PLANTS, OR CROPS
 7 YIELDING FOOD FOR HUMAN CONSUMPTION, EITHER WITH OR WITHOUT
 8 PROCESSING.

9 (B) "EMERGENCY FOOD PROVIDER" MEANS A NONPROFIT CORPORATION,
 10 ORGANIZATION, OR ASSOCIATION THAT COLLECTS, STORES, TRANSPORTS,
 11 AND DISTRIBUTES FOOD WITHOUT CHARGE OR AT A CHARGE SUFFICIENT
 12 ONLY TO COVER THE COST OF THE COLLECTION, STORAGE, TRANSPORTA-
 13 TION, AND DISTRIBUTION, AND INCLUDES, BUT IS NOT LIMITED TO, FOOD
 14 BANKS AND FOOD PANTRIES.

15 (C) "GLEANING" MEANS THE PROCESS OF COLLECTING LEFTOVER
 16 CROPS THAT WERE NOT HARVESTED IN THE NORMAL COURSE OF AN AGRICUL-
 17 TURAL PRODUCER'S OPERATIONS IF THE COLLECTING IS PERFORMED BY
 18 VOLUNTEERS OR PAID STAFF OF A NONPROFIT CORPORATION, ORGANI-
 19 ZATION, OR ASSOCIATION TO PROVIDE FOOD FOR HUMAN CONSUMPTION FOR
 20 CHARITABLE PURPOSES AND NOT FOR COMMERCIAL PROFIT.

21 (D) "PERSON" means an individual, corporation, partnership,
 22 organization, or association, including, ~~persons~~ BUT NOT
 23 LIMITED TO, BOTH OF THE FOLLOWING:

24 (i) PERSONS licensed ~~pursuant to~~ UNDER part 129 of THE
 25 PUBLIC HEALTH CODE, Act No. 368 of the Public Acts of 1978, ~~as~~
 26 ~~amended,~~ being sections 333.12901 to 333.12922 of the Michigan
 27 Compiled Laws. ~~or~~

1 (ii) PERSONS licensed ~~pursuant to~~ UNDER THE FOOD
2 PROCESSING ACT OF 1977, Act No. 328 of the Public Acts of 1978,
3 being sections 289.801 to 289.810 of the Michigan Compiled Laws.

4 (E) "VOLUNTEER" MEANS AN INDIVIDUAL PERFORMING SERVICES FOR
5 A NONPROFIT CORPORATION, ORGANIZATION, OR ASSOCIATION OR A GOV-
6 ERNMENTAL ENTITY WHO DOES NOT RECEIVE COMPENSATION, OR ANYTHING
7 OF VALUE IN LIEU OF COMPENSATION, FOR SUCH SERVICES OTHER THAN
8 REIMBURSEMENT FOR EXPENSES ACTUALLY INCURRED.

9 Sec. 2. A person who in good faith donates food for use or
10 distribution by ~~a nonprofit corporation, organization, or~~
11 ~~association~~ AN EMERGENCY FOOD PROVIDER AND AN EMERGENCY FOOD
12 PROVIDER THAT IN GOOD FAITH COLLECTS, STORES, TRANSPORTS, OR DIS-
13 TRIBUTES DONATED FOOD shall not be liable for civil damages as a
14 result of an act or omission affecting the nature, age, condi-
15 tion, or packaging of the donated food, as long as ~~standards of~~
16 ~~reasonable care are exercised~~ THE ACT OR OMISSION DOES NOT CON-
17 STITUTE GROSS NEGLIGENCE OR WILLFUL AND WANTON MISCONDUCT. This
18 section ~~shall~~ DOES not apply to food in hermetically sealed
19 containers that was not prepared by a person licensed ~~pursuant~~
20 ~~to~~ UNDER THE FOOD PROCESSING ACT OF 1977, Act No. 328 of the
21 Public Acts of 1978, being sections 289.801 to 289.810 of the
22 Michigan Compiled Laws.

23 SEC. 2A. AN AGRICULTURAL PRODUCER WHO IN GOOD FAITH ALLOWS
24 A VOLUNTEER OR PAID STAFF MEMBER OF A NONPROFIT CORPORATION,
25 ORGANIZATION, OR ASSOCIATION TO ENTER UPON THE PRODUCER'S PROP-
26 erty FOR THE PURPOSES OF GLEANING SHALL NOT BE LIABLE FOR CIVIL
27 DAMAGES FOR INJURIES CAUSED TO THE VOLUNTEER OR PAID STAFF MEMBER

1 WHILE ON THE PROPERTY, UNLESS THE INJURIES WERE THE RESULT OF THE
2 GROSS NEGLIGENCE OR WILLFUL AND WANTON MISCONDUCT OF THE AGRICUL-
3 TURAL PRODUCER OR THE AGRICULTURAL PRODUCER'S EMPLOYEE OR AGENT.

4 Section 2. Section 3 of Act No. 339 of the Public Acts of
5 1982, being section 691.1533 of the Michigan Compiled Laws, is
6 repealed.