

No. 1996-129

AN ACT

HB 664

Amending the act of July 10, 1981 (P.L.234, No.76), entitled "An act providing limited civil and criminal immunity to persons donating food to charitable or religious organizations for distribution to needy persons and imposing certain powers and duties on counties," further providing for definitions and for charitable or religious immunity; and providing for wildlife donated as food.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Sections 3 and 5 of the act of July 10, 1981 (P.L.234, No.76), known as the Donated Food Limited Liability Act, are amended to read:

Section 3. Definitions.

The following words and phrases as used in this act shall have the meanings given them in this section unless the context clearly indicates otherwise:

"Charitable organization." A charitable organization as defined in section 2 of the act of August 9, 1963 (P.L.628, No.337), known as the "Solicitation of Charitable Funds Act" and which has a current approved registration statement on file with the Department of State pursuant to the "Solicitation of Charitable Funds Act."

"Food." Any fowl, animal, vegetable or other stuff, product or article which is customary food or which is proper food for human beings. *The term shall include wildlife or portions thereof.* "Food" shall specifically exclude canned goods that are rusted, leaking or swollen, or canned goods that are defective or cannot, for health reasons, otherwise be offered for sale to members of the general public.

"Wildlife." *As defined in 34 Pa.C.S. § 102 (relating to definitions) and taken by lawful hunting in accordance with 34 Pa.C.S. (relating to game) and 58 Pa. Code (relating to recreation).*

Section 5. Charitable or religious organization immunity.

(a) *General rule.*—Notwithstanding any other provision of law, *except as provided in subsection (b)*, any bona fide charitable or religious organization which receives, in good faith, donated food for ultimate distribution to needy individuals, either for free or for a nominal fee, shall not be subject to criminal or civil liability arising from the condition of such food, if the charitable or religious organization [reasonably] *does all of the following:*

(1) *Reasonably* inspects the food, at the time of donation and at the time of distribution, and finds the food fit for human consumption.

(2) *In the case of wildlife, reasonably processes, prepares and distributes the food.*

(b) Exception.—The immunity provided by this section shall not extend to charitable or religious organizations where damages result from the negligence, recklessness, or intentional misconduct of the charitable or religious organization, or if the charitable or religious organization has or should have had actual or constructive knowledge that the food is tainted, contaminated, or harmful to the health or well-being of the ultimate recipient.

Section 2. The act is amended by adding a section to read:

Section 5.1. Wildlife donated as food.

(a) Authorization.—*Wildlife may be donated to and processed, prepared and distributed by a charitable organization which serves or distributes food without cost to needy individuals.*

(b) Information.—*The Department of Agriculture shall enter into a memorandum of understanding with a recognized not-for-profit organization registered with the Bureau of Charitable Organizations, under which the organization will serve as program coordinator to make available information, including cooperating processors and charitable and religious organizations which will accept donations of wildlife. Processors and charitable and religious organizations may notify the program coordinator of their intention to participate in distribution of wildlife. The coordinator shall include them in its lists unless good cause otherwise exists.*

Section 3. This act shall take effect immediately.

APPROVED—The 30th day of October, A.D. 1996.

THOMAS J. RIDGE