



## Ohio's Good Samaritan Law

“Protecting Our Food Partners: On October 1, 1996, President Clinton signed this act to encourage donation of food grocery products to non-profit organizations for distribution to need individuals. This law:

- Protects you from liability when you donate to a non-profit organization
- Protects you from civil and criminal liability should the product donated in good later cause harm to the needy recipient
- Standardizes donor liability exposure – you or your legal counsel no longer have to investigate liability laws in 50 states
- Sets a floor of “gross negligence” or intentional misconduct for persons who donate grocery products. According to the new law, gross negligence is defined as “voluntary and conscious conduct by a person with knowledge (at the time of conduct) that the product is likely to be harmful to the health or well-being of another person”

▪ *Source: America's Second Harvest, The Nation's Food Bank Network*

The State of Ohio has a Good Samaritan Food Law (Ohio Revised Code Section 2305.37) to protect food donors from liability. Specifically, the law states that a good-faith donor of perishable food fit for human consumption at the time of donation will not be subject to civil damages resulting from the condition of the food.

§ 2305.37. Immunity of person donating perishable food for distribution to needy individuals.  
As used in this section:

- (1) "Agency" means any non-hospital, charitable nonprofit corporation that is organized and operated pursuant to Chapter 1702. of the Revised Code and that satisfies both of the following, or any non-hospital, charitable association, group, institution, organization, or society that is not organized and not operated for profit and that satisfies both of the following:
  - (a) It distributes perishable food, directly or indirectly, to individuals in need.
  - (b) It does not charge or accept any form of compensation from the individuals in need for the distribution of the perishable food to them.
- (2) "Food service operation" has the same meaning as in section 3717.01 of the Revised Code.
- (3) "Food that is gleaned" means perishable food that remains on a farm or other real property and that the owner, lessee, renter, or operator of the property permits one or more persons to salvage free-of-charge for subsequent donation to one or more agencies.
- (4) "Harm" means injury, death, or loss to person or property.
- (5) "Hospital" has the same meaning as in section 2108.01, 3701.01, or 5122.01 of the Revised Code.

(6) "Individuals in need" means those persons who an agency determines are eligible to receive free distributions of perishable food because of poverty, illness, disability, infancy, or other conditions or circumstances that may result in persons having a need to receive free distributions of perishable food.

(7) "Perishable food" means any food that may spoil or otherwise become unfit for human consumption because of its nature, age, or physical condition. "Perishable food" includes, but is not limited to, fresh meats, processed meats, poultry, fish and other seafood, dairy products, bakery products, eggs in the shell, fresh fruits, fresh vegetables, food that is gleaned, food that is packaged, refrigerated, or frozen, food that is canned, and prepared or other food that has not been served by a restaurant, cafeteria, hospital, hotel, caterer, or other food service operation to any customer, patient, or other person in the ordinary course of business, by a public or private school, college, university, or other educational institution to a student or another person on the premises in the ordinary course of the operation of the institution, or by a fraternal, veteran's, or other organization to its members or other persons on the premises in the ordinary course of the operation of the organization.

(8) "Person" has the same meaning as in section 1.59 of the Revised Code and additionally includes governmental entities

(9) "Sale date" has the same meaning as in section 3715.171 [3715.17.1] of the Revised Code.

(10) "Tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action" includes a product liability claim that is subject to sections 2307.71 to 2307.80 of the Revised Code but does not include a civil action for a breach of contract or another agreement between persons.

(B) Notwithstanding Chapter 3715. of the Revised Code, a person who, in good faith, donates perishable food to an agency is not liable in damages in a tort action for harm that allegedly arises because that perishable food, when distributed by the agency or any other agency to a particular individual in need, is not fit for human consumption, if both of the following apply:

(1) Prior to the donation of the perishable food to the agency, the person determines that the perishable food will be fit for human consumption at the time of its donation. A presumption favoring liability does not arise because the perishable food is donated to an agency on or after an applicable sale date.

(2) The person does not make the determination that the perishable food will be fit for human consumption at the time of its donation to the agency in a manner that constitutes negligence or willful or wanton misconduct.

(C) (1) This section does not create a new cause of action or substantive legal right against persons who donate perishable food to an agency.

(2) This section does not affect any immunities from or defenses to tort liability established by another section of the Revised Code or available at common law to which persons who donate perishable food other than to agencies may be entitled.

**HISTORY: 139 v H 69 (Eff 9-25-81); 143 v S 101 (Eff 10-24-89); 145 v H 97 (Eff 6-23-94); 146 v H 350 (Eff 1-27-97); 148 v H 223 (Eff 11-3-99); 149 v S 108, § 2.01. Eff 7-6-2001.**