HOUSE BILL NO. 1249

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Agriculture, Chesapeake and Natural Resources

on _____)

(Patron Prior to Substitute--Delegate Davis)

A BILL to amend and reenact §§ 3.2-5144 and 35.1-14.2 of the Code of Virginia, relating to food donations; labeling; liability.

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.2-5144 and 35.1-14.2 of the Code of Virginia are amended and reenacted as follows:

§ 3.2-5144. Exemption from civil and criminal liability in certain cases.

A. As used in this section:

"Entity" means a farmer, processor, distributor, wholesaler, food service establishment, restaurant, or retailer of food, including a grocery, convenience, or other store selling food or food products.

"Food donor" means an individual or entity.

"Food organization" means a food bank or any second harvest certified food bank or food bank member charity that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code that maintains a food storage facility certified by the Department and, where required by ordinance, by the State Department of Health.

B. Any ~~farmer, processor, distributor, wholesaler, food service establishment, restaurant, or retailer of food, including a grocery, convenience, or other store selling food or food products, who~~ entity that donates food to any ~~food bank or any second harvest certified food bank or food bank member charity that is exempt from taxation under 26 U.S.C. § 501(c) (3), which maintains a food storage facility certified by the Department and, where required by ordinance, by the State Department of Health,~~ food organization for use or distribution by the organization shall be exempt from civil liability arising from any injury or death resulting from the nature, age, condition, or packaging of the donated food. The exemption of this section shall not apply if the injury or death directly results from the gross negligence or intentional act of

the donor. If the donor is a food service establishment or a restaurant, such donor shall comply with the regulations of the Board of Health with respect to the safe preparation, handling, protection, and preservation of food, including necessary refrigeration or heating methods, pursuant to the provisions of § 35.1-14.

C. No food donor or food organization shall be criminally or civilly liable for donating or receiving food past the best-by date as long as all parties are informed and the food is labeled as not meeting all labeling and date requirements. The exemption of this section shall not apply if injury or death directly results from the gross negligence or intentional misconduct of the food donor or food organization.

~~B.~~ D. Any farmer who gratuitously allows persons to enter upon his own land for purposes of removing any crops remaining in his fields following the harvesting thereof, shall be exempt from civil liability arising out of any injury or death resulting from the nature or condition of such land or the nature, age, or condition of any such crop. The exemption of this section shall not apply if the injury or death directly results from the gross negligence or intentional act of the farmer.

§ 35.1-14.2. Donations of food to charitable organizations.

A. Any restaurant, licensed by the Department of Health pursuant to this title and any processor, distributor, wholesaler or retailer of food, including, but not limited to, a grocery, convenience, or other store selling food or food products, may donate unserved excess foods to any charity organization that is exempt from taxation under ~~26 U.S.C.~~ § 501(c)~~-~~(3) of the Internal Revenue Code, and to political subdivisions for distribution to needy persons. Charitable organizations engaged in food distribution programs for needy persons shall notify the local political subdivision of their programs. Upon the notification of such food distribution programs by such charitable organizations, the local political subdivision shall provide a list of such charitable organizations within its jurisdiction to those restaurants and other food suppliers who request such information. Organizations engaged in such food distribution programs shall be exempt from civil liability as provided in § 3.2-5144 for the donors of the food.

B. Charitable organizations engaged in food distribution programs for needy persons shall be deemed exempt from state and local regulations and local ordinances that govern food service and preparation. In addition to accepting donations of food as provided in subsection A, such organizations

may accept food prepared by their employees or volunteers in private homes or in facilities not otherwise licensed as provided in this chapter.

For the purposes of this subsection, "charitable organizations" shall include nonprofit homeless shelters and hunger prevention programs.

C. No food donor or food organization, as defined in § 3.2-5144, shall be criminally or civilly liable for donating or receiving (i) commercially processed food past the best-by or sell-by date so long as the commercially processed food meets all labeling and date requirements, if applicable, or (ii) date-marked prepared foods not past the marked disposition date, when the marked date does not exceed seven calendar days from the date of preparation, and the day of preparation is counted as day one. The exemption of this section shall not apply if injury or death directly results from the gross negligence or intentional misconduct of the donor or donee.

D. The Board may issue advisory standards for the safe preparation, handling, protection, and preservation of food by the organizations exempted in subsection B.

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