

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 59th Legislature (2024)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 4060

By: Wallace of the House

and

Green of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to agriculture; creating the Donated
12 Agriculture and Wild Game Foods Act; defining terms;
13 providing for criminal and civil liability under
14 certain circumstances; referencing liability found in
15 76 O.S. 2021, Section 5.6; retaining agency authority
16 to inspect, regulate, and ban certain foods; creating
17 a license; requiring administrative rules process;
18 allowing for donation of wild game meat; requiring a
19 review of rules; requiring a report; amending 76 O.S.
20 2021, Section 5.6; requiring posting of the Donated
21 Agriculture and Wild Game Foods Act on the Oklahoma
22 State Department of Health's website; requiring
23 posting of similar information on the Oklahoma
24 Department of Agriculture, Food, and Forestry's
 website; requiring posting of special licensing
 information on the Oklahoma Department of Wildlife
 Conservation website; providing for codification; and
 providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 5-601 of Title 2, unless there
3 is created a duplication in numbering, reads as follows:

4 This act shall be known and may be cited as the "Donated
5 Agriculture and Wild Game Foods Act".

6 SECTION 2. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 5-602 of Title 2, unless there
8 is created a duplication in numbering, reads as follows:

9 For the purpose of this act, the following definitions shall
10 apply:

11 1. "Charitable organization" means any benevolent,
12 philanthropic, patriotic, eleemosynary, educational, social, civic,
13 recreational or religious group or association, or any other person
14 performing or purporting to perform acts beneficial to the public;

15 2. "Food" means any raw, cooked, processed, or prepared edible
16 substance, ice, beverage, or ingredient used or intended to be used
17 in whole or in part for human consumption that is apparently fit for
18 human consumption. Food includes nonperishable food, perishable
19 food, and wild game;

20 3. "Gleaner" means a person who gleanes an agricultural crop
21 that has been donated by the owner of the agricultural crop;

22 4. "Gleans" or "gleaned" means to gather an agricultural crop
23 leftover after a harvest;

24

1 5. "Nonprofit corporation" means a corporation formed for a
2 purpose not involving pecuniary gain to its shareholders or members,
3 paying no dividends or other pecuniary remuneration, directly or
4 indirectly, to its shareholders or members as such, and having no
5 capital stock;

6 6. "Nonperishable food" means any food that has been
7 commercially processed, prepared, and packaged for human consumption
8 and that is intended to remain fit for human consumption without
9 refrigeration for a reasonable length of time;

10 7. "Person" means an individual, corporation, business trust,
11 estate trust, partnership, limited liability company, association,
12 joint venture, or any other legal or commercial entity. Person does
13 not include a government, governmental subdivision, agency,
14 instrumentality, or a public corporation;

15 8. "Perishable food" means any food that may spoil or otherwise
16 become unfit for human consumption because of its nature, type, or
17 physical condition. Perishable food includes all of the following:

- 18 a. fresh and processed meats, poultry, fish, dairy
19 products, or bakery products,
- 20 b. eggs in shell, and
- 21 c. fresh fruits and vegetables;

22 9. "State agency" means any office, department, board,
23 commission, committee, court, school district, board of education,
24 or other instrumentality of the government of this state existing by

1 virtue of an act of the Oklahoma Legislature or the Constitution of
2 this state;

3 10. "Wild game" means any of the following that are legally
4 taken under the laws of this state:

- 5 a. game animals as defined in Sections 2-116 and 2-145 of
6 Title 29 of the Oklahoma Statutes,
- 7 b. game birds as defined in Sections 2-112 and 2-114 of
8 Title 29 of the Oklahoma Statutes, and
- 9 c. game fish as defined in Section 2-115 in Title 29 of
10 the Oklahoma Statutes.

11 SECTION 3. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 5-603 of Title 2, unless there
13 is created a duplication in numbering, reads as follows:

14 A. A person or gleaner who, in good faith, donates food for
15 ultimate distribution without charge by a nonprofit corporation, a
16 charitable organization, or a state agency shall not be liable for
17 civil damages or criminal penalties resulting from the nature, age,
18 condition, or packaging of the donated food, unless an injury or
19 death is caused by the gross negligence, recklessness, or
20 intentional misconduct of the person or gleaner.

21 B. A person who, in good faith, provides services related to
22 the processing of wild game that is donated to a nonprofit
23 corporation, a charitable organization, or a state agency for
24 ultimate distribution without charge by the nonprofit organization

1 or the state agency shall not be liable for civil damages or
2 criminal penalties resulting from the nature, age, condition, or
3 packaging of the donated food, unless an injury or death is caused
4 by gross negligence, recklessness, or intentional misconduct of the
5 person.

6 C. A nonprofit corporation or charitable organization that, in
7 good faith, accepts donated food for ultimate distribution without
8 charge shall not be liable for civil damages or criminal penalties
9 resulting from the nature, age, condition, or packaging of the
10 donated food, unless an injury or death is caused by gross
11 negligence, recklessness, or intentional misconduct of the nonprofit
12 organization.

13 D. Nothing in this section shall supersede the liability found
14 in Section 5.6 of Title 76 of the Oklahoma Statutes.

15 SECTION 4. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 5-604 of Title 2, unless there
17 is created a duplication in numbering, reads as follows:

18 This act shall not restrict or preempt the authority granted to
19 the Oklahoma State Department of Health and the Oklahoma Department
20 of Agriculture, Food, and Forestry by other law to inspect,
21 regulate, or ban food.

22 SECTION 5. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 5-605 of Title 2, unless there
24 is created a duplication in numbering, reads as follows:

1 The Oklahoma Department of Agriculture, Food, and Forestry shall
2 create a licensing program for meat processing plants that helps
3 support Oklahoma Department of Wildlife Conservation's "Hunters
4 Against Hunger" program, by allowing the processors to process wild
5 game. This license shall be for meat processors already licensed
6 and/or inspected by the Oklahoma Department of Agriculture, Food,
7 and Forestry for processing meat besides wild game. Facilities that
8 receive the special licenses can participate in Oklahoma Department
9 of Wildlife Conservation's "Hunters Against Hunger" program and
10 donate the processed wild game meat for payment by the Oklahoma
11 Department of Wildlife Conservation according to its rules. The
12 Oklahoma Department of Agriculture, Forestry, and Food shall create
13 the special license through the administrative rules process. This
14 license shall not be required of meat processors who only process
15 wild game and are already eligible to participate in the "Hunters
16 Against Hunger" program.

17 SECTION 6. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 5-606 of Title 2 of the Oklahoma
19 Statutes, unless there is created a duplication in numbering, reads
20 as follows:

21 A. The State Department of Health and the Oklahoma Department
22 of Agriculture, Food, and Forestry shall:

23 1. Review any such regulations that have an effect on limiting
24 the use of donated or gleaned food, with the goal of eliminating

1 unnecessary regulations and increasing the supply of usable donated
2 or gleaned food while protecting public health; and

3 2. Submit their review of such regulations no later than
4 November 1, 2024, in a report to the Governor, the Speaker of the
5 Oklahoma House of Representatives, and the Speaker Pro Tempore of
6 the Oklahoma State Senate.

7 SECTION 7. AMENDATORY 76 O.S. 2021, Section 5.6, is
8 amended to read as follows:

9 A. Any donor who makes a good-faith donation of food which is
10 at the time of donation fit for human consumption to a charitable
11 organization or nonprofit corporation shall not be liable for
12 damages in any civil suit or subject to criminal prosecution for any
13 injury resulting from the nature, age, condition or packaging of the
14 donated food, unless the injury or death is a direct result of the
15 gross negligence, recklessness, or intentional misconduct of the
16 donor.

17 B. Information shall be posted with the Oklahoma State
18 Department of Health on its website under the existing heading
19 "Protective Health" within a new section labeled "Options for Safe
20 Food Donation" with hyperlinks to Section 5.6 of Title 76 of the
21 Oklahoma Statutes, Section 5-601 et seq. of Title 2 of the Oklahoma
22 Statutes, Oklahoma Administration Code Title 310: Chapter 257, 42
23 U.S.C., Section 1791, and to the website of Oklahoma State
24 University's Robert S. Kerr Food and Agriculture Products Center.

1 The Oklahoma State Department of Health shall also have hyperlinks
2 to the Oklahoma Department of Wildlife Conservation's "Hunters
3 Against Hunger" webpage, and the special licensing page created by
4 the Oklahoma Department of Agriculture, Food, and Forestry. The
5 Oklahoma Department of Agriculture, Food, and Forestry shall also
6 post on its website in a new section labeled "Options for Safe Food
7 Donation" with hyperlinks to Section 5.6 of Title 76 of the Oklahoma
8 Statutes, Section 5-601 et seq. of Title 2 of the Oklahoma Statutes,
9 Oklahoma Administration Code Title 310: Chapter 257, 42 U.S.C.,
10 Section 1791, to the website of Oklahoma State University's Robert
11 S. Kerr Food and Agriculture Products Center, and the Oklahoma
12 Department of Wildlife Conservation's "Hunters Against Hunger"
13 webpage. Additionally, the Oklahoma Department of Agriculture,
14 Food, and Forestry shall have a webpage on the special licensing.

15 C. This section shall apply to all good-faith donations of
16 perishable or nonperishable food which is not readily marketable due
17 to appearance, freshness, grade or other conditions.

18 D. This section shall not restrict the authority of any
19 appropriate agency to regulate or ban the use of such food for human
20 consumption.

21 E. For purposes of this section:

22 1. "Donor" means any person, profit or nonprofit food
23 distributor, or person who harvests perishable foods who makes a
24 good-faith donation of food;

1 2. "Good-faith donation" means a gift conferred without
2 condition or consideration;

3 3. "Charitable organization" means any benevolent,
4 philanthropic, patriotic, eleemosynary, educational, social, civic,
5 recreational or religious group or association or any other person
6 performing or purporting to perform acts beneficial to the public;

7 4. "Nonprofit corporation" means a corporation formed for a
8 purpose not involving pecuniary gain to its shareholders or members,
9 paying no dividends or other pecuniary remuneration, directly or
10 indirectly, to its shareholders or members as such, and having no
11 capital stock; and

12 5. "Food" includes any packaged, prepared, perishable or
13 nonperishable food item.

14 SECTION 8. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 5-415A of Title 29, unless there
16 is created a duplication in numbering, reads as follows:

17 The Oklahoma Department of Wildlife Conservation shall post on
18 its "Hunters Against Hunger" webpage a link to the webpage from the
19 Oklahoma Department of Agriculture, Food, and Forestry on the
20 special license available for licensed meat processors.

21 SECTION 9. This act shall become effective September 15, 2024.

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23 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
24 02/27/2024 - DO PASS, As Amended and Coauthored.