

1 **SENATE FLOOR VERSION**

2 March 25, 2024

3 ENGROSSED HOUSE
4 BILL NO. 4060

By: Wallace of the House

and

5 Green of the Senate
6
7

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

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

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

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

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

4 For the purpose of this act, the following definitions shall
5 apply:

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

10 2. "Food" means any raw, cooked, processed, or prepared edible
11 substance, ice, beverage, or ingredient used or intended to be used
12 in whole or in part for human consumption that is apparently fit for
13 human consumption. Food includes nonperishable food, perishable
14 food, and wild game;

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

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

19 5. "Nonprofit corporation" means a corporation formed for a
20 purpose not involving pecuniary gain to its shareholders or members,
21 paying no dividends or other pecuniary remuneration, directly or
22 indirectly, to its shareholders or members as such, and having no
23 capital stock;

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

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

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

- 13 a. fresh and processed meats, poultry, fish, dairy
- 14 products, or bakery products,
- 15 b. eggs in shell, and
- 16 c. fresh fruits and vegetables;

17 9. "State agency" means any office, department, board,
18 commission, committee, court, school district, board of education,
19 or other instrumentality of the government of this state existing by
20 virtue of an act of the Oklahoma Legislature or the Constitution of
21 this state;

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

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

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

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

17 B. A person who, in good faith, provides services related to
18 the processing of wild game that is donated to a nonprofit
19 corporation, a charitable organization, or a state agency for
20 ultimate distribution without charge by the nonprofit organization
21 or the state agency shall not be liable for civil damages or
22 criminal penalties resulting from the nature, age, condition, or
23 packaging of the donated food, unless an injury or death is caused
24

1 by gross negligence, recklessness, or intentional misconduct of the
2 person.

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

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

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

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

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

22 The Oklahoma Department of Agriculture, Food, and Forestry shall
23 create a licensing program for meat processing plants that helps
24 support Oklahoma Department of Wildlife Conservation's "Hunters

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

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

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

20 1. Review any such regulations that have an effect on limiting
21 the use of donated or gleaned food, with the goal of eliminating
22 unnecessary regulations and increasing the supply of usable donated
23 or gleaned food while protecting public health; and
24

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

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

7 Section 5.6 A. Any donor who makes a good-faith donation of
8 food which is at the time of donation fit for human consumption to a
9 charitable organization or nonprofit corporation shall not be liable
10 for damages in any civil suit or subject to criminal prosecution for
11 any injury resulting from the nature, age, condition or packaging of
12 the donated food, unless the injury or death is a direct result of
13 the gross negligence, recklessness, or intentional misconduct of the
14 donor.

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

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

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

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

19 E. For purposes of this section:

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

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

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

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

10 5. "Food" includes any packaged, prepared, perishable or
11 nonperishable food item.

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

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

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

20 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS
21 March 25, 2024 - DO PASS
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