

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 4060

By: Wallace

AS INTRODUCED

An Act relating to agriculture; creating the Donated Agriculture and Wild Game Foods Act; defining terms; providing for criminal and civil liability under certain circumstances; referencing liability found in 76 O.S. 2021, Section 5.6; retaining agency authority to regulate inspect, regulate, and ban certain foods; requiring a review of rules; requiring a report; amending 76 O.S. 2021, Section 5.6; requiring posting of the Donated Agriculture and Wild Game Foods Act on the State Department of Health's website; requiring posting of similar information on the Oklahoma Department of Agriculture, Food, and Forestry's website; 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 gleans 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:

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

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

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

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

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 donate 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 of the Oklahoma
21 Statutes, unless there is created a duplication in numbering, reads
22 as follows:

23 A. The State Department of Health and the Oklahoma Department
24 of Agriculture, Food, and Forestry shall:
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1 1. Review any such regulations that have an effect on limiting
2 the use of donated or gleaned food, with the goal of eliminating
3 unnecessary regulations and increasing the supply of usable donated
4 or gleaned food while protecting public health; and

5 2. Submit their review of such regulations no later than
6 January 1, 2025, in a report to the Governor, the Speaker of the
7 Oklahoma House of Representatives, and the Speaker Pro Tempore of
8 the Oklahoma State Senate.

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

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

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

1 and to the website of Oklahoma State University's Robert S. Kerr
2 Food and Agriculture Products Center. 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, and to the
8 website of Oklahoma State University's Robert S. Kerr Food and
9 Agriculture Products Center.

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

13 D. This section shall not restrict the authority of any
14 appropriate agency to regulate or ban the use of such food for human
15 consumption.

16 E. For purposes of this section:

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

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

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

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

8 5. "Food" includes any packaged, prepared, perishable or
9 nonperishable food item.

10 SECTION 7. This act shall become effective November 1, 2024.

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