

1 AN ACT relating to the donation of food.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 217.127 is amended to read as follows:

4 (1) The secretary shall adopt regulations for the effective administration and
5 enforcement of KRS 217.005 to 217.215.

6 (2) The secretary shall adopt a state retail food code which shall include, among other
7 things, provisions for regulating the issuance, suspension, and revocation of permits
8 to operate; submission of plans for construction and equipment layout including
9 plumbing, lighting, ventilation, water supply, sewage disposal, and other facilities;
10 food supply source and protection; health, disease control and cleanliness of
11 personnel; design, construction, installation, and cleanliness of equipment and
12 utensils; toilet and hand-washing facilities; solid waste disposal and vermin control;
13 and any other matters deemed necessary to insure a safe and sanitary operation of a
14 retail food establishment. Standards for construction, plumbing, lighting, and
15 ventilation of fixed retail food establishments shall be effective only if they are
16 approved by the Department of Housing, Buildings and Construction and are
17 included in the Uniform State Building Code, or if they conform to the State
18 Plumbing Code in the case of plumbing fixtures. Any review of plans for
19 construction, plumbing, lighting, and ventilation required before construction of a
20 fixed retail food establishment shall be conducted by the Department of Housing,
21 Buildings and Construction or authorized local building official pursuant to KRS
22 Chapter 198B.

23 (3) The donation of safe and apparently wholesome food by a retail food establishment
24 or any other entity regulated under subsections (1) and (2) of this section shall be
25 exempt from any further inspection or regulation if the donated food has been
26 inspected under subsections (1) and (2) of this section.

27 **(4) (a) As used in this subsection, "charitable food donor" means:**

1 1. A nonprofit or religious organization that is recognized as tax exempt
2 under Section 501(c)(3) of the Internal Revenue Code; or

3 2. A home-based processor;
4 that produces food solely for the purpose of distributing the food for free at
5 a homeless shelter to individuals in need or for distribution to individuals
6 displaced due to a declared natural disaster.

7 **(b) A charitable food donor shall be exempt from the licensing requirements of**
8 **KRS 217.005 to 217.215 and administrative regulations pertaining to the**
9 **State Plumbing Code promulgated under subsections (1) and (2) of this**
10 **section as long as:**

11 1. The donation is safe and apparently wholesome food as defined in
12 KRS 411.240; and

13 2. The charitable food donor is in compliance with any other applicable
14 provisions of KRS 217.005 to 217.215 and administrative regulations
15 promulgated thereunder.

16 **(c) This subsection shall not be construed to exempt any other entity, including a**
17 **retail food establishment or home-based microprocessor, from the requirements**
18 **of KRS 217.005 to 217.215 and the state retail food code adopted under**
19 **subsection (2) of this section regulating the production of food for, or donation of**
20 **food to, a homeless shelter or individuals displaced due to a declared natural**
21 **disaster.**

22 ➔Section 2. KRS 217.218 is amended to read as follows:

23 Nothing in this chapter shall be construed to prohibit or regulate the donation of safe and
24 apparently wholesome food by a retail food establishment, **a nonprofit or religious**
25 **organization that is recognized as tax exempt under Section 501(c)(3) of the Internal**
26 **Revenue Code, or a home-based processor in accordance with Section 1 of this Act.**

27 ➔Section 3. KRS 411.241 is amended to read as follows:

- 1 (1) (a) A person, gleaner, or paid or unpaid representative of a nonprofit organization
2 shall not be subject to any civil or criminal liability arising from the nature,
3 age, packaging, or condition of apparently wholesome food or an apparently
4 fit grocery product that the person or gleaner donates in good faith to a
5 nonprofit organization for ultimate distribution to people, unless the acts
6 constitute intentional misconduct.
- 7 (b) The protection from liability created by this subsection extends to an
8 apparently wholesome food or apparently fit grocery product bearing a past-
9 date expiration date, sell-by date, use-by date, or other date.
- 10 (2) (a) A nonprofit organization or paid or unpaid representative of a nonprofit
11 organization shall not be subject to any civil or criminal liability arising from
12 the nature, age, packaging, or condition of apparently wholesome food or an
13 apparently fit grocery product that the nonprofit organization received as a
14 donation in good faith from a person or gleaner for ultimate distribution to
15 people, unless the acts constitute intentional misconduct.
- 16 (b) The protection from liability created by this subsection extends to an
17 apparently wholesome food or apparently fit grocery product bearing a past-
18 due expiration date, sell-by date, use-by date, or other date.
- 19 (3) A person who allows the collection or gleaning of donations on property owned or
20 occupied by the person, by gleaners or by paid or unpaid representatives of a
21 nonprofit organization for ultimate distribution to people, shall not be subject to
22 civil or criminal liability that arises due to the injury or death of the gleaner or
23 representative unless the acts constitute intentional misconduct.
- 24 **(4) A nonprofit or religious organization that is recognized as tax exempt under**
25 **Section 501(c)(3) of the Internal Revenue Code or a home-based processor shall**
26 **not be subject to any civil or criminal liability arising from the production or**
27 **donation of safe and apparently wholesome foods to a homeless shelter or to**

- 1 *individuals displaced due to a declared natural disaster in accordance with*
- 2 *subsection (4) of Section 1 of this Act.*