

STATE OF NEW YORK

9083

IN ASSEMBLY

January 18, 2018

Introduced by M. of A. RA -- Multi-Sponsored by -- M. of A. BLAKE, BRABENEC, BUCHWALD, CROUCH, GIGLIO, GUNTHER, LAWRENCE, McDONOUGH, B. MILLER, M. G. MILLER, M. L. MILLER, MONTESANO, MORINELLO, OAKS, ORTIZ, RAIA, TITONE, VANEL, WILLIAMS -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law and the agriculture and markets law, in relation to the donation of excess food by state agencies and contractors to food assistance programs

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Short title. This act shall be known and may be cited as the "New York state food donation act".

§ 2. The executive law is amended by adding a new article 16-B to read as follows:

ARTICLE 16-B

FOOD DONATION BY STATE AGENCIES AND CONTRACTORS

Section 340. Statement of legislative findings and purposes.

341. Definitions.

342. Food donation by agencies and contractors.

343. Costs.

344. Liability.

345. Food donation guidelines.

§ 340. Statement of legislative findings and purposes. 1. The legislature finds that there are numerous food-insecure families in New York who experience difficulty obtaining affordable, nutritious food on a daily basis who would be helped by donation of excess food by state agencies and contractors. In 1996 the United States Congress passed the Bill Emerson Good Samaritan Food Donation Act, which protects good-faith donors who donate food to nonprofit feeding programs from civil and criminal liability at the federal level. The Bill Emerson Good Samaritan Food Donation Act covers donation of all food and grocery products that meet quality and labeling standards imposed by federal, state and local laws and regulations, even though the food may not be "readily marketable due to age, freshness, grade, size, surplus, or other conditions".

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD09405-03-7

1 Congress later passed the Federal Food Donation Act of 2008 which
2 encourages executive agencies and contractors of executive agencies to
3 donate excess food to food-insecure people and keep it out of land fill.
4 The legislature further finds that donations of excess food for consump-
5 tion by food-insecure people reduces greenhouse gas releases in land-
6 fills which in turn reduces climate change.

7 2. The legislature declares that it shall be the public policy of the
8 state to reduce waste by encouraging state agencies and contractors, to
9 the maximum extent practicable and safe, to donate excess, apparently
10 wholesome food to food assistance programs to benefit food-insecure
11 people within the state.

12 § 341. Definitions. For the purposes of this article, the following
13 terms shall have the following meanings:

14 1. "agency" means any state department, agency, board, commission,
15 local education agency, municipality, office, public authority or public
16 benefit corporation.

17 2. "apparently wholesome food" means food that meets all quality and
18 labeling standards imposed by federal, state, and local laws and regu-
19 lations even though the food may not be readily marketable due to
20 appearance, age, freshness, grade, size, surplus, or other conditions.

21 3. "contractor" means any person or entity that has a contract with an
22 agency for public works or improvements to be performed, for a fran-
23 chise, concession or lease of property, for grant monies or goods and
24 services or supplies to be purchased at the expense of the agency or to
25 be paid out of monies deposited in the treasury or out of trust monies
26 under the control or collected by the agency.

27 4. "excess", when applied to food, means food that is not required to
28 meet the needs of the agency or contractor and that would otherwise be
29 discarded.

30 5. "food assistance program" means not-for-profit food assistance
31 programs including, but not limited to, community food pantries, food
32 banks, emergency food programs, soup kitchens, and other community and
33 not-for-profit organizations or programs that provide assistance to
34 food-insecure people within the state.

35 6. "food-insecure" means inconsistent access to sufficient, safe, and
36 nutritious food.

37 7. "local education agency" means a school district, board of cooper-
38 ative educational services, community college, agricultural and techni-
39 cal college, state university of New York college of technology and a
40 center for advanced technology designated pursuant to section three
41 thousand one hundred two-a of the public authorities law, and other
42 postsecondary providers of career education as set forth annually by the
43 governor in consultation and cooperation with the commissioner of agri-
44 culture and markets as eligible recipients under the federal vocational
45 education act of nineteen hundred eighty-four.

46 8. "municipality" means a village, town, city or county, or any desig-
47 nated agency thereof.

48 § 342. Food donation by agencies and contractors. All agencies and
49 contractors are encouraged, to the maximum extent practicable and safe,
50 to donate excess, apparently wholesome food to food assistance programs.

51 § 343. Costs. In any case in which a contractor enters into a contract
52 with an agency under which apparently wholesome food is donated to a
53 food assistance program, the agency shall not assume responsibility for
54 the costs and logistics of collecting, transporting, maintaining the
55 safety of, or distributing the excess, apparently wholesome food to
56 food-insecure people under this article.

1 § 344. Liability. An agency or contractor making donations pursuant to
2 this article shall be exempt from civil and criminal liability to the
3 extent provided under 42 USC § 1791 and any other applicable sections of
4 state or federal law.

5 § 345. Food donation guidelines. 1. The governor, in consultation and
6 cooperation with the commissioner of agriculture and markets, shall
7 develop guidelines to encourage and facilitate agencies and contractors
8 to donate excess, apparently wholesome food to food assistance programs.
9 Such guidelines may include, but need not be limited to:

10 (a) a methodology to provide information to agencies, contractors, and
11 food assistance programs of the provisions of such guidelines;

12 (b) a means by which agencies and contractors are provided with the
13 names and addresses of nearby food assistance programs;

14 (c) a means by which food assistance programs are provided with the
15 names and addresses of nearby agencies and contractors who may make
16 donations to food assistance programs;

17 (d) notification to agencies and contractors of their ability to elect
18 to donate excess, apparently wholesome food to food assistance programs;
19 and

20 (e) the provision of information and technical assistance on the
21 manner of how to best donate excess, apparently wholesome food in a safe
22 and sanitary manner.

23 2. Any agency may promulgate rules, regulations, ordinances, or laws
24 to take any and all reasonable actions necessary to implement this arti-
25 cle. This article shall not be construed to limit the authority of an
26 agency to adopt, implement, or, enforce requirements on management of
27 excess food that are more stringent or comprehensive than the require-
28 ments of this article.

29 § 3. Section 16 of the agriculture and markets law is amended by
30 adding a new subdivision 49 to read as follows:

31 49. Cooperate with the governor, pursuant to article sixteen-B of the
32 executive law, to develop guidelines which encourage agencies and
33 contractors to donate excess, apparently wholesome food to food assist-
34 ance programs.

35 § 4. This act shall take effect on the one hundred eightieth day after
36 it shall have become a law.