STATE OF NEW YORK

7160

2017-2018 Regular Sessions

IN ASSEMBLY

April 10, 2017

Introduced by M. of A. LUPINACCI -- 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

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

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

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

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

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

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

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

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

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

7. "local education agency" means a school district, board of cooperative educational services, community college, agricultural and technical college, state university of New York college of technology and a center for advanced technology designated pursuant to section three thousand one hundred two-a of the public authorities law, and other postsecondary providers of career education as set forth annually by the governor in consultation and cooperation with the commissioner of agriculture and markets as eligible recipients under the federal vocational education act of nineteen hundred eighty-four.

8. "municipality" means a village, town, city or county, or any designated agency thereof.

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

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

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

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

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

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

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

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

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

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

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

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

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