STATE OF NEW YORK

7348

IN SENATE

January 9, 2018

Introduced by Sen. ALCANTARA -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to enacting the "surplus food to charitable organizations act"

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 "surplus food to charitable organizations act".

§ 2. The agriculture and markets law is amended by adding a new article 4-E to read as follows:

ARTICLE 4-E

SURPLUS FOOD TO CHARITABLE ORGANIZATIONS ACT

Section 71-aa. Definitions.
71-bb. Declaration of policy.
71-cc. Availability.
71-dd. Construction.

§ 71-aa. Definitions. As used in this article: 1. The term "excess food" means food products that a supermarket has offered for sale for human consumption, which is still edible but which such supermarket is disposing of due to diminishing quality standards or appearance, the "best by date" or "use by date" labeling deadline has passed, supplies are overstocked or other similar conditions. Excess food shall not include: fresh milk, meat, fish or poultry; food damaged due to pests, mold, bacteria or other contamination; food damaged by storage conditions; and any food that is subject to governmental or producer recall. Excess food shall not include any food: returned to a supplier; donated to a qualifying charity; sold to a food remarketer, a restaurant or other preparer of food for human consumption; or sold to a farmer or other producer.

2. The term "qualifying charity" means a religious, charitable or not-for-profit organization that provides food at no cost to the poor, needy, disadvantaged or at-risk persons, including but not limited to a food pantry, food bank, soup kitchen or community based organization that provides food at no cost to such persons.

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

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3. The term "supermarket" means a retail store having more than ten thousand square feet at a given location devoted to the sale of foods, food stuffs and groceries for human consumption. The following shall not be considered supermarkets for the purposes of this act: hotels, motels, restaurants, cafeterias, bakeries, caterers, hospitals, assisted living facilities, independent living facilities, nursing homes, hospices, group homes, drug stores, educational institutions, food courts in shopping malls, food retailers at airports or other transportation facilities, gas stations, sports arenas, movie theaters or any other similar establishments.

§ 71-bb. Declaration of policy. In the United States, sixty to one hundred million tons of edible food is disposed of and thrown out each year, primarily deposited in landfills. In the face of this fact an estimated fifty million Americans, including sixteen million children, do not have sufficient food to eat. This constitutes a humanitarian disgrace. It is further declared that it shall be the policy of this state to encourage, wherever possible, supermarkets to ensure edible food that would otherwise be disposed of is made available to qualifying charities that provide food at no cost to needy, disadvantaged or at-risk persons.

In support of this policy, the federal Emerson Good Samaritan Food Donation Act, section seventeen hundred ninety-one of title forty-two of the United States Code, which establishes liability standards and protections for donated foods, shall be applicable to food transferred pursuant to this article.

§ 71-cc. Availability. 1. Every supermarket shall, to the best of its ability, make a reasonable effort to make available on its premises to a qualifying charity excess food which the supermarket from time to time has in its possession.

2. No supermarket shall be required to provide or maintain a particular quantity or level of excess food.

3. A supermarket may, in accordance with any applicable laws, dispose of any excess food that is not timely picked up by a qualifying charity.

4. No supermarket shall be required to transport or distribute any excess food in connection with this article.

5. A supermarket shall be deemed to be in compliance with this section if, in good faith, it establishes pick-up or retrieval arrangements with one or more qualifying charities that has requested permission in writing to pick up excess food from such supermarket.

6. A supermarket may impose restrictions on qualifying charities to ensure that retrieval of excess food from the supermarket does not interfere with the business operations of the supermarket.

§ 71-dd. Construction. Nothing contained in this article shall be construed to supersede any federal, state or local health or sanitary laws, rules or regulations that govern food safety and food donation.

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