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H.301

Introduced by Representative Mrowicki of Putney

Referred to Committee on

Date:

Subject: Health; public health; food establishments; donation of prepared
foods

Statement of purpose of bill as introduced: This bill proposes to direct the
Commissioner of Health to adopt rules allowing the donation of prepared foods
that are safe for human consumption.

An act relating to the donation of prepared foods

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. RULEMAKING; PREPARED FOODS

(a) The Commissioner of Health shall adopt rules on food service
establishments pursuant to 3 V.S.A. chapter 25 that allow a food service
establishment to donate prepared foods to a charitable or nonprofit
organization in certain circumstances when the prepared food is deemed safe
for human consumption.

(b) As used in this section, “charitable or nonprofit organization” and
“prepared food” mean the same as in 12 V.S.A. § 5761.

1 Sec. 2. 12 V.S.A. chapter 197 is amended to read:

2 CHAPTER 197. GOOD SAMARITAN LAW FOR DONATIONS
3 OF FOOD

4 § 5761. DEFINITIONS

5 As used in this chapter:

6 (1) “Perishable foods” means any food that may spoil or otherwise
7 become unfit for human consumption because of its nature, type₂ or physical
8 condition. Perishable food includes, ~~but is not limited to,~~ fresh or processed
9 meats, wild game, fish, poultry, seafood, dairy products, bakery products, eggs
10 in the shell, fresh fruits or vegetables₂ and foods that have been packaged,
11 refrigerated₁ or frozen.

12 (2) “Canned foods” means any canned food that has been hermetically
13 sealed and commercially processed and prepared for human consumption,
14 including canned or preserved fruits, vegetables₂ or other articles of food.
15 There is specifically excluded for purposes of this section canned goods that
16 are rusted, leaking, swollen₂ or canned goods that are defective or cannot be
17 otherwise offered for sale to members of the general public.

18 (3) “Farm products” means any agricultural, dairy₂ or horticultural
19 product or any product designed or intended for human consumption or
20 prepared principally from an agricultural, dairy₂ or horticultural product.

1 (4) “Charitable or nonprofit organization” means any organization
2 which is exempt from federal or ~~state~~ State income taxation, except that the
3 term does not include organizations which sell or offer to sell such donated
4 items of food.

5 (5) “Prepared food” means food that is heated, cooled, or altered in any
6 way from its original state or mixed with other food for human consumption.

7 § 5762. LIABILITY FOR CANNED, PREPARED, OR PERISHABLE
8 FOODS OR FARM PRODUCTS DISTRIBUTED FREE OF
9 CHARGE

10 (a) Notwithstanding any other provision of law, a good-faith donor of any
11 canned or perishable food or farm product, apparently fit for human
12 consumption, or prepared food meeting the standard for donation as adopted
13 by the Commissioner of Health in rule, who donates to a person for
14 consumption, or to a bona fide charitable or nonprofit organization for free
15 distribution, shall not be subject to criminal penalty or civil damages arising
16 from the condition of the food, if the said donor reasonably inspects the food at
17 the time of donation and finds the food apparently fit for human consumption
18 and unless the donor has actual or constructive knowledge that the food is
19 adulterated, tainted, contaminated, or harmful to the health or well-being of the
20 person consuming said food.

1 (b) This section includes the good faith donation of canned or perishable
2 food ~~or~~, farm products, or prepared foods not readily marketable due to
3 appearance, freshness, grade, surplus or other considerations, but shall not be
4 deemed or construed to restrict the authority of any lawful agency to otherwise
5 regulate or ban the use of such food for human consumption.

6 Sec. 3. EFFECTIVE DATE

7 This act shall take effect on July 1, 2015.