

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 20-0713.01 Richard Sweetman x4333

SENATE BILL 20-090

SENATE SPONSORSHIP

Winter, Bridges, Cooke, Coram, Danielson, Donovan, Garcia, Gardner, Ginal, Hansen, Hisey, Lee, Lundeen, Marble, Moreno, Priola, Rodriguez, Scott, Smallwood, Sonnenberg, Story, Tate, Todd, Williams A., Woodward, Zenzinger

HOUSE SPONSORSHIP

Esgar and Titone,

Senate Committees

State, Veterans, & Military Affairs

House Committees

Energy & Environment

A BILL FOR AN ACT

101 **CONCERNING DONATIONS OF FOOD TO NONPROFIT ORGANIZATIONS**
102 **FOR DISTRIBUTION TO NEEDY INDIVIDUALS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Current law provides limited immunity from civil and criminal liability to retail food establishments, nonprofit organizations, and other entities that donate items of food to nonprofit organizations for use or distribution in providing assistance to needy or poor persons. The bill extends the same immunity to correctional facilities.

The bill encourages retail food establishments and correctional

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
June 1, 2020

SENATE
3rd Reading Unamended
February 4, 2020

SENATE
Amended 2nd Reading
February 3, 2020

facilities to donate apparently wholesome food to local nonprofit organizations for distribution to needy or poor individuals.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 25-4-1615 as
3 follows:

4 **25-4-1615. Food donations to nonprofit organizations**
5 **encouraged.** EACH RETAIL FOOD ESTABLISHMENT IS ENCOURAGED TO
6 DONATE APPARENTLY WHOLESOME FOOD TO ONE OR MORE LOCAL
7 NONPROFIT ORGANIZATIONS FOR DISTRIBUTION TO NEEDY OR POOR
8 INDIVIDUALS.

9 **SECTION 2.** In Colorado Revised Statutes, **add** 17-20-129 as
10 follows:

11 **17-20-129. Food donations to nonprofit organizations**
12 **encouraged.** EACH CORRECTIONAL FACILITY IS ENCOURAGED TO DONATE
13 APPARENTLY WHOLESOME FOOD TO ONE OR MORE LOCAL NONPROFIT
14 ORGANIZATIONS FOR DISTRIBUTION TO NEEDY OR POOR INDIVIDUALS.

15 **SECTION 3.** In Colorado Revised Statutes, 13-21-113, **amend**
16 **(1); and add (3.5)** as follows:

17 **13-21-113. Donation of items of food - exemption from civil**
18 **and criminal liability - definitions.** (1) (a) No farmer, retail food
19 establishment, CORRECTIONAL FACILITY, SCHOOL DISTRICT, HOSPITAL, or
20 processor, distributor, wholesaler, or retailer of food ~~who~~ THAT donates
21 items of food to a nonprofit organization for use or distribution in
22 providing assistance to needy or poor persons nor any nonprofit
23 organization in receipt of such gleaned or donated food who transfers ~~said~~
24 THE food to another nonprofit organization for use or distribution in
25 providing assistance to needy or poor persons ~~shall be~~ IS liable for

1 damages in any civil action or subject to prosecution in any criminal
2 proceeding resulting from the nature, age, condition, or packaging of ~~such~~
3 THE donated foods; except that this exemption ~~shall~~ DOES not apply to ~~the~~
4 willful, wanton, or reckless acts of donors ~~which~~ THAT result in injury to
5 recipients of ~~such~~ donated foods.

6 (b) ~~For the purposes of AS USED IN this section, "retail food~~
7 ~~establishment" shall have the same meaning as set forth in section~~
8 ~~25-4-1602 (14), C.R.S., and~~ UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 (I) "CORRECTIONAL FACILITY" HAS THE MEANING SET FORTH IN
10 SECTION 17-1-102 (1.7).

11 (II) "HOSPITAL" MEANS A HOSPITAL LICENSED PURSUANT TO
12 SECTION 25-3-101.

13 (III) "Nonprofit organization" means any organization ~~which~~
14 THAT is exempt from the income tax imposed under article 22 of title 39;
15 C.R.S.; except that ~~the term~~ "nonprofit organization" does not include
16 organizations ~~which~~ THAT sell or offer to sell ~~such~~ donated items of food.

17 (IV) "RETAIL FOOD ESTABLISHMENT" HAS THE MEANING SET
18 FORTH IN SECTION 25-4-1602 (14).

19 (V) "SCHOOL DISTRICT" HAS THE MEANING SET FORTH IN SECTION
20 22-30-103 (13).

21 (3.5) A FARMER WHO ALLOWS ONE OR MORE INDIVIDUALS TO
22 MAKE ENTRY ON THE FARMER'S PROPERTY FOR THE PURPOSE OF GLEANING
23 PRODUCE FOR DONATION TO A NONPROFIT ORGANIZATION FOR USE OR
24 DISTRIBUTION IN PROVIDING ASSISTANCE TO NEEDY OR POOR PERSONS, AS
25 DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION, IS NOT LIABLE FOR
26 DAMAGES IN ANY CIVIL ACTION OR SUBJECT TO PROSECUTION IN ANY
27 CRIMINAL PROCEEDING RESULTING FROM AN INJURY TO ANY SUCH

1 INDIVIDUALS UNLESS THE INJURY RESULTS FROM A WILLFUL OR WANTON
2 ACT OR OMISSION OF THE FARMER.

3 **SECTION 4.** In Colorado Revised Statutes, **add 22-32-148** as
4 follows:

5 **22-32-148. Food donations to nonprofit organizations**
6 **encouraged.** EACH SCHOOL DISTRICT IS ENCOURAGED TO DONATE
7 APPARENTLY WHOLESOME FOOD TO ONE OR MORE LOCAL NONPROFIT
8 ORGANIZATIONS FOR DISTRIBUTION TO NEEDY OR POOR INDIVIDUALS.

9 **SECTION 5.** In Colorado Revised Statutes, **add 25-3-124** as
10 follows:

11 **25-3-124. Food donations to nonprofit organizations**
12 **encouraged.** EACH HOSPITAL IS ENCOURAGED TO DONATE APPARENTLY
13 WHOLESOME FOOD TO ONE OR MORE LOCAL NONPROFIT ORGANIZATIONS
14 FOR DISTRIBUTION TO NEEDY OR POOR INDIVIDUALS.

15 **SECTION 6. Act subject to petition - effective date.** This act
16 takes effect at 12:01 a.m. on the day following the expiration of the
17 ninety-day period after final adjournment of the general assembly (August
18 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
19 referendum petition is filed pursuant to section 1 (3) of article V of the
20 state constitution against this act or an item, section, or part of this act
21 within such period, then the act, item, section, or part will not take effect
22 unless approved by the people at the general election to be held in
23 November 2020 and, in such case, will take effect on the date of the
24 official declaration of the vote thereon by the governor.