



The Good Samaritan Food Donation Act

P.L. 104-210

"An act to encourage the donation of food and grocery products to non-profit organizations for distribution to needy individuals."

The Bill Emerson Good Samaritan Food Donation Act is a new federal law which protects those who donate food in good faith from civil or criminal liability should such donated food later cause harm to a recipient. Liability protection is not extended to donors in instances of gross negligence (defined) or intentional misconduct.

What does the new law do?

The new Good Samaritan Food Donation Act provides a uniform, national standard of liability protection to individuals, businesses and non-profit organizations that act in good faith to donate and distribute food to needy people. The new Good Sam Act converts the Model Act into permanent law and preempts existing State Good Sam statutes. Previously, the Model Act was used by each of the fifty states to develop their own versions of product liability protection for food donors. Every state had Good Sam legislation, but varied in degree of coverage, including the types of food covered, definitions of donors, good faith, and limit of protection. The new Good Sam law standardizes the liability exposure of donors and non-profits.

What is the liability limit?

The Good Sam law sets a liability floor of "gross negligence" for persons who donate food. Gross negligence is defined as: "voluntary and conscious conduct by a person with knowledge (at the time of conduct) that the conduct is likely to be harmful to the health or well-being of another person."

If product is past code, or close to code, is there still protection?

The Congress recognized that the provision of food that is close to the date of recommended retail sale is, in and of itself, not grounds for finding gross negligence. Instead gross negligence of a donor should depend upon many factors. For example, the type of food involved in the donation impacts on whether or not the action constitutes gross negligence. A box of cereal that is donated just before or just after the code date for retail sale would be perfectly safe for consumption and thus protected by the new Good Sam law.

¹The Bill Emerson Good Samaritan Food Donation Act, P.L. 104-210. Enacted 10/1/96 and transferred to Sec. 22 of the Child Nutrition Act of 1966.

Please see House Report 104-661. It is recommended that donors consult counsel before making a determination of liability protection under the new Good Samaritan Food Donation Act.