

**I MINA'BENTE NUEBI NA LIHESLATURAN GUÁHAN**  
**2008 (SECOND) Regular Session**

Bill No. 296 (EC)

Introduced by:

E. J. B. Calvo

2008 NOV 24 PM 3:11  
EJBC

**AN ACT TO ADD A NEW SECTION 105 TO CHAPTER 38, DIVISION 2, TITLE 10 GUAM CODE ANNOTATED RELATIVE TO SEEKING TO PRECLUDE FROM CIVIL AND CRIMINAL LIABILITY ANY PERSON INVOLVED WITH THE DONATION AND DISTRIBUTION OF FOOD DELIVERED IN GOOD FAITH FOR SHARING WITH THE NEEDY TO BE KNOWN AS “THE GOOD SAMARITAN FOOD DONATION ACT OF GUAM.”**

**BE IT ENACTED BY THE PEOPLE OF GUAM:**

**Section 1. Legislative Intent.** *I Liheslaturan Guahan* finds that in order to encourage the donation of food and grocery products to nonprofit organizations for distribution to those in the community in need, this Act is necessary in order to preclude from any civil and criminal liability any Person donating food or grocery products in good faith to serve the needy. This Act *shall not* provide such protection from liability for Persons in cases of gross negligence or intentional misconduct. *I Liheslaturan Guahan* commends local companies involved in the giving to those less fortunate and applauds their efforts to prevent good food from going to waste. Under this Act, *I Liheslaturan Guahan* seeks to protect such Persons and companies from liability surrounding their donations and contributions to the well being of the needy. Patterned after the “Bill Emerson Good Samaritan Food Donation Act,” this Act shall serve to promote giving year round as a theme consistent with the cultural and moral fabric of those who call Guam home.

**Section 2. A New Section 105, “The Good Samaritan Food Donation Act of Guam” is hereby added to Chapter 38, Division 2 of Title 10 Guam Code Annotated to read as follows: Definitions.** As used in this Act:

**(a) Apparently fit grocery product.** The term “apparently fit grocery product” means a grocery product that meets all quality and labeling standards imposed by Federal, State, and local laws

1 and regulations even though the product may not be readily marketable due to appearance, age,  
2 freshness, grade, size, surplus, or other conditions.

3 **(b) Apparently wholesome food.** The term “apparently wholesome food” means food that  
4 meets all quality and labeling standards imposed by Federal, State, and local laws and  
5 regulations even though the food may not be readily marketable due to appearance, age,  
6 freshness, grade, size, surplus, or other conditions.

7 **(c) Donate.** The term “donate” means to give without requiring anything of monetary value  
8 from the recipient, except that the term shall include giving by a nonprofit organization to  
9 another nonprofit organization, notwithstanding that the donor organization has charged a  
10 nominal fee to the donee organization, if the ultimate recipient or user is not required to give  
11 anything of monetary value.

12 **(d) Food.** The term “food” means any raw, cooked, processed, or prepared edible substance, ice,  
13 beverage, or ingredient used or intended for use in whole or in part for human consumption.

14 **(e) Gleaner.** The term “gleaner” means a person who harvests for free distribution to the needy  
15 or for donation to a nonprofit organization for ultimate distribution to the needy, an agricultural  
16 crop that has been donated by the owner.

17 **(f) Grocery product.** The term “grocery product” means a nonfood grocery product, including a  
18 disposable paper or plastic product, household cleaning product, laundry detergent, cleaning  
19 product, or miscellaneous household item.

20 **(g) Gross negligence.** The term “gross negligence” means voluntary and conscious conduct  
21 (including a failure to act) by a person who, at the time of the conduct, knew that the conduct  
22 was likely to be harmful to the health or well-being of another person.

23 **(h) Intentional misconduct.** The term “intentional misconduct” means conduct by a person  
24 with knowledge (at the time of the conduct) that the conduct is harmful to the health or well-  
25 being of another person.

26 **(i) Nonprofit organization.** The term “nonprofit organization” means an incorporated or  
27 unincorporated entity that: **(1)** is operating for religious, charitable, or educational purposes; and  
28 **(2)** does not provide net earnings to, or operate in any other manner that inures to the benefit of,  
29 any officer, employee, or shareholder of the entity.

30 **(j) Person.** The term “person” means an individual, corporation, partnership, organization,  
31 association, or governmental entity, including a retail grocer, wholesaler, hotel, motel,

1 manufacturer, restaurant, caterer, farmer, and nonprofit food distributor or hospital. In the case of  
2 a corporation, partnership, organization, association, or governmental entity, the term includes an  
3 officer, director, partner, deacon, trustee, council member, or other elected or appointed  
4 individual responsible for the governance of the entity.

5 **Section 3. Liability for damages from donated food and grocery products. (1) Liability of**  
6 **person or gleaner.** A person or gleaner shall not be subject to civil or criminal liability arising  
7 from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit  
8 grocery product that the person or gleaner donates in good faith to a nonprofit organization for  
9 ultimate distribution to needy individuals. **(2) Liability of nonprofit organization.** A nonprofit  
10 organization shall not be subject to civil or criminal liability arising from the nature, age,  
11 packaging, or condition of apparently wholesome food or an apparently fit grocery product that  
12 the nonprofit organization received as a donation in good faith from a person or gleaner for  
13 ultimate distribution to needy individuals. **(3) Exception.** Paragraphs (1) and (2) shall not apply  
14 to an injury to or death of an ultimate user or recipient of the food or grocery product that results  
15 from an act or omission of the person, gleaner, or nonprofit organization, as applicable,  
16 constituting gross negligence or intentional misconduct.

17 **Section 4. Collection or gleaning of donations.** A person who allows the collection or  
18 gleaning of donations on property owned or occupied by the person by gleaners, or paid or  
19 unpaid representatives of a nonprofit organization, for ultimate distribution to needy individuals  
20 shall not be subject to civil or criminal liability that arises due to the injury or death of the  
21 gleaner or representative, except that this paragraph shall not apply to an injury or death that  
22 results from an act or omission of the person constituting gross negligence or intentional  
23 misconduct.

24 **Section 5. Partial compliance.** If some or all of the donated food and grocery products do not  
25 meet all quality and labeling standards imposed by Federal, State, and local laws and regulations,  
26 the person or gleaner who donates the food and grocery products shall not be subject to civil or  
27 criminal liability in accordance with this section if the nonprofit organization that receives the  
28 donated food or grocery products: **(1)** is informed by the donor of the distressed or defective  
29 condition of the donated food or grocery products; **(2)** agrees to recondition the donated food or  
30 grocery products to comply with all the quality and labeling standards prior to distribution; and

1 (3) is knowledgeable of the standards to properly recondition the donated food or grocery  
2 product.

3 **Section 6. Severability.** If any provision of this Act *or* its application to any person *or*  
4 circumstance is found to be invalid *or* contrary to law, such invalidity *shall not* affect other  
5 provisions *or* applications of this Act which can be given effect without the invalid provisions *or*  
6 application, and to this end the provisions of this Act are severable.