WEST VIRGINIA CODE CHAPTER 19 ARTICLE 30

WV Legislature

§19-30-1. Purpose.

The purpose of this article is to address the problem of hunger in this state by improving the distribution of food to the hungry, providing a means of funding agencies which distribute food on an emergency basis, gathering and disseminating information related to the problem of hunger, assuring that distribution activities are responsive to the needs of local donated food banks, facilitating the creation of donated food banks and ensuring maximum access to food banks.

WV Legislature

§19-30-2. Administration of donated food program transferred from Department of Health to Department of Agriculture.

(a) The Department of Agriculture is designated as the state agency to:

(1) Receive food donated by the United States Department of Agriculture, other federal or state agencies, corporations, private persons or entities;

(2) Receive payments for storage and distribution of the donated food;

(3) Distribute the food to educational or charitable institutions;

(4) Allocate funds received relating to the donated food; and

(5) Enter into agreements and take other actions necessary to exercise the authority provided in this article.

WV Legislature

§19-30-3. Special revenue account created for donated food program.

(a) There is hereby established in the State Treasury a special revenue account to be known as the "donated food fund" account. Expenditures from said account shall be used by the Department of Agriculture for the operation of the donated food program and are not authorized from collections, but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code, and upon the fulfillment of the provisions set forth in article two, chapter five-a of this code.

(b) The commissioner is authorized to solicit and accept donations, gifts, grants, bequests and other funds made available to the Department of Agriculture from private sources for the donated food program, which funds shall be placed in the donated food fund special revenue account.

WV Legislature

§19-30-4. Donation of food items; exemption from civil and criminal liability.

Any person who makes a good faith donation of prepared or perishable food which appears to be fit for human consumption at the time it is donated to a charitable or nonprofit organization is not liable for damages in any civil action or subject to criminal prosecution for any injury or death due to the condition of the food unless the injury or death is a direct result of the gross negligence, recklessness or intentional misconduct of the donor.

A charitable or nonprofit organization or an officer, employee or volunteer of the organization that in good faith receives and distributes, without charge, food which appears to be fit for human consumption at the time it is distributed is not liable for damages in any civil action or subject to criminal prosecution for any injury or death due to the condition of the food unless the injury or death is a direct result of the gross negligence, recklessness or intentional misconduct of the organization or its officers, employees or volunteer workers.

This section applies to all good faith donations of perishable food which is not readily marketable due to appearance, freshness, grade, surplus supply or other conditions.

WV Legislature

§19-30-5. Definitions.

In this article, unless the context otherwise requires:

"Agricultural product" means any fowl, animal, vegetable or other item, product or article which is customary food or which is proper food for human consumption.

"Donated food bank" means a nonprofit organization that solicits, stores, or redistributes food products to charitable organizations and individuals for the purpose of feeding needy families and individuals.

"Nonprofit charitable organization" means an organization which is organized and operates for a charitable purpose.

WV Legislature

§19-30-6. Authorization of donations; diversion of products by directors to organizations.

A person engaged in the business of processing, distributing or selling any agricultural product may donate, free of charge, any agricultural product to a donated food bank.

To assist in accomplishing the purposes of this section, the director of each department of state government shall divert, whenever possible, surplus agricultural products to organizations operating pursuant to this article.

WV Legislature

§19-30-7. Surplus food collection and distribution centers.

The Department of Agriculture shall continue operation of and shall publicize the services of an information and food collection center. The center shall receive and transmit information concerning available agricultural products and information on each organization desiring or needing agricultural products to be donated. The center shall also collect, receive, handle, store and distribute donated agricultural products. A nonprofit charitable organization which regularly needs agricultural products may be listed with a food collection center to be notified if agricultural products are available.

WV Legislature

§19-30-8. Minimum standards for food banks.

In order to qualify as a donated food bank, an organization shall meet all of the following minimum standards:

(a) Have access to storage facilities and refrigeration equipment for the purpose of collecting, receiving, handling, storing and distributing donated agricultural products;

(b) Be incorporated as a nonprofit tax exempt organization and eligible as a charitable organization under the Internal Revenue Code (26 United States code section 501 (c) (3)) or affiliated with a qualified organization;

(c) Maintain records for the proper control of inventory;

(d) Demonstrate the availability of adequate liability insurance to cover the activities conducted pursuant to this article; and

(e) Show local support through funding sources, letters of endorsement and a board of directors which reflects the community and population to be served.

WV Legislature

§19-30-9. State surplus buildings and equipment; availability to donated food banks.

The commissioner of the Department of Administration shall assist a food bank by locating and providing available state surplus buildings or equipment necessary for the operation of a donated food bank for use without charge.

WV Legislature

§19-30-10. Effect of article on other nonprofit organizations.

Nothing in this article may restrict or limit the operation of any other nonprofit organization which is engaged in the distribution of agricultural products to nonprofit charitable organizations.

WV Legislature

§19-30-11. Application of article to food stamp act.

Consonant with 7 C.F.R. 273.9(c)(1), programs operated in accordance with this article shall complement and not in any way lessen assistance to families and individuals pursuant to the Food Stamp Act of 1977 as amended, (7 U.S.C. 2011 through 7 U.S.C. 2026).

WV Legislature

§19-30-12. Donated food bank assistance fund; restriction.

(a) The fund formerly known as the charity food bank assistance fund is redesignated the donated food bank assistance fund and is continued. The fund consists of moneys provided by appropriation.

(b) A donated food bank which meets the minimum standards for food banks may qualify, subject to available moneys, for assistance from this fund for any of its operations.

(c) Assistance granted pursuant to this article shall be administered by the commissioner of agriculture. No more than five percent of the assistance granted to a donated food bank pursuant to this article may be used for administrative purposes.

WV Legislature