

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-12-83

770: 146

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1983



ENROLLED

Committee Substitute for

SENATE BILL NO. 146

(By Mr. *Bathurst Jones*)



PASSED March 1 1983

In Effect ninty days for Passage



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 146

(MR. BOETTNER AND MR. JONES, *original sponsors*)

[Passed March 1, 1983; in effect ninety days from passage.]

AN ACT to amend article seven, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section sixteen, relating to limitation on liability of food donor; providing exemption from civil liability for food donors who donate food to nonprofit, religious or charitable organizations in certain cases; providing for exceptions thereto; and providing that authority to inspect is not limited.

Be it enacted by the Legislature of West Virginia:

That article seven, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section sixteen, to read as follows:

ARTICLE 7. ACTIONS FOR INJURIES.

§55-7-16. Limiting liability of food donors; exemption from civil liability in certain cases; exceptions; authority to inspect not limited.

1 Any farmer, processor, distributor, wholesaler or re-
2 tailer of food or other person who donates food in good
3 faith to any nonprofit, religious or charitable organiza-
4 tion which is exempt from taxation under 26 U.S.C.

5 §501(c)(3) or (4), which maintains a food storage ware-
6 house or facility regulated by the state department of
7 agriculture, the state department of health and, where
8 required, by local ordinance, and which receives and
9 utilizes such donated food for free use or free distribution
10 to the ultimate consumer thereof, is exempt from civil
11 liability arising from any injury or death resulting from
12 the nature, age, condition or packaging of the donated
13 food: *Provided*, That the exemption of this section does not
14 apply in the event that the injury or death is the direct
15 and proximate result of the gross negligence, or the will-
16 ful, wanton or reckless misconduct or the intentional act
17 of the donor. Nothing contained herein limits liability
18 on the part of any donee nonprofit or charitable or re-
19 ligious organization which accepts items of donated
20 food under this section nor restricts the authority of the
21 state department of agriculture, the state department of
22 health or any county or municipal health officer to regu-
23 late, inspect or ban the use of such donated food for
24 human consumption.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

Amos A. Wells
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

Todd C. Welch
Clerk of the Senate

Donald L. Kopp
Clerk of the House of Delegates

Warren P. McHale
President of the Senate

W. M. Seal, Jr.
Speaker House of Delegates

The within *is approved* this the *12*
day of *March*, 19*33*.

John R. Roper
Governor

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OFFICE OF THE GOVERNOR

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SECY. OF STATE