

GENERAL ASSEMBLY OF NORTH CAROLINA  
1989 SESSION

CHAPTER 365  
HOUSE BILL 137

AN ACT TO LIMIT CIVIL AND CRIMINAL LIABILITY OF DONORS WHO DONATE FOOD FOR USE OR DISTRIBUTION BY NONPROFIT ORGANIZATIONS AND OF DONEES WHO USE OR DISTRIBUTE THAT FOOD UNLESS AN INJURY IS CAUSED BY THE GROSS NEGLIGENCE, RECKLESSNESS, OR INTENTIONAL MISCONDUCT OF THE DONOR OR DONEE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 99B-10 reads as rewritten:

**"§ 99B-10. Immunity for donated food.**

(a) Notwithstanding the provisions of Article 12 of Chapter 106 of the General Statutes, or any other provision of law, any person, including but not limited to a seller, farmer, processor, distributor, wholesaler or retailer of food, who donates an item of food for use or distribution by a nonprofit organization or nonprofit corporation shall not be liable for civil damages or criminal penalties resulting from the nature, age, condition, or packaging of the donated food, ~~unless it is established that the donor knew or had reasonable grounds to believe that the food was adulterated as defined in G.S. 106-129 at the time the donor made the gift.~~ an injury is caused by the gross negligence, recklessness, or intentional misconduct of the donor. To the extent, however, that a donor has liability insurance, the donor shall be deemed to have waived the qualified immunity herein to the extent of indemnification by insurance for the negligent acts or omissions of the donor.

(b) ~~Nothing in this section limits the liability of the donee organization or corporation accepting the food. Notwithstanding any other provision of law, any nonprofit organization or nonprofit corporation that uses or distributes food that has been donated to it for such use or distribution shall not be liable for civil damages or criminal penalties resulting from the nature, age, condition, or packaging of the donated food, unless an injury is caused by the gross negligence, recklessness, or intentional misconduct of the organization or corporation. To the extent, however, that a nonprofit organization or nonprofit corporation has liability insurance, the organization or corporation shall be deemed to have waived the qualified immunity herein to the extent of indemnification by insurance for its negligent acts or omissions."~~

Sec. 2. This act is effective upon ratification and shall only apply to acts or omissions occurring on or after the effective date of this act.

In the General Assembly read three times and ratified this the 20th day of June, 1989.