

Laws Protecting Food Donors

“Good Samaritan Act protects those who donate food!”

Good Samaritan Acts protect those who donate food to nonprofit organizations. These laws encourage the donation of food and grocery products to nonprofit organizations for distribution to needy individuals. They also make it easier for concerned farmers, food service establishments, processors, distributors, wholesalers, and food retailers to donate food items to Bienvenidos Food Bank.

These laws protect food donors from civil and criminal liability, should the product donated in good faith later cause harm to the recipient. They standardize donor liability exposure and set a liability floor of 'gross negligence' or intentional misconduct for persons who donate grocery products. According to the federal law, 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 wellbeing of another person.” In addition, Congress recognized the provision that food close to the date of recommended retail sale is, in and of itself, not grounds for finding gross negligence.

In 1989, the Colorado Legislature passed an amendment to the Good Samaritan Act, saying food donors will not be subject to criminal penalty or civil damage resulting from the condition of the food, unless injury is caused by “willful, wanton or reckless acts” by the donor. This includes canned or perishable food not readily marketable due to appearances, freshness, grade, surplus, or other considerations. Tax Benefits for Food Donors

State (12-21-113, Colorado Revised Statutes, 1987) and Federal (PL104-210, 1996)

Tax Benefits for Food Donors

Federal tax laws provide most donors with tax benefits for the contribution of food to Bienvenidos Food Bank in the form of a charitable deduction equal to the tax basis of the property contributed, plus half of the difference between the basis and fair market value (limited to twice the basis of the property). It is recommended that donors consult with their accountant or tax advisor in order to determine the exact charitable contribution to which they may be entitled.