

An Act

ENROLLED HOUSE
BILL NO. 4060

By: Wallace of the House

and

Green of the Senate

An Act relating to agriculture; creating the Donated Agriculture and Wild Game Foods Act; defining terms; providing for criminal and civil liability under certain circumstances; referencing liability found in 76 O.S. 2021, Section 5.6; retaining agency authority to inspect, regulate, and ban certain foods; creating a license; requiring administrative rules process; allowing for donation of wild game meat; requiring a review of rules; requiring a report; amending 76 O.S. 2021, Section 5.6; requiring posting of the Donated Agriculture and Wild Game Foods Act on the State Department of Health's website; requiring posting of similar information on the Oklahoma Department of Agriculture, Food, and Forestry's website; requiring posting of special licensing information on the Oklahoma Department of Wildlife Conservation website; providing for codification; and providing an effective date.

SUBJECT: Agriculture

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-601 of Title 2, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Donated Agriculture and Wild Game Foods Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-602 of Title 2, unless there is created a duplication in numbering, reads as follows:

For the purpose of this act, the following definitions shall apply:

1. "Charitable organization" means any benevolent, philanthropic, patriotic, eleemosynary, educational, social, civic, recreational or religious group or association, or any other person performing or purporting to perform acts beneficial to the public;

2. "Food" means any raw, cooked, processed, or prepared edible substance, ice, beverage, or ingredient used or intended to be used in whole or in part for human consumption that is apparently fit for human consumption. Food includes nonperishable food, perishable food, and wild game;

3. "Gleaner" means a person who gleans an agricultural crop that has been donated by the owner of the agricultural crop;

4. "Gleans" or "gleaned" means to gather an agricultural crop leftover after a harvest;

5. "Nonprofit corporation" means a corporation formed for a purpose not involving pecuniary gain to its shareholders or members, paying no dividends or other pecuniary remuneration, directly or indirectly, to its shareholders or members as such, and having no capital stock;

6. "Nonperishable food" means any food that has been commercially processed, prepared, and packaged for human consumption and that is intended to remain fit for human consumption without refrigeration for a reasonable length of time;

7. "Person" means an individual, corporation, business trust, estate trust, partnership, limited liability company, association, joint venture, or any other legal or commercial entity. Person does not include a government, governmental subdivision, agency, instrumentality, or a public corporation;

8. "Perishable food" means any food that may spoil or otherwise become unfit for human consumption because of its nature, type, or physical condition. Perishable food includes all of the following:

- a. fresh and processed meats, poultry, fish, dairy products, or bakery products,

- b. eggs in shell, and
- c. fresh fruits and vegetables;

9. "State agency" means any office, department, board, commission, committee, court, school district, board of education, or other instrumentality of the government of this state existing by virtue of an act of the Oklahoma Legislature or the Constitution of this state;

10. "Wild game" means any of the following that are legally taken under the laws of this state:

- a. game animals as defined in Sections 2-116 and 2-145 of Title 29 of the Oklahoma Statutes,
- b. game birds as defined in Sections 2-112 and 2-114 of Title 29 of the Oklahoma Statutes, and
- c. game fish as defined in Section 2-115 in Title 29 of the Oklahoma Statutes.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-603 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. A person or gleaner who, in good faith, donates food for ultimate distribution without charge by a nonprofit corporation, a charitable organization, or a state agency 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 or death is caused by the gross negligence, recklessness, or intentional misconduct of the person or gleaner.

B. A person who, in good faith, provides services related to the processing of wild game that is donated to a nonprofit corporation, a charitable organization, or a state agency for ultimate distribution without charge by the nonprofit organization or the state agency 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 or death is caused by gross negligence, recklessness, or intentional misconduct of the person.

C. A nonprofit corporation or charitable organization that, in good faith, accepts donated food for ultimate distribution without charge 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 or death is caused by gross negligence, recklessness, or intentional misconduct of the nonprofit organization.

D. Nothing in this section shall supersede the liability found in Section 5.6 of Title 76 of the Oklahoma Statutes.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-604 of Title 2, unless there is created a duplication in numbering, reads as follows:

This act shall not restrict or preempt the authority granted to the State Department of Health and the Oklahoma Department of Agriculture, Food, and Forestry by other law to inspect, regulate, or ban food.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-605 of Title 2, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Department of Agriculture, Food, and Forestry shall create a licensing program for meat processing plants that helps support Oklahoma Department of Wildlife Conservation's "Hunters Against Hunger" program, by allowing the processors to process wild game. This license shall be for meat processors already licensed and/or inspected by the Oklahoma Department of Agriculture, Food, and Forestry for processing meat besides wild game. Facilities that receive the special licenses can participate in Oklahoma Department of Wildlife Conservation's "Hunters Against Hunger" program and donate the processed wild game meat for payment by the Oklahoma Department of Wildlife Conservation according to its rules. The Oklahoma Department of Agriculture, Forestry, and Food shall create the special license through the administrative rules process. This license shall not be required of meat processors who only process wild game and are already eligible to participate in the "Hunters Against Hunger" program.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-606 of Title 2 of the Oklahoma Statutes, unless there is created a duplication in numbering, reads as follows:

A. The State Department of Health and the Oklahoma Department of Agriculture, Food, and Forestry shall:

1. Review any such regulations that have an effect on limiting the use of donated or gleaned food, with the goal of eliminating unnecessary regulations and increasing the supply of usable donated or gleaned food while protecting public health; and

2. Submit their review of such regulations no later than November 1, 2024, in a report to the Governor, the Speaker of the Oklahoma House of Representatives, and the Speaker Pro Tempore of the Oklahoma State Senate.

SECTION 7. AMENDATORY 76 O.S. 2021, Section 5.6, is amended to read as follows:

A. Any donor who makes a good-faith donation of food which is at the time of donation fit for human consumption to a charitable organization or nonprofit corporation shall not be liable for damages in any civil suit or subject to criminal prosecution for any injury resulting from the nature, age, condition or packaging of the donated food, unless the injury or death is a direct result of the gross negligence, recklessness, or intentional misconduct of the donor.

B. Information shall be posted with the State Department of Health on its website under the existing heading "Protective Health" within a new section labeled "Options for Safe Food Donation" with hyperlinks to Section 5.6 of Title 76 of the Oklahoma Statutes, Section 5-601 et seq. of Title 2 of the Oklahoma Statutes, Oklahoma Administration Code Title 310: Chapter 257, 42 U.S.C., Section 1791, and to the website of Oklahoma State University's Robert S. Kerr Food and Agriculture Products Center. The State Department of Health shall also have hyperlinks to the Oklahoma Department of Wildlife Conservation's "Hunters Against Hunger" webpage, and the special licensing page created by the Oklahoma Department of Agriculture, Food, and Forestry. The Oklahoma Department of Agriculture, Food, and Forestry shall also post on its website in a new section labeled "Options for Safe Food Donation" with hyperlinks to Section 5.6 of Title 76 of the Oklahoma Statutes, Section 5-601 et seq. of Title 2 of the Oklahoma Statutes, Oklahoma Administration Code Title 310: Chapter 257, 42 U.S.C., Section 1791, to the website of Oklahoma State University's Robert S. Kerr Food and Agriculture Products Center, and the Oklahoma Department of Wildlife

Conservation's "Hunters Against Hunger" webpage. Additionally, the Oklahoma Department of Agriculture, Food, and Forestry shall have a webpage on the special licensing.

C. This section shall apply to all good-faith donations of perishable or nonperishable food which is not readily marketable due to appearance, freshness, grade or other conditions.

D. This section shall not restrict the authority of any appropriate agency to regulate or ban the use of such food for human consumption.

E. For purposes of this section:

1. "Donor" means any person, profit or nonprofit food distributor, or person who harvests perishable foods who makes a good-faith donation of food;

2. "Good-faith donation" means a gift conferred without condition or consideration;

3. "Charitable organization" means any benevolent, philanthropic, patriotic, eleemosynary, educational, social, civic, recreational or religious group or association or any other person performing or purporting to perform acts beneficial to the public;

4. "Nonprofit corporation" means a corporation formed for a purpose not involving pecuniary gain to its shareholders or members, paying no dividends or other pecuniary remuneration, directly or indirectly, to its shareholders or members as such, and having no capital stock; and

5. "Food" includes any packaged, prepared, perishable or nonperishable food item.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-415A of Title 29, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Department of Wildlife Conservation shall post on its "Hunters Against Hunger" webpage a link to the webpage from the Oklahoma Department of Agriculture, Food, and Forestry on the special license available for licensed meat processors.

SECTION 9. This act shall become effective September 15, 2024.

Passed the House of Representatives the 4th day of March, 2024.

Presiding Officer of the House
of Representatives

Passed the Senate the 24th day of April, 2024.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____