

ORS 30.890

Liability of food gleaners, donors and distributors

(1) (a) Notwithstanding any other provision of law, a gleaner or the good-faith donor of any food, apparently fit for human consumption, to a bona fide charitable or nonprofit organization, including but not limited to a food bank, for distribution without charge or on a scale reflecting ability to pay or only requiring a shared maintenance contribution, shall not be subject to criminal penalty or civil damages arising from the condition of the food, unless an injury is caused by the gross negligence, recklessness or intentional conduct of the donor or gleaner.

(b) The immunity from civil liability and criminal penalty provided by this section applies regardless of compliance with any laws, rules or ordinances regulating the packaging or labeling of food, and regardless of compliance with any laws, rules or ordinances regulating the storage or handling of the food by the donee after the donation of the food.

(2) Notwithstanding any other provision of law, a bona fide charitable or nonprofit organization which in good faith receives food, apparently fit for human consumption, and while apparently fit for human consumption distributes it at no charge or on a fee scale reflecting ability to pay or only requiring a shared maintenance contribution, shall not be subject to criminal penalty or civil damages resulting from the condition of the food unless an injury results from the gross negligence, recklessness or intentional conduct of the organization.

(3) This section applies to the good-faith donation of food not readily marketable due to appearance, freshness, grade, surplus or other considerations but does not restrict the authority of any appropriate agency to regulate or ban the use of such food for human consumption.

(4) As used in this section:

(a) Donor includes any person who operates a restaurant or other food establishment licensed or regulated by law.

(b) Food means any food whether or not it may spoil or otherwise become unfit for human consumption because of its nature, type or physical condition, including but not limited to fresh or processed meats, poultry, seafood, dairy products, bakery products, eggs in the shell, fresh fruits or vegetables, and foods that have been packaged, canned, refrigerated, freeze-dried or frozen.

(c) Food bank means a surplus food collection and distribution system operated and established to assist in bringing donated food to nonprofit charitable organizations and individuals for the purpose of reducing hunger and meeting nutritional needs.

(d) Gleaner means a person that harvests for free distribution an agricultural crop that has been donated by the owner. [1979 c.265 §1; 1989 c.808 §1]

ORS 30.892

Liability of donors and distributors of general merchandise and household items

(1) Notwithstanding any other provision of law, the good-faith donor of any general merchandise or household item, apparently fit for use to a bona fide charitable or nonprofit organization for distribution without charge or on a fee scale reflecting ability to pay, or only requiring a shared maintenance contribution, shall not be subject to criminal penalty or civil damages arising from the condition of the general merchandise or household item, unless an injury is caused by the gross negligence, recklessness or intentional conduct of the donor.

(2) The immunity from civil liability and criminal penalty provided by this section applies regardless of compliance with any laws, rules or ordinances regulating the packaging or labeling of general merchandise or household items, and regardless of compliance with any laws, rules or ordinances regulating the storage or handling of the general merchandise or household items by the donee after the donation.

(3) Notwithstanding any other provision of law, a bona fide charitable or nonprofit organization which in good faith receives general merchandise or household items, apparently fit for use, and while apparently still fit for use, distributes the merchandise or items at no charge or on a fee scale reflecting ability to pay or only requiring a shared maintenance contribution, shall not be subject to criminal penalty or civil damages resulting from the condition of the general merchandise or household items, unless an injury results from the gross negligence, recklessness or intentional conduct of the organization.

(4) This section applies to the good-faith donation of general merchandise or household items not readily marketable due to appearance, grade, surplus or considerations other than safety but does not restrict the authority of any appropriate agency to regulate or ban the use of such general merchandise or household items. The immunity from civil liability and criminal penalty provided by this section shall not apply if the general merchandise or household item is resold by either the donee or any other person. This section does not affect the liability of a manufacturer for products that are subject to a current or future safety recall whether such recall is initiated by the manufacturer or at the request of the state or federal government, nor shall this section affect the liability of a manufacturer under ORS 30.900 (Product liability civil action defined) to 30.920 (When seller or lessor of product liable)..

(5) As used in this section:

(a) Donor includes all of the following, without regard to who is the owner of the general merchandise or household item at the time of the donation:

(A) A general merchandiser;

(B) A retail establishment;

(C) A wholesaler; and

(D) A manufacturer.

(b) General merchandise or household item means any item sold as general merchandise for household use, including but not limited to items sold in the following categories: Toiletries, cosmetics, domestics, electronics, sporting goods, clothing, toys, small appliances, personal care appliances, housewares, household chemicals, hardware, paint, sundries, plumbing, garden supplies, automotive, school supplies, pet food, pet supplies, over-the-counter drugs or vitamins, or other items of merchandise commonly sold in a retail or general merchandising establishment. [1989 c.1012 §2]