

# HOUSE BILL REPORT

## ESHB 2325

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### As Amended by the Senate

**Title:** An act relating to donated food.

**Brief Description:** Providing for donation and distribution of food.

**Sponsors:** By House Committee on Agriculture & Ecology (originally sponsored by Representatives Wood, Schoesler, Gombosky, Kessler, Linville, Kagi and Esser).

**Brief History:**

**Committee Activity:**

Agriculture & Ecology: 1/22/02, 2/1/02 [DPS].

**Floor Activity:**

Passed House: 2/14/02, 98-0.

Senate Amended.

Passed Senate: 3/6/02, 47-0.

### Brief Summary of Engrossed Substitute Bill

- Allows food donors to donate food in raw, cooked, processed, or prepared edible form for the purpose of serving needy persons under certain circumstances.
- Requires the Washington State Board of Health to adopt recommended health and safety guidelines for free food donation, preparation, and distribution.

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### HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Linville, Chair; Hunt, Vice Chair; Schoesler, Ranking Minority Member; Chandler, Cooper, Delvin, Dunshee, Grant, Holmquist, Kirby, Quall, Roach and Sump.

**Staff:** Caroleen Dineen (786-7156).

**Background:**

The state's Good Samaritan Food Donation Act (Act) is intended to promote free food distribution to needy persons, prevent waste of food products, and provide liability

protection for food donors. "Food" is defined in statute to include raw, cooked, processed, or prepared edible substances intended for human consumption. The Act provides immunity from civil and criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product collected for donation or donated in good faith for ultimate distribution to needy individuals. This immunity applies to a person– or a gleaner– as defined by statute. The statutory immunity from civil and criminal liability for persons and gleaners donating food does not exist for an injury to or death of an ultimate user or recipient that results from an act or omission constituting gross negligence or intentional misconduct.

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### **Summary of Engrossed Substitute Bill:**

A food donor may donate food in raw, cooked, processed, or prepared edible form without charge to a distributing organization or the public in order to serve needy persons unless expressly prohibited by rule of the Washington State Board of Health (board). The board is required to adopt recommended health and safety guidelines for the donation, preparation, and distribution of food. The board's health and safety guidelines must address potlucks where the public is invited. The donor and recipient must comply with the Board's health and safety guidelines.

Local boards of health that adopt rules concerning charitable food donation more stringent than the board rule must first provide notice to the public and written notice to cities, towns, and counties within its jurisdiction and to known charitable organizations before the public hearing held to consider the rule.

Legislative intent is included to specify the purposes of encouraging charitable organizations, businesses, and individuals to donate food, assuring donated food will not endanger needy recipients, and ensuring inclusion of community potluck meals.

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### **EFFECT OF SENATE AMENDMENT(S):**

The Senate striking amendment replaces the authority to make donations unless expressly prohibited by state Board of Health (Board) rule with a requirement for the Board to adopt rules for the safe receipt, preparation, and handling of donated food. The Senate striking amendment requires the Board to adopt these rules by December 31, 2004, and requires the Department of Health, by the same date, to develop educational materials for donors containing recommended health and safety guidelines for food preparation and handling. The Senate striking amendment also allows local health officers to grant variances to state food service rules regarding physical facilities, equipment standards, and food source requirements when no known or expected health hazard would exist as a result of the variance. Further, the Senate striking amendment removes provisions related to community potluck meals. Finally, the Senate striking amendment replaces the

January 1, 2003, effective date for state Board of Health rules and emergency effective date for Board guidelines with an emergency effective date for the variance provisions.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect January 1, 2003, except the provision requiring the Washington State Board of Health to adopt recommended health and safety guidelines takes effect immediately.

**Testimony For:** A recent Spokane editorial illustrated the problem surrounding food donations. Nonprofit organizations rely heavily on donated foods to ensure people are fed, and this bill helps these organizations continue to help the needy. This bill should be passed if it is what is needed to help community-based organizations distribute food. The ratification section could cause delays in changing or adopting local board of health rules for food donation. Just one of the local legislative authorities within the health district's jurisdiction could stop the rule by failing to ratify.

**Testimony Against:** None.

**Testified:** Representative Wood; Bob Cooper, Food Lifeline; Kevin Glacken-Coley, Washington State Catholic Conference; Art Starry, Washington Environmental Health Directors; Toni McKinley, Washington State Grange; and Susan Oberst, SHARE.