

# SENATE BILL REPORT

## ESHB 2325

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As Reported By Senate Committee On:  
Agriculture & International Trade, March 1, 2002

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

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

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

**Brief History:**

**Committee Activity:** Agriculture & International Trade: 2/20/02, 3/1/02 [DPA].

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### SENATE COMMITTEE ON AGRICULTURE & INTERNATIONAL TRADE

**Majority Report:** Do pass as amended.

Signed by Senators Rasmussen, Chair; Parlette, Snyder, Spanel and Swecker.

**Staff:** Kim Johnson (786-7486)

**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. 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.

Donated food handling and preparation is not explicitly covered under the current food service rules. Consequently, concerns have been expressed over how local health officers are interpreting the food service rules with respect to donated food.

**Summary of Amended Bill:** By December 31, 2004, the State Board of Health will develop rules concerning the safe receipt, handling and preparation of food by distributing organizations.

By December 31, 2004, the Department of Health, in consultation with the State Board of Health, will develop food preparation and handling guidelines for donated food.

Upon request from a donor or a distributing organization, the local health officer may grant a variance when no known or expected health hazard would exist as a result of the action. The local variance for donated food is necessary for the immediate preservation of the public peace and health and takes effect immediately.

**Amended Bill Compared to Original Bill:** The State Board of Health will develop rules concerning the safe receipt, handling and preparation of food by distributing organizations. The rules will regulate the recipient distributing organizations instead of the donors.

The Department of Health will develop food preparation and handling guidelines for donated food, to aid the public in their knowledge of how to properly prepare and handle food for donation.

The substitute House bill permitted the local board of health to adopt more stringent rules than the state. The amended bill would instead permit a local health officer to grant a donated food variance to donors or recipient distributing organizations.

The striking amendment removed potlucks from the bill.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect on January 1, 2003.

**Testimony For:** We support the policy of having guidelines for the safety of donated food, but are concerned about the potential legal difficulties posed by having "enforceable guidelines." We would like the bill to require the State Board of Health to promulgate either rules or guidelines, but not guidelines that are enforced like rules.

**Testimony Against:** None.

**Testified:** Craig McLaughlin, State Board of Health (pro); Jennifer Tebaldi, Department of Health (neutral).