

Food Donation Liability

Ashley Pruitt
August 22, 2018

Mission of Pro Bono Partnership of Atlanta:

To maximize the impact of pro bono engagement by connecting a network of attorneys with nonprofits in need of free business legal services.

Pro Bono Partnership of Atlanta Eligibility & Other Information

- In order to be a client of Pro Bono Partnership of Atlanta, an organization must:
 - ✓ Be a 501(c)(3) nonprofit.
 - ✓ Be located in or serve the greater Atlanta area.
 - ✓ Serve low-income or disadvantaged individuals.
 - ✓ Be unable to afford legal services.
- *Visit us on the web at www.pbpatl.org*
- We host free monthly webinars on legal topics for nonprofits
 - ✓ To view upcoming webinars or workshops, visit the [Workshops Page](#) on our website
 - ✓ Join our mailing list by emailing rla@pbpatl.org

Legal Information:

- ✓ This webinar presents general guidelines for Georgia nonprofit organizations and should not be construed as legal advice. Always consult an attorney to address your particular situation.

- ✓ © 2018. Pro Bono Partnership of Atlanta, Inc. All rights reserved. No further use, copying, dissemination, distribution or publication is permitted without express written permission of Pro Bono Partnership of Atlanta.

Bill Emerson Act

Volunteer Liability

Common Misconceptions with Food Donations

- Lack of understanding of food donation policy
- Fear liability and reputation damage

Good
Samaritan
Food
Donation
Act

Applies to:

- Corporations,
- Individuals,
- Partnerships,
- Organizations,
- Nonprofits,
- government entities
and all sectors of the
food industry

Liability
protection

Applies to:

- Donating,
- Gleaning (food recovery,
- Receiving donations, and
- Distributing donations.

No criminal or civil liability if:



1. Food is apparently wholesome food” or an “apparently fit grocery product;
2. Donated in good faith;
3. Donation to a nonprofit organization; and,
4. The nonprofit distributes the donated items to individuals in need.

Food Recovery

- **Field gleaning:** the collection of crops from farmers
- **Perishable produce rescue/salvage:** the collection of perishable produce from wholesale and retail sources, including, supermarkets, and farmers' markets.
- **Perishable and prepared food rescue:** the collection of prepared foods from the food service industry, including restaurants, hospital, caterers, and cafeterias.
- **Nonperishable processed food collection:** the collection of processed foods from sources such as manufacturers, supermarkets, distributors, grocery stores, and food drives.

Georgia Law

A good faith donation of **canned** or **perishable** food fit for consumption **will NOT** be subject to **criminal penalty** or **civil damages** resulting from the condition of the food, **unless injury is caused intentionally by the donor.** This includes canned or perishable foods **not readily marketable due to appearance, freshness, grade, surplus or other considerations.**



Not protected under Bill Emerson Act

- Gross Negligence
- Intentional Misconduct

Gross Negligence

“voluntary and conscious conduct (including a failure to act) by a person who, at the time of the conduct, knew that the conduct was likely to be harmful to the health or well-being of another person.”

Intentional Misconduct

“conduct by a person with knowledge (at the time of the conduct) that the conduct is harmful to the health or well-being of another person”

What is protected?

- Products that meet all quality standards imposed by regulatory agencies **even though the food may not be “readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions”**



Food Donation Factors for Consideration

1. Type of food involved,
2. Recommended sell by date, and
3. End user of the donated item.



Product Dates



- Sell By =

DISPLAY

- Best if Used By
= **FLAVOR**

- Use By =

PEAK QUALITY

* DATES ALONE DO **NOT** DETERMINE

FOOD SAFETY

Partial Compliance

“ protection to products that may not meet all “quality and labeling standards imposed by Federal, State, and local laws and regulations”



1. Inform the donee of the nonconforming nature of the item;
2. Donee must agree to recondition the item so that it will be compliant; and,
3. Donee must know the standards for reconditioning the item

Questions?





For More Information:

If you would like more information about the services of Pro Bono Partnership of Atlanta, contact us at:

www.pbpatl.org
info@pbpatl.org
(404) 618-0900