

# VIRGINIA ACTS OF ASSEMBLY -- 1998 SESSION

## CHAPTER 641

*An Act to amend and reenact §§ 3.1-418.1 and 35.1-14.2 of the Code of Virginia, relating to donations of food to charitable organizations by certain businesses; liability.*

[S 478]

Approved April 16, 1998

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 3.1-418.1 and 35.1-14.2 of the Code of Virginia are amended and reenacted as follows:**

§ 3.1-418.1. Exemption from civil liability in certain cases.

A. Any farmer, processor, distributor, wholesaler, food service establishment, restaurant, or retailer of food, *including, but not limited to, a grocery, convenience or other store selling food or food products*, who donates food to any food bank or any second harvest certified food bank or food bank member charity which is exempt from taxation under 26 U.S.C. § 501 (c) (3), which maintains a food storage facility certified by the Department of Agriculture and Consumer Services and, where required by local ordinance, by the State Department of Health, for use or distribution by the organization shall be exempt from civil liability arising from any injury or death resulting from the nature, age, condition, or packaging of the donated food. However, the exemption of this section shall not apply if the injury or death directly results from the gross negligence or intentional act of the donor. If the donor is a food service establishment or a restaurant, such donor shall comply with the regulations of the State Board of Health with respect to the safe preparation, handling, protection, and preservation of food, including necessary refrigeration or heating methods, pursuant to the provisions of § 35.1-14. ~~Nothing contained herein shall limit liability on the part of any donee nonprofit charitable or religious organization which accepts items of food under this section.~~

B. Any farmer who gratuitously allows persons to enter upon his own land for purposes of removing any crops remaining in his fields following the harvesting thereof, shall be exempt from civil liability arising out of any injury or death resulting from the nature or condition of such land or the nature, age, or condition of any such crop. However, the exemption of this section shall not apply if the injury or death directly results from the gross negligence or intentional act of the farmer.

§ 35.1-14.2. Donations of food to charitable organizations.

A. Any restaurant, licensed by the Department of Health pursuant to this title and any processor, distributor, wholesaler or retailer of food ~~inspected by the Department of Agriculture and Consumer Services pursuant to Chapter 20 (§ 3.1-361 et seq.) and Chapter 21 (§ 3.1-420 et seq.) of Title 3.1,~~ *including, but not limited to, a grocery, convenience or other store selling food or food products*, may donate unserved excess foods to any charity organization which is exempt from taxation under 26 U.S.C. § 501 (c) (3), and to political subdivisions for distribution to needy persons. Charitable organizations engaged in food distribution programs for needy persons shall notify the local political subdivision of their programs. Upon the notification of such food distribution programs by such charitable organizations, the local political subdivision shall provide a list of such charitable organizations within its jurisdiction to those restaurants and other food suppliers who request such information. Organizations engaged in such food distribution programs shall be exempt from civil liability as provided in § 3.1-418.1 *for the donors of the food*.

B. Charitable organizations prior to engaging in food distribution programs for needy persons shall comply with the applicable regulations adopted pursuant to §§ 35.1-11 and 35.1-14 and with the provisions of §§ 35.1-18 and 35.1-21.