

HOUSE BILL NO. 220

INTRODUCED BY HARPER, VINCENT, BURNETT, GOULD, JENSEN

IN THE HOUSE

January 14, 1981	Introduced and referred to Committee on Judiciary.
January 29, 1981	Committee recommend bill do pass as amended. Report adopted.
January 30, 1981	Bill printed and placed on members' desks.
January 31, 1981	Second reading, do pass.
February 2, 1981	Correctly engrossed.
February 3, 1981	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 4, 1981	Introduced and referred to Committee on Judiciary.
March 23, 1981	Committee recommend bill be concurred in. Report adopted.
March 24, 1981	Motion pass consideration.
March 25, 1981	Second reading, concurred in.
March 27, 1981	Third reading, concurred in. Ayes, 46; Noes, 3.

IN THE HOUSE

March 28, 1981	Returned from Senate. Concurred in. Sent to enrolling.  Reported correctly enrolled.
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1 HOUSE BILL NO. 220  
2 INTRODUCED BY *Harper Vincent Burton*

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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PRECLUDE CRIMINAL OR  
5 CIVIL LIABILITY OF PERSONS DONATING FOOD, APPARENTLY FIT FOR  
6 HUMAN CONSUMPTION, FOR FREE DISTRIBUTION."

7  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Immunity of persons donating food for free  
10 distribution. (1) As used in this section, the following  
11 definitions apply:

12 (a) "Donor" means any processor, distributor,  
13 wholesaler, or retailer of perishable or canned foods or  
14 farmer or individual who donates food for free distribution.

15 (b) "Gleaner" means a person who harvests for free  
16 distribution perishable food that has been donated by the  
17 owner.

18 (c) "Perishable food" means any food that may spoil or  
19 otherwise become unfit for human consumption because of its  
20 nature, type, or physical condition. Perishable food  
21 includes but is not limited to fresh or processed meats,  
22 poultry, seafood, dairy products, bakery products, eggs in  
23 the shell, fresh fruit and vegetables, grains, and foods  
24 that have been refrigerated or frozen.

25 (d) "Canned food" means any food that has been

1 commercially processed and prepared for human consumption.

2 (2) Notwithstanding any other provision of law:

3 (a) a good faith donor of any canned or perishable  
4 food, apparently fit for human consumption, to a bona fide  
5 charitable or nonprofit organization for free distribution  
6 or a gleaner of perishable food, apparently fit for human  
7 consumption, for free distribution is not subject to any  
8 criminal penalty or civil damages arising from the condition  
9 of the food, unless an injury is caused by gross negligence  
10 or intentional misconduct of the donor or gleaner.

11 (b) a bona fide charitable or nonprofit organization  
12 that in good faith receives food, apparently fit for human  
13 consumption, and distributes it at no charge is not subject  
14 to any criminal penalty or civil damages resulting from the  
15 condition of the food unless an injury is caused by gross  
16 negligence or intentional misconduct of the organization.

17 (3) (a) Immunity under this section extends to the good  
18 faith donation of canned or perishable foods that, while  
19 apparently fit for human consumption, are not readily  
20 marketable due to appearance, grade, surplus, or other  
21 considerations, as well as to those foods that are readily  
22 marketable.

23 (b) Immunity under this section does not apply to a  
24 person who donates food to a bona fide charitable or  
25 nonprofit organization that sells or offers for sale donated

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1 food.  
2 (4) This section does not restrict the authority of any  
3 lawful agency to inspect, regulate, or ban the use of  
4 donated food for human consumption.

-End-

Approved by Committee  
on Judiciary

HOUSE BILL NO. 220

INTRODUCED BY HARPER, VINCENT,

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A BILL FOR AN ACT ENTITLED: "AN ACT TO PRECLUDE CRIMINAL OR CIVIL LIABILITY OF PERSONS DONATING FOOD, APPARENTLY FIT FOR HUMAN CONSUMPTION, FOR FREE DISTRIBUTION."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Immunity of persons donating food for free distribution. (1) As used in this section, the following definitions apply:

(a) "Donor" means any processor, distributor, wholesaler, or retailer of perishable or canned foods or farmer or individual who donates food for free distribution.

(b) "Gleaner" means a person who harvests for free distribution perishable food that has been donated by the owner.

(c) "Perishable food" means any food that may spoil or otherwise become unfit for human consumption because of its nature, type, or physical condition. Perishable food includes but is not limited to fresh or processed meats, poultry, seafood, dairy products, bakery products, eggs in the shell, fresh fruit and vegetables, grains, and foods that have been refrigerated or frozen.

(d) "Canned food" means any food that has been commercially processed and prepared for human consumption.

(2) Notwithstanding any other provision of law:

(a) a good faith donor of any canned or perishable food, apparently fit for human consumption, to a bona fide charitable or nonprofit organization for free distribution or a gleaner of perishable food, apparently fit for human consumption, for free distribution is not subject to any criminal penalty or civil damages arising from the condition of the food, unless an injury is caused by gross negligence or intentional misconduct of the donor or gleaner.

(b) a bona fide charitable or nonprofit organization that in good faith receives food, apparently fit for human consumption, and distributes it at no charge is not subject to any criminal penalty or civil damages resulting from the condition of the food unless an injury is caused by gross negligence or intentional misconduct of the organization.

(3) ~~(a)~~ Immunity under this section extends to the good faith donation of canned or perishable foods that, while apparently fit for human consumption, are not readily marketable due to appearance, grade, surplus, or other considerations, as well as to those foods that are readily marketable.

~~(b) Immunity under this section does not apply to a person who donates food to a bona fide charitable or~~

1 ~~nonprofit organization that sells or offers for sale donated~~  
2 ~~foods~~

3 (4) IF THE ULTIMATE DISTRIBUTOR CHARGES ANY FEE FOR  
4 THE FOOD RECEIVED FROM A DONOR OR GLEANER, SUCH FACT SHALL  
5 NOT DEPRIVE THE DONOR OR GLEANER OF THE IMMUNITY PROVIDED  
6 UNDER THIS SECTION.

7 ~~(4)(5)~~ This section does not restrict the authority of  
8 any lawful agency to inspect, regulate, or ban the use of  
9 donated food for human consumption.

-End-

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THIRD READING

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