

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1991

CHAPTER 935
SENATE BILL 969

AN ACT TO EXEMPT FROM SALES AND USE TAXES FOOD THAT IS ACQUIRED AT WHOLESALE AND THEN DONATED TO A NONPROFIT ORGANIZATION, AND TO REMOVE THE INSURANCE LIABILITY EXCEPTION TO THE QUALIFIED IMMUNITY OF DONORS AND DONEES OF DONATED FOOD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.13 is amended by adding a new subdivision to read:

"(31b) Food purchased by either a wholesale merchant or a retailer in a wholesale sale and then withdrawn from inventory and donated by the wholesale merchant or retailer to a nonprofit organization to be used for a charitable purpose."

Sec. 2. G.S. 99B-10 reads as rewritten:

"§ 99B-10. Immunity for donated food.

(a) Notwithstanding the provisions of Article 12 of Chapter 106 of the General Statutes, or any other provision of law, any person, including but not limited to a seller, farmer, processor, distributor, wholesaler or retailer of food, who donates an item of food for use or distribution by a nonprofit organization or nonprofit corporation shall not be liable for civil damages or criminal penalties resulting from the nature, age, condition, or packaging of the donated food, unless an injury is caused by the gross negligence, recklessness, or intentional misconduct of the donor. ~~To the extent, however, that a donor has liability insurance, the donor shall be deemed to have waived the qualified immunity herein to the extent of indemnification by insurance for the negligent acts or omissions of the donor.~~

(b) Notwithstanding any other provision of law, any nonprofit organization or nonprofit corporation that uses or distributes food that has been donated to it for such use or distribution shall not be liable for civil damages or criminal penalties resulting from the nature, age, condition, or packaging of the donated food, unless an injury is caused by the gross negligence, recklessness, or intentional misconduct of the organization or corporation. ~~To the extent, however, that a nonprofit organization or nonprofit corporation has liability insurance, the organization or corporation shall be deemed to have waived the qualified immunity herein to the extent of indemnification by insurance for its negligent acts or omissions."~~

Sec. 3. This act becomes effective August 1, 1992. Section 2 of this act applies to acts or omissions occurring on or after that date.

In the General Assembly read three times and ratified this the 14th day of July, 1992.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives