

## **CHAPTER 19-05.1 FOOD DONATED TO CHARITY**

### **19-05.1-01. Definitions.**

As used in this chapter:

1. "Gleaner" means a person that harvests for free distribution an agricultural crop that has been donated by the owner.
2. "Perishable food" means any food that may spoil or otherwise become unfit for human consumption because of its nature, type, or physical condition or any food not readily marketable due to appearance, freshness, grade, surplus, or other considerations. The term includes fresh or processed meats, poultry, seafood, dairy products, bakery products, eggs in the shell, fresh fruits, or vegetables and foods that have been packaged, canned, refrigerated, or frozen.

### **19-05.1-02. Donor or gleaner liability for injury.**

The good-faith donor of any perishable food, apparently fit for human consumption at the time of donation, to a bona fide charitable or nonprofit organization for free distribution, or a gleaner of any perishable food apparently fit for human consumption at the time of donation, is not subject to criminal penalty or civil damages arising from the condition of the food, unless an injury is caused by the grossly negligent or willful conduct of the donor or gleaner.

### **19-05.1-03. Charitable or nonprofit organization liability for injury.**

A bona fide charitable or nonprofit organization which in good faith receives food, apparently fit for human consumption, and distributes it at no charge, is not subject to criminal penalty or civil damages resulting from the condition of the food unless an injury results from the negligent or willful conduct of the organization.

### **19-05.1-04. Sale of food prohibited - Unlawful sale or use - Penalty.**

1. Any bona fide charitable or nonprofit organization, that receives any perishable food pursuant to this chapter, may not sell or offer to sell any of the food. This subsection does not apply to food products which comply with all maturity, quality, size, standard pack container, and labeling requirements of this title.
2. No person, other than the recipient of the food provided as charitable assistance, may sell, offer for sale, use, or consume any food donated pursuant to this chapter.
3. Any violation of this section is punishable by a civil penalty not to exceed one thousand dollars.

### **19-05.1-05. Inspection of food.**

Upon the request made by a bona fide charitable or nonprofit organization receiving perishable food under this chapter, a representative from the county health district where the organization is located or the department shall provide inspection of the food received to determine whether the food may be used for human consumption. This chapter does not restrict the authority of any appropriate agency to inspect, regulate, or ban the use of perishable food.