

I Mina'trentai Ocho Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	FISCAL NOTES	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	NOTES
89-38 (COR) As amended on the Floor.	Sabina Flores Perez V. Anthony Ada Shelly V. Calvo Chris Barnett Therese M. Terlaje Telo T. Taitague Tina Rose Muña Barnes Sabrina Salas Matanane Joe S. San Agustin Frank F. Blas, Jr. William A. Parkinson Jesse A. Lujan	AN ACT TO <i>ADD</i> A NEW CHAPTER 40A TO DIVISION 2, TITLE 10, GUAM CODE ANNOTATED RELATIVE TO CLARIFYING PROTECTIONS FROM LIABILITY FOR FOOD DONATIONS.	3/10/25 2:11 p.m.	3/19/25	Committee on Health and Veterans Affairs.	Request: 3/19/25 3/25/25	4/17/25 2:00 p.m.	5/14/25	
	SESSION DATE	TITLE	DATE PASSED	TRANSMITTED	DUE DATE	NOTES			
	5/27/25	AN ACT TO <i>ADD</i> A NEW CHAPTER 40A, DIVISION 2, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO CLARIFYING PROTECTIONS FROM LIABILITY FOR FOOD DONATIONS.	6/3/25	6/5/25	6/17/25				

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I MINA'TRENTAI OCHO NA LIHESLATURAN GUAHAN
Thirty-Eighth Guam Legislature

June 5, 2025

The Honorable Lourdes A. Leon Guerrero
I Maga'hågan Guåhan
Ufisinan I Maga'håga
Hagåtña, Guam 96910

Dear *Maga'håga* Leon Guerrero:

Transmitted herewith are Bill Nos. 6-38 (COR), 18-38 (COR), 20-38 (COR), 23-38 (COR), 27-38 (COR), 33-38 (COR), 50-38 (COR), 53-38 (COR), 54-38 (COR), 55-38 (COR), 59-38 (COR), 66-38 (COR), 67-38 (COR), 75-38 (COR), 78-38 (COR), 80-38 (COR), 83-38 (COR), 88-38 (COR), 89-38 (COR), 95-38 (COR), 109-38 (COR), 121-38 (COR), 129-38 (COR) and 130-38 (COR), and Substitute Bill Nos. 28-38 (COR) and 118-38 (COR) which were passed by *I Mina'trentai Ocho Na Liheslaturan Guahan* on June 3, 2025.

Sincerely,

Senator Sabrina Salas Matanane
Legislative Secretary

Enclosure (26)



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I MINA'TRENTAI OCHO NA LIHESLATURAN GUÅHAN
2025 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'HÅGAN GUÅHAN

This is to certify that **Bill No. 89-38 (COR)**, "AN ACT TO *ADD* A NEW CHAPTER 40A, DIVISION 2, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO CLARIFYING PROTECTIONS FROM LIABILITY FOR FOOD DONATIONS," was on the 3rd day of June 2025, duly and regularly passed.



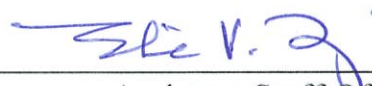
Frank F. Blas, Jr.
Speaker

Attested:



Sabrina Salas Matanane
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 5th day of June, 2025, at 4:56 o'clock P.M.



Assistant Staff Officer
Maga'håga's Office

APPROVED:

Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: _____

Public Law No. _____

OFFICE OF THE GOVERNOR	
CENTRAL FILES OFFICE	
Rec'd By	Elaine Tajalle
Date: 6/5/25	Time: 4:56 pm

OK

I MINA'TRENTAI OCHO NA LIHESLATURAN GUÅHAN
2025 (FIRST) Regular Session

Bill No. 89-38 (COR)

As amended on the Floor.

Introduced by:

Sabina Flores Perez
V. Anthony Ada
Shelly V. Calvo
Chris Barnett
Therese M. Terlaje
Telo T. Taitague
Tina Rose Muña Barnes
Sabrina Salas Matanane
Joe S. San Agustin
Frank F. Blas, Jr.
William A. Parkinson
Jesse A. Lujan
Vincent A.V. Borja
Christopher M. Dueñas
Eulogio Shawn Gumataotao

**AN ACT TO *ADD* A NEW CHAPTER 40A, DIVISION 2,
TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO
CLARIFYING PROTECTIONS FROM LIABILITY FOR
FOOD DONATIONS.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that, according to the U.S. Food & Drug Administration (FDA), large amounts of food waste consist of wholesome, edible food and “food is the single largest category of material placed in municipal landfills and represents wasted nourishment that could have helped feed families in need.” The U.S. Environmental Protection

1 Agency (U.S. EPA) “estimates that in 2019, the food retail, food service, and
2 residential sectors generated about 66 million tons of wasted food in the United
3 States” and “in 2022, 12.8 percent of U.S. households (44.2 million people) were
4 food insecure at some time during the year.” The EPA considers donating
5 wholesome and edible food as one of the top methods to reduce food waste
6 nationwide.

7 *I Liheslatura* finds that organic waste disposed in landfills emit high amounts
8 of methane, a greenhouse gas that traps heat in the atmosphere and contributes to
9 climate change. Municipal solid waste landfills are the third largest source of
10 methane emissions from human activities in the United States, with an estimated
11 58% of the emissions derived from food waste.

12 *I Liheslatura* finds that a 2020 Food Waste and Recovery study conducted by
13 Jacobs Engineering Group, Inc. estimated that 20,000 tons of food waste, which
14 were derived from grocery stores, restaurants, and hotels alone, were landfilled per
15 year on Guam. The study noted that if this food were recovered and diverted from
16 the landfilled, the amount could feed around 12% of Guam’s population or 20,000
17 people.

18 *I Liheslatura* finds that in 2023, cuts to the Supplemental Nutrition Assistance
19 Program (SNAP) benefits worth over \$2 million monthly affected more than 11,441
20 households in Guam, thus exacerbating food insecurity and increasing the demand
21 for food from non-profit providers and food banks. According to the Food Research
22 and Action Center, “emergency food providers are struggling to fill this gap. Even
23 before the cuts, food banks, pantries, and soup kitchens reported high demand for
24 assistance.”

25 *I Liheslatura* finds that the Bill Emerson Good Samaritan Food Donation Act
26 was passed by the U.S. Congress in 1996 to promote food donations to the needy
27 and to protect food donors from civil and criminal liabilities. Since then, all fifty

1 states have food donation statutes that limit liability to promote the donation of
2 wholesome and edible food from qualified donors to nonprofits or directly to those
3 in need. The Bill Emerson Good Samaritan Food Donation Act is currently not
4 codified in the Guam law, possibly creating uncertainty surrounding specific liability
5 protections for local donors and clear safety guidelines regarding food donations in
6 Guam.

7 *I Liheslatura* further finds that the Internal Revenue Code 170(e)(3) of 2011
8 provides tax deductions to qualified businesses for the donation of wholesome food
9 to nonprofit organizations that serve the ill, needy, or infants. Qualified donors can
10 deduct the cost to produce the food and half the difference between the cost and the
11 full fair market value of the donated food, making donating food a win-win for
12 businesses and the community.

13 Therefore, it is the intent of *I Liheslaturan Guåhan* to promote food recovery
14 programs that increase food security, divert food waste from landfills, mitigate
15 climate change, and support businesses through tax deductions by adopting and
16 expanding the U.S. Good Samaritan Food Donation Act, hereby renamed the
17 “*Inafa’maolek* Food Donation Act,” to clarify liability protections for food donors
18 and to require education about food donation liability protections during routine
19 health inspections.

20 **Section 2.** A new Chapter 40A is *added* to Division 2, Title 10, Guam Code
21 Annotated, to read as follows:

22 **“CHAPTER 40A**

23 ***INAFAMAOLEK* FOOD DONATION ACT**

24 § 40A101. Short Title.

25 § 40A102. Definitions.

26 § 40A103. Exemptions from Liability for Certain Food Donations.

27 § 40A104. Partial Compliance.

1 § 40A105. Promoting Food Donation.

2 § 40A106. Construction.

3 § 40A107. Rules and Regulations.

4 **§ 40A101. Short Title.**

5 This Chapter shall be known as the “*Inafa’maolek* Food Donation Act.”

6 **§ 40A102. Definitions.**

7 For the purpose of this Act:

8 (a) ‘Apparently fit grocery product’ means a grocery product that
9 meets all quality and labeling standards imposed by Federal, State, and local
10 laws and regulations (Guam Food Code) even though the product may not be
11 readily marketable due to appearance, age, freshness, grade, size, surplus, or
12 other conditions.

13 (b) ‘Apparently wholesome food’ means food that meets all quality
14 and labeling standards imposed by Federal, State, and local laws and
15 regulations (Guam Food Code) even though the food may not be readily
16 marketable due to appearance, age, freshness, grade, size, surplus, or other
17 conditions.

18 (c) ‘Department’ means the Department of Public Health and Social
19 Services.

20 (d) ‘Donate’ means to give without requiring anything of monetary
21 value from the recipient, except that the term shall include giving by a
22 nonprofit organization to another nonprofit organization, notwithstanding that
23 the donor organization has charged a nominal fee to the donee organization,
24 if the ultimate recipient or user is not required to give anything of monetary
25 value.

26 (e) ‘Food’ means the definition pursuant to § 40102(d), Chapter 40,
27 Title 10 of the Guam Code Annotated.

1 (f) 'Gleaner' means a person who harvests for free distribution to
2 the needy, or for donation to a nonprofit organization for ultimate distribution
3 to the needy, an agricultural crop that has been donated by the owner.

4 (g) 'Grocery Product' means a nonfood grocery product, including a
5 disposable paper or plastic product, household cleaning product, laundry
6 detergent, cleaning product, or miscellaneous household item.

7 (h) 'Good Faith' means a transaction done honestly and objectively
8 with no deliberate intent to defraud the other party;

9 (i) 'Gross Negligence' means voluntary and conscious conduct
10 (including a failure to act) by a person who, at the time of the conduct, knew
11 that the conduct was likely to be harmful to the health or well-being of another
12 person.

13 (j) 'Intentional Misconduct' means conduct by a person with
14 knowledge (at the time of the conduct) that the conduct is harmful to the health
15 or well-being of another person.

16 (k) 'Nonprofit Organization' means the definition pursuant to
17 §16102(d), Chapter 16, Title 7 of the Guam Code Annotated.

18 (l) 'Person' means an individual, corporation, partnership,
19 organization, association, or governmental entity. In the case of a corporation,
20 partnership, organization, association, or governmental entity, the term
21 includes an officer, director, partner, deacon, trustee, council member, or
22 other elected or appointed individual responsible for the governance of the
23 entity.

24 (m) 'Qualified direct donor' means a retail grocer, wholesaler,
25 agricultural producer, agricultural processor, agricultural distributor,
26 restaurant, caterer or school food authority, or institution of higher education.

27 **§ 40A103. Exemptions from Liability of Certain Food Donations.**

1 (a) Liability of person or gleaner. A person or gleaner shall not be subject
2 to civil or criminal liability arising from the nature, age, packaging, or condition of
3 apparently wholesome food or an apparently fit grocery product that the person or
4 gleaner donates in good faith to a nonprofit organization for ultimate distribution to
5 needy individuals at zero cost.

6 (b) Liability of nonprofit organization. A nonprofit organization shall not
7 be subject to civil or criminal liability arising from the nature, age, packaging, or
8 condition of apparently wholesome food or an apparently fit grocery product that the
9 nonprofit organization received as a donation in good faith from a person or gleaner
10 for ultimate distribution to needy individuals at zero cost.

11 (c) Direct donations to needy individuals. A qualified direct donor shall not
12 be subject to civil or criminal liability arising from the nature, age, packaging, or
13 condition of apparently wholesome food or an apparently fit grocery product that the
14 qualified direct donor donates in good faith to a needy individual at zero cost.

15 (d) Exception. Paragraphs (a), (b), and (c), shall not apply to an injury,
16 illness, or death of an ultimate user or recipient of the food or grocery product that
17 results from an act or omission of the person, gleaner, or nonprofit organization, as
18 applicable, constituting gross negligence or intentional misconduct.

19 (e) A person who allows the collection or gleaning of donations on
20 property owned or occupied by the person by gleaners, or paid or unpaid
21 representatives of a nonprofit organization, for ultimate distribution to needy
22 individuals shall not be subject to civil or criminal liability that arises due to the
23 injury or death of the gleaner or representative, except that this paragraph shall not
24 apply to an injury or death that results from an act or omission of the person
25 constituting gross negligence or intentional misconduct.

26 **§ 40A104. Partial Compliance.**

1 If some or all of the donated food and grocery products do not meet all quality
2 and labeling standards imposed by Federal, State, and local laws and regulations, the
3 person or gleaner who donates the food and grocery products shall not be subject to
4 civil or criminal liability in accordance with this section if the nonprofit organization
5 or ultimate user that receives the donated food or grocery products is informed by
6 the donor of the distressed or defective condition of the donated food or grocery
7 products.

8 **§ 40A105. Promoting Food Donations.**

9 In implementing this Chapter, the Department of Public Health and Social
10 Services may promote the recovery of food fit for human consumption through
11 methods such as but not limited to outreach, online educational campaigns,
12 newsletters, bulletins, and handouts that inform retail food facility operators about
13 the protections from civil and criminal liability when donating food.

14 **§ 40A106. Construction.**

15 This Section shall not be construed to create any liability. Nothing in this
16 section shall be construed to supersede local health regulations.

17 **§ 40A107. Rules and Regulations.**

18 The Director of the Department of Public Health and Social Services shall
19 promulgate rules and regulations to implement this Chapter pursuant to the
20 Administrative Adjudication Act.”

21 **Section 3. Severability.** If any provision of this Act or its application to any
22 person or circumstance is found to be invalid or inorganic, such invalidity shall not
23 affect other provisions or applications of this Act that can be given effect without
24 the invalid provision or application, and to this end the provisions of this Act are
25 severable.

26 **Section 4. Effective Date.** This Act shall be effective upon enactment.