

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)	Sabina Flores Perez Y. Anthony Ada Shelly V. Calvo Chris Barnett Therese M. Terlaje	AN ACT TO ADD 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.						

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

Bill No. 89-38 (COR)

Introduced by:

Sabina Flores Perez *SFP*
V. Anthony Ada *VA*
Shelly V. Calvo *Shelly*
Chris Barnett *CB*
Therese M. Terlaje *TMT*

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

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that, according to the U.S. Food & Drug Administration (FDA), large amounts of
4 food waste consist of wholesome, edible food and “food is the single largest category
5 of material placed in municipal landfills and represents wasted nourishment that
6 could have helped feed families in need.” The U.S. Environmental Protection
7 Agency (U.S. EPA) “estimates that in 2019, the food retail, food service, and
8 residential sectors generated about 66 million tons of wasted food in the United
9 States” and “in 2022, 12.8 percent of U.S. households (44.2 million people) were
10 food insecure at some time during the year.” The EPA considers donating
11 wholesome and edible food as one of the top methods to reduce food waste
12 nationwide.

1 *I Liheslatura* finds that organic waste disposed in landfills emit high amounts
2 of methane, a greenhouse gas that traps heat in the atmosphere and contributes to
3 climate change. Municipal solid waste landfills are the third largest source of
4 methane emissions from human activities in the United States, with an estimated
5 58% of the emissions derived from food waste.

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

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

19 *I Liheslatura* finds that the Bill Emerson Good Samaritan Food Donation Act
20 was passed by the U.S. Congress in 1996 to promote food donations to the needy
21 and to protect food donors from civil and criminal liabilities. Since then, all fifty
22 states have food donation statutes that limit liability to promote the donation of
23 wholesome and edible food from qualified donors to nonprofits or directly to those
24 in need. The Bill Emerson Good Samaritan Food Donation Act is currently not
25 codified in the Guam law, possibly creating uncertainty surrounding specific liability
26 protections for local donors and clear safety guidelines regarding food donations in
27 Guam.

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

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

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

16 **“CHAPTER 40A**

17 **INAFAMAOLEK FOOD DONATION ACT**

18 § 40A101. Short Title.

19 § 40A102. Definitions.

20 § 40A103. Exemptions from Liability for Certain Food Donations.

21 § 40A104. Partial Compliance.

22 § 40A105. Promoting Food Donation.

23 § 40A106. Construction.

24 **§ 40A101. Short Title.**

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

26 **§ 40A102. Definitions.**

27 For the purpose of this Act:

1 (a) “Apparently fit grocery product” means a grocery product that
2 meets all quality and labeling standards imposed by Federal, State, and local
3 laws and regulations (Guam Food Code) even though the product may not be
4 readily marketable due to appearance, age, freshness, grade, size, surplus, or
5 other conditions.

6 (b) “Apparently wholesome food” means food that meets all quality
7 and labeling standards imposed by Federal, State, and local laws and
8 regulations (Guam Food Code) even though the food may not be readily
9 marketable due to appearance, age, freshness, grade, size, surplus, or other
10 conditions.

11 (c) “Department” means the Department of Public Health and
12 Social Services.

13 (d) “Donate” means to give without requiring anything of monetary
14 value from the recipient, except that the term shall include giving by a
15 nonprofit organization to another nonprofit organization, notwithstanding that
16 the donor organization has charged a nominal fee to the donee organization,
17 if the ultimate recipient or user is not required to give anything of monetary
18 value.

19 (e) “Food” means the definition pursuant to § 40102 (d), Chapter 40,
20 Title 10 of the Guam Code Annotated.

21 (f) “Gleaner” means a person who harvests for free distribution to
22 the needy, or for donation to a nonprofit organization for ultimate distribution
23 to the needy, an agricultural crop that has been donated by the owner.

24 (g) “Grocery Product” means a nonfood grocery product, including
25 a disposable paper or plastic product, household cleaning product, laundry
26 detergent, cleaning product, or miscellaneous household item.

1 (h) “Gross Negligence” means voluntary and conscious conduct
2 (including a failure to act) by a person who, at the time of the conduct, knew
3 that the conduct was likely to be harmful to the health or well-being of another
4 person.

5 (i) “Intentional Misconduct” means conduct by a person with
6 knowledge (at the time of the conduct) that the conduct is harmful to the health
7 or well-being of another person.

8 (j) “Nonprofit Organization” means the definition pursuant to §
9 16102 (d), Chapter 16, Title 7 of the Guam Code Annotated.

10 (k) “Person” means an individual, corporation, partnership,
11 organization, association, or governmental entity. In the case of a corporation,
12 partnership, organization, association, or governmental entity, the term
13 includes an officer, director, partner, deacon, trustee, council member, or
14 other elected or appointed individual responsible for the governance of the
15 entity.

16 (l) “Qualified direct donor” means a retail grocer, wholesaler,
17 agricultural producer, agricultural processor, agricultural distributor,
18 restaurant, caterer or school food authority, or institution of higher education.

19 **§ 40A103. Exemptions from Liability of Certain Food Donations.**

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

25 (b) Liability of nonprofit organization. A nonprofit organization
26 shall not be subject to civil or criminal liability arising from the nature, age,
27 packaging, or condition of apparently wholesome food or an apparently fit

1 grocery product that the nonprofit organization received as a donation in good
2 faith from a person or gleaner for ultimate distribution to needy individuals at
3 zero cost.

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

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

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

21 **§ 40A104. Partial Compliance.**

22 If some or all of the donated food and grocery products do not meet all
23 quality and labeling standards imposed by Federal, State, and local laws and
24 regulations, the person or gleaner who donates the food and grocery products
25 shall not be subject to civil or criminal liability in accordance with this section
26 if the nonprofit organization or ultimate user that receives the donated food or

1 grocery products is informed by the donor of the distressed or defective
2 condition of the donated food or grocery products.

3 **§ 40A105. Promoting Food Donations.**

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

10 **§ 40A106. Construction.**

11 This Section shall not be construed to create any liability. Nothing in
12 this Section shall be construed to supersede local health regulations.”

13 **Section 3. Rules and Regulations.** The Director of the Department of
14 Public Health and Social Services shall promulgate rules and regulations to
15 implement this Section pursuant to the Administrative Adjudication Act.

16 **Section 4. Severability.** If any provision of this Act or its application to any
17 person or circumstance is found to be invalid or inorganic, such invalidity shall not
18 affect other provisions or applications of this Act that can be given effect without
19 the invalid provision or application, and to this end the provisions of this Act are
20 severable.

21 **Section 5. Effective Date.** This Act shall be effective upon enactment.