

Calendar No. 748110TH CONGRESS
2^D SESSION**S. 2420****[Report No. 110-338]**

To encourage the donation of excess food to nonprofit organizations that provide assistance to food-insecure people in the United States in contracts entered into by executive agencies for the provision, service, or sale of food.

IN THE SENATE OF THE UNITED STATES

DECEMBER 6, 2007

Mr. SCHUMER (for himself, Mr. LUGAR, Mr. MENENDEZ, Ms. COLLINS, Mr. VOINOVICH, Mr. CRAPO, and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

MAY 22, 2008

Reported by Mr. LIEBERMAN, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To encourage the donation of excess food to nonprofit organizations that provide assistance to food-insecure people in the United States in contracts entered into by executive agencies for the provision, service, or sale of food.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Federal Food Donation
3 Act of 2007”.

4 **SEC. 2. PURPOSE.**

5 The purpose of this Act is to encourage executive
6 agencies and contractors of executive agencies, to the max-
7 imum extent practicable and safe, to donate excess, appar-
8 ently wholesome food to feed food-insecure people in the
9 United States.

10 **SEC. 3. DEFINITIONS.**

11 In this Act:

12 (1) **APPARENTLY WHOLESOME FOOD.**—The
13 term “apparently wholesome food” has the meaning
14 given the term in section 2(b) of the Bill Emerson
15 Good Samaritan Food Donation Act (42 U.S.C.
16 1791(b)).

17 (2) **EXCESS.**—The term “excess”, when applied
18 to food, means food that—

19 (A) is not required to meet the needs of
20 executive agencies; and

21 (B) would otherwise be discarded.

22 (3) **FOOD-INSECURE.**—The term “food-inse-
23 cure” means inconsistent access to sufficient, safe,
24 and nutritious food.

1 (4) NONPROFIT ORGANIZATION.—The term
2 “nonprofit organization” means any organization
3 that is—

4 (A) described in section 501(c) of the In-
5 ternal Revenue Code of 1986; and

6 (B) exempt from tax under section 501(a)
7 of that Code.

8 **SEC. 4. PROMOTING FEDERAL FOOD DONATION.**

9 Not later than 180 days after the date of enactment
10 of this Act, the Administrator for Federal Procurement
11 Policy shall revise the Federal Acquisition Regulation de-
12 scribed in section 6(a) of the Office of Federal Procure-
13 ment Policy Act (41 U.S.C. 405(a)) to provide that all
14 contracts above \$25,000 for the provision, service, or sale
15 of food, or for the lease or rental of Federal property to
16 a private entity for events at which food is provided, shall
17 include a clause that—

18 (1) encourages the donation of excess, appar-
19 ently wholesome food to nonprofit organizations that
20 provide assistance to food-insecure people in the
21 United States;

22 (2) provides that the head of an executive agen-
23 cy shall not assume responsibility for the costs and
24 logistics of collecting, transporting, maintaining the
25 safety of, or distributing excess, apparently whole-

1 some food to food-insecure people in the United
2 States; and

3 ~~(3) provides that executive agencies and con-~~
4 ~~tractors making donations pursuant to this Act are~~
5 ~~protected from civil or criminal liability under the~~
6 ~~Bill Emerson Good Samaritan Food Donation Act~~
7 ~~(42 U.S.C. 1791).~~

8 **SEC. 5. COORDINATOR OF COMMUNITY FOOD SECURITY**
9 **AND GLEANING.**

10 (a) **IN GENERAL.**—The Secretary of Agriculture shall
11 establish in the Department of Agriculture a Coordinator
12 of Community Food Security and Gleaning.

13 (b) **DUTIES.**—The Coordinator of Community Food
14 Security and Gleaning shall provide technical assistance
15 relating to the activities described in section 4 to—

16 (1) agencies of Federal, State, and local govern-
17 ment;

18 (2) nonprofit organizations;

19 (3) agricultural producers; and

20 (4) private entities.

21 **SECTION 1. SHORT TITLE.**

22 *This Act may be cited as the “Federal Food Donation*
23 *Act of 2008”.*

1 **SEC. 2. PURPOSE.**

2 *The purpose of this Act is to encourage executive agen-*
3 *cies and contractors of executive agencies, to the maximum*
4 *extent practicable and safe, to donate excess, apparently*
5 *wholesome food to feed food-insecure people in the United*
6 *States.*

7 **SEC. 3. DEFINITIONS.**

8 *In this Act:*

9 (1) *APPARENTLY WHOLESOME FOOD.*—*The term*
10 *“apparently wholesome food” has the meaning given*
11 *the term in section 2(b) of the Bill Emerson Good Sa-*
12 *maritan Food Donation Act (42 U.S.C. 1791(b)).*

13 (2) *EXCESS.*—*The term “excess”, when applied*
14 *to food, means food that—*

15 (A) *is not required to meet the needs of exec-*
16 *utive agencies; and*

17 (B) *would otherwise be discarded.*

18 (3) *FOOD-INSECURE.*—*The term “food-insecure”*
19 *means inconsistent access to sufficient, safe, and nu-*
20 *tritious food.*

21 (4) *NONPROFIT ORGANIZATION.*—*The term “non-*
22 *profit organization” means any organization that*
23 *is—*

24 (A) *described in section 501(c) of the Inter-*
25 *nal Revenue Code of 1986; and*

1 (B) exempt from tax under section 501(a) of
2 that Code.

3 **SEC. 4. PROMOTING FEDERAL FOOD DONATION.**

4 (a) *IN GENERAL.*—Not later than 180 days after the
5 date of enactment of this Act, the Federal Acquisition Regu-
6 lation issued in accordance with section 25 of the Office
7 of Federal Procurement Policy Act (41 U.S.C. 421) shall
8 be revised to provide that all contracts above \$25,000 for
9 the provision, service, or sale of food in the United States,
10 or for the lease or rental of Federal property to a private
11 entity for events at which food is provided in the United
12 States, shall include a clause that—

13 (1) encourages the donation of excess, apparently
14 wholesome food to nonprofit organizations that pro-
15 vide assistance to food-insecure people in the United
16 States; and

17 (2) states the terms and conditions described in
18 subsection (b).

19 (b) *TERMS AND CONDITIONS.*—

20 (1) *COSTS.*—In any case in which a contractor
21 enters into a contract with an executive agency under
22 which apparently wholesome food is donated to food-
23 insecure people in the United States, the head of the
24 executive agency shall not assume responsibility for
25 the costs and logistics of collecting, transporting,

1 *maintaining the safety of, or distributing excess, ap-*
2 *parently wholesome food to food-insecure people in the*
3 *United States under this Act.*

4 (2) *LIABILITY.—An executive agency (including*
5 *an executive agency that enters into a contract with*
6 *a contractor) and any contractor making donations*
7 *pursuant to this Act shall be exempt from civil and*
8 *criminal liability to the extent provided under the*
9 *Bill Emerson Good Samaritan Food Donation Act*
10 *(42 U.S.C. 1791).*

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