



**House
Legislative
Analysis
Section**

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DONATED FOOD: LIABILITY

House Bill 4532 as introduced
First Analysis (4-29-93)

Sponsor: Rep. Lyn Bankes
Committee: Judiciary

THE APPARENT PROBLEM:

Food banks and soup kitchens rely in part on donated food and organized gleaning efforts to help feed the needy. Several years ago liability concerns expressed by food distributors and would-be food contributors led to a change in the law. The law at that time provided some protection against civil liability for people who in good faith exercised reasonable care in donating food, but did not offer similar protection to those who gleaned, processed, or distributed it. Liability concerns apparently prompted some pantries to forego purchasing food in bulk quantities for later repackaging and distribution; pantries feared charges of contamination or misrepresentation. In addition, concerns about liability made some farmers and processors reluctant to donate food to charity. To prevent these fears from affecting the availability of food for the needy, Public Act 207 of 1989 strengthened immunity provisions and extended them to farmers, food processors, gleaners, and distributors of food. Those provisions are scheduled to expire July 1, 1993, at which time the earlier provisions would again take effect. The Food Bank Council of Michigan has credited the 1989 revision with increasing food donations, and fears a decline in donations should the new provisions expire as scheduled. The council and others urge that the "sunset" on Public Act 207 of 1989 be eliminated.

THE CONTENT OF THE BILL:

Public Act 339 of 1982 provides immunity from civil liability for people who in good faith donate or distribute food to the needy. Amendments made by Public Act 207 of 1989, which broadened previously existing protections, are scheduled to expire July 1, 1993, at which time the earlier provisions would again take effect. The bill would eliminate the sunset on the 1989 amendments and repeal the earlier provisions.

MCL 691.1534 et al.

FISCAL IMPLICATIONS:

There is no fiscal information at present. (4-27-93)

ARGUMENTS:

For:

The bill would allow the stronger immunity provisions of 1989 to continue, rather than be replaced by the weaker provisions that preceded them. Those previous provisions were widely viewed as inadequate to ease the liability concerns of potential food contributors. The 1989 protections, on the other hand, have been emphasized in food bank solicitations and have been credited with increasing food donations. Without the bill, past fears about potential liability could return and hinder the collection and distribution of food to the needy.

Against:

Many believe that it is generally a bad idea to excuse people from the consequences of their own carelessness. Liability may make some people hesitant to donate food, but it also helps to ensure that proper care is taken; the threat of liability helps to prevent negligent acts. Further, when a person is harmed by the negligent act of another, he or she should be permitted to press for compensation from the responsible party--something that would continue to be precluded under the bill unless the act was more than merely negligent.

POSITIONS:

The Food Bank Council of Michigan supports the bill. (4-27-93)

United Way of Michigan supports the bill. (4-27-93)

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