

## **Liability: Food Donation**

### **MCLS 691.572**

An individual, who, in good faith, donates, prepares, or serves food for use by a nonprofit, or a nonprofit that dispenses the food, will not be held legally responsible for the nature or condition of the food. They can be held legally responsible if acting with extreme carelessness, intent to cause harm, or knew the food was harmful.

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### **Perishable or prepared food donations to nonprofit corporation or charitable organization; civil liability; exemptions to liability**

(1) Except as provided in subsection (2), on or after July 1, 1993 an individual, farmer, food producer, processor, distributor, wholesaler, retailer, gleaner, or other person who in good faith donates perishable canned or farm food items or prepared food to a nonprofit corporation or charitable organization for distribution to needy or poor persons is not liable in any civil action based on the theory of warranty, negligence, or strict liability in tort for damages incurred resulting from any illness or disease contracted by the ultimate users or recipients of the food due to the nature, age, condition, or packaging of the food.

(2) The immunity provided in subsection (1) does not apply if 1 of the following is shown:

(a) That the illness or disease resulted from the willful, wanton, or reckless acts of the donor.

(b) That the illness or disease resulted from prepared food if both of the following apply:

(i) The prepared food was a potentially hazardous food at the time it was donated.

(ii) A law of this state or a rule promulgated by an agency or department of this state concerning the preparation, transportation, storage, or serving of the prepared food was violated at any time before the food was donated.

(c) That the illness or disease resulted from food in hermetically sealed containers that was not prepared by a commercial processor.

(d) That the donor had actual or constructive knowledge that the food was tainted, contaminated, or harmful to the health or well-being of the recipient of the donated food.