

OFFICE OF LEGISLATIVE RESEARCH  
PUBLIC ACT SUMMARY



**PA 12-123**—sHB 5143

*Insurance and Real Estate Committee*

*Judiciary Committee*

*Public Health Committee*

**AN ACT CONCERNING INSURANCE COVERAGE FOR PERISHABLE  
FOOD DONATED BY CERTAIN FOOD ESTABLISHMENTS**

**SUMMARY:** This act requires insurers that sell commercial risk insurance policies or riders that cover food spoilage to cover, to the same extent, donations of perishable food to temporary emergency shelters, under narrow circumstances and subject to several limitations. The requirement applies to a policy or rider delivered, issued for delivery, renewed, amended, or continued in this state for a class III or class IV food establishment under the public health code (e.g., grocery stores and restaurants).

The act exempts a food establishment that makes a donation under these circumstances from liability for civil damages or criminal penalties resulting from the food's nature, age, condition, or packaging, unless it is established that the donor, when making the donation, knew or had reasonable grounds to believe that the food was (1) embargoed or ordered destroyed by the Department of Public Health (DPH), a local health director, or an authorized agent; (2) adulterated; or (3) not fit for human consumption.

To the extent a tax deduction or tax credit is allowed under state law for such donations, no food establishment that donates perishable food under the act and receives payment from an insurer for the donation may claim the tax deduction or credit for the amount of the payment.

EFFECTIVE DATE: October 1, 2012

**INSURANCE COVERAGE OF DONATED FOOD**

Under the act, any insurer that delivers, issues for delivery, renews, amends, or continues a commercial risk insurance policy or rider in the state that covers the spoilage of perishable food must provide coverage to the same extent for perishable food donated to a temporary emergency shelter operated or supervised by a municipality or the state during a state of emergency for a limited time, if:

1. the governor proclaims a state of emergency;
2. as a result or as part of the emergency, an electrical outage or interruption of electrical service to the insured has occurred and the insured's electric supplier forecasts that the outage will last longer than the period prescribed by DPH, the local health director, or an authorized agent for the safe handling of perishable food;
3. the food is donated while it is still safe to handle; and
4. the insured gives the insurer written documentation from the shelter

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indicating the date and time of the donation.

The food establishment may not donate the food if (1) DPH, the local health director, or an authorized agent has embargoed or ordered it destroyed; (2) the Department of Consumer Protection or its authorized agent has deemed the food to be adulterated; or (3) the food is not fit for human consumption. As a result, there is no immunity from liability if the establishment donates food under these circumstances.

OLR Tracking: KM:JR:JL:ts