

HOUSE BILL NO. 179

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES KREISS-TOMKINS, Millett, Ortiz, Kito, Stutes, Muñoz, Wilson

Introduced: 4/1/15

Referred: House Special Committee on Fisheries, Resources

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to donations of fish and game to food service programs."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 * **Section 1.** AS 16.05 is amended by adding a new section to read:

4 **Sec. 16.05.931. Donation of fish and game to food service programs.** (a)

5 Notwithstanding any other provision of this chapter, to the extent consistent with
6 federal law, a person may donate fish, game, marine or aquatic plants, or any part of
7 fish, game, or aquatic plants, or a nest or egg of fish or game lawfully taken for
8 subsistence, sport, or personal use to a food service program. A person making a
9 donation under this section may not receive payment for the donation.

10 (b) In this section, "food service program" has the meaning given in
11 AS 17.20.347.

12 * **Sec. 2.** AS 17.20.345 is amended to read:

13 **Sec. 17.20.345. Liability of food donor.** (a) Notwithstanding the provisions of

14 AS 17.20.290, 17.20.305, or 17.20.315, a donor of food for free distribution by a food
15 bank or a donor of fish, game, or other traditional food to a food service program

1 is not subject to civil or criminal liability arising from an injury or death attributable to
 2 the condition of the donated food if the injury or death is not a result of the gross
 3 negligence, recklessness, or intentional misconduct of the donor.

4 (b) Nothing in this section, AS 17.20.290, 17.20.305, 17.20.315, or
 5 AS 45.50.471 - 45.50.561 prohibits the donation by a donor of food apparently fit for
 6 human consumption at the time of its donation solely because

7 (1) the label on the food is missing or the food is otherwise
 8 misbranded; or

9 (2) the food, if offered for sale commercially, would not be readily
 10 marketable because of appearance or grade, or because it is surplus.

11 (c) A person who donates to a food bank salmon from a hatchery that operates
 12 under a permit issued under AS 16.10.400 - 16.10.470 is immune from liability as
 13 provided in this section if the salmon is apparently fit for human consumption at the
 14 time of its donation, even if the hatchery does not have a permit issued by the
 15 Department of Environmental Conservation under this chapter or other statute to
 16 process fisheries products for human consumption.

17 * **Sec. 3.** AS 17.20.347 is amended to read:

18 **Sec. 17.20.347. Definitions for AS 17.20.345 - 17.20.348 ["DONOR" AND**
 19 **"FOOD BANK" DEFINED].** In **AS 17.20.345 - 17.20.348** [AS 17.20.345 AND
 20 17.20.346],

21 (1) "donor" includes a person, farmer, retailer, slaughterhouse under
 22 state supervision, freight company, distributor, wholesaler, meat processor, seafood
 23 processor, or similar entity, and a person who acts in a commercial capacity as a
 24 manufacturer, packer, processor, bottler, or similar entity, even if that activity is the
 25 person's primary activity;

26 **(2) "fish" has the meaning given in AS 16.05.940;**

27 **(3) [(2)]** "food bank" means a nonprofit organization that operates
 28 principally to collect, inspect, and salvage donated food for free distribution either to
 29 needy persons or to nonprofit organizations for free distribution to needy persons; in
 30 this paragraph, "nonprofit organization" means an organization recognized by the state
 31 or federal government as a nonprofit organization;

(4) "food service program" means a program that provides meals at a public or nonprofit school, medical facility, multipurpose senior center, or residential child care facility;

(5) "game" has the meaning given in AS 16.05.940;

(6) "medical facility" has the meaning given in AS 18.26.900;

(7) "multipurpose senior center" has the meaning given in AS 47.60.030;

(8) "other traditional food" means fish, seafood, marine mammals, plants, berries, and other food that has traditionally been prepared and consumed by an Alaska Native tribe recognized by the United States Secretary of the Interior to exist as an Indian tribe under 25 U.S.C. 479a (Federally Recognized Indian Tribe List Act of 1994);

(9) "residential child care facility" has the meaning given in AS 47.32.900.

* **Sec. 4.** AS 17.20 is amended by adding a new section to read:

Sec. 17.20.348. Donation of fish and game to food service programs. (a)

The operator of a food service program that receives a donation of fish or game under AS 16.05.931 or other traditional food shall

(1) ensure that the donated fish or game is received whole, gutted, gilled, as quarters, or as a roast, without further processing;

(2) make a reasonable determination that

(A) the animal was not diseased;

(B) the donated fish, game, or other traditional food was butchered, dressed, transported, and stored to prevent contamination, undesirable microbial growth, or deterioration;

(C) the donated fish, game, or other traditional food will not cause a significant health hazard or potential for human illness;

(3) carry out any further preparation or processing of the donated fish, game, or other traditional food at a different time or in a different space from the preparation or processing of other food for the applicable food service program to prevent cross-contamination;

1 (4) clean and sanitize food-contact surfaces of equipment and utensils
2 after processing the donated fish, game, or other traditional food;

3 (5) label the donated fish, game, or other traditional food with the
4 name of the donated food;

5 (6) store the donated fish, game, or other traditional food separately
6 from other food for the applicable program, including through storage in a separate
7 freezer or refrigerator or in a separate compartment or shelf in the freezer or
8 refrigerator; and

9 (7) follow federal, state, tribal, and other laws regarding the safe
10 preparation and service of food in a public facility.

11 (b) A food service program or public school, residential child care facility,
12 medical facility, or multipurpose senior center that receives and distributes fish, game,
13 or other traditional food under this section is not subject to civil or criminal liability
14 arising from an injury or death attributable to the condition of the fish, game, or other
15 traditional food if the food service program or public school, residential child care
16 facility, medical facility, or multipurpose senior center

17 (1) inspects and processes the donated fish, game, or other traditional
18 food in compliance with the requirements of (a) of this section and finds that the
19 donated fish, game, or other traditional food is fit for human consumption at the time
20 of distribution;

21 (2) does not have actual or constructive knowledge, at the time of
22 distribution of the fish, game, or other traditional food, that the food is adulterated,
23 tainted, or contaminated or, if consumed, would be harmful to the health or well-being
24 of an individual; and

25 (3) the injury or death is not a direct result of the negligence,
26 recklessness, or intentional misconduct of the food service program or public school,
27 residential child care facility, medical facility, or multipurpose senior center.