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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2001

ENROLLED

House Bill No. 2814

(By Delegates Boggs, Beane, Douglas,
Stemple and Compton)

Passed April 14, 2001

In Effect July 1, 2001

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H. B. 2814

(BY DELEGATES BOGGS, BEANE, DOUGLAS,
STEMPLE AND COMPTON)

[Passed April 14, 2001; in effect July 1, 2001.]

AN ACT to repeal article eight, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section eight, article two of said chapter; and to amend chapter nineteen of said code by adding thereto a new article, designated article thirty, all relating to transferring administration of the donated food program from the department of health and human resources to the department of agriculture.

Be it enacted by the Legislature of West Virginia:

That article eight, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that section eight, article two, of said chapter be amended and reenacted; and that chapter nineteen of said code be amended by adding thereto a new article, designated article thirty, all to read as follows:

CHAPTER 9. HUMAN SERVICES.

FILED

Enr. H. B. 2814]

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**ARTICLE 2. DEPARTMENT OF HEALTH AND HUMAN RESOURCES,
AND OFFICE OF COMMISSIONER OF HUMAN SER-
VICES; POWERS, DUTIES AND RESPONSIBILITIES
GENERALLY.**

§9-2-8. Information and referral services.

1 (a) Each local human services office shall compile, main-
2 tain and post a current list of donated food banks and other
3 emergency food providers in the area served by the local food
4 stamp office and refer individuals who need food to local
5 programs that may be able to provide assistance.

6 (b) The department shall use its existing statewide toll free
7 telephone number to provide emergency food information and
8 to refer needy individuals to local programs that may be able to
9 provide assistance. The department shall publish the telephone
10 number for referrals in the emergency telephone numbers
11 section of local telephone books. The department shall display
12 this telephone number in all its offices that issue food stamps.

CHAPTER 19. AGRICULTURE.

ARTICLE 30. DONATED FOOD.

§19-30-1. Purpose.

1 The purpose of this article is to address the problem of
2 hunger in this state by improving the distribution of food to the
3 hungry, providing a means of funding agencies which distribute
4 food on an emergency basis, gathering and disseminating
5 information related to the problem of hunger, assuring that
6 distribution activities are responsive to the needs of local
7 donated food banks, facilitating the creation of donated food
8 banks and ensuring maximum access to food banks.

**§19-30-2. Administration of donated food program transferred
from department of health and human resources
to department of agriculture.**

1 (a) Effective the first day of July, two thousand one, the
2 department of agriculture is designated as the state agency to:

3 (1) Receive food donated by the United States department
4 of agriculture, other federal or state agencies, corporations,
5 private persons or entities;

6 (2) Receive payments for storage and distribution of the
7 donated food;

8 (3) Distribute the food to educational or charitable institu-
9 tions;

10 (4) Allocate funds received relating to the donated food;
11 and

12 (5) Enter into agreements and take other actions necessary
13 to exercise the authority provided in this article.

14 (b) Effective the first day of July, two thousand one, all
15 responsibility for receiving, storing and distributing donated
16 food previously assigned to the department of health and human
17 resources is transferred to the department of agriculture. The
18 secretary of the department of health and human resources and
19 the commissioner of agriculture, acting jointly, are empowered
20 to facilitate an orderly, efficient and economical transfer of the
21 donated food program and related program functions, including
22 the transfer of employees.

23 (c) Effective the first day of July, two thousand one, all
24 unencumbered funds remaining with the department of health
25 and human resources related to the transferred donated food
26 program shall be transferred to the appropriate accounts of the
27 department of agriculture.

**§19-30-3. Special revenue account created for donated food
program.**

1 (a) There is hereby established in the state treasury a special
2 revenue account to be known as the “donated food fund”
3 account. Expenditures from said account shall be used by the
4 department of agriculture for the operation of the donated food
5 program and are not authorized from collections, but are to be
6 made only in accordance with appropriation by the Legislature
7 and in accordance with the provisions of article three, chapter
8 twelve of this code, and upon the fulfillment of the provisions
9 set forth in article two, chapter five-a of this code.

10 (b) The commissioner is authorized to solicit and accept
11 donations, gifts, grants, bequests and other funds made avail-
12 able to the department of agriculture from private sources for
13 the donated food program, which funds shall be placed in the
14 donated food fund special revenue account.

**§19-30-4. Donation of food items; exemption from civil and
criminal liability.**

1 Any person who makes a good faith donation of prepared
2 or perishable food which appears to be fit for human consump-
3 tion at the time it is donated to a charitable or nonprofit
4 organization is not liable for damages in any civil action or
5 subject to criminal prosecution for any injury or death due to
6 the condition of the food unless the injury or death is a direct
7 result of the gross negligence, recklessness or intentional
8 misconduct of the donor.

9 A charitable or nonprofit organization or an officer,
10 employee or volunteer of the organization that in good faith
11 receives and distributes, without charge, food which appears to
12 be fit for human consumption at the time it is distributed is not
13 liable for damages in any civil action or subject to criminal
14 prosecution for any injury or death due to the condition of the
15 food unless the injury or death is a direct result of the gross

16 negligence, recklessness or intentional misconduct of the
17 organization or its officers, employees or volunteer workers.

18 This section applies to all good faith donations of perish-
19 able food which is not readily marketable due to appearance,
20 freshness, grade, surplus supply or other conditions.

§19-30-5. Definitions.

1 In this article, unless the context otherwise requires:

2 “Agricultural product” means any fowl, animal, vegetable
3 or other item, product or article which is customary food or
4 which is proper food for human consumption.

5 “Donated food bank” means a nonprofit organization that
6 solicits, stores, or redistributes food products to charitable
7 organizations and individuals for the purpose of feeding needy
8 families and individuals.

9 “Nonprofit charitable organization” means an organization
10 which is organized and operates for a charitable purpose.

**§19-30-6. Authorization of donations; diversion of products by
directors to organizations.**

1 A person engaged in the business of processing, distributing
2 or selling any agricultural product may donate, free of charge,
3 any agricultural product to a donated food bank.

4 To assist in accomplishing the purposes of this section, the
5 director of each department of state government shall divert,
6 whenever possible, surplus agricultural products to organiza-
7 tions operating pursuant to this article.

§19-30-7. Surplus food collection and distribution centers.

1 The department of agriculture shall continue operation of
2 and shall publicize the services of an information and food
3 collection center. The center shall receive and transmit informa-
4 tion concerning available agricultural products and information
5 on each organization desiring or needing agricultural products
6 to be donated. The center shall also collect, receive, handle,
7 store and distribute donated agricultural products. A nonprofit
8 charitable organization which regularly needs agricultural
9 products may be listed with a food collection center to be
10 notified if agricultural products are available.

§19-30-8. Minimum standards for food banks.

1 In order to qualify as a donated food bank, an organization
2 shall meet all of the following minimum standards:

3 (a) Have access to storage facilities and refrigeration
4 equipment for the purpose of collecting, receiving, handling,
5 storing and distributing donated agricultural products;

6 (b) Be incorporated as a nonprofit tax exempt organization
7 and eligible as a charitable organization under the Internal
8 Revenue Code (26 United States code section 501 (c) (3)) or
9 affiliated with a qualified organization;

10 (c) Maintain records for the proper control of inventory;

11 (d) Demonstrate the availability of adequate liability
12 insurance to cover the activities conducted pursuant to this
13 article; and

14 (e) Show local support through funding sources, letters of
15 endorsement and a board of directors which reflects the
16 community and population to be served.

**§19-30-9. State surplus buildings and equipment; availability to
donated food banks.**

1 The commissioner of the department of administration shall
2 assist a food bank by locating and providing available state
3 surplus buildings or equipment necessary for the operation of
4 a donated food bank for use without charge.

§19-30-10. Effect of article on other nonprofit organizations.

1 Nothing in this article may restrict or limit the operation of
2 any other nonprofit organization which is engaged in the
3 distribution of agricultural products to nonprofit charitable
4 organizations.

§19-30-11. Application of article to food stamp act.

1 Consonant with 7 C.F.R. 273.9(c)(1), programs operated in
2 accordance with this article shall complement and not in any
3 way lessen assistance to families and individuals pursuant to the
4 Food Stamp Act of 1977 as amended, (7 U.S.C. 2011 through
5 7 U.S.C. 2026).

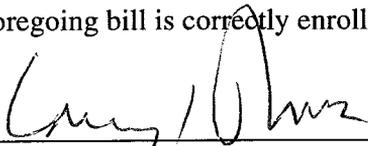
§19-30-12. Donated food bank assistance fund; restriction.

1 (a) The fund formerly known as the charity food bank
2 assistance fund is re-designated the donated food bank assis-
3 tance fund and is continued. The fund consists of moneys
4 provided by appropriation.

5 (b) A donated food bank which meets the minimum
6 standards for food banks may qualify, subject to available
7 moneys, for assistance from this fund for any of its operations.

8 (c) Assistance granted pursuant to this article shall be
9 administered by the commissioner of agriculture. No more than
10 five percent of the assistance granted to a donated food bank
11 pursuant to this article may be used for administrative purposes.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



Chairman Senate Committee



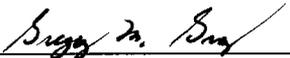
Chairman House Committee

Originating in the House.

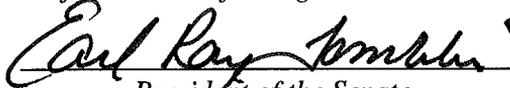
In effect July 1, 2001.



Clerk of the Senate



Clerk of the House of Delegates

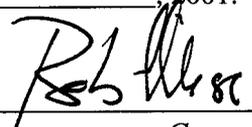


President of the Senate



Speaker of the House of Delegates

The within is approved this the 30th
day of April, 2001.



Governor

PRESENTED TO THE

GOVERNOR

Date 4/24/01

Time 11:45am