

10 GCA HEALTH AND SAFETY
CH. 40A *INafa* 'MAOLEK FOOD DONATION ACT

CHAPTER 40A
***INafa* 'MAOLEK FOOD DONATION ACT**

SOURCE: Entire Chapter added by P.L. 38-024:2 (June 17, 2025).

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§ 40A101. Short Title.

This Chapter shall be known as the “*Inafa 'maolek* Food Donation Act.”

§ 40A102. Definitions.

For the purpose of this Act:

(a) “Apparently fit grocery product” means a grocery product that meets all quality and labeling standards imposed by Federal, State, and local laws and regulations (Guam Food Code) even though the product may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.

(b) “Apparently wholesome food” means food that meets all quality and labeling standards imposed by Federal, State, and local laws and regulations (Guam Food Code) even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.

(c) “Department” means the Department of Public Health and Social Services.

(d) “Donate” means to give without requiring anything of monetary value from the recipient, except that the term shall include giving by a nonprofit organization to another nonprofit organization, notwithstanding that the donor organization has charged a nominal fee to the donee organization, if the ultimate recipient or user is not required to give anything of monetary value.

(e) “Food” means the definition pursuant to § 40102(d), Chapter 40, Title 10 of the Guam Code Annotated.

(f) “Gleaner” means a person who harvests for free distribution to the needy, or for donation to a nonprofit organization for ultimate distribution to the needy, an agricultural crop that has been donated by the owner.

(g) “Grocery Product” means a nonfood grocery product, including a disposable paper or plastic product, household cleaning product, laundry detergent, cleaning product, or miscellaneous household item.

(h) “Good Faith” means a transaction done honestly and objectively with no deliberate intent to defraud the other party;

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(i) “Gross Negligence” means voluntary and conscious conduct (including a failure to act) by a person who, at the time of the conduct, knew that the conduct was likely to be harmful to the health or well-being of another person.

(j) “Intentional Misconduct” means conduct by a person with knowledge (at the time of the conduct) that the conduct is harmful to the health or well-being of another person.

(k) “Nonprofit Organization” means the definition pursuant to §16102(d), Chapter 16, Title 7 of the Guam Code Annotated.

(l) “Person” means an individual, corporation, partnership, organization, association, or governmental entity. In the case of a corporation, partnership, organization, association, or governmental entity, the term includes an officer, director, partner, deacon, trustee, council member, or other elected or appointed individual responsible for the governance of the entity.

(m) “Qualified direct donor” means a retail grocer, wholesaler, agricultural producer, agricultural processor, agricultural distributor, restaurant, caterer or school food authority, or institution of higher education.

§ 40A103. Exemptions from Liability of Certain Food Donations.

(a) Liability of person or gleaner. A person or gleaner shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the person or gleaner donates in good faith to a nonprofit organization for ultimate distribution to needy individuals at zero cost.

(b) Liability of nonprofit organization. A nonprofit organization shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the nonprofit organization received as a donation in good faith from a person or gleaner for ultimate distribution to needy individuals at zero cost.

(c) Direct donations to needy individuals. A qualified direct donor shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the qualified direct donor donates in good faith to a needy individual at zero cost.

(d) Exception. Paragraphs (a), (b), and (c), shall not apply to an injury, illness, or death of an ultimate user or recipient of the food or grocery product that results from an act or omission of the person, gleaner, or nonprofit organization, as applicable, constituting gross negligence or intentional misconduct.

(e) A person who allows the collection or gleaning of donations on property owned or occupied by the person by gleaners, or paid or unpaid representatives of a nonprofit organization, for ultimate distribution to needy individuals shall not be subject to civil or criminal liability that arises due to the injury or death of the gleaner or representative, except that this paragraph shall not apply to an injury or death that results from an act or omission of the person constituting gross negligence or intentional misconduct.

§ 40A104. Partial Compliance.

If some or all of the donated food and grocery products do not meet all quality and labeling standards imposed by Federal, State, and local laws and regulations, the person or gleaner who donates the food and grocery products shall not be subject to civil or criminal liability in accordance with this section if the nonprofit organization or ultimate user that receives the donated food or grocery products is informed by the donor of the distressed or defective condition of the donated food or grocery products.

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§ 40A105. Promoting Food Donations.

In implementing this Chapter, the Department of Public Health and Social Services may promote the recovery of food fit for human consumption through methods such as but not limited to outreach, online educational campaigns, newsletters, bulletins, and handouts that inform retail food facility operators about the protections from civil and criminal liability when donating food.

§ 40A106. Construction.

This Section shall not be construed to create any liability. Nothing in this section shall be construed to supersede local health regulations.

§ 40A107. Rules and Regulations.

The Director of the Department of Public Health and Social Services shall promulgate rules and regulations to implement this Chapter pursuant to the Administrative Adjudication Act.
