



NSW Legislative Council Hansard

Civil Liability Amendment (Food Donations) Bill

Extract from NSW Legislative Council Hansard and Papers Friday 6 May 2005.

Second Reading

The Hon. TONY KELLY (Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, and Minister for Lands) [3.44 p.m.], on behalf of the Hon. John Hatzistergos: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

In 2002 this Government introduced broad-ranging reforms to the law of negligence. These reforms focused on ensuring a more sustainable approach to civil liability that provided solutions for people affected by the public liability crisis and protected the simple pleasures enjoyed by our community.

The reforms also protect the good faith actions of people who come to the assistance of a person in danger or who work as volunteers.

This Bill responds to some further concerns about the possible legal consequences of good faith actions of those who provide food to some of most disadvantaged members of our community.

Charities are reporting that companies are now refraining from donating food. These companies believe that they may be subject to civil proceedings for liability for death or injury resulting from eating the donated food.

Such concerns are not surprising given the climate of fear that seems to surround issues of public liability.

The Bill will address these concerns and provide protection from civil liability to those generous members of the community who donate food to charities.

This protection will be provided where:

- 1) The food has been donated in good faith for a charitable purpose, with the intention that the person being given the food will not have to pay for it; and
- 2) The food was safe to eat at the time it left the possession or control of the donor.

Those who donate the food will have an obligation to inform the recipient of any relevant handling requirements for the food, such as whether the food needs to be refrigerated. If the food is only safe to consume for a particular period of time, the donor will also have an obligation to inform the recipient of the relevant time limit.

These provisions are similar to reforms introduced in Victoria.

One Victorian charity now has a major supporter who donates about 50 crates of milk each week. This donor only began donating once legislation was introduced to clarify that food that is safe to eat can be safely donated, without fear of litigation. Many other charities also report a substantial increase in donations of food in the wake of the legislation.

Similar legislation has been passed in Canada and the USA. This legislation works effectively to support the important partnerships that have been developed between businesses and charities to benefit the community.

The Bill balances food safety considerations against the need to support the work of those who provide emergency relief food services to those in need. It will clarify the responsibilities of food donors and make this area of the law more accessible to the community.

The Bill will encourage businesses to donate good quality, nutritious food that they might otherwise throw out, as well as reduce rubbish collection costs.

The Government has moved an amendment to the Civil Liability Amendment (Food Donations) Bill 2004 at committee stage.

The amendment follows a concern that the work of charities that 'on donate' food may not be covered by the Bill. The concern arises because these charities are not the primary donors of the food. Rather, they receive food donations from businesses or members of the public, and 'on donate' the food to the needy, or to other charities.

For example, a charity may collect excess food from corporate functions, and distribute that food to other charities, such as a soup kitchen or a hostel for the homeless. Another example is where a charity collects tinned food donated by members of the public following a winter appeal, and gives that food to families in need.

The Government would like to remove any doubt that the Bill covers the valuable work of these charities that work within a chain of food donation. To achieve this, the government amendment clarifies that the term 'donate food' includes the distribution, without payment or other reward, of food donated by others.

I commend this Bill to the House.