

REFERENCE TITLE: **community fridge; liability; prohibition**

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2468

Introduced by
Representative Ortiz: Senator Hernandez

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-500.50; AMENDING TITLE 11, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-269.29; AMENDING SECTION 36-916, ARIZONA REVISED STATUTES; RELATING TO FOOD DONATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 9, chapter 4, article 8, Arizona Revised Statutes,
3 is amended by adding section 9-500.50, to read:

4 9-500.50. Prohibition on preemption of community fridges;
5 definitions

6 A. A CITY OR TOWN MAY NOT PROHIBIT OR OTHERWISE RESTRICT THE
7 EXISTENCE OR USE OF A COMMUNITY FRIDGE THAT IS OFFERED AND MAINTAINED BY A
8 PERSON OR A CHARITABLE ORGANIZATION.

9 B. FOR THE PURPOSES OF THIS SECTION:

10 1. "CHARITABLE ORGANIZATION" MEANS EITHER OF THE FOLLOWING:

11 (a) A PERSON OR ORGANIZATION DETERMINED BY THE INTERNAL REVENUE
12 SERVICE TO BE A TAX EXEMPT ORGANIZATION PURSUANT TO SECTION 501(c)(3) OF
13 THE INTERNAL REVENUE CODE.

14 (b) AN ORGANIZATION THAT IS OPERATED FOR HUMANITARIAN PURPOSES AND
15 NOT FOR PROFIT, REGARDLESS OF THE ORGANIZATION'S TAX STATUS.

16 2. "COMMUNITY FRIDGE" MEANS ANY INDOOR OR OUTDOOR REFRIGERATOR THAT
17 SUPPLIES DONATED FOODS TO THE COMMUNITY NOT FOR PROFIT.

18 Sec. 2. Title 11, chapter 2, article 4, Arizona Revised Statutes,
19 is amended by adding section 11-269.29, to read:

20 11-269.29. Prohibition on preemption of community fridges;
21 definitions

22 A. A COUNTY MAY NOT PROHIBIT OR OTHERWISE RESTRICT THE EXISTENCE OR
23 USE OF A COMMUNITY FRIDGE THAT IS OFFERED AND MAINTAINED BY A PERSON OR A
24 CHARITABLE ORGANIZATION.

25 B. FOR THE PURPOSES OF THIS SECTION:

26 1. "CHARITABLE ORGANIZATION" MEANS EITHER OF THE FOLLOWING:

27 (a) A PERSON OR ORGANIZATION DETERMINED BY THE INTERNAL REVENUE
28 SERVICE TO BE A TAX EXEMPT ORGANIZATION PURSUANT TO SECTION 501(c)(3) OF
29 THE INTERNAL REVENUE CODE.

30 (b) AN ORGANIZATION THAT IS OPERATED FOR HUMANITARIAN PURPOSES AND
31 NOT FOR PROFIT, REGARDLESS OF THE ORGANIZATION'S TAX STATUS.

32 2. "COMMUNITY FRIDGE" MEANS ANY INDOOR OR OUTDOOR REFRIGERATOR THAT
33 SUPPLIES DONATED FOODS TO THE COMMUNITY NOT FOR PROFIT.

34 Sec. 3. Section 36-916, Arizona Revised Statutes, is amended to
35 read:

36 36-916. Donation of food items; exemption from civil
37 liability; definitions

38 A. A person who makes a ~~good-faith~~ GOOD-FAITH donation of an
39 apparently wholesome food item or an apparently fit nonfood grocery
40 product to a charitable or nonprofit organization, ~~OR~~ TO AN OPERATOR OF A
41 COMMUNITY FRIDGE OR to any other person is not liable for damages in any
42 civil action for any injury or death due to the condition of the
43 apparently wholesome food item or apparently fit nonfood grocery product
44 unless the injury or death is a direct result of the intentional
45 misconduct or gross negligence of the donor.

1 B. A person who harvests an apparently wholesome food item and
2 makes a ~~good-faith~~ GOOD-FAITH donation of the apparently wholesome food
3 item to a charitable or nonprofit organization, ~~OR~~ TO AN OPERATOR OF A
4 COMMUNITY FRIDGE OR to any other person is entitled to the same exemption
5 from civil liability as prescribed in subsection A OF THIS SECTION.

6 C. A charitable or nonprofit organization or an officer, employee
7 or volunteer of the organization OR AN OPERATOR OF A COMMUNITY FRIDGE that
8 in good faith receives and distributes, without charge, or any other
9 person who in good faith receives and distributes, without charge, to an
10 immediate family member, a donation of an apparently wholesome food item
11 or an apparently fit nonfood grocery product is not liable for damages in
12 any civil action for any injury or death due to the condition of the
13 apparently wholesome food item or apparently fit nonfood grocery product
14 unless the injury or death is a direct result of the intentional
15 misconduct or gross negligence of the donating person, ~~OR~~ THE organization
16 or its officers, employees or volunteer workers OR THE OPERATOR OF THE
17 COMMUNITY FRIDGE.

18 D. If the owner or manager of property allows a person to glean
19 food on that property for gratuitous distribution by that person, ~~OR~~ BY A
20 charitable or nonprofit organization OR BY AN OPERATOR OF A COMMUNITY
21 FRIDGE, the owner and manager are not liable for damages in any civil
22 action for the injury or death of the person making the collection unless
23 the injury or death is the direct result of the intentional misconduct or
24 gross negligence of the owner or manager.

25 E. A person who makes a ~~good-faith~~ GOOD-FAITH donation to a
26 charitable or nonprofit organization OR AN OPERATOR OF A COMMUNITY FRIDGE
27 of a food item or a nonfood grocery product that does not meet all quality
28 and labeling standards imposed by federal, state and local laws and
29 regulations is entitled to the same exemption from civil liability as
30 prescribed in subsection A OF THIS SECTION if the person making the
31 donation informs the charitable or nonprofit organization OR THE OPERATOR
32 OF THE COMMUNITY FRIDGE that the food item or nonfood grocery product does
33 not meet those quality and labeling standards and the organization agrees
34 to recondition the donation to comply with all applicable quality and
35 labeling standards before its distribution.

36 F. A charitable or nonprofit organization or an officer, employee
37 or volunteer of the organization OR AN OPERATOR OF A COMMUNITY FRIDGE that
38 in good faith receives and distributes, without charge to the recipient, a
39 donation of a food item or a nonfood grocery product that it knows or has
40 reason to know does not meet all quality and labeling standards imposed by
41 federal, state and local laws and regulations is entitled to the same
42 exemption from civil liability as prescribed in subsection C OF THIS
43 SECTION if the organization or its officers, employees or volunteers
44 ~~recondition~~ OR THE OPERATOR OF THE COMMUNITY FRIDGE RECONDITIONS the food
45 item or nonfood grocery product in accordance with all applicable quality
46 and labeling standards.

1 G. The director may enforce ~~the provisions of~~ this section in any
2 manner not specifically prohibited by this article.

3 H. For the purposes of this section:

4 1. "COMMUNITY FRIDGE" HAS THE SAME MEANING PRESCRIBED IN SECTION
5 9-500.50.

6 ~~1.~~ 2. "Donation" means an item that is given for a fee
7 significantly less than the value of the item or without requiring
8 anything of monetary value from the charitable or nonprofit organization,
9 THE OPERATOR OF THE COMMUNITY FRIDGE or any other person if the item is
10 ultimately intended for gratuitous distribution.

11 ~~2.~~ 3. "Fit nonfood grocery product":

12 (a) Means a nonfood grocery product that meets all quality and
13 labeling standards imposed by federal, state and local laws and
14 regulations, including a product not readily marketable due to any
15 condition, such as packaging, appearance, age, surplus or size. ~~and~~

16 (b) Includes any household or industrial cleaning product,
17 disposable paper or plastic product, personal hygiene product, cleaning
18 equipment or cooking utensil.

19 ~~3.~~ 4. "Glean" means to gather or collect an agricultural crop that
20 is donated by an owner or manager of property.

21 ~~4.~~ 5. "Wholesome food item" means a raw, cooked, processed or
22 prepared edible substance or beverage that is intended for human
23 consumption and that meets all quality and labeling standards imposed by
24 federal, state and local laws and regulations, including food not readily
25 marketable due to any condition, such as packaging, appearance, age,
26 freshness, grade, surplus or size.