

HOUSE BILL REPORT

HB 1076

As Reported by House Committee On:
Health Care & Wellness
Appropriations

Title: An act relating to the donation of home-prepared foods to charitable organizations.

Brief Description: Permitting the donation of home-prepared foods to charitable organizations.

Sponsors: Representatives Graves, Bergquist, Griffey, Hargrove and Van Werven.

Brief History:

Committee Activity:

Health Care & Wellness: 1/17/17, 2/3/17 [DPS];

Appropriations: 2/20/17, 2/24/17 [DP2S(w/o sub HCW)].

Brief Summary of Second Substitute Bill

- Requires the Washington State Board of Health to adopt rules permitting food distributing organizations to accept donations of foods prepared in a private residence.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Cody, Chair; Macri, Vice Chair; Schmick, Ranking Minority Member; Graves, Assistant Ranking Minority Member; Caldier, Clibborn, Harris, Jinkins, MacEwen, Maycumber, Riccelli, Robinson, Slatter, Stonier and Tharinger.

Staff: Jim Morishima (786-7191).

Background:

The Washington State Board of Health (Board) establishes, by rule, minimum standards for the prevention of food-borne illness. The Board's rules are based on the 2001 Food Code, which is a model code adopted by the United States Food and Drug Administration. Local jurisdictions may adopt more stringent standards than the ones adopted by the Board.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A donated food distributing organization may accept foods from a variety of sources, including:

- surplus food from a food establishment;
- muscle meat from wild or domesticated animals;
- food prepared in a donor kitchen (a nonresidential kitchen used to prepare foods for donation), as long as potentially hazardous foods are served within eight hours of preparation; and
- commercially packaged frozen food.

A food distributing organization may also accept the following foods prepared in a residential kitchen of a private home:

- non-potentially hazardous, non-ready-to-eat foods handled, stored, or prepared in the kitchen;
- non-potentially hazardous baked goods handled, stored, or prepared in the kitchen; and
- non-potentially hazardous, ready-to-eat foods in intact commercial packages stored in the kitchen.

"Potentially hazardous foods" are foods that require time or temperature control for safety to limit pathogenic microorganism growth or toxin formation.

Summary of Substitute Bill:

The Board must adopt rules permitting food distributing organizations to accept the donation of foods prepared in private residences. The Board must adopt the rules no later than June 30, 2018.

Substitute Bill Compared to Original Bill:

The substitute bill changes the date by which the Board of Health must adopt rules to June 30, 2018.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Any durable solution to the homeless problem should involve a robust culture of charities. Charities are currently prohibited from organizing potlucks for homeless people if they are serving anything except nonhazardous foods such as cookies and muffins.

Nutritious meals should be served where they are needed. People serve food prepared in home kitchens at potlucks all the time and no one gets sick. People can be taught safe food handling practices and prepare and serve food accordingly. Concerned homeowners should be able to make meals and bring them to charities to serve. Charities that serve food to the needy are in crisis mode right now. The state should not get in the way of charities who are trying to help the needy.

(Opposed) The average person is not familiar with food safety rules. The Board of Health (Board) has helped charities accept food prepared in donor kitchens, which are certified kitchens where food can be prepared safely. This bill dilutes these protections. People who eat food served by charities deserve the same food safety standards as food prepared in restaurants; just because they are not paying does not mean they do not have the same rights to safe food. Food poisoning can be serious and difficult; a bad food incident can mean a trip to the hospital. People served by charities are often vulnerable populations. Allowing home-produced products to be served will open a Pandora's box of home-produced food that can be a threat to people.

(Other) The Board's food safety rules already allow non-hazardous foods prepared in home kitchens to be served to the needy, including baked goods, commercially produced foods, and frozen foods. Expanding the types of foods allowed by the rules will increase the likelihood of food-borne illness. Kitchens in private homes are not regulated or inspected. Hazardous foods can be prepared in donor kitchens, which have handwashing, dishwashing, and refrigeration equipment. The recipients of this food are more vulnerable to food-borne illness. The deadline for rulemaking in this bill is too short.

Persons Testifying: (In support) Representative Graves, prime sponsor; Liz Tidyman; Ginger Passarelli; and Norm Hummel, Seattle Union Gospel Mission.

(Opposed) Bonnie Baker, Northwest Harvest; and Yvonne Pitrof, Washington Food Coalition.

(Other) Michelle Davis, Washington State Board of Health; and Rick Porso, Department of Health.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Health Care & Wellness. Signed by 30 members: Representatives Ormsby, Chair; Robinson, Vice Chair; Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Bergquist, Buys, Caldier, Cody, Condotta, Fitzgibbon, Haler, Hansen, Harris, Kagi, Manweller, Nealey, Pettigrew, Pollet, Sawyer, Schmick, Senn, Springer, Stanford, Sullivan, Taylor, Tharinger, Vick, Volz and Wilcox.

Minority Report: Do not pass. Signed by 3 members: Representatives Hudgins, Jinkins and Lytton.

Staff: Linda Merelle (786-7092).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Health Care & Wellness:

The Appropriations Committee recommended that a null and void clause be added, making the provisions null and void unless funded in the budget.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) Organizations have been shut down because of concerns about the health and safety of donated foods, and this bill was intended to be a modest response to that. The bill calls for rulemaking, which will address the health and safety concerns. The alternative for homeless and needy individuals is having nothing or eating out of a garbage can. Homelessness has reached a state of emergency. There is some leeway to work with the Department of Health to write rules to make sure that donated food is safe. Adults can be taught to handle food safely. This bill provides a way to help people in the greatest need.

(Opposed) Foodborne illnesses pose a danger to compromised populations. The passage of this bill has the potential for creating disastrous consequences for those who rely on donated meals for their nutritional well-being. Policy that negates food production protection for any food served to the public is not only dangerous, but also creates food inequity in food system safety and is discriminatory. It is saying that people in poverty do not deserve the same food safety protection that those who can pay for food deserve. Foodborne illness is not only a probable outcome; it is potentially life threatening for those who struggle with hunger; the very old, very young, and very sick. The current regulations are in place for a reason. Those wishing to circumvent those regulations may do so under the potluck waiver. The risk for foodborne illness is real. This bill would create a rulemaking process to address a problem that has already been solved by the potluck exemption. Religious organizations are already considered private groups and are exempt from food safety requirements. Insurance costs to organizations that follow the most stringent food safety practices could rise. Underwriters look at classes of organizations and not the practices that each individual organization pursues.

Persons Testifying: (In support) Representative Graves, prime sponsor; and Norm Hummel, Seattle Union Gospel Mission.

(Opposed) Beverly Graham, Operation Sack Lunch; and Claire Lane, Anti-Hunger and Nutrition Coalition.

Persons Signed In To Testify But Not Testifying: None.