

## EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-193, title VII, §731(g), Aug. 22, 1996, 110 Stat. 2307, provided that: "The amendments made by subsection (e) [amending this section] shall become effective on October 1, 1996."

## EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-448 effective Oct. 1, 1994, see section 401 of Pub. L. 103-448, set out as a note under section 1755 of this title.

## EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 820(a)(4) of Pub. L. 97-35, set out as a note under section 1753 of this title.

**§ 1789. Department of Defense overseas dependents' schools**

**(a) Purpose of program; availability of payments and commodities**

For the purpose of obtaining Federal payments and commodities in conjunction with the provision of breakfasts to students attending Department of Defense dependents' schools which are located outside the United States, its territories or possessions, the Secretary of Agriculture shall make available to the Department of Defense, from funds appropriated for such purpose, the same payments and commodities as are provided to States for schools participating in the school breakfast program in the United States.

**(b) Administration of program; eligibility determinations and regulations**

The Secretary of Defense shall administer breakfast programs authorized by this section and shall determine eligibility for free and reduced-price breakfasts under the criteria published by the Secretary of Agriculture, except that the Secretary of Defense shall prescribe regulations governing computation of income eligibility standards for families of students participating in the school breakfast program under this section.

**(c) Nutritional standards for meals; noncompliance with standards**

The Secretary of Defense shall be required to offer meals meeting nutritional standards prescribed by the Secretary of Agriculture; however, the Secretary of Defense may authorize deviations from Department of Agriculture prescribed meal patterns and fluid milk requirements when local conditions preclude strict compliance or when such compliance is highly impracticable.

**(d) Authorization of appropriations**

Funds are hereby authorized to be appropriated for any fiscal year in such amounts as may be necessary for the administrative expenses of the Department of Defense under this section.

**(e) Technical assistance for administration of program**

The Secretary of Agriculture shall provide the Secretary of Defense with technical assistance in the administration of the school breakfast programs authorized by this section.

(Pub. L. 89-642, §20, as added Pub. L. 95-561, title XIV, §1408(b)(2), Nov. 1, 1978, 92 Stat. 2368;

amended Pub. L. 99-500, title III, §328(b), Oct. 18, 1986, 100 Stat. 1783-362, and Pub. L. 99-591, title III, §328(b), Oct. 30, 1986, 100 Stat. 3341-365; Pub. L. 99-661, div. D, title II, §4208(b), Nov. 14, 1986, 100 Stat. 4073.)

## CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500.

## AMENDMENTS

1986—Subsec. (d), Pub. L. 99-500, Pub. L. 99-591, and Pub. L. 99-661 amended subsec. (d) identically, striking out "and for payment of the difference between the value of commodities and payments received from the Secretary of Agriculture and (1) the full cost of each breakfast for each student eligible for a free breakfast, and (2) the full cost of each breakfast, less any amounts required by law or regulation to be paid by each student eligible for a reduced-price breakfast" after "this section".

## EFFECTIVE DATE

Section effective Oct. 1, 1978, and no provisions to be construed to impair or to prevent the taking of effect of any other Act providing for the transfer of the described functions to an executive department having responsibility for education, see section 1415 of Pub. L. 95-561, set out as a note under section 921 of Title 20, Education.

**§ 1790. Breastfeeding promotion program**

**(a) In general**

The Secretary, from amounts received under subsection (d), shall establish a breastfeeding promotion program to promote breastfeeding as the best method of infant nutrition, foster wider public acceptance of breastfeeding in the United States, and assist in the distribution of breastfeeding equipment to breastfeeding women.

**(b) Conduct of program**

In carrying out the program described in subsection (a), the Secretary may—

(1) develop or assist others to develop appropriate educational materials, including public service announcements, promotional publications, and press kits for the purpose of promoting breastfeeding;

(2) distribute or assist others to distribute such materials to appropriate public and private individuals and entities; and

(3) provide funds to public and private individuals and entities, including physicians, health professional organizations, hospitals, community based health organizations, and employers, for the purpose of assisting such entities in the distribution of breastpumps and similar equipment to breastfeeding women.

**(c) Cooperative agreements**

The Secretary is authorized to enter into cooperative agreements with Federal agencies, State and local governments, and other entities to carry out the program described in subsection (a).

**(d) Gifts, bequests, and devises**

**(1) In general**

The Secretary is authorized to solicit, accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of establishing and carrying out the program described in sub-

section (a). Gifts, bequests, or devises of money and proceeds from the sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Secretary.

**(2) Criteria for acceptance**

The Secretary shall establish criteria for determining whether to solicit and accept gifts, bequests, or devises under paragraph (1), including criteria that ensure that the acceptance of any gifts, bequests, or devises would not—

(A) reflect unfavorably on the ability of the Secretary to carry out the Secretary's responsibilities in a fair and objective manner; or

(B) compromise, or appear to compromise, the integrity of any governmental program or any officer or employee involved in the program.

(Pub. L. 89-642, §21, as added Pub. L. 102-342, title II, §201, Aug. 14, 1992, 106 Stat. 912.)

**§ 1791. Bill Emerson Good Samaritan Food Donation Act**

**(a) Short title**

This section may be cited as the "Bill Emerson Good Samaritan Food Donation Act".

**(b) Definitions**

As used in this section:

**(1) Apparently fit grocery product**

The term "apparently fit grocery product" means a grocery product that meets all quality and labeling standards imposed by Federal, State, and local laws and regulations even though the product may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.

**(2) Apparently wholesome food**

The term "apparently wholesome food" means food that meets all quality and labeling standards imposed by Federal, State, and local laws and regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.

**(3) Donate**

The term "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.

**(4) Food**

The term "food" means any raw, cooked, processed, or prepared edible substance, ice, beverage, or ingredient used or intended for use in whole or in part for human consumption.

**(5) Gleaner**

The term "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.

**(6) Grocery product**

The term "grocery product" means a non-food grocery product, including a disposable paper or plastic product, household cleaning product, laundry detergent, cleaning product, or miscellaneous household item.

**(7) Gross negligence**

The term "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.

**(8) Intentional misconduct**

The term "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.

**(9) Nonprofit organization**

The term "nonprofit organization" means an incorporated or unincorporated entity that—

(A) is operating for religious, charitable, or educational purposes; and

(B) does not provide net earnings to, or operate in any other manner that inures to the benefit of, any officer, employee, or shareholder of the entity.

**(10) Person**

The term "person" means an individual, corporation, partnership, organization, association, or governmental entity, including a retail grocer, wholesaler, hotel, motel, manufacturer, restaurant, caterer, farmer, and nonprofit food distributor or hospital. 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.

**(c) Liability for damages from donated food and grocery products**

**(1) 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.

**(2) 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.

**(3) Exception**

Paragraphs (1) and (2) shall not apply to an injury to or death of an ultimate user or recip-