



CABINET FOR HEALTH AND FAMILY SERVICES
DEPARTMENT FOR PUBLIC HEALTH
Division of Public Health Protection and Safety

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Janie Miller
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Policy Statement Food Donated By Charitable Organizations

The provisions of the Kentucky Food Drug and Cosmetic Act (KRS 217.005 to 217.215) include the selling of foods, including the manufacture, production, processing, packing, exposure, offer, possession and holding of such articles for sale, and the sale, dispensing, and giving of such articles.

It is the policy of the Division of Public Health Protection and Safety, Food Safety Branch, revised in 2006, that the primary intent of the above referenced legislation is to require food establishments that engage in the sale of foods to be permitted and inspected in accordance with the requirements of 217.125. The *giving* of foods directly to consumers, by charitable or benevolent entities, is not food service, retail food, nor food storage or warehousing.

Churches or other benevolent groups or associations that provide to the needy may do so without being permitted, or inspected on a regular basis, provided that the foods are in a package form, from commercially approved sources, or from permitted retail food establishments, and are in safe and apparently wholesome condition. It is recommended that they be provided with a copy of the Kentucky Food Code to use as a basic guideline. Further this office retains the right to conduct surveillance to determine if foods are being stored in a manner that does not discriminate against the act in the interest of public health and safety.

Churches or other benevolent groups or associations that prepare food for the needy may do so under permit of the Kentucky Food Code but are exempt from fees with proof of 501(c)3 status (non-profit exemption status), and more than half of the staff are volunteers.

Food establishments inspected under the provisions of KRS 217.127 that donate safe and apparently wholesome food shall not require further inspection or regulation.

Retail food establishments, corporations, partnerships, organizations, associations, and individuals who donate safe and apparently wholesome foods to nonprofit organizations for the distribution to the needy are protected from civil and criminal liability under the provisions of KRS 413.248 as amended by HB 68, 2006.

Revised: 2010 as appendix to 902 KAR 45:005