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HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 317

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO IMMUNITY FOR DONATED WILD GAME.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Add a new Section to Title 16 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 6821. Definitions

As used in this subchapter:

(1) “Nonprofit organization” means an incorporated or unincorporated entity that is operating for religious, charitable, or educational purposes and does not provide net earnings to, or operate in any other way that inures to the benefit of, any officer, employee, or shareholder of the entity.

(2) “Person” means an individual; corporation; business trust; estate trust; partnership; limited liability company; association; joint venture; or any other legal or commercial entity. “Person” does not include a government; governmental subdivision, agency, or instrumentality; and a public corporation.

(3) “State agency” means any office, department, board, commission, committee, court, school district, board of education, or other instrumentality of the government of this State existing by virtue of an act of the General Assembly or of the Constitution of the State. “State agency” does not include political subdivisions of this State, and their agencies, and other public agencies not specifically contained in the definition of “state agency” which exist by virtue of the law of this State and whose jurisdiction either is limited to a political subdivision of this State, or to a portion thereof, or extends beyond the boundaries of this State.

(4) “Wild game” means any of the following that are legally taken under the laws of this State:

a. Game animals, as defined by § 701 of Title 7.

b. Game birds, as defined by § 702 of Title 7.

c. Game fish, as defined by § 906 of Title 7.

d. Shellfish, as defined by § 1901 of Title 7.

§ 6822. Immunity of a person who donates wild game.

(a) A person who, in good faith, donates wild game for ultimate distribution without charge by a nonprofit organization or a state agency is not liable for civil damages or criminal penalties resulting from the nature, age, condition, or packaging of the wild game, unless an injury or death is caused by the gross negligence, recklessness, or intentional misconduct of the person.

(b) A person who, in good faith, provides services related to the processing of wild game that is donated to a nonprofit organization or a state agency for ultimate distribution without charge by the nonprofit organization or the state agency is not liable for civil damages or criminal penalties resulting from the nature, age, condition, or packaging of the donated wild game, unless an injury or death is caused by the gross negligence, recklessness, or intentional misconduct of the person.

(c) This section does not apply if the nonprofit organization sells or offers for sale the donated wild game to a person other than another nonprofit organization that will ultimately distribute the wild game without charge.

§ 6823. Immunity of a nonprofit organization that accepts donated wild game from liability.

(a) A nonprofit organization that, in good faith, accepts donated wild game for ultimate distribution without charge is not liable for civil damages or criminal penalties resulting from the nature, age, condition, or packaging of the donated wild game, unless an injury or death is caused by the gross negligence, recklessness, or intentional misconduct of the nonprofit organization.

(b) This section does not apply if the nonprofit organization sells or offers for sale the donated wild game to a person other than another nonprofit organization that will ultimately distribute the donated wild game without charge.

§ 6824. Authority of the Division of Public Health and the Department of Agriculture.

(a) This subchapter does not restrict or preempt the authority granted to the Division of Public Health or the Department of Agriculture by other law to inspect, regulate, or ban food.

(b) The Division of Public Health and the Department of Agriculture each may, in accordance with its respective authority, inspect an item of donated wild game upon the request of a nonprofit organization accepting donated wild game.

Section 2. The Division of Public Health shall do all of the following:

(1) Review any of its regulations that have the effect of limiting the use of donated wild game, with the goal of eliminating unnecessary regulations and increasing the supply of usable donated wild game while protecting public health.

(2) After its review of such regulations and within 1 year of the enactment of this Act, report to the Governor and the members of the General Assembly its findings summarizing each regulation reviewed and what action the Division is taking as to retaining, modifying, or terminating each such regulation.

SYNOPSIS

This bill protects non-profit organizations that accept and persons who donate wild game to non-profit organizations or provides services related to the processing of such donated wild game from certain types of liability.