

Legislative Council—No 2A

As reported with amendments, report adopted, Standing Orders suspended and passed remaining stages, 26 November 2008

South Australia

**Civil Liability (Charitable Donations) Amendment
Bill 2008**

A BILL FOR

An Act to amend the *Civil Liability Act 1936*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Civil Liability (Charitable Donations) Amendment Act 2008*.

5 **2—Commencement**

This Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

10 **Part 2—Amendment of *Civil Liability Act 1936***

4—Insertion of Part 9 Division 11A

After section 74 insert:

Division 11A—Charitable donations

74A—Food donors and distributors

- 15 (1) In this section, a reference to a *food donor or distributor* is a reference to a person who, acting without expectation of payment or other consideration and for a charitable or benevolent purpose, donates or distributes food with the intention that the consumer of the food would not have to pay for the food and to the agents or employees of such a person.
- 20 (2) A food donor or distributor incurs no civil liability for loss of life or personal injury arising from consumption of the food donated or distributed.

(3) However, the immunity does not operate if the food donor or distributor knew or was recklessly indifferent to the fact that when the food left the possession or control of the food donor or distributor it was unsafe within the meaning of the *Food Act 2001*.

5 (4) The Minister must, as soon as practicable after the second anniversary of the commencement of this section—

(a) cause a report to be prepared on the operation of this section; and

10 (b) cause a copy of the report to be laid before each House of Parliament.

74B—Provision of other goods and services for charitable or benevolent purpose

15 (1) A person incurs no civil liability for loss of life or personal injury or damage to property arising from the provision of goods or services to another if, in providing the goods or services, the person acted—

(a) without expectation of payment or other consideration; and

(b) for a charitable or benevolent purpose; and

(c) with the intention that the consumer of the goods or services would not have to pay for them.

20 (2) The immunity extends to the agents and employees of the person providing the goods or services.

(3) However, the immunity does not operate in the following cases:

25 (a) in the case of goods—if the person knew or was recklessly indifferent to the fact that when the goods left the possession or control of the person they were in a state likely to cause harm to a consumer of the goods or to the property of a consumer of the goods;

30 (b) in the case of services—if the person knew or was recklessly indifferent to the fact that the services were provided in a manner likely to cause harm to a consumer of the services or to the property of a consumer of the services;

(c) in respect of a liability that falls within the ambit of a scheme of compulsory third-party motor vehicle insurance;

35 (d) if the ability of the person who personally provided the goods or services was, at the relevant time, significantly impaired by a drug (including alcohol) consumed voluntarily for non-medicinal purposes.

40 (4) The Minister must, as soon as practicable after the second anniversary of the commencement of this section—

(a) cause a report to be prepared on the operation of this section; and

(b) cause a copy of the report to be laid before each House of Parliament.

(5) This section does not apply to the donation or distribution of food (see section 74A).

(6) In this section—

goods means substances or articles.

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