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# Ohio Revised Code

## Section 2305.35 Donor not liable for injuries to gleaner.

Effective: July 06, 2001
Legislation: Senate Bill 108 - 124th General Assembly

(A) As used in this section:

(1) "Agency" has the same meaning as in section 2305.37 of the Revised Code.

(2) "Donor" means an owner, lessee, renter, or operator of a farm or other real property who gives permission to a gleaner to enter the property to salvage free-of-charge food items remaining on the property for subsequent donations of the food items to, or subsequent distributions of the food items by, an agency or nonprofit organization.

(3) "Gleaner" means any person that, with the permission of the owner, lessee, renter, or operator of a farm or other real property, enters the property to salvage free-of-charge food items remaining on the property for subsequent donations of the food items to, or subsequent distributions of the food items by, an agency or nonprofit organization.

(4) "Hazard" means a risk of serious physical harm to persons or property.

(5) "Nonprofit organization" means a corporation, association, group, institution, society, or other organization that is exempt from federal income taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 501(c)(3), as amended.

(6) "Tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action" includes a product liability claim that is subject to sections 2307.71 to 2307.80 of the Revised Code but does not include a civil action for damages for a breach of contract or another agreement between persons.

(B)(1) Except as provided in division (B)(2) of this section, a donor is not liable in damages to any person in a tort action for injury, death, or loss to person or property sustained by a gleaner as a result of any of the following:

(a) Any condition of the farm or other real property on which the gleaner is salvaging food items;

(b) Any normal agricultural operations occurring on the farm or other real property on which the gleaner is salvaging food items;

(c) Any risks of physical harm to persons or property involved in salvaging the food items the gleaner is salvaging.

(2) The immunity described in division (B)(1) of this section does not apply to a donor in a tort action for injury, death, or loss to person or property sustained by a gleaner as a result of any condition, operations, or risks described in division (B)(1)(a), (b), or (c) of this section if the injury, death, or loss to person or property sustained by the gleaner was caused by any of the following actions or omissions:

(a) An action or omission of the donor that constitutes negligence, if that negligence involves one or both of the following:

(i) The failure of the donor to warn the gleaner of a hazard of which the donor had actual knowledge prior to the gleaner entering the property;

(ii) The creation or enhancement of a hazard by the donor prior to the gleaner entering the property.

(b) An action or omission of the donor that constitutes willful or wanton misconduct or intentionally tortious conduct;

(c) An action or omission of an employee of the donor, a family member of the donor or another person associated with the donor that is imputable to the donor and that constitutes negligence, if that negligence involves one or both of the following:

(i) The failure of the employee, family member, or other associated person to warn the gleaner of a hazard of which the employee, family member, or other associated person had actual knowledge prior to the gleaner entering the property;

(ii) The creation or enhancement of a hazard by the employee, family member, or other associated person prior to the gleaner entering the property.

(d) An action or omission of an employee of the donor, a family member of the donor, or another person associated with the donor, that is imputable to the donor and that constitutes willful or wanton misconduct.

(C)(1) This section does not create a new cause of action or substantive legal right against donors.

(2) This section does not affect any immunities from or defenses to tort liability established by another section of the Revised Code or available at common law, to which donors may be entitled under circumstances not covered by this section.