



**Hon Stephen Robertson MP**  
Member for Stretton



**27 NOV 2008**

**Minister for Health**

MI158382  
MO: H/08/08651 / H/08/08652

Mr Neil Laurie  
The Clerk of the Parliament  
Queensland Parliamentary Service  
Parliament House  
George Street  
BRISBANE QLD 4000

Dear Mr Laurie

Thank you for your letter dated 8 October 2008, relative to Parliamentary Petitions numbered 1132-08 and 1031-08, which request the enactment of legislation similar to the *Good Samaritan Act* in Victoria relative to the charitable provision of food to the needy.

In 2002, the Victorian Government passed the *Wrongs and Other Acts (Public Liability Insurance Reform) Act* which introduced into legislation a new Volunteer Protection clause to help protect volunteers from being held personally liable for an incident that may have led to injury.

This legislation refers to good samaritans but is in the context of protecting good samaritans providing assistance, advice or care at emergencies or accidents from civil liability for their actions.

However, the Victorian *Wrongs and Other Acts (Public Liability Insurance Reform) Act 2002* did amend the *Victorian Wrongs Act 1958* to protect food donors from civil liability arising from the consumption of donated food.

In the case of Queensland, the main purposes of the *Food Act 2006* are to ensure food for sale is safe and suitable for human consumption; to prevent misleading conduct relating to the sale of food and to apply the Australia New Zealand *Food Standards Code*. It is a legal requirement that all food, whether given away or sold, must be safe and suitable to consume and also comply with the *Food Standards Code* including the labelling and compositional requirements.

Standard 1.2.5 – Date Marking of Food of the *Food Standards Code* prescribes a date marking system for food and the form in which those foods must be date marked. This Standard requires food, with some exceptions, to be date marked, and prohibits the sale of food after the expiration of the use-by date, where such a date mark is required. The definition of ‘sell’ under Queensland’s *Food Act 2006* in relation to food includes giving the food away, from a food business, to a person.

A use-by date, in relation to a package of food, means the date which signifies the end of the estimated period if stored in accordance with any stated storage conditions, after which the intact package of food should not be consumed because of health and safety reasons.

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In view of the potential for serious consequences to public health and safety, there is no intention to amend the Queensland *Food Act 2006* to allow the giving away or sale of food with expired use-by dates by a food business. To lessen this requirement is seen as being unacceptable and an affront to the needy.

It might be noted that the most common permitted form of date marking is a best-before date. In this case, a food marked with a best-before date can still be sold after that date has expired provided it is safe and suitable for human consumption.

Other permitted forms of date marking are a baked-for date and a baked-on date, in relation to bread.

Further information relative to Queensland's *Food Act 2006* can be accessed at [www.legislation.qld.gov.au](http://www.legislation.qld.gov.au).

You might like to note that the Queensland Parliament recently passed an amendment to the *Civil Liability Act 2003* to afford protection to food donors.

Should you have any queries regarding my advice to you, Ms Tenille Fort, Director, Food Safety Policy and Regulation Unit, Environmental Health Branch, Queensland Health will be pleased to assist you and can be contacted on telephone 3234 0952.

Yours sincerely



**STEPHEN ROBERTSON MP**