A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To create a tax credit for individual taxpayers, corporations, and unincorporated businesses that donate food to non-profit organizations; to expand liability protections for food donation to cover food donors that donate food directly to individuals for consumption; to enhance liability protections to cover bona fide charitable or not-for-profit organizations that distribute food and charge a fee that covers the cost of handling or preparing the food; to require the Department of Health to not require date labels on food products or limit the sale or donation of past-date food products that do not pose an increased safety risk to consumers once the date has passed; to require the Department of Health and the Office of Waste Diversion within the Department of Public Works to create a guide on food donation and to require the Department of Health to train health inspectors on the information in the guide.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Save Good Food Amendment Act of 2017”.

Sec. 2. Chapter 18 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended as follows:

(1) A new section designation is added to read as follows:
"§ 47-1806.15. Tax on residents and nonresidents - Credits - Tax credit for food donations."

(2) A new section designation is added to read as follows:

"§ 47-1807.13. Tax on corporations and financial institutions-Credits -Tax credit for food donations."

(3) A new section designation is added to read as follows:

"§ 47-1808.13. Tax on unincorporated businesses - Credits - Tax credit for food donations."

(b) A new section 47-1806.15 is added to read as follows:

"§ 47-1806.15. Tax on residents and nonresidents - Credits - Tax credit for food donations.

"(a) For tax years beginning on or after January 1, 2018, a taxpayer may claim a nonrefundable credit against taxes imposed by this subchapter for food donations made during the tax year to a non-profit organization recognized as a tax-exempt organization pursuant to 26 U.S.C. § 501(c)(3).

"(b)(1) The credit claimed in subsection (a) of this section shall equal 50% of the value of the contribution and shall not exceed $2,500 per taxpayer per tax year.

"(2) If a taxpayer elects to claim the credit for a contribution, no deduction under § 47-1803.03(b) shall be allowed on account of the contribution.

"(c) A donated food product shall not be of a condition that would be considered unfit for human consumption under District or federal law or regulations."
“(d) If the amount of a tax credit under this section exceeds a taxpayer's tax liability under this chapter for a tax year, the amount of the tax credit that exceeds the taxpayer’s income liability may be carried forward for a period not to exceed the following 5 tax years.

“(e) A taxpayer claiming the tax credit shall provide documentation supporting the tax credit claim in a form and manner prescribed by the Chief Financial Officer.

“(f) For the purposes of this section, the term "food donation" means:

“(1) Vegetables, fruits, and other food products grown in the District by urban farming, as defined in § 48-401(5), or by a community garden, as defined in § 48-401(1);

“(2) Prepared food made in a certified kitchen and stored in conditions that meet District and federal health regulations; or

“(3) Vegetables, fruits, fresh and frozen meat, eggs, and dairy products donated by a licensed District of Columbia retailer.”.

(c) A new section 47-1807.13 is added to read as follows:

"§ 47-1807.13. Tax on corporations and financial institutions-Credits -Tax credit for food donations.

“(a) For taxable years beginning on or after January 1, 2018, any qualified incorporated business under § 6-1504 may claim a nonrefundable credit against taxes imposed by this subchapter equal to 50% of the value of food donations made during the tax year to a non-profit organization recognized as a tax-exempt organization pursuant to 26 U.S.C. § 501(c)(3).

“(b)(1) The credit shall not exceed $5,000 per corporation per tax year and shall not reduce the minimum tax liability under § 47-1807.02(b).

“(2) If the corporation elects to claim the credit for a contribution, no deduction under § 47-1803.03(a)(8) shall be allowable on account of the contribution.
"(c) A donated food commodity shall not be of a condition that would be considered unfit for human consumption under District or federal law or regulations.

"(d) A corporation claiming the tax credit shall provide documentation supporting the tax credit claim in a form and manner prescribed by the Chief Financial Officer.

"(e) For the purposes of this section, the term "food donation" means:

"(1) Vegetables, fruits, and other food products grown in the District by urban farming, as defined in § 48-401(5), or by a community garden, as defined in § 48-401(1);

"(2) Prepared food made in a certified kitchen and stored in conditions that meet District and federal health regulations; or

"(3) Vegetables, fruits, fresh and frozen meat, eggs, and dairy products donated by a licensed District of Columbia retailer."

(d) A new section 47-1808.13 is added to read as follows:

"§ 47-1808.13. Tax on unincorporated businesses - Credits - Tax credit for food donations.

"(a) For taxable years beginning on or after January 1, 2018, any qualified unincorporated business under § 6-1504 may claim a nonrefundable credit against taxes imposed by this subchapter equal to 50% of the value of food donations made during the tax year to a non-profit organization recognized as a tax-exempt organization pursuant to 26 U.S.C. § 501(c)(3).

"(b)(1) The credit shall not exceed $5,000 per unincorporated business per tax year and shall not reduce the minimum tax liability under § 47-1808.03(b).

"(2) If the unincorporated business elects to claim the credit for a contribution, no deduction under § 47-1803.03(a)(8) shall be allowable on account of the contribution.
“(c) A donated food commodity shall not be of a condition that would be considered unfit for human consumption under District or federal law or regulations.

“(d) An unincorporated business claiming the tax credit shall provide documentation supporting the tax credit claim in a form and manner prescribed by the Chief Financial Officer.

“(e) For the purposes of this section, the term "food donation" means:

“(1) Vegetables, fruits, and other agricultural commodities grown in the District by urban farming, as defined in § 48-401(5), or by a community garden, as defined in § 48-401(1);

“(2) Prepared food made in a certified kitchen and stored in conditions that meet District and federal health regulations; or

“(3) Vegetables, fruits, fresh and frozen proteins, eggs, and dairy products from a licensed D.C. retailer.”.

Sec. 3. The Good Faith Donor and Donee Act of 1981, effective October 8, 1981 (D.C. Law 4-39, D.C. Official Code § 48-301), is amended as follows:

(a) Section 2 (D.C. Official Code § 48-301) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “a bona-fide charitable or not-for-profit organization” and inserting the phrase “a bona-fide charitable or not-for-profit organization or directly to an individual for consumption” in its place.

(2) Subsection (b) is amended by striking the phrase “without charge or at a nominal charge, shall not be” and inserting the phrase “without charge or at a charge sufficient to cover the cost of handling and preparing such food, shall not be” in its place.

(b) New sections 4 and 5 are added to read as follows:

“Sec. 4. Food products that require pull dates.
“(a) The Department of Health shall not require date labels on food products that, based on current scientific evidence, do not pose an increased safety risk to consumers when consumed after the date on the label.

“(b) The Department of Health shall not limit the sale or donation of food products after their date label has passed, except for food products that pose an increased safety risk to consumers when consumed after the date on the label.“

“(c) By January 1, 2018, the Department of Health shall develop rules to implement this section.

“(d) For the purposes of this section, the term “date label” refers to any date labeled on a food product, including those accompanied by the phrase “Best By”, “Use By”, “Sell By”, “Best Before” or any other descriptive phrases, that are determined by the manufacturer to estimate when the food product might be at its peak quality if it was handled and stored in a certain manner.

“Sec. 5. Guide on food donation.

“(a) The Department of Health and the Office of Waste Diversion within the Department of Public Works (“Office of Waste Diversion”) shall create a guide for food donors and organizations that accept food donations that includes:

“(1) All food safety regulations that apply to food donations in the District, including food safety regulations, liability protections, and tax incentives available to food donors;

“(2) What foods may be donated safely;

“(3) Best practices for storing and handling food donations; and

“(4) A list of organizations that accept food donations in the District.
“(b) The Department of Health and the Office of Waste Diversion shall make the guide developed pursuant to subsection (a) of this section available on their websites for free.

“(c) The Department of Health shall train its employees involved in health inspections of business that donate food and organizations that receive donated food on the information in the guide developed pursuant to subsection (a) of this section.”.

Sec. 4. Fiscal impact statement.


Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.