



# House of Representatives

General Assembly

**File No. 173**

February Session, 2012

Substitute House Bill No. 5143

*House of Representatives, March 29, 2012*

The Committee on Insurance and Real Estate reported through REP. MEGNA of the 97th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***AN ACT CONCERNING INSURANCE COVERAGE FOR PERISHABLE FOOD DONATED BY CERTAIN FOOD ESTABLISHMENTS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2012*) (a) (1) Subject to the  
2 provisions of subsection (b) of this section, any insurer that delivers,  
3 issues for delivery, renews, amends or continues in this state a  
4 commercial risk insurance policy or rider to such policy that provides  
5 coverage for the spoilage of perishable food shall provide coverage to  
6 the same extent for perishable food that is donated to a temporary  
7 emergency shelter operated or supervised by a municipality or the  
8 state during a state of emergency for a limited time period, if: (A) The  
9 Governor proclaims that a state of emergency exists; (B) as a result or  
10 as part of such emergency, an electrical outage or interruption of  
11 electrical service to an insured under such policy or rider has occurred  
12 and is forecast by the electric supplier for such insured to last longer  
13 than the time period prescribed by the Department of Public Health or  
14 local director of health, or an authorized agent thereof, for the safe

15 handling of perishable food; and (C) such perishable food is donated  
16 prior to the expiration of the time period described in subparagraph  
17 (B) of this subdivision.

18 (2) The provisions of subdivision (1) of this subsection shall apply to  
19 an insurance policy or rider delivered, issued for delivery, renewed,  
20 amended or continued in this state for a food establishment classified  
21 as class III or class IV pursuant to regulations adopted under section  
22 19a-36 of the general statutes.

23 (b) No such food establishment shall donate perishable food  
24 pursuant to subdivision (1) of subsection (a) of this section if (1) the  
25 Department of Public Health or a local director of health, or an  
26 authorized agent thereof, has embargoed or ordered destroyed such  
27 perishable food, (2) the Department of Consumer Protection or its  
28 authorized agent has deemed such perishable food adulterated, as  
29 defined in section 21a-101 of the general statutes, or (3) such perishable  
30 food is not fit for human consumption.

31 (c) To the extent a tax deduction or tax credit is allowed under state  
32 law for a donation made pursuant to this section, no food  
33 establishment that donates perishable food in accordance with the  
34 provisions of this section and receives payment from an insurer for  
35 such donation shall avail itself of a tax deduction or tax credit for the  
36 amount of such payment.

37 Sec. 2. Section 52-557l of the general statutes is repealed and the  
38 following is substituted in lieu thereof (*Effective October 1, 2012*):

39 (a) Notwithstanding any provision of the general statutes, any  
40 person, including but not limited to a seller, farmer, processor,  
41 distributor, wholesaler or retailer of food, who donates an item of food  
42 for use or distribution by a nonprofit organization or nonprofit  
43 corporation and any nonprofit organization or nonprofit corporation  
44 that collects donated food and distributes such food to other nonprofit  
45 organizations or nonprofit corporations free of charge or for a nominal  
46 fee shall not be liable for civil damages or criminal penalties resulting

47 from the nature, age, condition or packaging of the food, unless it is  
 48 established that the donor, at the time of making the donation, or the  
 49 nonprofit organization or nonprofit corporation, at the time of  
 50 distributing the food, knew or had reasonable grounds to believe that  
 51 the food was (1) adulterated, as defined in section 21a-101, or (2) not fit  
 52 for human consumption.

53 (b) Notwithstanding any provision of the general statutes, any food  
 54 establishment classified as class III or class IV pursuant to regulations  
 55 adopted under section 19a-36, that donates perishable food for use or  
 56 distribution by a temporary emergency shelter in accordance with the  
 57 provisions set forth in section 1 of this act shall not be liable for civil  
 58 damages or criminal penalties resulting from the nature, age, condition  
 59 or packaging of the food, unless it is established that the donor, at the  
 60 time of making the donation, or the temporary emergency shelter, at  
 61 the time of distributing the food, knew or had reasonable grounds to  
 62 believe that the food was (1) embargoed or ordered destroyed by the  
 63 Department of Public Health or a local director of health, or an  
 64 authorized agent thereof, (2) adulterated, as defined in section 21a-101,  
 65 or (3) not fit for human consumption.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2012	New section
Sec. 2	October 1, 2012	52-557l

**INS**      *Joint Favorable Subst.*

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The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

The bill has no state or municipal fiscal impact as it concerns private commercial risk insurance coverage.

***The Out Years***

***State Impact:*** None

***Municipal Impact:*** None

**OLR Bill Analysis**

**sHB 5143**

**AN ACT CONCERNING INSURANCE COVERAGE FOR PERISHABLE FOOD DONATED BY CERTAIN FOOD ESTABLISHMENTS.**

**SUMMARY:**

This bill requires insurers that sell commercial risk insurance policies or riders that cover food spoilage to cover to the same extent donations of perishable food to temporary emergency shelters, under certain circumstances and subject to several limitations. The requirement applies to a policy or rider delivered, issued for delivery, renewed, amended, or continued in this state for a class III or class IV food establishment under the public health code (e.g., grocery stores and restaurants).

The bill exempts a food establishment that makes a donation under these provisions from liability for civil damages or criminal penalties resulting from the food's nature, age, condition, or packaging, unless it is established that (1) the donor, at the time of making the donation, knew or had reasonable grounds to believe that the food was (a) embargoed or ordered destroyed by the Department of Public Health (DPH), a local health director, or are authorized agent, (b) adulterated, or (c) not fit for human consumption or (2) the temporary emergency shelter knew or had reasonable grounds to believe these things at the time of distributing the food.

To the extent a tax deduction or tax credit is allowed under state law for such donations, no food establishment that donates perishable food under the bill and receives payment from an insurer for the donation may claim the tax deduction or credit for the amount of the payment.

EFFECTIVE DATE: October 1, 2012

**INSURANCE COVERAGE OF DONATED FOOD**

Under the bill, any insurer that delivers, issues for delivery, renews, amends, or continues a commercial risk insurance policy or rider in the state that covers the spoilage of perishable food must provide coverage to the same extent for perishable food that is donated to a temporary emergency shelter operated or supervised by a municipality or the state during a state of emergency for a limited time period, if:

1. the governor proclaims a state of emergency;
2. as a result or as part of the emergency, an electrical outage or interruption of electrical service to the insured has occurred and the insured's electric supplier forecasts that the outage will last longer than the period prescribed by DPH, the local health director, or are authorized agent for the safe handling of perishable food; and
3. the food is donated while it is still safe to handle.

The food establishment may not donate the food if (1) DPH, the local health director, or are authorized agent has embargoed or ordered the food destroyed; (2) the Department of Consumer Protection or its authorized agent has deemed the food to be adulterated; or (3) the food is not fit for human consumption.

**COMMITTEE ACTION**

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 16 Nay 3 (03/15/2012)