
OLR Bill Analysis

sHB 5146 (as amended by House "A")*

AN ACT CONCERNING FOOD DONATION.

SUMMARY

This bill requires insurers that deliver, issue, renew, amend, or continue a commercial risk insurance policy or rider in Connecticut that covers canned or perishable (i.e., fresh, frozen, or refrigerated) food spoilage to provide coverage to the same extent for these foods that are donated by a supermarket or food relief organization (FRO). It prohibits a FRO or supermarket from claiming an otherwise allowable tax deduction or credit for donations in an amount equal to any insurance reimbursement it receives for the food.

The bill also (1) expands current law's criminal and civil liability protections for entities donating food to also cover FRO and supermarket donations and (2) creates a task force to study implementing an in-state supermarket food donation program.

Lastly, it makes technical and conforming changes.

*House Amendment "A" (1) eliminates a provision in the underlying bill requiring supermarkets to adopt a written food donation program policy aimed at reducing food waste and food insecurity and (2) changes the task force's membership and appointing authorities.

EFFECTIVE DATE: October 1, 2022, except the task force provision is effective upon passage.

COVERED ENTITIES

Under the bill, "supermarkets" are:

1. retail food stores with at least 3,500 square feet of retail space and
2. large discount department stores that (a) sell a complete line of

grocery merchandise, including those that continuously offer fresh produce and meats, poultry, seafood, nuts, and dairy products; (b) have a bakery; (c) sell prepared foods; and (d) either sell on-premise motor fuel or have an electric vehicle charging station or registered weighing and measuring device.

“FROs” are public or private entities, including community-based organizations, food banks, food pantries, and soup kitchens that provide free nutritional assistance to needy individuals in Connecticut on a nonprofit basis and in the ordinary course of business or operations.

LIABILITY PROTECTIONS

Existing law provides criminal and civil liability protection to anyone (including food growers, processors, distributors, and retailers) who donates food for use by, or distribution amongst, nonprofits, political subdivisions of the state, or senior centers. It also protects these distributing entities if they distribute food for free or for a nominal fee. The immunity applies to claims related to the donated food’s nature, age, condition, or packaging unless at the time of donation or distribution the donor or distributor knew or had reasonable grounds to believe that the food was adulterated (as defined in the state’s Food, Drug, and Cosmetic Act) or unfit for human consumption.

The bill specifically expands the covered entities to include FROs and supermarkets that donate canned or perishable food, but it also specifies that the immunity for these entities does not apply if they knew or had reasonable grounds to believe that state or local health officials embargoed the donated food or ordered it destroyed. (The federal Bill Emerson Good Samaritan Food Donation Act provides similar protection for most food donors and applies when states do not adopt stronger liability protections (42 U.S.C. § 1791).)

FOOD DONATION PROGRAM TASK FORCE

The bill creates a 13-member task force to examine and make recommendations about establishing an in-state supermarket food donation program that (1) alleviates hunger, reduces food waste, and

supports the operations of FROs providing nutritional assistance and (2) ensures that all food donated is safe and fit for human consumption.

The members are the agriculture, consumer protection, and public health commissioners, or their designees, and the following individuals:

1. a representative of supermarkets operating in Connecticut, appointed by the Senate majority leader;
2. a representative of class 3 or 4 food establishments (generally, operations that make and prepare hot food) operating in Connecticut, appointed by the House majority leader;
3. six representatives of FROs providing nutritional assistance in Connecticut, (a) two each appointed by the House and Senate majority leaders and (b) one each appointed by the House and Senate minority leaders; and
4. two members of the legislature, one each appointed by the House speaker and Senate president.

The House speaker and Senate president must select the task force chairpersons from among the members. The respective appointing authority fills any vacancies. The General Law Committee's administrative staff serve as the task force's staff.

The task force must submit its findings and recommendations to the General Law Committee by January 1, 2023. It terminates on that date or when it submits the report, whichever is later.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 17 Nay 1 (03/15/2022)