
OLR Bill Analysis

sHB 5146

AN ACT CONCERNING FOOD DONATION.

SUMMARY

By January 1, 2023, this bill requires supermarkets to adopt a written food donation program policy aimed at reducing food waste and food insecurity and partnering with food relief organizations (FROs) to redistribute excess edible food with significant nutritional value (§ 2). The bill also expands current law's criminal and civil liability protections for entities donating food to encompass FRO and supermarket donations (§ 3).

Additionally, the bill requires insurers that deliver, issue, renew, amend, or continue a commercial risk insurance policy or rider in Connecticut which provides coverage for 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 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. (§ 1).

The bill also creates a task force to study implementing an in-state supermarket food donation program (§ 4).

Lastly, it makes technical and conforming changes.

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

COVERED ENTITIES AND PRODUCTS

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.

WRITTEN SUPERMARKET POLICIES

By January 1, 2023, Connecticut supermarkets must adopt a written food donation program policy that:

1. is designed to reduce their food waste, support FROs’ operations, and ensure that all food donated under the policy is safe and fit for human consumption;
2. provides for supermarket management’s and employees’ education about the food distribution process and its relationship to food insecurity and waste;
3. calls for the supermarket to make reasonable efforts to identify and partner with at least two FROs to donate excess edible food; and
4. includes a framework formalizing and streamlining the supermarket's store-level protocols on donated food and a process ensuring that the donations have significant nutritional value.

The bill specifies that supermarkets under common ownership may adopt a common written policy.

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. Existing law 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 nine-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, jointly appointed by the General Law Committee chairpersons:

1. a representative of supermarkets operating in Connecticut,
2. a representative of class 3 or 4 food establishments (generally, operations that make and prepare hot food) operating in Connecticut,
3. two representatives of FROs providing nutritional assistance in

Connecticut, and

4. two members of the legislature.

The General Law Committee chairs must select the task force chairpersons from among the members and fill any vacancies. The 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 the date it submits the report, whichever is later.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 17 Nay 1 (03/15/2022)