



House of Representatives

File No. 576

General Assembly

February Session, 2022 **(Reprint of File No. 194)**

Substitute House Bill No. 5146
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
April 21, 2022

AN ACT CONCERNING FOOD DONATION.

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

1 Section 1. (NEW) (*Effective October 1, 2022*) (a) For the purposes of this
2 section:

3 (1) "Canned food" means any food that has been commercially
4 processed, prepared and hermetically sealed for human consumption,
5 including, but not limited to, a canned or preserved fruit or vegetable;

6 (2) "Food relief organization" means a public or private entity,
7 including, but not limited to, a community-based organization, food
8 bank, food pantry or soup kitchen, that, on a nonprofit basis and in the
9 ordinary course of such entity's business or operations, provides
10 nutritional assistance to individuals in this state who are in need of such
11 assistance, free of charge;

12 (3) "Perishable food" means any food, including, but not limited to, a
13 fresh, frozen or refrigerated bakery product, dairy product, fruit,

14 packaged meat, packaged seafood or vegetable, that may spoil or
15 otherwise become unfit for human consumption because of its nature,
16 physical condition or type; and

17 (4) "Supermarket" means (A) a retail food store occupying a total
18 retail sales area of at least three thousand five hundred square feet, or
19 (B) a large discount department store that (i) sells a complete line of
20 grocery merchandise, (ii) continuously offers for sale fresh produce and
21 meats, poultry, seafood, nuts and dairy products, (iii) maintains a
22 bakery, as defined in section 21a-151 of the general statutes, (iv) is
23 locally permitted as a class 3 food establishment, as defined in section
24 19a-36g of the general statutes, and (v) has registered at least one
25 weighing or measuring device pursuant to subsection (b) of section 43-
26 3 of the general statutes.

27 (b) An insurer that delivers, issues for delivery, renews, amends or
28 continues in this state a commercial risk insurance policy or rider to such
29 policy which provides coverage for the spoilage of canned food or
30 perishable food shall provide coverage to the same extent for canned
31 food or perishable food that is donated by a food relief organization or
32 a supermarket.

33 (c) To the extent a tax deduction or tax credit is allowed under any
34 provision of the general statutes for a donation described in subsection
35 (b) of this section, no supermarket that donates to a food relief
36 organization any canned food or perishable food and receives payment
37 from an insurer for such canned food or perishable food shall avail itself
38 of a tax deduction or tax credit for the amount of such payment.

39 Sec. 2. Section 52-557l of the general statutes is repealed and the
40 following is substituted in lieu thereof (*Effective October 1, 2022*):

41 (a) Notwithstanding any provision of the general statutes, any
42 person, including but not limited to a seller, farmer, processor,
43 distributor, wholesaler or retailer of food, who donates an item of food
44 for use or distribution by a nonprofit organization, nonprofit
45 corporation, political subdivision of the state or senior center, and any

46 nonprofit organization or nonprofit corporation that collects donated
47 food and distributes such food to other nonprofit organizations or
48 nonprofit corporations or a political subdivision of the state or senior
49 center free of charge or for a nominal fee, shall not be liable for civil
50 damages or criminal penalties resulting from the nature, age, condition
51 or packaging of the food, unless it is established that the donor, at the
52 time of making the donation, or the nonprofit organization or nonprofit
53 corporation, at the time of distributing the food, knew or had reasonable
54 grounds to believe that the food was (1) adulterated, as [defined]
55 described in section 21a-101, or (2) not fit for human consumption.

56 (b) Notwithstanding any provision of the general statutes, any food
57 establishment classified as a class 3 or class 4 food establishment
58 pursuant to regulations adopted under section 19a-36h, that donates
59 perishable food for use or distribution by a temporary emergency
60 shelter in accordance with the provisions set forth in section 38a-313b
61 shall not be liable for civil damages or criminal penalties resulting from
62 the nature, age, condition or packaging of the food, unless it is
63 established that the donor, at the time of making the donation, knew or
64 had reasonable grounds to believe that the food was (1) embargoed or
65 ordered destroyed by the Department of Public Health or a local
66 director of health, or an authorized agent thereof, (2) adulterated, as
67 [defined] described in section 21a-101, or (3) not fit for human
68 consumption.

69 (c) Notwithstanding any provision of the general statutes, any food
70 relief organization or supermarket that donates any canned food or
71 perishable food shall not be liable for civil damages or criminal penalties
72 resulting from the nature, age, condition or packaging of such canned
73 food or perishable food, unless it is established that such food relief
74 organization or supermarket, at the time such food relief organization
75 or supermarket donated such canned food or perishable food, knew or
76 had reasonable grounds to believe that such canned food or perishable
77 food was (1) embargoed or ordered destroyed by the Department of
78 Public Health or a local director of health, or an authorized agent
79 thereof, (2) adulterated, as described in section 21a-101, or (3) not fit for

80 human consumption. For the purposes of this subsection, "canned
81 food", "food relief organization", "perishable food" and "supermarket"
82 have the same meanings as provided in section 1 of this act.

83 Sec. 3. (*Effective from passage*) (a) There is established a task force to
84 study implementation of a supermarket food donation program in this
85 state. The task force shall examine, and make recommendations
86 concerning, establishing a supermarket food donation program in this
87 state that (1) alleviates hunger, reduces food waste and supports the
88 operations of food relief organizations, as defined in subsection (a) of
89 section 1 of this act, and (2) ensures that all food donated as part of such
90 program is safe and fit for human consumption.

91 (b) The task force shall consist of the following members:

92 (1) One appointed by the speaker of the House of Representatives,
93 who shall be a member of the General Assembly;

94 (2) One appointed by the president pro tempore of the Senate, who
95 shall be a member of the General Assembly;

96 (3) Three appointed by the majority leader of the House of
97 Representatives, one of whom shall be a representative of food
98 establishments doing business in this state that are classified as class 3
99 or class 4 food establishments under regulations adopted by the
100 Commissioner of Public Health pursuant to section 19a-36h of the
101 general statutes and two of whom shall be representatives of food relief
102 organizations, as defined in subsection (a) of section 1 of this act;

103 (4) Three appointed by the majority leader of the Senate, one of whom
104 shall be a representative of supermarkets doing business in this state
105 and two of whom shall be representatives of food relief organizations,
106 as defined in subsection (a) of section 1 of this act;

107 (5) One appointed by the minority leader of the House of
108 Representatives, who shall be a representative of a food relief
109 organization, as defined in subsection (a) of section 1 of this act;

110 (6) One appointed by the minority leader of the Senate, who shall be
111 a representative of a food relief organization, as defined in subsection
112 (a) of section 1 of this act;

113 (7) The Commissioner of Agriculture, or the commissioner's
114 designee;

115 (8) The Commissioner of Consumer Protection, or the commissioner's
116 designee; and

117 (9) The Commissioner of Public Health, or the commissioner's
118 designee.

119 (c) Any vacancy shall be filled by the appointing authority.

120 (d) The speaker of the House of Representatives and the president
121 pro tempore of the Senate shall select the chairpersons of the task force
122 from among the members of the task force.

123 (e) The administrative staff of the joint standing committee of the
124 General Assembly having cognizance of matters relating to general law
125 shall serve as administrative staff of the task force.

126 (f) Not later than January 1, 2023, the task force shall submit a report
127 on its findings and recommendations to the joint standing committee of
128 the General Assembly having cognizance of matters relating to general
129 law, in accordance with the provisions of section 11-4a of the general
130 statutes. The task force shall terminate on the date that it submits such
131 report or January 1, 2023, whichever is later.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2022</i>	New section
Sec. 2	<i>October 1, 2022</i>	52-557l
Sec. 3	<i>from passage</i>	New section

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.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill establishes a task force to study the implementation of a supermarket food donation program in the state which results in no fiscal impact. This task force has no fiscal impact because PA 17-236 prohibits transportation allowances for task force members.

The bill also makes various food donation changes resulting in no fiscal impact to the state.

House "A" makes various task force and technical changes resulting in no fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

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)