HOUSE DOCKET, NO. 1192 FILED ON: 2/2/2021

HOUSE . . . . . No. 2327

The Commonwealth of Massachusetts

PRESENTED BY:

Hannah Kane

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act decreasing food waste by standardizing the date labeling of food.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Hannah Kane	*11th Worcester*	*2/2/2021*
Carolyn C. Dykema	*8th Middlesex*	*2/12/2021*
Colleen M. Garry	*36th Middlesex*	*2/16/2021*
Susannah M. Whipps	*2nd Franklin*	*2/18/2021*
Jack Patrick Lewis	*7th Middlesex*	*2/18/2021*
Lindsay N. Sabadosa	*1st Hampshire*	*2/18/2021*
Joanne M. Comerford	*Hampshire, Franklin and Worcester*	*2/19/2021*
Angelo L. D'Emilia	*8th Plymouth*	*2/19/2021*
John Barrett, III	*1st Berkshire*	*2/22/2021*
Tricia Farley-Bouvier	*3rd Berkshire*	*2/22/2021*
Lori A. Ehrlich	*8th Essex*	*2/24/2021*
Mathew J. Muratore	*1st Plymouth*	*2/24/2021*
Paul A. Schmid, III	*8th Bristol*	*2/25/2021*
David Allen Robertson	*19th Middlesex*	*2/25/2021*
Kimberly N. Ferguson	*1st Worcester*	*2/26/2021*
Mary S. Keefe	*15th Worcester*	*4/1/2021*
Natalie M. Blais	*1st Franklin*	*6/4/2021*
Natalie M. Higgins	*4th Worcester*	*7/22/2021*

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HOUSE . . . . . No. 2327

By Mrs. Kane of Shrewsbury, a petition (accompanied by bill, House, No. 2327) of Hannah Kane and others relative to date labels on food packaging of products. Public Health.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *811* OF 2019-2020.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act decreasing food waste by standardizing the date labeling of food.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 94 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after section 329 the following new section:-

Section 330. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Commissioner", the commissioner of public health.

"Food labeler", the producer, manufacturer, distributor, or retailer that places a date label on food packaging of a product.

"Quality date", a date voluntarily printed on food packaging that is intended to communicate to consumers the date after which the quality of the product may begin to deteriorate, even as the product may still be acceptable for consumption.

"Ready-to-eat product", with respect to a product under the federal jurisdiction of the U.S. Secretary of Agriculture, a product that is in a form that is edible without additional preparation to achieve food safety and may receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes and is a poultry product, as defined in section 4 of the Poultry Products Inspection Act (21 U.S.C. 453), a meat food product, as defined in section 1 of the Federal Meat Inspection Act (21 U.S.C. 601), or an egg product, as defined in section 4 of the Egg Products Inspection Act (21 U.S.C. 1033). With respect to a food (as defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321)) under the federal jurisdiction of the U.S. Secretary of Health and Human Services, a food that is normally eaten in its raw state or any other food, including a processed food, for which it is reasonably foreseeable that the food will be eaten without further processing that would significantly minimize biological hazards.

"Safety date", a date printed on food packaging of a ready-to-eat product, which signifies the end of the estimated period of shelf life under any stated storage conditions, after which the product may pose a health safety risk.

(b) If a food labeler includes a quality date on food packaging, the label shall use the uniform quality date label phrase "best if used by", unless and until the commissioner specifies through rulemaking another uniform phrase to be used. The decision to include a quality date on food packaging shall be at the discretion of the food labeler.

(c) The label of a ready-to-eat product shall include a safety date that is immediately preceded by the uniform safety date label phrase “expires on”, unless and until the commissioner specifies through rulemaking another uniform phrase to be used, if the ready-to-eat product: (1) meets the criteria described in subsection (d) and is not exempt under paragraph (2) of subsection (e); or (2) is listed in accordance with paragraph (1) of subsection (e).

(d) The commissioner shall describe criteria that determine what ready-to-eat products may have a high level of risk associated with consumption after a certain date, including those that may be high or very high risk for Listeria monocytogenes or other contaminants or pathogens causing foodborne illness.

(e) The commissioner may, with respect to the products under the commissioner’s jurisdiction: (1) list additional ready-to-eat products that are high risk, but do not meet the criteria described in subsection (f); or (2) exempt specific ready-to-eat products that meet the criteria described in subsection (f), but do not actually pose a high level of risk associated with consumption after a certain date.

(f) Not less than once every 4 years, the commissioner shall review and, as the commissioner determines appropriate, shall update: (1) the criteria described in subsection (f); and (2) the list and exemptions described in subsection (g).

(g) The quality date and safety date and immediately adjacent uniform quality date label phrase or safety date label phrase shall be: (1) in single easy-to-read type style using upper and lower case letters in the standard form; (2) located in a conspicuous place on the package of the food; and (3) where applicable, stated in terms of day and month and, as appropriate, year.

(h) The commissioner shall establish guidance for food labelers on how to determine quality dates and safety dates for food products. Not later than 1 year after the date of enactment of this act, the commissioner shall provide consumer education and outreach on the meaning of quality date and safety date food labels.

(i) No one shall prohibit the sale, donation, or use of any product after the quality date for the product has passed, but nothing in this section shall be construed to prohibit any one from establishing or continuing in effect any requirement that prohibits the sale or donation of foods based on passage of the safety date. Only safety-based restrictions may be imposed on the sale, donation, or use of any product after the quality date has passed. No one shall establish or continue in effect any requirement that relates to the inclusion in food labeling of a quality date or a safety date that is different from or in addition to, or that is otherwise not identical with, the requirements under this section.

(j) Nothing in this section shall be construed to prohibit or restrict the use of time-temperature indicator labels or similar technology that is consistent with the requirements of this section.

(k) This section shall apply only with respect to food products that are labeled on or after a date that is 2 years after the date of enactment of this act.

SECTION 2. Section 187 of chapter 94 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after the twenty-seventh paragraph the following paragraph:-

“Fifteenth, if it does not bear a label in accordance with section 330 of this chapter.”