

**SENATE . . . . . No. 1390**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Edward J. Kennedy***

*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:	
<i>Edward J. Kennedy</i>	<i>First Middlesex</i>	
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>1/31/2023</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>4/11/2023</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>7/10/2023</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	<i>7/26/2023</i>

**SENATE . . . . . No. 1390**

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By Mr. Kennedy, a petition (accompanied by bill, Senate, No. 1390) of Edward J. Kennedy and Michael J. Barrett for legislation to decrease food waste by standardizing the date labeling of food. Public Health.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 567 OF 2021-2022.]

**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-Third General Court  
(2023-2024)**  
\_\_\_\_\_

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:*

1           SECTION 1. Chapter 94 of the General Laws, as appearing in the 2020 Official Edition,  
2 is hereby amended by inserting after Section 329 the following new section:-

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

5           “Commissioner”, the commissioner of public health.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

68 SECTION 2. Section 187 of Chapter 94 of the General Laws, as appearing in the 2020  
69 Official Edition, is hereby amended by inserting after the twenty-seventh paragraph the  
70 following paragraph:-

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