

**JOINT COMMITTEE ON THE JUDICIARY
BILL SUMMARY**

BILL NO. H.3154

TITLE: An Act encouraging the donation of food to persons in need

SPONSOR: Rep. Hannah Kane

COSPONSORS:

Rep. James Arena-DeRosa	Rep. Kevin Honan
Rep. Brian Ashe	Rep. Michael Kushmerek
Rep. Michelle Badger	Rep. Adrian Madaro
Rep. Christine Barber	Rep. Christopher Markey
Rep. Natalie Blais	Rep. Samantha Montaña
Sen. Joanne Comerford	Rep. John Moran
Rep. Mindy Domb	Rep. Lindsay Sabadosa
Rep. Rodney Elliott	Rep. Danillo Sena
Rep. Kimberly Ferguson	Sen. Bruce Tarr
Rep. Dennis Gallagher	Rep. Steven Ultrino
Rep. Colleen Garry	Rep. Erika Uytterhoeven
Rep. Natalie Higgins	Rep. Steven Xiarhos
	Rep. Jonathan Zlotnik

HEARING DATE: April 8, 2025

PRIOR HISTORY: 2023-2024, H1584
2021-2022, H1702
2019-2020, H1475
2017-2018, H3327

SIMILAR BILL: S.1141 (E. Kennedy), S.1043 (Comerford)

CURRENT LAW: Section 328 of Chapter 94 of the General Laws states that a donor cannot be held liable for injuries arising out of the condition of donated food, including expired open-dated food, if the donation is to a nonprofit corporation for distribution or serving without charge or only at a charge sufficient to cover the cost of handling the food. Donors may be held liable if, at the time of the donation, the food is misbranded or adulterated or manufactured, handled or stored in violation of Department of Public Health regulations or if the injury is the result by gross negligence, recklessness or intentional misconduct of the donor or a person under the donor's control.

The section also states that a nonprofit corporation used for food distribution or service cannot be held liable for injuries arising out of the condition of the food distributed or served if it is distributed or served without charge or only at a charge sufficient to cover the cost of handling food. The nonprofit may be held liable if, at the time of distribution or service, the food is misbranded or adulterated or manufactured, handled or stored in violation of Department of Public Health regulations or if the injury is the result by gross negligence, recklessness or intentional misconduct of the nonprofit or a person under the nonprofit's control. The nonprofit must also be inspected and in compliance with all inspections or permit requirements of the department and board of health in the city or town where the food is to be distributed or served. Food prepared in private homes for donation to a nonprofit may not be subject to licensure or regulation.

Chapter 63 of the General Laws governs the taxation of corporations. The chapter includes tax credit programs for dairy farmers, life science business and movie businesses.

BILL SUMMARY:

Section 1 of the legislation adds a new section to Chapter 63 of the General Laws creating a tax credit for food donations. It first defines a "food business" which encompasses farms, restaurants, food departments and food stores and a "nonprofit food distribution organization" which is a tax-exempt organization with the principal purpose of providing food to the needy or selling food at a charge sufficient only to cover the cost of handling such food. Food businesses that donate food or crops to nonprofit food distribution organizations are given a non-refundable tax credit equal to the fair market value of the food not to exceed \$25,000 annually. This credit is permitted only for donations of food without profit and within the commonwealth. It also outlines what steps and forms are required to claim this tax credit.

Section 2. Updates the liability protections of Section 328 of Chapter 94 to include farms, restaurants, food departments and food stores. Also permits donations from these entities and individuals to either through a nonprofit corporation or be donated directly to another person for consumption by that person. A stipulation is also added that these donations may not include alcoholic beverages, marijuana products or dietary supplements. The same standards for inspection and permitting are extended to

the new entities included in this section. It maintains the existing exemptions for food that is misbranded, violative of DPH regulations or causes injury as a result of gross negligence, recklessness or intentional misconduct.