

HOUSE No. 3611

The Commonwealth of Massachusetts

PRESENTED BY:

Shawn Dooley

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 requiring labeling of allergens in prepared foods.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Shawn Dooley

9th Norfolk

Michael J. Soter

8th Worcester

HOUSE No. 3611

By Mr. Dooley of Norfolk, a petition (accompanied by bill, House, No. 3611) of Shawn Dooley and Michael J. Soter relative to labeling of allergens in prepared foods. Public Health.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act requiring labeling of allergens in prepared foods.

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 111 of the General Laws is hereby amended by adding the
2 following section:-

3 Section 237. (a) For the purposes of this section, the following terms shall have the
4 following meanings, unless the context clearly requires otherwise:-

5 “Prepared Foods”, (1) food sold in a heated state or heated by the seller; or (2) two or
6 more food ingredients mixed or combined by the seller for sale as a single item, but not including
7 food that is only cut, repackaged or pasteurized by the seller, and eggs, fish, meat, poultry and
8 foods containing these raw animal foods requiring cooking by the consumer as recommended by
9 the Food and Drug Administration in Chapter 3, part 401.11 of its Food Code so as to prevent
10 food borne illnesses; or (3) food sold with eating utensils provided by the seller including plates,
11 knives, fork, spoons, glasses, cups, napkins or straws; provided, that a plate does not include a
12 container or packaging used to transport the food; and provided further, that Prepared food does

13 not include food sold by a seller whose proper primary North American Industry Classification
14 System classification is manufacturing in section 311 of said system and food sold in an
15 unheated state by weight or volume as a single item.

16 “Major Allergen”, (1) milk, egg, fish, Crustacean shellfish, tree nuts, wheat, peanuts and
17 soybeans; or (2) any food ingredient that contains protein derived from a food specified in clause
18 (1) , except any highly refined oil derived from a food specified in clause (1) and any ingredient
19 derived from such highly refined oil.

20 (b) All prepared foods sold in the commonwealth shall be clearly and conspicuously
21 labeled to show which, if any, major allergens are present in said food and in its ingredients,
22 flavoring, coloring or other additives therein.

23 (c) In the case of a tree nut, fish or Crustacean shellfish, the name of the specific type of
24 nut or species of fish or Crustacean shellfish shall be clearly displayed on the label required
25 pursuant to subsection (b)

26 (d) Any person may petition the commissioner to exempt a food ingredient described in
27 from the allergen labeling requirements of subsection (b). The commissioner shall approve or
28 deny such petition within 180 days of receipt of the petition or the petition shall be deemed
29 denied, unless an extension of time is mutually agreed upon by the commissioner and the
30 petitioner. The burden shall be on the petitioner to provide scientific evidence (including the
31 analytical method used to produce the evidence) that demonstrates that such food ingredient, as
32 derived by the method specified in the petition, does not cause an allergic response that poses a
33 risk to human health. The commissioner shall promptly post to a public site all petitions received

34 under this paragraph within 14 days of receipt and the commissioner shall promptly post the
35 commissioner's response to each.

36 (e) Any food, ingredient, flavoring, coloring, or other additive determined not to pose a
37 risk to human health and exempted from federal allergen labeling laws pursuant to 21 U.S.C §
38 343(w) shall be exempt from the provisions of this section.