

SENATE No. 1390

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>

SENATE No. 1390

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.

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

The Commonwealth of Massachusetts

**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.”