

SENATE No. 1495

The Commonwealth of Massachusetts

PRESENTED BY:

Joseph A. Boncore

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 relative to the charitable donation of wholesome food.

PETITION OF:

NAME:

Joseph A. Boncore

DISTRICT/ADDRESS:

First Suffolk and Middlesex

SENATE No. 1495

By Mr. Boncore, a petition (accompanied by bill, Senate, No. 1495) of Joseph A. Boncore for legislation relative to the charitable donation of wholesome food. Revenue.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to the charitable donation of wholesome 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. Section 6 of chapter 62 of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by inserting after subsection (s) the following new
3 subsection:-

4 (t)(1) As used in this subsection, the following words shall have the following meaning:

5 “Apparently wholesome food”, food that meets all quality and labeling standards
6 imposed by Federal, State, and local laws and regulations even though the food may not be
7 readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.as
8 defined by section 22(b)(2) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C.
9 1791 (b)(2)).

10 (2) In any taxable year in which a taxpayer makes a charitable contribution of apparently
11 wholesome food from any trade or business of the taxpayer, the taxpayer shall be allowed a
12 credit against the liability imposed by this chapter equal to fifteen percent of the fair market

13 value of said contribution. In the case of a taxpayer whose business is not conducted entirely
14 within the commonwealth, the amount of the credit must be apportioned, as provided by law, and
15 the credit calculated based on the apportioned amount. If the amount of the credit allowed
16 hereunder exceeds the taxpayer's liability, the commissioner shall treat such excess as an
17 overpayment and shall pay the taxpayer the amount of such excess, without interest.

18 SECTION 2. Chapter 63 of the General Laws, as so appearing, is hereby amended by
19 inserting after section 38FF the following new section:-

20 Section 38GG. (a) As used in this section, the following words shall have the following
21 meaning:

22 "Apparently wholesome food", food that meets all quality and labeling standards
23 imposed by Federal, State, and local laws and regulations even though the food may not be
24 readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.as
25 defined by section 22(b)(2) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C.
26 1791 (b)(2)).

27 (b) In any taxable year in which a business corporation makes a charitable contribution of
28 apparently wholesome food from any trade or business of the taxpayer, the corporation shall be
29 allowed a credit against the excise imposed upon it under this chapter equal to fifteen percent of
30 the fair market value of said contribution. In the case of a corporation whose business is not
31 conducted entirely within the commonwealth, the amount of the credit must be apportioned, as
32 provided by law, and the credit calculated based on the apportioned amount. If the amount of the
33 credit allowed hereunder exceeds the corporation's liability, the commissioner shall treat such

34 excess as an overpayment and shall pay the corporation the amount of such excess, without
35 interest.

36 SECTION 3. This act shall take effect upon its passage.