
[Senate, January 4, 1983 — Substituted by amendment by the Senate (Boverini) as a new text of engrossed Bill, House, No. 1283.]

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-two.

1 SECTION 1. Section 1 of chapter 94 of the General Laws is
2 hereby amended by striking out the paragraph defining “food”,
3 as amended by section 1 of chapter 665 of the acts of 1956,
4 and inserting in place thereof the following paragraph: —

5 “Food”, in sections one hundred and eighteen to one hun-
6 dred and fifty-one, inclusive, one hundred and fifty-four to
7 one hundred and fifty-six, inclusive, one hundred and eighty-
8 one, one hundred and eighty-six to one hundred and ninety-
9 six, inclusive, three hundred and five C, and three hundred
10 and twenty-eight, includes all articles, whether simple, mixed
11 or compound, used for food or drink, confectionery or condi-
12 ment, by man or animal.

1 SECTION 2. Said chapter 94 is hereby further amended by
2 adding after section 327 the following section: —

3 *Section 328.* No person who donates food, including open-
4 dated food whose date has passed, to a non-profit corporation
5 for distribution or servicing by such non-profit corporation
6 shall be liable for civil damages for any injury arising out of
7 the condition of such food provided that at the time of dona-
8 tion such food is not misbranded and is not adulterated and
9 has not been manufactured, processed, prepared, handled or
10 stored in violation of applicable regulations of the department
11 of public health, and provided further that such injury is not
12 the result of gross negligence, recklessness or intentional mis-
13 conduct of the donor or any person employed by or under
14 the control of the donor.

15 No non-profit corporation which distributes or serves food,
16 including open-dated food whose date has passed, shall be liable
17 for civil damages for any injury arising out of the condition
18 of such food provided that at the time of distribution or serv-

19 ing such food is not misbranded and is not adulterated and
20 has not been manufactured, processed, prepared, handled or
21 stored in violation of applicable regulations of the department
22 of public health, and provided, further, that such injury is not
23 the result of gross negligence, recklessness or intentional mis-
24 conduct of the non-profit corporation or any person employed
25 by or under the control of the non-profit corporation.