

PA12-123

HB5143

House	5713-5731	19
Insurance	399-406, 433-441	17
<u>Senate</u>	<u>4502, 4504-4505</u>	<u>3</u>
		39

**JOINT
STANDING
COMMITTEE
HEARINGS**

**INSURANCE AND
REAL ESTATE
PART 2
360 – 637**

2012

29
ch/gbr INSURANCE AND REAL ESTATE
COMMITTEE

February 21, 2012
1:00 P.M.

they're not at the table, why would you let one team determine the schedule for everyone else.

They're -- they're a wonderful profession, gastroenterology, but they're a specialty. There are other tests now that are -- that are coming on board and that have been shown to be valid that are -- that are really outside of their expertise and we think these other groups should be co-partners in that.

Thank you.

REP. MEGNA: Thank you.

Are there any questions?

Thank you very much, Mr. Boomer.

Move on to House Bill 5143. Susan Giacalone.

SUSAN GIACALONE: Good afternoon, Representative Megna, Senator Crisco and the members of the Insurance and Real Estate Committee. For the record my name is Susan Giacalone and I'm here on behalf of the Insurance Association of Connecticut. We have submitted written comments on House Bill 5143 so I'll try to summarize my comments and I think I might be your last person again hearing.

While the insurance industry understands the intent behind this bill, we are opposed to it because it actually changes the fundamental nature of insurance. Insurance is about covering an actual event that results in actual damages or losses. This bill changes it all on its face and is asking us to provide coverage for an in -- anticipated loss from an event that may not even be covered under the

policy for a loss that may never occur.

I mean that just changes the whole nature of how we do insurance. It -- it just changes the whole scope of what we do as an industry and -- and there's a whole host of questions that, you know, as the bill is drafted, that are raised. I mean the real fundamental thing of insurance is being changed by the face of this bill and we just have to be opposed to it.

Other than I think elaborate more but like I said I've given you a whole bunch of stuff in our testimony and -- and it really boils down to that changing the nature of insurance.

REP. MEGNA: But also a basic principle is to mitigate the loss and I mean it seems like it -- although the insurer's going to probably pay the value of the food, that there is a mitigation. I mean they have a contractual obligation to mitigate whatever damages there are to the -- the insured property. I mean so you could also say that that's a basic principle of the policy for the policyholder.

SUSAN GIACALONE: But we don't cover the mitigated costs, what it costs you to mitigate your -- that's not -- that's not what insurance covers. What this is saying is there's two triggers under our -- right now the trigger under our insurance policy is that you have an event and you sustain actual damages. Those are the triggers.

Under this bill the triggers are there's got to be a declaration of emergency and a prediction of a power outage. Then we have -- then the triggers -- then we have to provide coverage.

REP. MEGNA: But assuming there's --

SUSAN GIACALONE: The mitigation is if you have a hole in your roof, you're required to cover the hole so no further damage can be done but we're not covering the cost of mitigating. For example, we're not covering the cost of you shoveling the snow off the roof; we're covering the actual damages. And so we're not covering the mitigation. This is saying we're covering the damages whether they sustain them or not and that's not what we do.

REP. MEGNA: But normally you would cover mitigation, In this sense it doesn't make any sense because they're donating the food so there's really I mean no benefit by their mitigation but that's also a basic principle of a -- a policyholder.

Representative Schofield do you have any questions?

REP. SCHOFIELD: Thank you, Mr. Chair.

Actually a comment that you made does make me recognize that the way this is written could be certainly fixed to clarify that the -- the triggers were meant to be -- that the electrical interruption does exist, not that it's just forecast but that there is indeed a real electrical outage and what's predicted is that it will continue for the remaining hours of the 48 hour time period that BPH prescribes for keeping food cold before you have to toss it out.

So does that help with your --?

SUSAN GIACALONE: It -- it doesn't change it. It's

still saying that we have to provide coverage. It doesn't get into the whole idea whether the person -- I mean the type of coverage under a CGL policy is if there is actual physical interruption at the premises -- the property. Spoilage coverage is (inaudible), an additional policy for interruption somewhere else. This is now changing that and saying if there's an interruption of coverage -- power coverage -- you're going to get the spoilage coverage. So now you're providing a benefit to someone who maybe never even had that coverage because you're saying by law if those two things happen we have to give you spoilage coverage. And then it's an anticipated loss and don't actually have it.

REP. SCHOFIELD: Clearly is intended only to -- and again if it's not written that way it's certainly something that can be fixed -- it's intended only for people who have the right or for spoilage coverage. If you haven't bought that, obviously you're not insured for that loss. And I believe the way that this handles that is to say that to the extent that you have coverage for spoilage, that -- that's, you know, something that the LCO can certainly clarify if that's not clarified to your -- to the extent that you agree on it.

But I think the point here is in the, you know, snow storm that we just had in October it was very clear power was not going to be restored within 48 hours. At hour 47 the grocers would have been happy to donate their food to the shelter -- to the emergency shelter and the emergency shelters might not have accepted all of it but that portion that they donated they would have been happy to have rather than having to buy food.

Why would you advocate that that food be thrown away rather than donated when -- where it could feed people in a time of emergency?

SUSAN GIACALONE: People want to be generous. That's just it. People are being -- can be generous but it's not -- it changes the whole -- what you're asking us to do is a bad precedent by changing the fundamental nature of what insurance is.

You're saying, under this provision, however it be, you know, limited circumstance, that you're changing when we have to provide coverage. We have to -- it doesn't have to be at actual loss because what if the power comes back on. I mean there's a whole host of things that can come into play that can change that and they can never sustain that loss but now we have to provide coverage because they donated and they got their power back, well you know (inaudible). It's an anticipated loss. This is a bad precedent.

There are other bills in this building. There's one in Environment right now that is on the same scope that says well you know an anticipated loss you guys should be providing coverage. We're going to fight that bill exactly the same as on this bill. It's not done anywhere else in the country.

REP. SCHOFIELD: And what is that anticipated loss (inaudible)?

SUSAN GIACALONE: That we have to provide coverage for tree trimming. Provide loans to people who -- so they can take care of the potential. If there's ever damage from a tree down the road, we have to fund that. Again it's an anticipated loss but now they're making us

come in and cover. That's not what we do as an industry but that precedent is not being done anywhere else and this is changing the fundamental nature of insurance. It's just saying that (inaudible) we have to provide coverage for anticipated loss, something that might happen. That's not what we do. We -- we underwrite actual losses by -- by legal definition, by common law definition, by case law definition it's an actual loss that we provide coverage for.

REP. SCHOFIELD: I understand your point and I think it's unfortunate. Thank you.

REP. MEGNA: Thank you.

Representative Sampson.

REP. SAMPSON: Thank you, Mr. Chairman.

I don't believe that current law prohibits a business from giving the food away charitably anyway. And in fact I think they can receive a benefit for giving a charitable donation. I'm just curious from the insurance company's standpoint is there some concern that this bill might create an additional liability for the business owner because they would be more likely and in fact encouraged to give the -- the food away?

SUSAN GIACALONE: Well there is concern on liability exposure for the business owner but also for the insurer. That is one of our concerns. The bigger concern is the change in the fundamental nature of insurance. But yes we do have a concern because now we're paying for an anticipated loss for food that could be going so now it could be -- are you -- not only -- because the bill has a hold harmless

35
ch/gbr INSURANCE AND REAL ESTATE
COMMITTEE

February 21, 2012
1:00 P.M.

for the person making the donation but not for the insurer that is being forced to cover that.

So also, you know, as you said reference if they want donate they get a tax deduction. They still can get the tax deduction and get coverage under the insurance policy if it's (inaudible).

It can also insight (inaudible) you know and (inaudible) if you're making us pay for anticipated losses, something that's not actual, that's an invitation to (inaudible). I mean the whole purpose is to change the whole scope of what we do and how we do -- operate the business.

REP. MEGNA: Thank you, sir.

Generally speaking under these commercial policies your duties after a loss would be to make the property available for inspection as many times as reasonably to do so and I think that's where people would get hung up. Because it would be a week before somebody would come out to inspect it and by then the food would be spoiled. I think the fear is that if they anticipate, whether it's an interruption or vehicle damage on a property, whatever it is, their fear is because of the policy and their obligation, if they do move the food out quickly knowing that it's going to spoil, then the carrier could say hey listen you breached a contract and we're not going to pay you for this food. I think that's what the fear is.

I guess we're not going to change that here but on behalf of the insurer would you -- would you say that the insurer would cover

that if -- if whatever the loss was and in anticipation the business owner wanted to salvage that food as -- and donate it, would you say the carrier should still cover it knowing that it's going to be covered anyway? That place is going to be out of business and there's really no way to save that food.

SUSAN GIACALONE: But what if it did? What if it's -- what if the power comes back on and there's this -- and here there's talks about different -- there could be different standards of what's spoilage, when is it spoilage. Is there same standards for all types of food?

REP. MEGNA: (Inaudible)

SUSAN GIACALONE: I mean there's -- so -- there's a whole host of -- there is, you know, different things that come into play and we don't cover anticipated losses. What if you predicted your house is going to flood and so you move or you get rid of everything in your basement because it's going to flood but it never happens, are we suppose to cover that? No we cover actual losses. That's what we do as a business. That's what we (inaudible) underwrite. That's all -- the whole set up of the industry.

REP. MEGNA: Food is a unique insured property because I mean, you know, it's a ticking time bomb in terms of spoilage. But I understand your arguments and I -- I thank you.

Are there any other questions? No?

Thank you very much.

Is there anybody here that hasn't testified on any of the bills and would like to do so? No?

3/5

Statement

Insurance Association of Connecticut
Insurance and Real Estate Committee

February 21, 2012

HB 5143, An Act Concerning Insurance Coverage For Perishable
Food Donated By Certain Food Establishments

While the Insurance Association of Connecticut, IAC, understands the intent of HB 5143, the industry must oppose it as it changes the fundamental nature of insurance by negating the terms and conditions of the Commercial General Liability (CGL) contract. Insurance requires that a covered event occur resulting in actual damage to trigger coverage.

- There is nothing in HB5143 that requires that an insurable event even occur or the insured actually suffer a loss prior to mandating insurance coverage. If the two triggers contained in HB 5143 are met (a state of emergency is declared and there is a predicted power outage), HB 5143 mandates that a commercial risk insurer provide spoilage coverage regardless if the insured was affected by the event or the outage. What if the insured never loses power? Or the power is restored in advance of the predicted timeframe? This is a very bad precedent.
- HB 5143 allows a potential gaming of the insurance mechanism by converting the scope of coverage under the standard CGL policy. CGL policies do not typically cover losses that occur due to power interruption from a remote source. That coverage is offered through a separate rider that an entity can purchase. However, pursuant to HB 5143, insureds would, in effect, be granted such a benefit without ever having to buy the expanded coverage.
- What is meant by "the time period prescribed by the Department of Health or local director of health"? Is there more than one source that can deem when food is safe? Do they work together or separately? Are there different standards from one location to the next? Are there different standards for different types of food? Will there have to be an actual declaration that food is safe before it can be donated? How will an insurer know any of this?

- What is a “temporary shelter”? Does it have to be set up by a town? A non-profit organization? Can it be set up by a private individual? Does it have to be open to the public at large? Is there a floor on how many people have to use it or how long it has to remain open?
- Does a shelter have to have the capacity to accept the entire donated amount? What if more than one entity is donating to the shelter? Is this a first come, first covered proposition, or does the mere attempt to donate trigger the coverage? What proof may be required of the insured that the food was actually donated?
- An entity that donates pursuant to HB 5143 might be able to claim a tax deduction and still get the full value of their insurance coverage, essentially double dipping.
- HB 5143 acknowledges the liability exposure for donating such food by holding the entities that donate the food harmless but provides no relief to the insurers mandated to provide coverage for that donation.

HB 5143 creates a whole host of unworkable problems that render spoilage coverage impractical and invites potential fraud. **Insurers do not provide coverage for anticipated losses. The IAC urges your rejection of HB 5143.**



150 Trumbull Street, 2nd Floor
Hartford, CT 06103
p) 860 522 4345 f) 860.522.1027
www.cttriallawyers.org

FTK

Raised Bill 5143
Public Hearing: 2-21-12

TO: MEMBERS OF THE INSURANCE AND REAL ESTATE COMMITTEE
FROM: CONNECTICUT TRIAL LAWYERS ASSOCIATION (CTLA)
DATE: FEBRUARY 21, 2012

RE: **OPPOSITION TO SECTION 2 OF RAISED BILL 5143 – AN ACT CONCERNING
INSURANCE COVERAGE FOR PERISHABLE FOOD DONATED BY CERTAIN
FOOD ESTABLISHMENTS.**

The CTLA opposes the expansion of immunity found in Section 2 of raised bill 5143, and respectfully contends that the section should be removed.

This proposal attempts to expand the immunity in C.G.S. 52-557l provided to people who donate food for use or distribution by a nonprofit. This would expand that immunity to any class III or IV food establishment that donates perishable food to temporary shelters.

Any expansion of this immunity provision is strongly opposed by the CTLA.

The CTLA feels strongly that broad expansions of immunity such as this are against public policy, as they throw the net too wide, possibly barring the courtroom doors to citizens that may have legitimate causes of action and who were never intended to be covered.

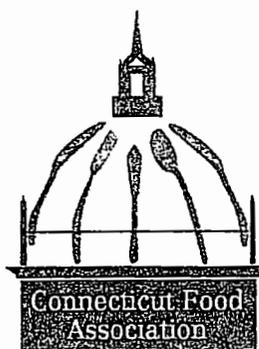
C.G.S. 51-557l is a narrowly drafted immunity provision which deprives very few citizens of their rights to pursue legal action against people who donate food and only when those providers are acting in tandem with a qualified nonprofit organization or corporation whose mission is to safely distribute such donations. This bill would deprive many citizens of their right to pursue legal action, even if they were not the ones the food providers were intending to help! The CTLA feels the expansions sought in this proposal far overshoot the mark of the original intention of the existing law.

WE URGE YOU TO DEFEAT SECTION 2 OF RAISED BILL 5143. Thank you.

Government Affairs

State Public Policy

Industry Information



Partnerships

Trade Services

Retailer Services

Insurance and Real Estate Committee Testimony

By Stan Sorkin, President

Connecticut Food Association

February 21, 2012

TESTIMONY IN SUPPORT OF RB 5143: AN ACT CONCERNING INSURANCE COVERAGE FOR PERISHABLE FOOD DONATED BY CERTAIN FOOD ESTABLISHMENTS

The Connecticut Food Association is the state trade association that conducts programs in public affairs, food safety, research, education and industry relations on behalf of its 240 member companies—food retailers, wholesalers, distributors, and service providers in the state of Connecticut. CFA's members in Connecticut operate approximately 300 retail food stores and 250 pharmacies. Their combined estimated annual sales volume of \$5.7 billion represents 75% of all retail food store sales in Connecticut. CFA's retail membership is composed of independent supermarkets, regional firms, and large multi-store chains employing over 30,000 associates. Our mission is to foster the growth of the food industry in the state of Connecticut by proactively initiating new laws and regulations that benefit the industry. Our goal is to create a growth oriented economic climate that makes Connecticut more competitive with surrounding states.

The Connecticut Food Association supports RB 5143. This legislation logically corrects a situation which occurred during the devastating two storms which occurred during the fall of 2011. Fitzgerald's Foods located in Simsbury, found itself without power for a projected extended period of time and would be forced to destroy perishable products. Prior to such perishable products being destroyed, the store decided to donate the product to local emergency shelters where it might be able to be of use to people in need.

Here's the rub. The store's insurance company covered the product that remained in the store and had to be destroyed because of health and safety reasons. The insurance company refused to cover the value of the product that was donated to the emergency shelter. This product would have been covered if left at the store to be thrown out. So, by being a Good Samaritan, the store lost the insured value of the product and suffered an economic hardship. It doesn't make sense that a store should be penalized by the insurance company for being a good corporate citizen and trying to help people in times of natural disasters.

195 Farmington Avenue, Suite 200, Farmington, CT 06032

email: ctfood@ctfoodassociation.org www ctfoodassociation.org (860) 677-8097 (860) 677-8418

RB 5143 requires that insurers that provide coverage to a food establishment for spoilage of perishable food to cover to the same extent perishable foods that such establishment donates to an emergency shelter, and to extend immunity to such establishments for such a donation. By enacting RB 5143 this injustice would be corrected and stores would be incentivized to continue to make timely donations of perishable product to emergency shelters in time of natural disasters instead of letting it spoil and collecting full insurance value of the product.

Stan Sorkin, President

Connecticut Food Association

195 Farmington Avenue, Suite 200

Farmington, CT 06032



Property Casualty Insurers
Association of America

Shaping the Future of American Insurance

2600 South Silver Road, Des Plaines, IL 60010-3216

FTR

STATEMENT

PROPERTY CASUALTY INSURERS ASSOCIATION OF AMERICA (PCI)

H.B. No. 5143 – AN ACT CONCERNING COVERAGE FOR PERISHABLE FOOD DONATED BY CERTAIN FOOD ESTABLISHMENTS

COMMITTEE ON INSURANCE AND REAL ESTATE

February 21, 2012

The Property Casualty Insurers Association of America (PCI) appreciates the opportunity to comment on HB 5143, which would require insurers to pay food spoilage claims when food is donated by a food establishment to a temporary shelter under certain circumstances. Our comments are provided on behalf of the member companies of PCI, a national property casualty trade association with over 1,000 member companies. PCI member companies provide 43 percent of Connecticut's property casualty insurance coverage.

While the intentions behind this bill are certainly laudable, PCI opposes this bill because its enactment would create major problems for insurers providing commercial food spoilage coverage in Connecticut and may increase costs for such coverage. As a general rule, insurance indemnifies the policyholder for losses resulting from a fortuitous event. This bill would require commercial insurers to pay spoilage claims when there is no loss, because the food has not spoiled when it is donated. Rather, this bill would require insurers to pay claims for anticipated potential losses, which is contrary to the basic underlying principles of the insurance contract. There is also no fortuitous event under this scenario because the event resulting in the claim is the voluntary donation of food by the policyholder to the emergency shelter.

Under this bill, while the food establishment makes the actual donation of food, it could be argued that it is really the insurer that would be making the charitable donation, because the insurer would be paying claims that it should not be obligated to pay so that food can be donated. Insurers also have liability concerns under this scenario because once the insurer pays the food spoilage claim, the insurer may be considered the owner of the food, thereby potentially making the insurer liable for any damages associated with such food. It should also be noted that, under this bill, the policyholder donating the food could potentially be eligible for a tax deduction for the donation, while also being compensated for the food by the insurer, thereby allowing an unwarranted windfall for the policyholder.

This bill could also likely result in substantial fraud. There is no definition of "temporary shelter" in the bill and food establishments could claim that a neighbor with a generator who opens their home to shelter neighborhood families is a "temporary shelter" to which the food could be claimed to be donated and a spoilage claim required to be paid under this bill. Additionally, once the food was donated, the insurer would have no mechanism by which to ensure the legitimacy of the claim.

There would be no way to verify the amount/value of the food donated. The policyholder could basically claim whatever amount they wanted up to the coverage limits and the insurer would just have to take the policyholder's word for it and write a check. Again, this is contrary to the basic principles of insurance under which only legitimate claims are paid after appropriate investigation, valuation and verification.

Payment of claims under this bill would hinge, in part, upon whether the electrical outage is forecast by the electric supplier to last longer than the time period for the safe handling of perishable food. This would seem to be a highly unreliable standard. Forecasts of when power will be restored are often inaccurate and dependent upon location, transmission and distribution issues and many other factors. Relying on these often inaccurate forecasts, may result in the donation of food which would not have spoiled and therefore should not be covered under a food spoilage claim. If insurers pay food spoilage claims that do not warrant payment, costs for this type of coverage will increase which will unnecessarily increase insurance costs for food establishments doing business in Connecticut.

For the foregoing reasons, PCI urges your Committee to not favorably advance HB 5143.

FTR

TESTIMONY IN SUPPORT OF RB5143: AN ACT CONCERNING INSURANCE COVERAGE FOR PERISHABLE FOOD DONATED BY CERTAIN ESTABLISHMENTS

With regard to HB5143 Fitzgerald Foods requests that support be given to this bill. Although our store and independent markets like ours frequently donates food products to local pantry's as part of everyday business, the storm of October 31, 2011 brought to light a serious concern of food waste that could have been avoided.

For extended periods of power outages, (2 days plus) heavy losses of perishable products are incurred when stores such as ours do not have the luxury of a generator. We are insured for those losses, and are reimbursed by our insurance companies after the product is in fact lost, and no longer saleable and is disposed of.

HB5143 would give markets such as ours the opportunity to donate the product to shelters and pantries that have the ability to safely store such product. This could occur when extreme weather hits and a state of emergency appears to be imminent. Stores would be accountable for the same record keeping of lost inventory as if it were being disposed of, but given to pantries and shelters while product is useable.

I have been in the supermarket business for almost 40 years and have never experienced such a dramatic amount of loss, and hope that HB5143 is just a law in the books never having to be implemented. My hope is that we can learn from it and make the best of what was a sad and devastating event should we ever be faced with one again.

I thank you for your consideration in this matter and hope you vote favorably which will help us help our communities, especially in times of extreme needs.

Bryan E. DeVoe, President

Fitzgerald's Foods

710 Hopmeadow Street

Simsbury, Ct. 06070



State of Connecticut
 HOUSE OF REPRESENTATIVES
 STATE CAPITOL
 HARTFORD, CONNECTICUT 06106-1591

FTR

REPRESENTATIVE BRIAN BECKER
 19TH ASSEMBLY DISTRICT

LEGISLATIVE OFFICE BUILDING
 ROOM 4009
 HARTFORD, CT 06106-1591

CAPITOL 860-240-8585
 FAX 860-240-0206
 E-MAIL Brian.Becker@cga.ct.gov

MEMBER
 COMMERCE COMMITTEE
 ENERGY AND TECHNOLOGY COMMITTEE
 PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

Statement of Brian S. Becker
 State Representative for the 19th Assembly District
 before the
 Insurance and Real Estate Committee
 Connecticut General Assembly
 February 21, 2012
 in support of
HB 5143

**An Act Concerning Insurance Coverage for Perishable Food Donated by
 Certain Food Establishments**

Chairman Crisco, Chairman Megna, Ranking Member Kelly, Ranking Member Sampson, and the other distinguished members of the Insurance and Real Estate Committee, thank you for raising and taking the time to hear testimony on HB 5143, An Act Concerning Insurance Coverage for Perishable Food Donated by Certain Food Establishments.

As a State Representative for three of the towns hardest hit by the October storm, I saw firsthand at each of my communities' shelters the need for food. Over the course of storm's aftermath, thousands of meals were served in each of the towns. As the days dragged on, the need for additional food grew.

At the same time, most businesses, including a number of grocery stores were without power. As a result, perishable food items spoiled. My understanding is that vendors are entitled to make claims under their current insurance policies only if they throw the food away. Wasting food at any time is a shame, but wasting food during a state of emergency is a crime.

This bill seeks to address this issue by allowing vendors to make claims under their insurance policies for losses sustained during a state of emergency while still allowing the food to be put to good use.

Please support this bill. Thank you.

H – 1139

**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2012**

**VOL.55
PART 17
5507 – 5828**

hac/jr/jf/gdm/gbr
HOUSE OF REPRESENTATIVES

394
May 3, 2012

SPEAKER DONOVAN:

Senate "A" fails.

Representative Sharkey.

REP. SHARKEY (88th):

Mr. Speaker, I move that we pass this bill
temporarily.

SPEAKER DONOVAN:

Motion for pass temporarily, any objection?

Hearing none, the House has passed temporarily.

(On a voice vote, the motion carried and Senate Bill
No. 243 was passed temporarily.)

(Chamber at ease.)

DEPUTY SPEAKER GODFREY:

The House will come back to order and we will
return to the call of the calendar. Mr. Clerk, kindly
call calendar 140.

THE CLERK:

On Page 39, Calendar 140, Substitute for House
Bill No. 5143, AN ACT CONCERNING INSURANCE COVERAGE
FOR PERISHABLE FOOD DONATED BY CERTAIN FOOD
ESTABLISHMENTS (inaudible) by the Committee on Public

hac/jr/jf/gdm/gbr
HOUSE OF REPRESENTATIVES

395
May 3, 2012

Health.

DEPUTY SPEAKER GODFREY:

Representative Schofield.

REP. SCHOFIELD (16th):

Thank you, Mr. Speaker. I move acceptance of the Joint Committee's favorable report and passage of the bill.

DEPUTY SPEAKER GODFREY:

Questions on (inaudible). Will you explain the bill please, ma'am.

REP. SCHOFIELD (16th):

Thank you, Mr. Speaker. The Clerk is in possession of LCO No. 4244. I ask that he call the amendment and I be given permission to summarize.

DEPUTY SPEAKER GODFREY:

The Clerk is in possession of LCO 4244 which will be designated House Amendment Schedule "A". Will the Clerk please call the amendment.

THE CLERK:

LCO 4244, House "A" offered by Representative Schofield.

DEPUTY SPEAKER GODFREY:

(Inaudible) summarize. Is there any objection?
Hearing none, please proceed, Representative

hac/jr/jf/gdm/gbr
HOUSE OF REPRESENTATIVES

396
May 3, 2012

Schofield.

REP. SCHOFIELD (16th):

Thank you, Mr. Speaker. This amendment is a strike all amendment which does virtually the same thing as the original bill does with just a few technical changes.

The point of the bill is to avoid the massive waste of food at a time when the public is faced with an emergency and food is needed in temporary shelters. Currently grocers and restaurants that lose electricity and refrigeration under DPH rules have to throw away their food after 48 hours of no refrigeration.

Those who have insurance for food spoilage can claim coverage in such an event, but only after the food has actually spoiled and been thrown away. They can't donate it to a shelter because then it's not considered a -- a loss for claim purposes.

This bill requires insurers -- this amendment requires insurers to honor a claim for perishable food whether they donate it or throw it away if they have lost their electric power and they're not expected to regain that power in time to save the food, if the Governor has declared a state of emergency and if they

hac/jr/jf/gdm/gbr
HOUSE OF REPRESENTATIVES

397
May 3, 2012

donate it to a temporary emergency shelter.

Thank you. I move adoption.

DEPUTY SPEAKER GODFREY:

Questions on adoption? Will you remark? Will you remark further on House Amendment Schedule "A"?

Representative Sampson.

REP. SAMPSON (80th):

Thank you, Mr. Speaker. We had this bill in the Insurance Committee just recently, and at the time I spoke against it because I felt that it set a dangerous precedent which is that we are essentially asking for an insurance company to pay for a claim that has not yet occurred.

But as time has gone on and I've seen that we've ended up narrowing the circumstances by which this particular situation can occur. And I know many of my colleagues see this as a very, very favorable situation. And for those reasons, I am not going to encourage folks to vote one way or another, I just wanted to point out that I think the bill is okay assuming we leave it in this very, very narrow set of circumstances.

And that would be the end of my comments, Mr. Speaker. Thank you very much.

hac/jr/jf/gdm/gbr
HOUSE OF REPRESENTATIVES

398
May 3, 2012

DEPUTY SPEAKER GODFREY:

Thank you, Representative Sampson.

Representative Sawyer.

REP. SAWYER (55th):

Mr. Speaker, a question through you to the proponent of the amendment?

DEPUTY SPEAKER GODFREY:

Proceed, ma'am.

REP. SAWYER (55th):

In the case where we have different types of food stuffs, certainly we have milk products which have a certain temperature that they keep best at. And we certainly have products such as apples that we might keep at a cool temperature, sometimes the same temperature as milk, for a longer life. And if they come out of refrigeration, there's a vast difference as to spoilage time.

The same could be said for say mustard, an open mustard, and that would be a very different spoilage time than say an open mayonnaise because of the egg product that is in that. If you would, please, describe for me then how we or what standard we use for Line 68 where it says not fit for human consumptions.

hac/jr/jf/gdm/gbr
HOUSE OF REPRESENTATIVES

399
May 3, 2012

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Schofield, do you care to respond?

REP. SCHOFIELD (16th):

Thank you, Mr. Speaker. Through you, basically the Department of Public Health has standards that apply to different kinds of foods, frozen foods, refrigerated foods, room temperature foods. And so it's all in accordance with existing law and regulations under the Department of Public Health.

Through you, Mr. Speaker

DEPUTY SPEAKER GODFREY:

Representative Sawyer.

REP. SAWYER (55th):

Thank you, Mr. Speaker. And through you, is -- I'm going to ask this question because I don't -- I do not see the answer, and in the line just before it, in number two, they're talking about the different grounds to believe that food was, one, embargoed, and, two, what is number two mean on Line 67 when it says adulterated as defined by Section 21(a), 101?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Schofield.

hac/jr/jf/gdm/gbr
HOUSE OF REPRESENTATIVES

400
May 3, 2012

REP. SCHOFIELD (16th):

Through you, Mr. Speaker.

I'm sorry, I don't have Section 21(a) with me. I would assume it would mean that if the food has been contaminated in some way. But again it's -- would be as defined in that section, and I don't have that section with me. I'm sorry.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Sawyer.

REP. SAWYER (55th):

So it is your understanding that adulterated means contaminated?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Schofield.

REP. SCHOFIELD (16th):

Thank you.

Through you, Mr. Speaker.

I -- I believe so. You just have to look up the definition of adulterated in that section, and I don't have that with me.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

hac/jr/jf/gdm/gbr
HOUSE OF REPRESENTATIVES

401
May 3, 2012

Representative Sawyer.

REP. SAWYER (55th):

Thank you very much. If the good woman would please describe in the donation of this food, at what point does someone have the responsibility? So the power has gone out, we have a lot of this food, we want to get rid of it quickly, we've described the different types of food, whether it's dairy, whether it's a fruit, whether it's a certain type of condiment that's open, when does the giver still retain liability?

They've donated the food, and say there is something that has gone bad amongst all the food stuffs that they have donated, one of the products was -- had spoiled and caused some food-borne illness, stomach distress, and it comes back on them, with this language I guess I am asking just how much liability is left on the donor?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Schofield.

REP. SCHOFIELD (16th):

Thank you, Mr. Speaker. In looking at Section (b) there in the area of Lines 63 through 68, it talks

hac/jr/jf/gdm/gbr
HOUSE OF REPRESENTATIVES

402
May 3, 2012

about that the donor would not have liability if they didn't know or shouldn't reasonably have known so -- that the food was bad. So I -- I mean it's obviously something that would have to be determined in a court, but I would say that if the -- the donor, and believe me, restaurants and grocers are intimately aware of the rules they have to follow in keeping food properly stored.

So if they knew that it was not properly stored, they saw that it had gone bad, it smelled bad, it had green fuzz on it growing, then obviously they knew it was bad, they shouldn't have donated. And I would also similarly say that the -- the food shelters are extremely cautious as well in accepting food and would be looking to make sure that the food is -- is safe for consumption as well.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Sawyer.

REP. SAWYER (55th):

Mr. Speaker, through you, the situation that we have found ourselves in this past year has been not once but twice having to call upon emergency shelters for an extended period of time in our state. And the

hac/jr/jf/gdm/gbr
HOUSE OF REPRESENTATIVES

403
May 3, 2012

question had come up, you know, when can we take food because we had many restaurants that had freezers full of food and refrigerators -- the refrigerators had to go quickly, the freezers had a little bit longer time for them to be able to donate the food from that.

And I think there was a lot of questions because the people on the receiving end had a lot of volunteers that were going to be working with them as well in trying to move the food forward, some people who had CERT training, other public health training. So here we have -- I should say temporary kitchens, kitchens that are brought up at an unexpected time to be able to prepare this food, the food is coming in and it has to be prepared quickly.

And we have not everybody knowing exactly what the rules are. So, through you, Mr. Speaker, is there an expectation that either the Department of Public Health and/or the Director will be giving out to our very -- various emergency shelters those people that would be taking in food, not necessarily emergency shelter, but those that could take in food that -- that would -- on an emergency situation -- emergency basis, that they would be given ahead of time what the rules and regulations are now that this has -- after

hac/jr/jf/gdm/gbr
HOUSE OF REPRESENTATIVES

404
May 3, 2012

this bill passes, and on the converse side, is it your understanding that the restaurants and other establishments that might have the food to be able to donate that they would also have a clear understanding as to what is expected of them?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Schofield.

REP. SCHOFIELD (16th):

Through you, Mr. Speaker.

Actually that's already the case. I can tell you in the most recent October storm when we had a shelter running in my town for two weeks virtually, the -- the public health department was there every day. They were in restaurants every day and they were in grocers every day.

They worked very closely with every food establishment making sure that they knew the rules, that the rules were followed. And there were very clear instructions for all of the people who were volunteering at the shelter about what could and could not be accepted. And all of that was followed up very closely by the local health department.

Through you, Mr. Speaker.

hac/jr/jf/gdm/gbr
HOUSE OF REPRESENTATIVES

405
May 3, 2012

DEPUTY SPEAKER GODFREY:

Representative Sawyer.

REP. SAWYER (55th):

Thank you, Mr. Speaker. I thank the gentle lady for her answers because it is that type of clear message that we expect coming from our agencies to go to -- when we change something like this to the -- the recipients, to the donors because we want them to give. There are times, Mr. Speaker, that there are -- were a lot of people that were looking for food just this past year on emergency basis.

There was a far larger cry than what we're used to handling on a, I would say a standard basis with our shelters. So I'd like to say thank you very much and thank you for all your work on this particular amendment.

DEPUTY SPEAKER GODFREY:

Representative Hetherington.

REP. HETHERINGTON (125th):

Thank you, Mr. Speaker. A question (inaudible) to the proponent, please.

DEPUTY SPEAKER GODFREY:

Proceed, sir.

REP. HETHERINGTON (125th):

hac/jr/jf/gdm/gbr
HOUSE OF REPRESENTATIVES

406
May 3, 2012

Through you, Mr. Speaker, I'm having a little difficulty understanding what is accomplished by the amendment. Would you please elaborate on that?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Schofield.

REP. SCHOFIELD (16th):

Through you, Mr. Speaker.

As I said, Representative Hetherington, it's pretty much the same as the original bill was. We added in a little bit of language actually at the request of someone on your side of the aisle that I need to find..

REP. HETHERINGTON (125th):

It looks like it's probably in Section 1 or early on just noticing how the line numbers change.

REP. SCHOFIELD (16th):

Yes. In line I believe 13 or -- 13 we clarified if the electric supply, let's see, interruption of electrical services to the insured has occurred and is forecast to occur, and we added in the words for the insured location so it's clear that if there's more than one location, we're only talking about the location where the electrical interruption occurred.

And in Line, let's see, roughly 17, I'm working

hac/jr/jf/gdm/gbr
HOUSE OF REPRESENTATIVES

407
May 3, 2012

across an old and a new version, so sorry, Line 19 through 21, we added in the language about -- that the insurer can require documentation from the --

REP. HETHERINGTON (125th):

Right.

REP. SCHOFIELD (16th):

-- donor that the shelter received the donation.

REP. HETHERINGTON (125th):

Okay.

REP. SCHOFIELD (16th):

Those were the changes.

REP. HETHERINGTON (125th):

Okay. Thank you. I thank the lady very much for that. It's helpful. I -- the -- in Lines 35, and by the way I think this is a good bill, and I'm -- certainly plan to support it, I -- I question in Line 35, to the extent a tax deduction or a tax credit is allowed under state law, I -- I don't believe that -- that state law allows tax deductions -- generally tax deductions are accomplished under the federal tax law and -- and then Connecticut, for example, Connecticut state income tax is assessed on the adjusted gross income. But I -- was there some -- was there something particularly -- some tax deduction or tax

hac/jr/jf/gdm/gbr
HOUSE OF REPRESENTATIVES

408
May 3, 2012

credit that was contemplated by Line 35?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Schofield.

REP. SCHOFIELD (16th):

Thank you, Mr. Speaker. It was at the advice of the LCO attorney that we just make it abundantly clear that the state tax deductions would follow the federal. She pointed out that the federal tax deductions already, you know, would not inure to anyone who was being compensated through insurance --

REP. HETHERINGTON (125th):

Got it.

REP. SCHOFIELD (16th):

-- for such a donation. And she just wanted to make it abundantly clear that the same rule would apply to the state tax laws. Through you, Mr. Speaker.

REP. HETHERINGTON (125th):

Very good. I thank the gentle lady for her answers. AS I said I'm -- I strongly support this bill. I've seen the consequences last fall when we had the power outages and the amount of food that was lost and how that might have been put to -- to better

application. So I would urge adoption of the amendment. Thank you. Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, sir.

Representative D'Amelio.

REP. D'AMELIO (71st):

Thank you, Mr. Speaker. Mr. Speaker I rise in strong support of the amendment before us. As was pointed out. Connecticut suffered through two major storms and a lot of food, as everyone knows, I'm sure it happened in your district where you saw stores with -- with dumpsters in the back full of food that just couldn't be used.

Sometimes the food wasn't even spoiled, but the health department, because of lack of power, wouldn't allow you to use it. This bill is so -- so defined that it has to be a state of emergency declared by the Governor, and it only could be to a temporary food shelter that the food could be donated to. I'd rather much see that happen, the food being donated to people that are need in a time of need than to be thrown out.

Presently if you own a food establishment, a grocery store, a restaurant, you have to keep the food in your establishment until the insurance company says

hac/jr/jf/gdm/gbr
HOUSE OF REPRESENTATIVES

410
May 3, 2012

it's okay to throw it out. This will allow you to do the right thing with the food and donate it. I would have liked to have seen that we could have more locations like local food kitchens and food banks that would be able to also accept this food, because when we do have these storms, you know, entire areas, entire towns go out -- go out of power and there's a lot of food that's out there.

But, you know, it was a compromise, I believe, to get this bill out of our committee, the Insurance and Real Estate Committee, but maybe in a future date we could fix it so that we can use as much food as possible instead of letting it rot in people's dumpsters. So I urge the Chamber's adoption. Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, sir. Will you remark further on House Amendment Schedule "A"? Will you remark further on House Amendment Schedule "A"? If not, let me try your minds. All those in favor signify by saying Aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER GODFREY:

Opposed, Nay.

hac/jr/jf/gdm/gbr
HOUSE OF REPRESENTATIVES

411
May 3, 2012

The Ayes have it. The Amendment is adopted.

(On a voice vote, the amendment was adopted.)

Remark further on the bill as amended? Will you
remark further on the bill as amended? If not, staff
and guests please come to the Well of the House.

Members take your seats, the machine will be open.

THE CLERK:

The House of Representatives is voting by roll
call. Members to the Chamber the House is voting by
roll call. Members to the Chamber, please.

DEPUTY SPEAKER GODFREY:

Have all the members voted? Have all the members
voted? Seeing all the members have voted, the machine
will be locked. The clerk will take a tally and the
Clerk will announce the tally.

THE CLERK:

House Bill 5143 as amended by House.

Total number voting	143
Necessary for adoption	72
Those voting Yea	142
Those voting Nay	1
Those absent and not voting	8

(On a roll call vote, House Bill No. 5143 as

hac/jr/jf/gdm/gbr
HOUSE OF REPRESENTATIVES

412
May 3, 2012

amended by House Amendment Schedule "A" was passed.)

DEPUTY SPEAKER GODFREY:

The bill as amended passed. The House will stand
at ease.

(Chamber at ease.)

DEPUTY SPEAKER RYAN:

Will the Chamber please come back to order. Are
there any announcements or introductions? And these
aren't the kind of announcements you might that want
to be making right about now.

Representative Gentile of the 104th.

REP. GENTILE (104th):

Thank you, Mr. Speaker. Just for an
announcement, the Planning and Development Committee
will meet tomorrow at 10:30 a.m. outside the Hall of
House.

DEPUTY SPEAKER RYAN:

Will the Clerk please call Calendar Number 404.

THE CLERK:

On Page 24, Calendar 404, Substitute for House
Bill Number 5545, AN ACT CONCERNING FINANCIAL

S - 649

**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
2012**

**VOL. 55
PART 14
4223 - 4505**

rgd/tmj/gdm/gbr
SENATE

323
May 9, 2012

SENATOR LOONEY:

Madam President, Madam President.

THE CHAIR:

Yes, Senator Looney.

SENATOR LOONEY:

Yes, Madam President, we have a few items for a second consent calendar.

THE CHAIR:

Please proceed, sir.

SENATOR LOONEY:

Yes, thank you, Madam President.

Madam President, on today's calendar, calendar page 14, Calendar 454, Substitute for House Bill 5425, move to place the item on the consent calendar.

THE CHAIR:

Seeing no objection, so ordered, sir.

Thank you, Madam President.

Also, Madam President, calendar page 19, Calendar 487, House Bill 5143, move to place on the consent calendar.

THE CHAIR:

Seeing no objection, sir.

SENATOR LOONEY:

Thank you, Madam President.

And, Madam President, raised -- for House Bill Number 5553, do not have the -- the current calendar number and, Madam President, would also place Substitute House Bill from

rgd/tmj/gdm/gbr
SENATE

325
May 9, 2012

Yes, Madam President, that item that we placed on -- on House Bill 5553 is Calendar -- Calendar 509.

And, yes, Madam President, would call for a vote on the second consent calendar.

THE CHAIR:

Mr. Clerk, will you now call the roll call for the consent calendar.

We got a second -- let's go guys.

THE CLERK:

On page 14, Calendar 454, House Bill 5425; page 19, Calendar 487, 5143; page 22, Calendar 509, House Bill 5553; and on page 22, Agenda 6, House Bill 5514 --

THE CHAIR:

Would you --

THE CLERK:

-- and House Joint Resolution Number 85.

THE CHAIR:

Mr. Clerk, will you call for a roll call vote and the machine will be open. (Inaudible).

THE CLERK:

Immediate roll call has been ordered in the Senate. Senators please return to the Chamber. Immediate roll call has been ordered in the Senate.

THE CHAIR:

Senator Suzio, Senator Looney, Senator Gomes, Senator Fasano is running.

That's it. The machine will be closed.

Mr. Clerk, will you call the tally please.

THE CLERK:

rgd/tmj/gdm/gbr
SENATE

326
May 9, 2012

On consent calendar Number 2.

Total Number Voting	36
Necessary for adoption	19
Those Voting Yea	36
Those Voting Nay	0
Those Absent and Not Voting	0

SENATOR LOONEY:

Thank you, Madam President.

THE CHAIR:

Senator Looney.

SENATOR LOONEY:

Yes, thank you.

Thank you. Thank you, Madam President.

Madam President, having completed this work, and would move that the Senate stand adjourned for the 2012 session Sine Die.

THE CHAIR:

Seeing no objection, so ordered.

On motion of Senator Looney of the 11th, the Senate at 11:58 p. m., adjourned Sine Die.