Friday, September 27, 2019

The Honorable Claire D. Cronin
Chair, Joint Committee on the Judiciary
Room 136, Massachusetts State House
24 Beacon St.
Boston, MA 02133

The Honorable James B. Eldridge
Chair, Joint Committee on the Judiciary
Room 511-C, Massachusetts State House
24 Beacon St.
Boston, MA 02133

Dear Chairs Cronin and Eldridge:

The Massachusetts Food System Collaborative is pleased to offer this written testimony in support of H.1475/S.869, An Act encouraging the donation of food to persons in need, and to make suggestions for strengthening these bills and developing a comprehensive strategy for food waste reduction for the Commonwealth.

According to the Massachusetts Department of Environmental Protection (MassDEP), food waste and other organic material make up approximately 25 percent of the total waste stream, equaling over a million tons a year in Massachusetts. At the same time, hundreds of thousands of Massachusetts families are food insecure. An increasing number of programs divert edible food waste from landfills and direct it to families in need. These bills would help facilitate those important programs’ success.

These bills eliminate some barriers to donating healthy food to low income residents by extending liability protection to restaurants, organizations and individuals donating food. The bills also provide a capped tax deduction to farmers donating healthy local food to organizations that provide food to families in need. If adopted, the bills would address a number of critical elements of a sustainable and equitable food system: financial sustainability for farms, increased access to healthy foods for low-income families, improved health outcomes for vulnerable communities, and climate change mitigation through a reduction in organic materials sent to landfills.

Based on the experiences of other states that have passed similar measures, these bills present a cost-effective way to increase the fresh, healthy, local food available to families in need, while reducing edible food waste.
Liability concerns have been identified in all sectors of the food system as a primary barrier to food donation. Eliminating those concerns would result in more food being diverted from landfills to families in need.

Financial incentives have also been shown to result in more donations. To encourage food donation, the federal government has made many businesses eligible for tax deductions or tax credits for the food they donate. When it expanded the types of businesses that were eligible for tax deductions for their food donations in 2005, donations increased by 137% the following year.

However, many small farms - including many in Massachusetts - struggle to claim the federal tax deductions because of low profit margins. Many farmers do not donate crops because the cost of food donation, including staff time and transportation costs, is too high.

To address this issue and ensure that low income residents receive more healthy food, ten states (Arizona, California, Colorado, Iowa, Kentucky, Missouri, Oregon, New York, South Carolina, and Virginia) and the District of Columbia have increased financial incentives for farmers who donate their crops. California has found that every dollar in tax credit to farmers leverages 10-20 pounds of donated food. Incentivizing farmers to donate more food is a cost effective way to increase the consumption of healthy food among low income people, leading to better health outcomes and lower health costs.

We recommend that the section of these bills regarding taxes extend the deduction’s coverage to include transportation of donated food. The cost of transporting food from the donor to the recipient can be significant, and even prohibitive. California has enacted such a credit, providing donors with “an amount equal to 50 percent of the transportation costs paid or incurred by the taxpayer in connection with the transportation of that donated agricultural product.”

In addition, the civil liability protection section would be strengthened by extending those protections regardless of compliance with any laws, regulations, or ordinances regulating the packaging or labeling of food. Many food labeling requirements are not essential to food safety, such as the net weight of the item. These requirements impose extraneous burdens on donors and food recovery organizations by forcing them to meet all labeling standards, even when many food labeling rules are not essential to ensure food safety.

Finally, the bills should direct the state Department of Public Health to create regulations about food safety for food donations, including guidance for municipal boards of health to consider. Some municipalities have enacted non-science-based regulations that limit donations of prepared food in particular, resulting in edible food being discarded when it could have been safely donated to people in need if handled properly. DPH guidance would help local boards of health understand their options better.
The Collaborative has developed an extensive set of policy recommendations to reduce edible food waste, including these and others. The document can be found at https://mafoodsystem.org/media/projects/pdfs/Food_waste_briefing_paper_-_2019_.pdf.

The Collaborative is a network of Massachusetts food system organizations, working to promote, monitor, and facilitate implementation of the Massachusetts Local Food Action Plan (http://mafoodsystem.org/plan/). The Plan was developed for and accepted by the Massachusetts Food Policy Council, a 17-member entity comprising state agency, legislative, and industry representatives, established by the Massachusetts Legislature and Governor to develop recommendations, including legislative and regulatory changes, to promote sustainability and equity in the Commonwealth’s food system. Reducing food waste is a priority of the Plan (https://mafoodsystem.org/plan/goal/5/), and doing so by increasing the amount of edible food donated to food insecure households is explicitly mentioned in a number of recommendations. Some of these recommendations are directly addressed by these bills.

We appreciate the Committee taking up these issues and urge you to report these bills out favorably, as was done in the last legislative session. We are available to provide additional information and connections to practitioners and advocates who can offer further details, at the pleasure of the Committee.

Thank you for your consideration.

Sincerely,

Winton Pitcoff
Director