

Strengthen State Level Liability Protection for Food Donations



The Bill Emerson Good Samaritan Act provides a federal floor for liability protection if: 1) Food is donated to a nonprofit organization in good faith - the donor must have an honest belief that the food is safe to eat; 2) Foods meet federal, state, and local quality and labeling requirements; 3) The nonprofit organization receiving the food distributes it to individuals in need; and 4) Recipient are not required to pay for donated food.

States may strengthen protections beyond the federal floor to promote food donation, by:

1. Providing liability protection when nonprofit food recovery organizations charge individuals for food (e.g. “Social Supermarkets” that offer food at reduced rates for individuals without access to other food security services). **For example:** *Massachusetts and New Hampshire allow for charges high enough to “cover the cost of handling such food” as long as organizations do not make a profit off of the distribution, they are shielded from liability.*
2. Providing liability protection for food service establishments and retail stores donating directly to final recipients. Federal law only protects donation to nonprofit organizations. **For example:** *Arizona provides liability protection for donors who give “to a charitable or nonprofit organization or to any other person”*
3. Provide liability protection regardless of compliance with non-safety related labeling requirements. Labels like weight are unrelated to food safety. **For example:** *Oregon and California provide liability protection “regardless of compliance with any laws, rules or ordinances regulating the packaging or labeling of food”*

State-Level Tax Incentives for Food Donations



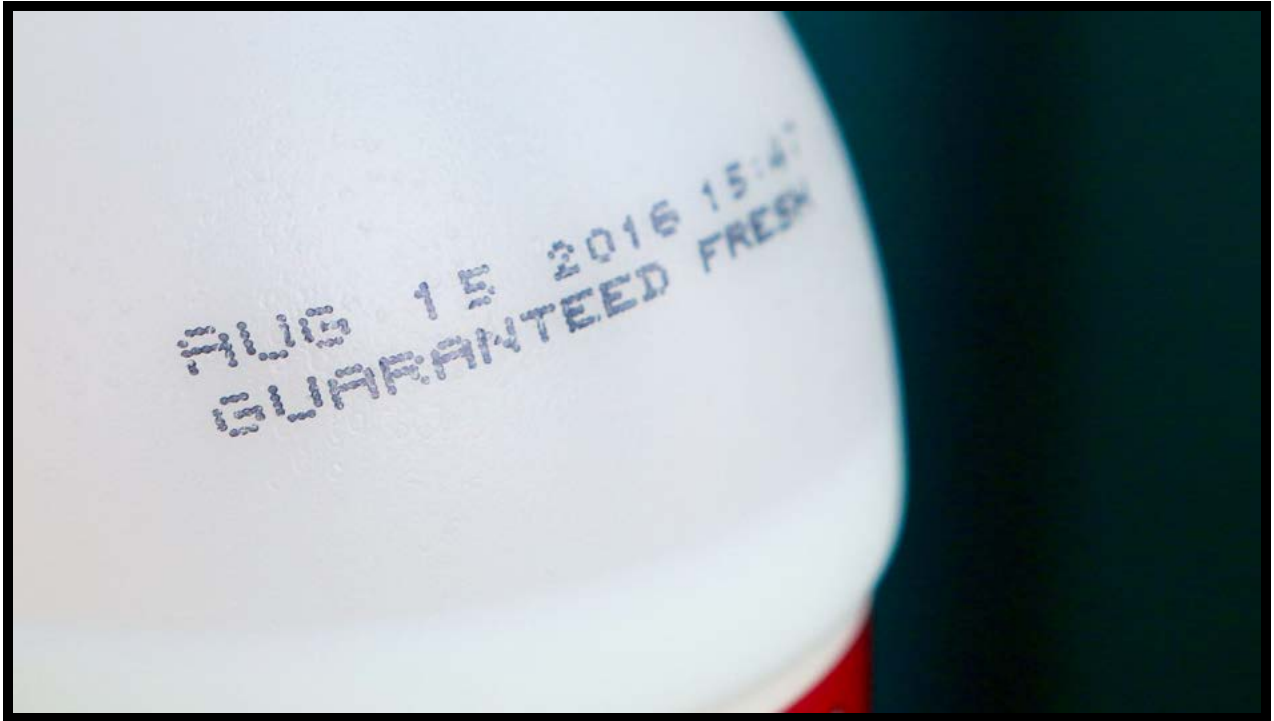
Summary

The federal government offers tax incentives for food donation if: 1) The donee is a 501(c)(3) organization; 2) The donee uses donations for those in need; 3) The donee does not sell the donations for money, property or services; 4) The donee provides a written statement that these requirements have been met; 5) All donated food is in FDA compliance at the time of donation.

Opportunities exist at the state level to incentivize donation within specific industries or sectors beyond the federal base by:

1. Offering state-level tax credits rather than deductions. Tax credits offer more generous treatment for smaller organizations because they provide a dollar-for-dollar reduction in taxes. **For example:** *Virginia's Food Crop Donation Tax Credit provides a tax credit to individuals and corporations engaged in farming who donate food crops to nonprofits. The credit is equal to 30% of the fair market value of the crops, and no taxpayer is allowed to claim more than \$5,000 in credits each year.*
2. Providing the tax incentive even when nonprofit food recovery organizations charge needy individuals for food. Federal enhanced deduction - and most state tax incentives - are only available to donors when the food is given away. This excludes innovative approaches to sell surplus food at deeply reduced prices. **For Example:** *In Virginia food donors are eligible for the food donation tax credit even if the donated food crops, if sold by the donee nonprofit food bank, are sold to the needy, other nonprofit food banks, or organizations that intend to use the food crops to provide food to the needy.*

State-Level Laws to Clarify Date Labeling



Summary

Aside from infant formula, the dates on food are not federally regulated. Dates are largely related to quality, not food safety. Many states have laws to require date labels on products, including restrictions on the donation of past-date products, yet no states have the same laws.

Opportunities exist at the state level to ensure that foods past their “sell by” or “best buy” dates can still be utilized by:

1. Changing laws to eliminate bans on donating or selling past-date foods. Date labels are unrelated to food safety, and restricting the donation of past-date foods is not grounded in strong science. **For example:** Massachusetts’ Good Samaritan law provides liability protection for food donors and specifically mentions that the protection extends to food that is past its date.

Clear State Guidance for Determining Safety in Food Donation



Summary

Food donors and food recovery organizations must comply with food safety regulations. This can be difficult for food donors and health inspectors. There is a need for better and more consistent food safety regulations, and related guidance for food donations.

There are opportunities for state level policy to ensure safety and suitability for donation by:

1. Gathering all food donation-related regulations into one section of the food code to make it simpler for health inspectors and businesses to interpret.
2. Indicating clearly what types of food can be donated. Specify items that are not frequently donated because of confusion, making it clear that these items can be donated. **For example:** *Washington passed regulations that clearly state that certain types of foods - wild game animals, baked goods from residential kitchens, and foods prepared in a donor kitchen - can be safely donated. Minnesota regulation lays out how distressed foods (damaged by fire, flood, or weather) can be salvaged for donation.*
3. Clarifying the food recovery landscape. Provide simple, clear guidance on donating food. **For example:** *New York City produced a guide to explain the food donation process to businesses.*
4. Providing training for health inspectors on food donation and empower them to be food donation ambassadors. **For example:** *Wyoming Department of Agriculture includes instructions to health department inspectors on food donation guidelines. Inspectors should thoroughly explain the donation process to all interested parties.*

Food Waste Education and Reduction in K-12 Schools



Summary

Schools are concentrated sources of food waste, and offer opportunities to teach strong waste-reduction habits to children at a young age.

There are opportunities at the state level to help reduce food waste including:

1. Encouraging schools to allocate longer lunch periods and schedule lunch after recess. This gives students enough time to select and eat their meals, states and school districts can provide longer lunch periods. **For example:** *The West Virginia state legislature adopted a rule requiring a minimum of twenty minutes for students to eat lunch. Time is allocated for eating, not waiting in line or selecting a meal. The rule strongly encouraged recess before lunch.*
2. Allowing students to keep uneaten food. This practice establishes that food is a valuable resource. **For example:** *A Milwaukee, WI policy states that once food is served to students, it is their property. Students are encouraged to eat the food, share it with a classmate, take it home, or return it to the teacher for proper storage.*
3. Creating sharing tables in schools. States, cities, and school districts can help encourage the use of share tables - centralized places in the cafeteria for students to leave unwanted, uneaten food - by issuing guidance and disseminating information about the applicable health rules and regulations. **For example:** *Indiana's Department of Health has a guidance document discussing the benefits of share tables, including instructions for setting up a share table system.*

Incentivize and Encourage the Use of Food Scraps to Feed Livestock



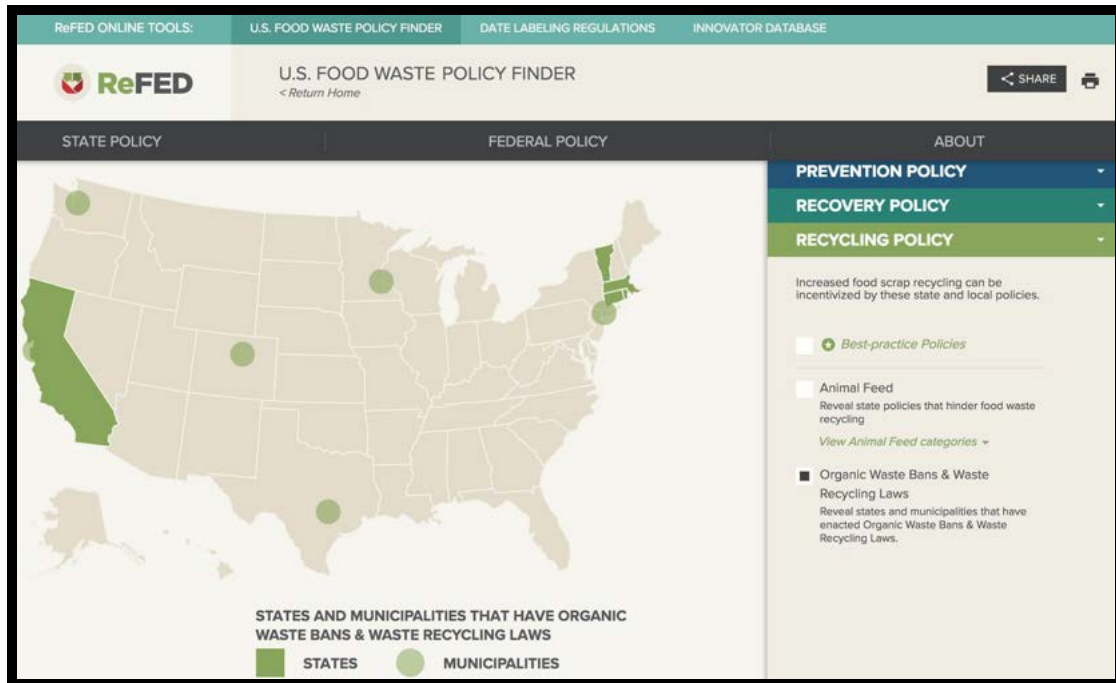
Summary

Feeding food scraps to livestock is an old practice, and is typically very safe. In the wake of disease outbreaks in the 1980's, the federal government enacted laws to restrict practices of feeding food waste to animals. To meet federal requirements: 1) Food scraps must be heat-treated by a licensed facility before being fed to animals; 2) Food scraps containing animal-derived by-products must not be fed to ruminants.

Today, nearly all states regulate feeding food scraps to livestock. Opportunities exist to divert more material to livestock, providing benefits to farmers and food waste generators by:

1. Eliminating laws that ban the feeding of food scraps to animals. Vegetable waste is safe for livestock, and animal-derived waste can safely be fed to animals (except ruminants) as long as it has been heat-treated according to federal law. **For example:** *Connecticut allows animal-derived waste to be fed to swine if it has been heat treated and fed by a licensed facility. All other waste can be fed to swine without heat-treatment.*
2. Eliminate requirements for heat-treating non-animal-derived waste. Most non-animal-derived waste is safe for consumption by most animals. **For example:** *North Carolina allows heat-treated animal-derived waste to be fed to swine. All other waste can be fed to swine without treatment.*
3. Encourage partnerships with local farms. **For example:** *New Hampshire Pollution Prevention Program worked with NH Lodging and Restaurant Association's Sustainability Program to partner hospitality facilities with farmers.*

Organic Waste Bans and Recycling Laws



Summary

Preventing food waste disposal can divert organics from over-crowded landfills and reduce landfill-generated greenhouse gases.

There are opportunities to ensure nutrients and energy in food waste can be efficiently used by:

1. Implementing an organic waste ban. Bans are outcome-oriented, not process-oriented, so food waste generators can choose how they want to divert waste. **For example:** Connecticut, Massachusetts, Rhode Island, and Vermont all have organic waste bans. These bans generally require: 1) Waste haulers and drop-off centers must also offer recycling and food scrap collection services; 2) Fees for recycling and trash must be bundled so that a customer can't save money by opting out of recycling; 3) Public trash containers must also include recycling receptacles; 4) Phased-in food scrap ban (businesses and institutions typically must comply with ban earlier than residents).
2. Encourage small farms to become organic waste sites. Lack of facilities can be a barrier to organic waste bans. States can encourage the development of small-scale composting sites on small farms. **For example:** *MA has an exemption that allows farms that receive less than 105 tons of organic material per week to avoid more stringent permitting requirements applied to larger sites.*
3. Providing financial incentives to reduce waste. Unit-based pricing (UBP), including Pay As You Throw (PAYT) could be implemented to incentivize the diversion of food waste. **Example:** *The Vermont Universal Recycling Law required municipalities in the state to put UBP in place for residential trash. Connecticut awarded grants for communities to implement UBP as part of a recycling assistance program.*

Government Support for Food Waste Reduction



Summary

State and local governments can provide financial and administrative support for food waste reduction efforts by:

1. Offering grant programs. Grants incentivize food waste reduction behavior, but also generate new ideas for reducing food waste. Grants can also foster collaborations amongst competing organizations. **For example:** *CalRecycle grant program allotted \$10 million for a three-year grant program to promote food waste reduction initiatives through source reduction or food rescue for people in need. New York City's Manhattan Solid Waste Advisory Board funded small-scale composting projects (\$100-\$700 awards) geared toward funding community composting initiatives.*
2. Investing in consumer and community education programs to encourage food waste reduction and recovery. **For example:** *Tennessee Department of Environment and Conservation allocated \$1,000,000 for waste reduction grants, including composting units and organics collection bins, and Michigan is funding programs that develop replicable food waste prevention projects.*