

CURRENT LEGISLATION AND POLICIES AROUND FOOD WASTE AND FOOD RESCUE

BILL EMERSON ACT

The Bill Emerson Good Samaritan Food Donation Act was signed into law by President Bill Clinton in 1996 to encourage the donation and distribution of food and grocery products to qualified non-profit organizations. The act protects donors such as restaurants, caterers, and grocers from any civil or criminal liability, except for gross negligence or willful misconduct. The Act reduces potential donor liability and solves the problems created by a patchwork of various state laws through partial preemption. It also enables and encourages food recovery to help those that are food insecure.

NYS FOOD DONATION AND FOOD SCRAPS RECYCLING LAW

Effective January 1, 2022, the NYS Food Donation and Food Scraps Recycling law requires businesses and institutions that generate an annual average of two tons of wasted food per week or more must donate excess edible food and/or recycle all remaining food scraps if they are within 25 miles of an organics recycler (composting facility, anaerobic digester, etc.).

This law does NOT include:

- New York City (which already has a local law in place requiring the diversion of food scraps from disposal)
- Hospitals
- Nursing Homes
- Adult Care Facilities
- K-12 Schools

ZERO FOOD WASTE ACT

The Zero Food Waste Act aims to provide grants to state, local, tribal, and territorial governments and nonprofits to reduce the amount of food waste by 50% by 2030, relative to the amount in 2010. The bill establishes an Environmental Protection Agency (EPA) program to award competitive grants to state, tribal, and local governments, with a total of \$650 million to be awarded annually through 2030. The grants can support the development of policies, programs, and infrastructure at the local level focused on preventing food from going to waste, measuring food waste generation rescuing surplus food, and recycling food scraps. The bill also incentivizes farmers to implement more sustainable farming practices and provides local governments with the resources to develop strategies that will reduce the amount of food waste that local communities generate.

FOOD DONATION IMPROVEMENT ACT

In November 2021 the Food Donation Improvement Act was introduced, expanding liability protection for food donation and reduce wasted food nationwide. The bill enhances the coverage of the Bill Emerson Good Samaritan Food Donation Act (Emerson Act), which promotes food donation by providing civil and criminal liability protection to food donors and food recovery organizations. The Emerson Act provides a broad base of liability protection that was intended to encourage food donations, yet donors are often unaware of the Act's protections or have outstanding questions regarding the Act. Many food manufacturers, retailers, and restaurants still cite fear of liability as a primary deterrent to donating food. The Food Donation Improvement Act will help to clarify some of the ambiguous terms in the Emerson Act, promote awareness of the Act, and extend liability protection to support modern food donation. This bill would: 1.) Improve federal oversight of liability protections for food donation under the Emerson Act by delegating authority of the Act to the U.S. Department of Agriculture and requiring USDA to write regulations explaining the safety and labeling requirements that must be met to maintain protection under the Act; 2.) Expand liability protections to food donations to include not only food given for free to the end recipient but also food sold at a reduced price to cover the cost of handling the products; 3.) Expand liability protections to include not only donations made via a nonprofit intermediary, but also donations made by a retail grocer, wholesaler, agricultural producer, restaurant, caterer, school food authority, and institution of higher education that donate food directly to individuals.

FOOD DATE LABELING ACT

The Food Date Labeling Act was reintroduced in both the House and Senate on December 7, 2021. The bill aims to end consumer confusion around food date labeling and reduce food waste by standardizing date labels on food products. With the exception of infant formula, date labeling on food is not federally regulated or standardized. The bill would provide clarity on food safety and quality issues while preventing the wastage of more than 500,000 tons of food each year. The bill establishes a dual date labeling system that requires food labelers to use one of two phrases: "BEST If Used By" to indicate food quality or "USE By" to indicate food safety. This replaces the current date labeling thicket among states and uses terms that many consumers already understand.

