Opportunities to Reduce Food Loss and Waste

Role of Law and Policy

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• Serve clients
• Train students
• 4 Main Policy Areas:
  ▪ Community Empowerment
  ▪ Sustainable Food Production
  ▪ Food Access & Obesity Prevention
  ▪ Reducing Food Waste
Food Waste Policy Solutions

- Date Label Reform
- Food Recovery Support
  - Tax incentives
  - Liability Incentives
- Food Recycling
  - Organic Waste Bans & Waste Recycling Laws
Date Labels

BEST BEFORE
DEC 12 12 V 20:30

SELL BY AUG 27
211 P1189

BEST IF USED BY:
11 30 12 31 2112
21213052 503 1113bn

EXPIRY DATE / DATE LIMITE D'UTILISATION
504453371B 10:48B
EXP 2016 MA 13
Consumer Perceptions of Date Labels: National U.S. Survey (April 2016)

84% of consumers at least occasionally discard food close to or past the date on its package

36% of consumers think date labels are federally regulated
37% think date labels are not federally regulated
26% don’t know

Only 1% know that date labels are regulated only for specific foods
ReFED Roadmap: Standardizing date labels is the most cost effective of 27 solutions: It could divert 398,000 tons of food waste/year and provide an annual economic value of $1.8 billion.
Food Recovery: Barriers to Food Donation

• Cost
  *Tax Incentives*

• Fear of Liability
  *Liability Protections*
Tax Incentives for Food Donations

• Tax incentives are cost effective & economically beneficial

• A win-win for all parties involved

• U.S. Model
  – Federal
    • General Deduction
    • Enhanced Deduction for food donations
  – State tax Incentives
    • 9 States & Washington, D.C.
Liability Protections for Food Donations

- **25%** of food retailers and wholesalers and **50%** of food manufacturers cite liability concerns as one of the main barriers to food donation.

- Providing liability protection to food donors and nonprofits can help address these concerns.

- **U.S. Model**
  - Federal Bill Emerson Good Samaritan Act
  - Provides a federal baseline of civil and criminal liability protections
  - All 50 states provide some form of liability protection for food donations.

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**RECOMMENDATIONS TO STRENGTHEN THE BILL EMERSON GOOD SAMARITAN ACT**

Food donation provides a critical link between organizations with wholesome, surplus foods and the 42 million Americans who are food insecure today. Unfortunately, many food manufacturers, retailers, and restaurants cite fear of liability as a primary deterrent to donating food. A 2006 survey by the Food Waste Reduction Alliance, a joint food industry task force, found that 44 percent of manufacturers, 61 percent of retailers, and 25 percent of restaurants identified liability concerns as a barrier to donation. There are strong federal and state liability protections for food donations, but some small changes could help extend and strengthen those protections.

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**THE EMERSON ACT**

In 2003, Congress passed the Bill Emerson Good Samaritan Food Donation Act (Emerson Act), which provides a federal floor of civil and criminal liability protections to food donors and nonprofit organizations that receive food donations and distribute those donations to those in need. The Emerson Act protects a broad range of food donors, including individuals, businesses, and government entities, as well as groups of individuals or entities that have donated agricultural crops and food recovery organizations. The Emerson Act provides donors and nonprofit recipients from civil and criminal liability for injury caused by the donated food unless either acts with gross negligence or intentional misrepresentation. Donors and distributors must meet the following four requirements to receive protection under the Act:

1. The food must be donated to a nonprofit organization in good faith.
2. The food must meet all federal, state, and local quality and labeling requirements at the time it is donated.
3. The donated food must be distributed in a manner that avoids serious injury to any individual.
4. The food must not be used to meet federal, state, or local standards.

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**AN EXECUTIVE AGENCY SHOULD BE RESPONSIBLE FOR IMPLEMENTING AND INTERPRETING THE EMERSON ACT**

Unlike many actions which delegate power to an agency to interpret and enforce them, Congress never assigned the Emerson Act to a particular federal agency for interpretation and enforcement. Thus, no agency is empowered by the enabling legislation to make, interpret, or enforce the Act. Further, the Emerson Act has not been challenged in court, so there are no judicial interpretations of it. The Office of the Solicitor of the Department of Agriculture is charged with making sure that the Act is implemented and enforced, but it is not clear whether all states are following the Act's requirements. As a result, donors do not know how to interpret some of the Act’s more ambiguous terms, such as “gross negligence,” “ready individual,” and “good faith” and are uncertain about the Act’s requirements.
Food Recycling

Over 97% of wasted food ends up in landfills, and food waste is the largest filler of landfills nationwide, and a significant contributor to methane emissions nationally.

• Prevent wasted food from reaching landfills:
  – Organic waste bans or waste recycling laws
  – Composting
  – Anaerobic digestion
Organic Waste Bans & Recycling Laws in The U.S.

• 5 states and several localities in the U.S. have implemented waste bans or recycling laws

• Organic Waste Bans
  – Ban waste from landfills; entity determines alternative action
  – E.g., Rhode Island, Massachusetts, Connecticut, Vermont

• Waste Recycling Laws
  – Require entities to take specific action with waste
    • Composting or anaerobic digestion
  – E.g., California
WHAT ARE SOME OTHER POLICY SOLUTIONS?
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