

Opportunities to Reduce Food Loss and Waste

ROLE OF LAW AND POLICY

Christina Rice March 2, 2017



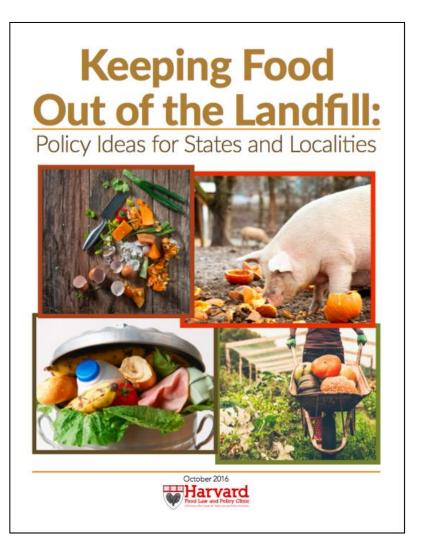
- Serve clients
- Train students
- 4 Main Policy Areas:
 - Community Empowerment
 - Sustainable Food Production
 - Food Access & Obesity Prevention

Reducing Food Waste

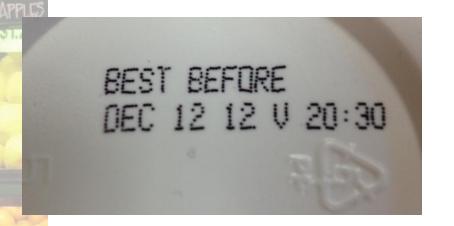




- Date Label Reform
- Food Recovery Support
 - Tax incentives
 - Liability Incentives
- Food Recycling
 - Organic Waste Bans &Waste Recycling Laws



Date Labels









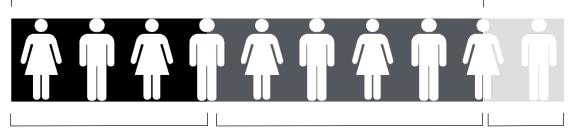
Consumer Perceptions of Date Labels: National U.S. Survey (April 2016)







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

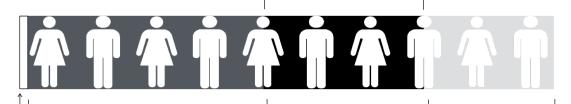


Always or usually

Occasionally

Never

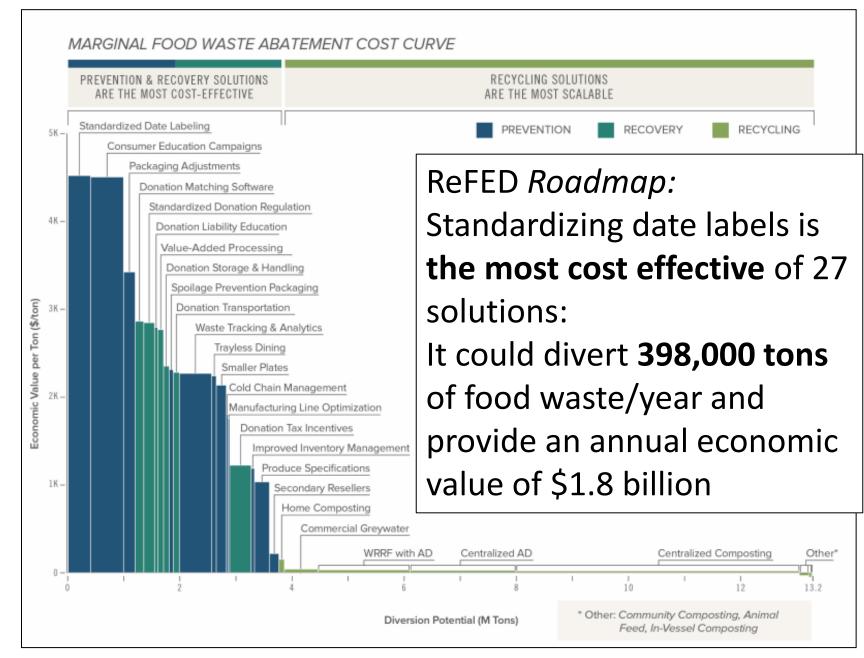
36% of consumers think date labels are federally regulated



37% think date labels are not federally regulated

26% don't know

Only 1% know that date labels are regulated only for specific foods





- Cost

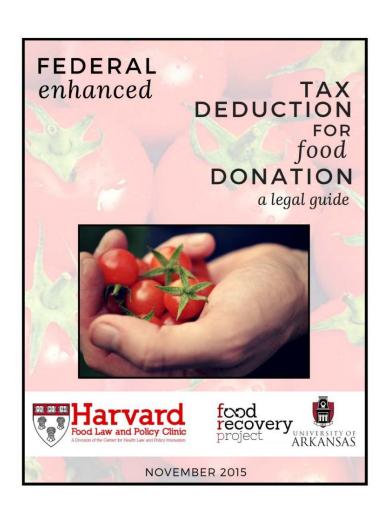
 Tax Incentives
- Fear of Liability

 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.



EPTEMBER 2016

DACE CHEES

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 manufactures, retailers, and restaurants cite fear of liability as a primary deterrent to donating food. A 2016 survey by the Food Waste Reduction Alliance, a joint food industry task force, found that 44 percent of manufacturers, 44 percent of restaurants, and 25 percent of retailers 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.

THE EMERSON A

In 1996, Congress passed the Bill Emerson Good Samaritan Food Donation Act (Emerson Act), which provides a federal floor of civil and criminal liability protection 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 gleaners (an individuals) overnment entities, as well gleaners (an individual or entity that harvests donated agricultural crops) and food recovery organizations. The Emerson Act protects donors and nonprofit recipients from civil and criminal liability for injury caused by the donated food unless either acts with gross negligence or intentional misconduct. Donors and distributors must meet the following four requirements to receive protection under the Act:

- The food must be donated to a nonprofit organization in good faith.
- The food must meet all federal, state, and local quality and labeling requirements; if all quality and labeling requirements are not met, the food must be reconditioned to meet all quality and labeling requirements before it can be donated.
- The donated food must be distributed by the receiving nonprofit to needy individuals.
- The needy individuals receiving the food may not pay for it.

This broad base of liability protection was intended to encourage food donations, yet donors are often unaware of it. Further, several provisions in the Act should be broadened to better align with the current food recovery landscape. Clarifying the Emerson Act's coverage and expanding its protections, as described below, can boost more food donations. Most of our suggestions would require Congressional action to modify the Act's language. However, a federal agency can take action immediately to clarify the Emerson Act by providing interpretive guidance.

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

Unlike many statutes which delegate power to an agency to interpret and enforce them, Confress never assigned the Emerson Act to a particular federal agency for interpretation and enforcement. Thus, no agency is responsible for providing federal guidance or raising awareness of the Act. Further, the Emerson Act has not been challenged in court, so there are no judicial interpretations of it. Given the dearth of judicial or administrative interpretations, potential donors can only refer to the 1996 statutory language to determine whether or not they are protected. As a result, donors do not know how to interpret some of the Act's more ambiguous terms, such as "apparently wholesome," meetly individuous terms, such as "inparently wholesome," meetly individual and "gross negligence" and are unclear on the Act's recurrements.

For more information, please contact: JoAnne Berkenkamp, jberkenkamp@nrdc. www.nrdc.org/policy www.chlpi.org/fipe www.facebook.com/nrdc.org

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





- 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



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