



FOOD LAW
and POLICY CLINIC
HARVARD LAW SCHOOL

Tackling Food Waste Through Law and Policy

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ABOUT FLPC

Provide **legal and policy advice** to nonprofits, government agencies, entrepreneurs, and other organizations on a range of food policy questions



Educate students about the role of law and policy in the food system



FLPC's Food Waste Portfolio

State &
Local

Examples: technical assistance to state governments; state bill tracking

Federal

Example: U.S. Food Loss and Waste Action Plan; service on EPA FRRCC FACA

Global

Example: Global Food Donation Policy Atlas



UNITED STATES



UNITED STATES LEGAL GUIDE



ISSUE BRIEF

PROMOTING FOOD DONATION: DATE LABELING LAW AND POLICY

NOVEMBER 2021



Choose a policy area ▾

Food safety for donations

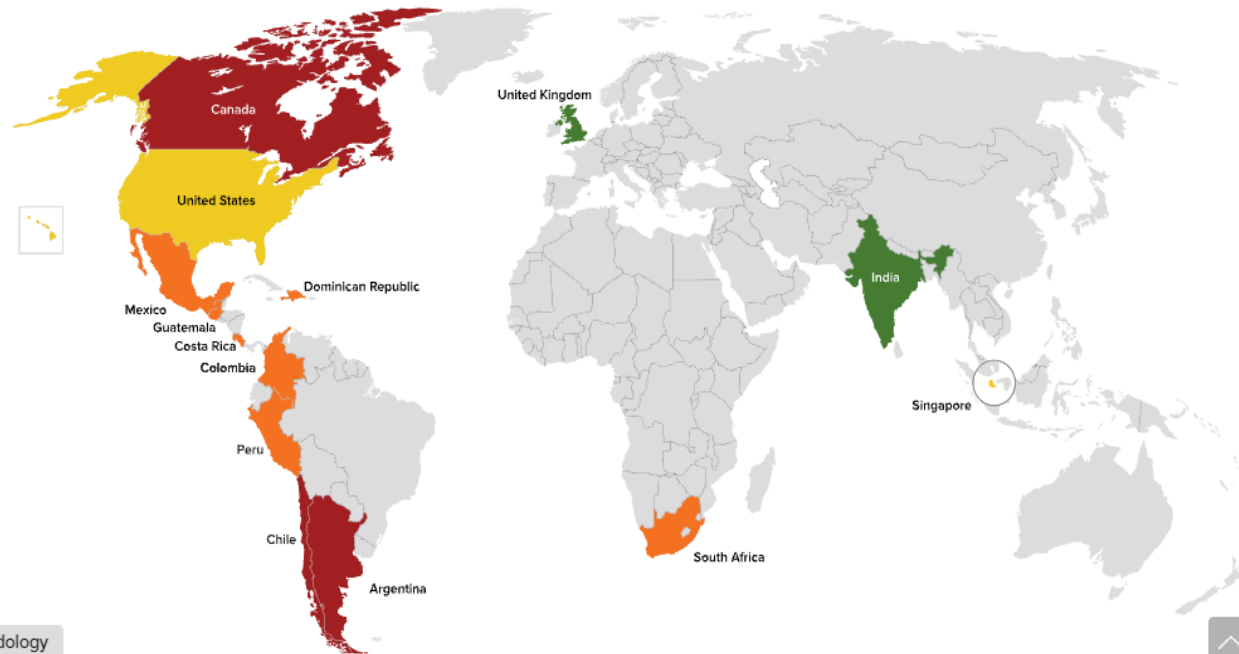
All donated food should be safe for consumption and comply with relevant food safety laws and regulations. Yet in many countries there is a lack of knowledge or readily available guidance as to which food safety procedures apply to donations.

- Strong policy
- Moderate policy
- Limited policy
- No policy

Methodology

Quick-view food donation policy atlas

Roll over or click countries for more information





Key Legal Issues



Food Safety



Date Labeling



Liability



Tax Incentives
& Barriers



Requirements
& Penalties



Govt. Grants
& Incentives

Call to Action on U.S. Food Loss & Waste

US Food Loss & Waste Policy Action Plan for Congress & the Administration

INTRODUCTION

Reducing and preventing food loss and waste (FLW) is a global imperative. Up to 40 percent of all food produced is lost or wasted,¹ and addressing this challenge is essential to building a regenerative and resilient food system that helps to mitigate climate change, reverse nature loss, and deliver positive outcomes for both producers and consumers. An estimated \$408 billion is spent each year in the US to grow, process, transport, store, and dispose of food that's never eaten.²

Yet proven solutions exist that save money, time, and natural resources.³ In 2015, the US adopted a national goal of halving FLW by 2030. We can achieve that goal by accelerating public and private sector leadership and building on overwhelming public support for reducing FLW.⁴ The Harvard Law School Food Law and Policy Clinic (FLPC), ReFED, the Natural Resources Defense Council (NRDC), and the World Wildlife Fund (WWF) recommend that the Biden administration and Congress take ambitious action to reduce FLW, prioritizing the following:

- 1 Invest in the infrastructure to measure, rescue, recycle, and prevent organic waste from entering landfills and incinerators
- 2 Expand incentives to institutionalize surplus food donation and strengthen regional supply chains
- 3 Assert the US Government's leadership on FLW globally and domestically
- 4 Educate and activate consumers via private and public food waste behavior change campaigns
- 5 Require a national date labeling standard

1. USDA, "Food Waste Facts," 2020, <https://www.usda.gov/foodwaste-facts>.
2. "Roadmap to 2030: Reducing US Food Waste by 50% and the ReFED Insights Engine," (ReFED, February 2021).
3. "Roadmap to 2030: Reducing US Food Waste by 50% and the ReFED Insights Engine".
4. Cary Frank, "US Public Views on Climate and Energy," Pew Research Center, Science & Society (blog), November 25, 2014.

- 1 Invest in prevention and keep waste out of landfills
- 2 Enable surplus food donation
- 3 Show US leadership at home and abroad
- 4 Educate and activate consumers
- 5 Standardize national date labeling

<https://foodwasteactionplan.org/>



Date Label Regulation

- No federal definition or requirements, except for infant formula
- 41 states regulate and 20 states restrict sale/donation
- 90% of consumers believe dates are safety indicators...
 - BUT date labels are generally suggestions of peak quality
- Standardizing date labels is one of the most cost-effective opportunities for food waste reduction, with a potential of diverting 582.4K tons of wasted food





Opportunities

- **Progress**

- Voluntary Product Code Dating Initiative
- *Codex Alimentarius* Commission recommendation



- **Recommendations**

1. Standard labels: one for safety, one for quality
2. Allow donation of food past *quality* date
3. Educate businesses and consumers





EXPIRED

HOME THE PROBLEM THE SOLUTION LEARN MORE THE FILM ABOUT

EXPIRED?

Date Labels and Food Waste in America

THE PROBLEM

THE SOLUTION

www.notreallyexpired.com

Liability Protection for Donation

Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791) →

- Provides comprehensive liability protection to food donors and nonprofit organizations for food donated to a nonprofit organization for distribution to needy individuals

Issues

- More than 50% of companies don't donate because of liability
- Comprehensive protection, but not available for certain types of donation
 - I.e., direct donation to needy individuals
 - I.e., donations that charge a low price to end recipient





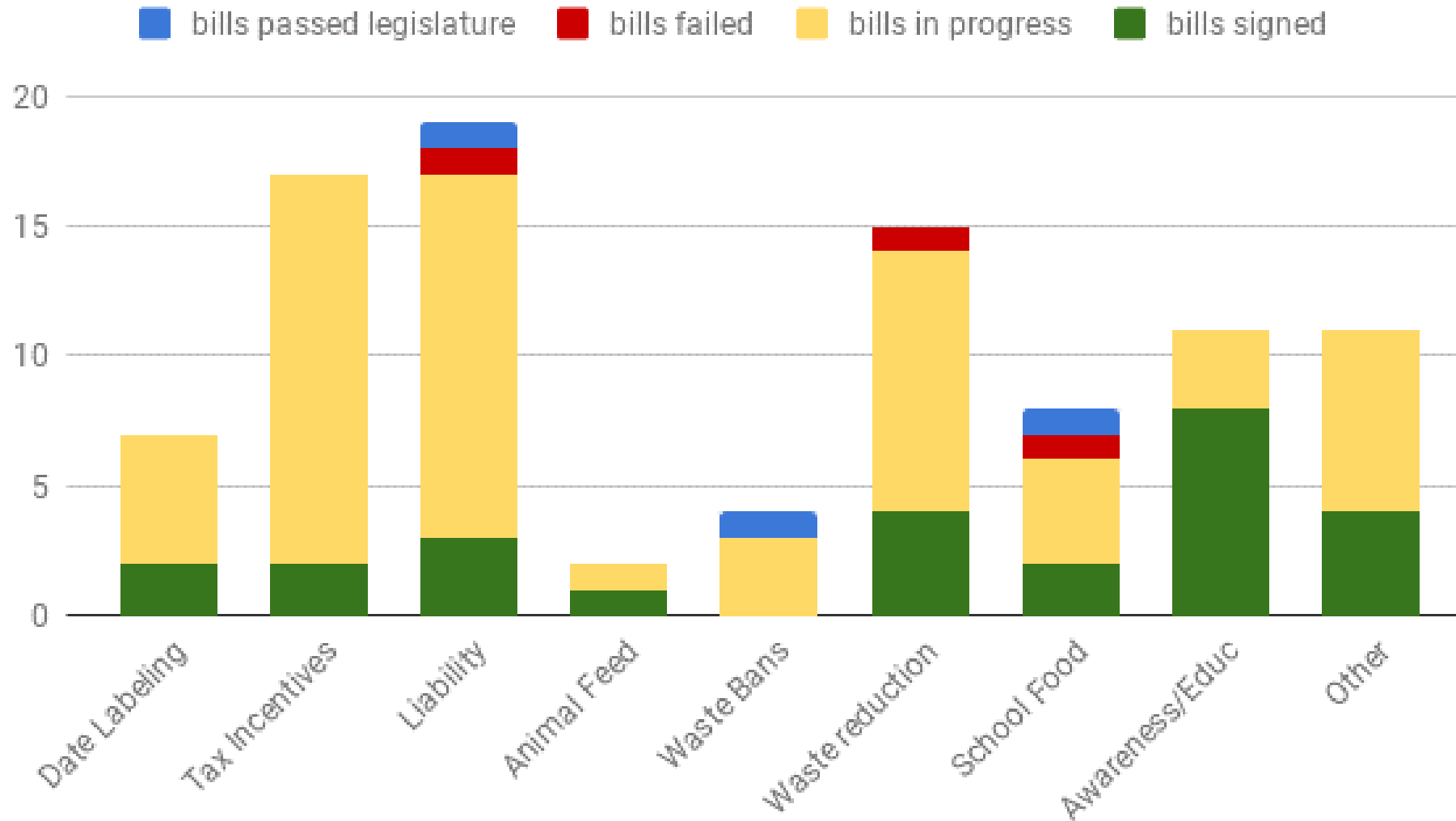
Donation Requirements or Waste Penalties

- **Organic Waste Restrictions** → 8 states/10 cities in U.S.
 - Massachusetts prohibits sending > **1/2 ton** of food to the landfill per week
- **Donation requirements** →
 - Ex: California requires 20% of edible food be donated





Trending Issues in State Legislation 2019-20





LEVERAGING CHILD NUTRITION REAUTHORIZATION TO REDUCE FOOD WASTE





MAY 2021




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OPPORTUNITIES TO REDUCE FOOD WASTE IN THE 2018 FARM BILL




Prevention


Recovery

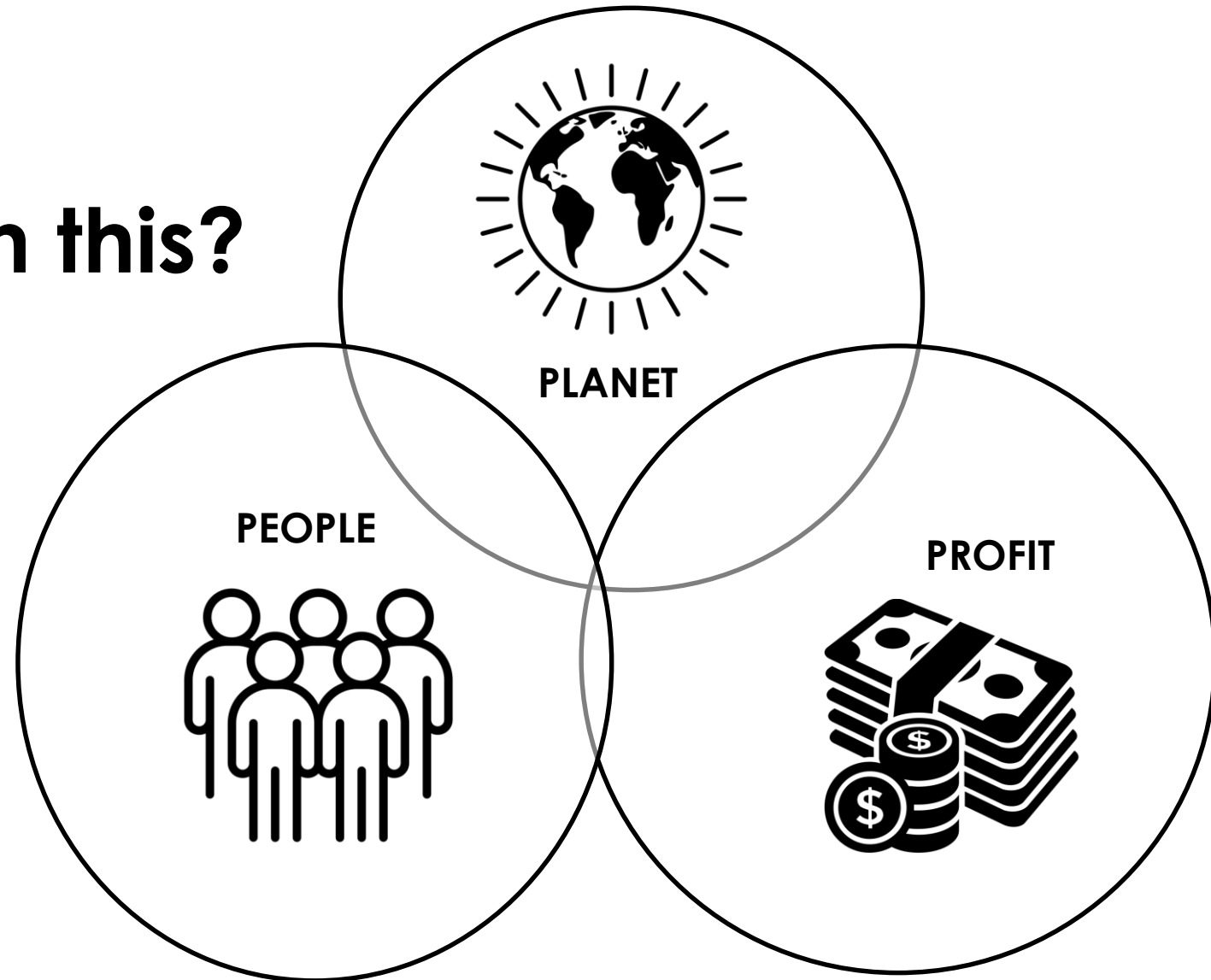

Recycling


Coordination

May 2017



Why focus on this?





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