Tackling Food Waste Through Law and Policy

Emily M. Broad Leib
Director, Food Law and Policy Clinic
Harvard Law School
Provide **legal and policy advice** to nonprofits, government agencies, entrepreneurs, and other organizations on a range of food policy questions.

- **Sustainable & Equitable Food Production**
- **Food Access & Nutrition**
- **Community-Led Food System Change**
- **Food Waste & Recovery**

**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
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.

United States

ISSUE BRIEF
PROMOTING FOOD DONATION: DATE LABELING LAW AND POLICY

NOVEMBER 2021

Quick-view food donation policy atlas
Roll over or click countries for more information

Methodology

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

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?
Date Labels and Food Waste in America

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
  • Ie, direct donation to needy individuals
  • Ie, 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

- Date Labeling
- Tax Incentives
- Liability
- Animal Feed
- Waste Bans
- Waste reduction
- School Food
- Awareness/Educ
- Other

Legend:
- Blue: bills passed legislature
- Red: bills failed
- Yellow: bills in progress
- Green: bills signed
LEVERAGING CHILD NUTRITION REAUTHORIZATION TO REDUCE FOOD WASTE

MAY 2021

OPPORTUNITIES TO REDUCE FOOD WASTE IN THE 2018 FARM BILL

May 2017
Why focus on this?