



FOOD SAFETY AND SECURITY
50-State Survey

State Laws Addressing Food Donation

In the U.S., between 30% and 40% of food produced is wasted. Retail, food service, and residential sectors create about 66 million tons of food waste, while the food and beverage manufacturing and processing sectors add another 40 million tons. At the same time, over 40 million people report being food insecure, many of whom are children. Diverting food waste to people in need could be crucial to solving the food insecurity crisis in this nation. Food insecurity poses an immense threat to public health and healthy equity, as it disproportionately impacts low income, Black, and Hispanic households. Food donation laws are designed to reduce wasted food and improve food security. Without adequate nutrition, people suffer negative health consequences. These negative health outcomes can be avoided by encouraging those in the various food industries to donate. Below, we created a survey that highlights laws promoting food donation. There is also an accompanying policy brief, [“Food Loss and Waste: Snapshot of Food Donation Laws and Other Incentives to Increase Food Security and Reduce Environmental Harm.”](#) regarding this topic.

Summary Matrix of State Laws Addressing Food Donation

Enacted or adopted as of March 2024

Key:

(1) ** = see notes

(2) † = not explicitly stated, but implied by the overarching language of "donor" or "person" that are defined broadly

State	What "food" can be donated (what language is used to describe food in the statute)?	Who can be a "donor"?							Allows direct donation in line with the Bill Emerson Act (2023)?	Are there tax incentives for farmers donating?	Are there tax incentives for businesses donating?	Are there organic waste requirements?	Notes
		Person/Good Faith Donor	Farmer	Gleaner	Retailer/ Grocery Store, Wholesaler, Distributor	Restaurant/Caterer	Processor	Other					
AL	<u>Canned and perishable food, including perishable food that is "not readily marketable due to appearance, freshness, grade, or surplus"</u>	<u>Y</u>	†	†	†	†	†	†	N	N	N	N	
AK	<u>Food includes unsold hot food</u>	<u>Y</u>	†	†	†	†	†	†	N	N	N	N	



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		Person/Good Faith Donor	Farmer	Gleaner	Retailer/ Grocery Store, Wholesaler, Distributor	Restaurant/Caterer	Processor	Other					
AZ	<u>Raw, cooked, processed, or prepared edible substance or beverage intended for human consumption that meets quality and labeling requirements, includes food not readily marketable due to any condition such as packaging, appearance, age, freshness, grade, surplus, or size</u>	Y	†	†	†	†	†	†	N	Y	Y	N	
AR	<u>Canned food, live food (livestock or wild game), and perishable food (including not readily marketable due to appearance, freshness, grade, or surplus)</u>	Y	†	†	†	†	†	†	N	N	N	N	



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		Person/Good Faith Donor	Farmer	Gleaner	Retailer/ Grocery Store, Wholesaler, Distributor	Restaurant/Caterer	Processor	Other					
CA	<u>Canned or perishable food, including if past shelf-life date</u>	Y	N	Y	Y**	Y**	N	N	N	Y	N	Y	<u>Both of these qualify as "food facilities"</u>
CO	<u>Food, regardless of nature, age, condition, or packaging</u>	N	Y	Y	Y	Y	Y	Y*	N	N	N	N**	Also allows correctional facilities, school districts, and hospitals to donate; Created a grant program to fund a waste diversion program
CT	<u>Canned and perishable food, regardless of nature, age, condition, or packaging</u>	Y	Y	N	Y	Y	Y	N	N	N	N	Y	



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		Person/Good Faith Donor	Farmer	Gleaner	Retailer/ Grocery Store, Wholesaler, Distributor	Restaurant/Caterer	Processor	Other					
DE	<u>Any raw, cooked, processed, or prepared edible substance intended for human consumption, including nonperishable food, perishable food, and wild game</u>	Y	†	Y	†	†	†	†	N	N	N	N	
DC	<u>Any raw, cooked, or processed edible substance intended for human consumption**</u>	Y	†	†	†	†	†	†	N	N	N	Y	Past date food may be donated unless being past date poses an increased safety risk to consumer
FL	<u>Canned and perishable food, including food not readily marketable due to appearance, freshness, grade, or surplus</u>	Y	N	Y	Y	Y	N	Y	N	N	N	N	



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		Person/Good Faith Donor	Farmer	Gleaner	Retailer/ Grocery Store, Wholesaler, Distributor	Restaurant/Caterer	Processor	Other					
GA	<u>Canned and perishable food, including food not readily marketable due to appearance, freshness, grade, or surplus</u>	N	Y	Y	Y	Y	Y	N * *	N	N	N	N	These are the donors listed in the statute, but the statute does not limit donors to just these.
HI	<u>Includes perishable and nonperishable food past shelf life date, agricultural products excluding poultry, and wild game and livestock processed in a food-safe manner</u>	Y	Y	N	Y	Y	Y	Y	N	N	N	N	
ID	<u>Perishable and nonperishable food, including food not readily marketable due to appearance,</u>	N	Y	Y	Y	Y	Y	N * *	N	N	N	N	These are the donors listed in the statute, but the statute does not limit donors to just these.



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		Person/Good Faith Donor	Farmer	Gleaner	Retailer/ Grocery Store, Wholesaler, Distributor	Restaurant/Catere	Processor	Other					
	<u>freshness, grade, or surplus</u>												
IL	<u>Perishable, canned, or farm food, prepared food, day-old bread, or wild game</u>	Y	Y	Y	Y	Y	Y	Y * *	N	N	N	N	Wild game donors are specifically included
IN	<u>Any item that may be ingested as part of a normal human diet, including food prepared by a food source (like a restaurant) but not served</u>	Y	†	†	†	†	†	†	N	N	N	N	
IA	<u>Canned or perishable food or farm products not readily marketable due to appearance, freshness, grade, or surplus</u>	Y	†	Y	Y	Y	Y	Y * *	N	Y	N	N	Other donor includes schools specifically



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		Person/Good Faith Donor	Farmer	Gleaner	Retailer/ Grocery Store, Wholesaler, Distributor	Restaurant/Catere	Processor	Other					
KS	<u>Canned and perishable food, including food not readily marketable due to appearance, freshness, grade, or surplus</u>	Y	†	†	†	†	†	†	N	N	N	N	
KY	<u>Any raw, cooked, processed, or prepared edible substance intended for human consumption, including food not readily marketable due to appearance, age, date labeling, freshness, grade, size, or surplus</u>	Y	†	†	†	†	†	†	N	N	N	N	



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		Person/Good Faith Donor	Farmer	Gleaner	Retailer/ Grocery Store, Wholesaler, Distributor	Restaurant/Catere	Processor	Other					
LA	<u>Perishable, salvageable, or prepared food, including wild game</u>	Y	Y	N	Y	Y	Y	Y*	N	N	N	N	Other donors include schools and churches specifically
ME	<u>Canned and perishable food, including food not readily marketable due to appearance, freshness, grade, or surplus, including food past its sell-by date</u>	Y	†	†	†	†	†	†	N	Y	N	N	
MD	<u>Only specifies "food"</u>	Y	†	†	†	†	†	†	N	Y	N	Y	
MA	<u>Includes open-dated foods whose date has passed and prepared food</u>	Y	†	†	†	†	†	†	N	†	N	Y**	<u>They have organic waste restrictions through regulations rather than statute</u>



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		Person/Good Faith Donor	Farmer	Gleaner	Retailer/ Grocery Store, Wholesaler, Distributor	Restaurant/Catere	Processor	Other					
MI	<u>Perishable, canned or farm food items, or prepared food, regardless of nature, age, condition, or packaging</u>	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	
MN	<u>Food fit for human consumption, including perishable food and food not readily marketable due to appearance, freshness, grade, or surplus</u>	Y	N	N	Y	Y	Y	Y	Y**	N	N	N	Direct donations can be done by any person of distressed food, but may not include food facilities (which would include restaurants)
MS	<u>Food that is prepared, perishable, or raw agricultural products which appear to be fit for human consumption</u>	Y	†	†	†	Y	†	†	N	N	N	N	



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		Person/Good Faith Donor	Farmer	Gleaner	Retailer/ Grocery Store, Wholesaler, Distributor	Restaurant/Catere	Processor	Other					
MO	<u>Any raw, cooked, canned, perishable, or prepared edible substance intended for human consumption</u>	Y	†	†	†	†	†	†	N	N**	N**	N	Taxpayers eligible for credit for donation of food up to \$2500, with program set to expire by December 31, 2026 if not reauthorized.
MT	<u>Canned and perishable food, including food not readily marketable due to appearance, freshness, grade, or surplus**</u>	Y	Y	Y	Y	Y	Y	N	N	N	N	N	Donations of game are regulated by Fish and Wildlife and do not seem to have liability protections inserted in the code.
NE	<u>All articles intended for human consumption including, perishable food and agricultural products, including those not readily marketable due to appearance, freshness, grade, or surplus</u>	Y	†	†	†	†	†	†	N	Y	Y	N	



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		Person/Good Faith Donor	Farmer	Gleaner	Retailer/ Grocery Store, Wholesaler, Distributor	Restaurant/Catere	Processor	Other					
NV	**	**							**	N	N	N	Seems to only rely on Bill Emerson Act for Protection
NH	<u>Any raw, cooked or processed edible substance intended for human consumption, including open-dated foods whose date has passed and food not readily marketable due to appearance, freshness, grade, or surplus</u>	Y	†	†	†	†	†	†	Y	N	N	Y	
NJ	<u>Any prepared, perishable, or agricultural food fit for human consumption, including food not readily marketable due to appearance, freshness, grade, passage of the "best by" or other open date, or surplus</u>	Y	Y	Y	Y	Y	Y	N	Y	N	N	N	These are the donors listed in the statute, but the statute does not limit donors to just these.



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		Person/Good Faith Donor	Farmer	Gleaner	Retailer/ Grocery Store, Wholesaler, Distributor	Restaurant/Catere	Processor	Other					
NM	<u>Canned and perishable food</u>	Y	†	†	†	†	†	† * *	N	N	N	N	Definition of "person who donates food" includes community colleges
NY	<u>Canned or perishable food, farm product, game or wild game, apparently fit for human consumption, including food not readily marketable due to appearance, freshness, grade, or surplus</u>	Y	†	†	†	†	†	†	N	Y	N	Y	
NC	<u>Any food item, regardless of nature, age, condition, or packaging of the donated food</u>	Y	Y	†	Y	Y	Y	†	N	N	N	N	



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		Person/Good Faith Donor	Farmer	Gleaner	Retailer/ Grocery Store, Wholesaler, Distributor	Restaurant/Catere	Processor	Other					
ND	<u>Perishable food, including any food not readily marketable due to appearance, freshness, grade, or surplus</u>	Y	†	Y	†	†	†	†	N	N	N	N	
OH	<u>Canned, perishable, and prepared food, including gleaned agricultural product and food passed the sell-by date</u>	Y	†	†	†	†	†	†	N	N	N	N	
OK	<u>Any packaged, prepared, perishable or nonperishable food item, including not readily marketable due to appearance, freshness, or grade</u>	Y	†	†	†	†	†	†	N	N	N	N	



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		Person/Good Faith Donor	Farmer	Gleaner	Retailer/ Grocery Store, Wholesaler, Distributor	Restaurant/Catere	Processor	Other					
OR	<u>Any food whether or not it may spoil or otherwise become unfit for human consumption because of its nature, type or physical condition</u>	Y	†	Y	†	†	†	†	N	Y	N	N	
PA	<u>Wholesome food, regardless of nature, age, packaging, or condition</u>	Y	†	†	†	†	†	†	N	Y	Y	N	
RI	<u>Perishable and nonperishable food, even if past shelf-life date</u>	Y	†	Y	N	Y * *	N	Y * *	Y**	N	N	Y	Food facilities include restaurants, hospitals, schools, and nonprofits; Food facilities can directly donate to individuals



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		Person/Good Faith Donor	Farmer	Gleaner	Retailer/ Grocery Store, Wholesaler, Distributor	Restaurant/Catere	Processor	Other					
SC	<u>Canned, packaged, perishable, prepared, and gleaned food, including food not readily marketable due to appearance, freshness, grade surplus, dented or damaged containers which do not affect the edibility of the food</u>	Y	†	†	†	†	†	†	N	N	Y**	N	Tax incentive for meat packers or processors donating deer
SD	<u>Perishable food fit for human consumption</u>	Y	†	Y	†	†	†	†	N	N	N	N	
TN	<u>Wholesome food that meets quality standards, including prepared food from restaurants and other food servers, apparently wholesome deer meat, and food not readily marketable due to appearance.</u>	Y	†	Y	†	Y	†	†	Y	N	N	N	



	<u>freshness, sell-by date, grade, size, or surplus</u>													
State	What "food" can be donated (what language is used to describe food in the statute)?	Who can be a "donor"?							Allows direct donation in line with the Bill Emerson Act (2023)?	Are there tax incentives for farmers donating?	Are there tax incentives for businesses donating?	Are there organic waste requirements	Notes	
		Person/Good Faith Donor	Farmer	Gleaner	Retailer/ Grocery Store, Wholesaler, Distributor	Restaurant/Catere	Processor	Other						
TX	<u>Food that meets all quality standards, including food not readily marketable due to appearance, age, freshness, grade, size, or surplus</u>	Y	†	Y	†	†	†	†	N	N	N	N		
UT	<u>Wholesome food</u>	Y	†	†	†	†	†	Y * *	N	N	N	N	Donors of specifically agricultural product and wild game (donated by licensed hunters) are protected as well in a different part of the code	



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		Person/Good Faith Donor	Farmer	Gleaner	Retailer/ Grocery Store, Wholesaler, Distributor	Restaurant/Catere	Processor	Other					
VT	<u>Canned and perishable food, and farm products, including food not readily marketable due to appearance, freshness, grade, or surplus</u>	Y	†	†	†	†	†	†	N	N	N	Y	
VA	<u>Includes food past its best by date and food regardless of nature, age, condition, or packaging of the donated food</u>	Y	Y	†	Y	Y	Y	†	N	Y	N	N	
WA	<u>Any raw, cooked, processed, or prepared edible substance intended for human consumption that meets safety-labeling standards, including food not readily marketable due to appearance, age, freshness, grade, size, surplus, or passage of a date on a date label</u>	Y	†	Y	Y	Y	†	Y* *	Y	N	N	Y	Qualified donor can include school food authority and institutions of higher learning



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		Person/Good Faith Donor	Farmer	Gleaner	Retailer/ Grocery Store, Wholesaler, Distributor	Restaurant/Catere	Processor	Other					
WV	<u>Any raw, cooked, processed or prepared edible substance that meets quality and labeling standards, including food not readily marketable due to appearance, age, freshness, grade, size, or surplus</u>	Y	†	Y	†	†	†	†	N	Y	N	N	
WI	<u>Food products that meet quality standards, including foods not readily marketable due to appearance, age, freshness, grade, size, or surplusage</u>	Y	†	†	†	†	†	†	N	N	N	N	
WY	<u>Food regardless of nature, age, condition, or packaging, including game meat</u>	Y	†	†	†	†	†	†	N	N	N	N	

Key:

(1) ** = see notes

(2) † = not explicitly stated, but implied by the overarching language of "donor" or "person" that are defined broadly

Notes:

(1) The definition of "Gleaner" is a person who harvests for free distribution to the needy or to donate to a nonprofit organization aiming to distribute to the needy (Emerson Act).

(2) These do not protect donors that act in a willful, wanton or reckless way, such as knowing the food is not fit for human consumption, which result in injury to recipients of the donated food

This document was developed by Brian Choi, Michael Heffron, and Alex Sadzewicz, student attorneys in the Public Health Law Clinic and members of the Class of 2024 at the University of Maryland Carey School of Law, and reviewed by Kathleen Hoke, Law School Professor at Maryland Carey and Director of the Network for Public Health Law-Eastern Region. The Network for Public Health Law promotes public health through non-partisan educational resources and technical assistance. This document is provided for informational purposes only and does not constitute legal advice or legal representation. Neither provision of this document nor any communications with the Network for Public Health Law and its staff create an attorney-client relationship. For legal advice, please contact your attorney.

Laws effective as of March 2024

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