

## FOOD DONATION LAWS AND LIABILITY PROTECTION

**YOU'RE PROTECTED!** There are several laws pertaining to food donation at the federal and state level. **The Bill Emerson Good Samaritan Food Donation Act** (42 U.S.C. § 1791) encourages food donations by providing liability protections for businesses that donate 'apparently wholesome' food in 'good faith' to nonprofit organizations. 42 U.S.C. § 1758(l) explicitly states that schools participating in the national lunch program that donate excess food receive liability protection.

The State of Ohio provides liability protections beyond the Bill Emerson Good Samaritan Food Donation Act (NRDC). These protections include a "presumption of good faith, cover donations made directly to individuals, and allow distributors to charge a small fee for donated food." Ohio also notes explicitly that a presumption of liability does not arise merely because a sell-by date has passed.

**Note:** If a dual date-labeling system is implemented, liability protections should be amended to include clear permission to donate after the quality-based date." The NRDC: Great Lakes Food Waste Policy Gap Analysis and Inventory has more information.

In Ohio, the **Ohio Revised Code § 2305.37** protects eligible donors that donate or distribute apparently wholesome food for free. Eligible donors include individuals, non-profit groups, corporations, business trusts, estates, trusts, partnerships, associations, and government entities. To learn more about liability protections, tax incentives, and date labeling laws specific to states, refer to [Harvard Food Law and Policy Clinic's state-specific fact sheets](#).



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Developed in partnership with the Cleveland Department of Public Health.

# Food Donation Guidance

**Cuyahoga County alone faces a food insecurity rate of over 18%** while in 2019, **U.S. businesses generated approximately 50 million tons of surplus food** – the equivalent to 80 billion meals, 40% of which is wasted on average. Much of this food could feed hungry people, while reducing disposal costs and providing tax benefits for your business.

## 4 KEY STEPS FOR LAUNCHING A SUCCESSFUL FOOD DONATION PROGRAM

1. Identify the types and amounts of food to be donated
2. Identify partner organizations in your area
3. Determine packaging, storage, and labeling requirements
4. Determine how food will be transported and picked up

Businesses should consider how each strategy on the US EPA's Food Recovery Hierarchy can contribute to a comprehensive plan to mitigate wasted food, prioritizing feeding hungry people when possible.



### LABELING DONATIONS:

Most food that is "apparently wholesome" and/or "fit for human consumption" can be donated. Properly label, package, and store donations to prevent contamination or spoilage. Labeling is a crucial component in the process to ensure all parties involved in the donation and receipt of food items can operate safely.

Recommended language for food labels:

1. Name and location of food distribution organization
2. Name and location of donor
3. Food description (i.e. ingredients)
4. Date of donation
5. Allergen disclaimer statement



## WARNING

This container holds rescued food! This food may contain, have come into contact with, or have been produced in a facility which also produces milk, eggs, peanuts, tree nuts (walnuts, almonds, pecans, hazelnuts/filberts, pistachios, cashews, coconuts, pine nuts, macadamia nuts, and/or Brazil nuts), fish, shellfish (crab, crawfish, lobster, shrimp, mussels, and/or oysters), wheat, soybeans, and/or sesame seeds.



**Greater Cleveland Food Bank**  
(216) 738-2067

**Hunger Network**  
(216) 618-0638

**Euclid Hunger Center**  
(216) 731-3329

**Food Rescue US**  
(800) 280-3298

### FINDING PARTNER FOOD RESCUE ORGANIZATIONS

There are many organizations that accept and distribute food for donation. If you are having trouble locating organizations in your area, speak with the [Cleveland Department of Public Health](#) for more information on food donation programs.

### BUILDING A SAFE DONATION PROGRAM

Food donations are an important strategy for alleviating food insecurity and providing access to safe, healthy food.

- For prepared foods, temperature logs should be kept showing proper temperatures have been maintained.
- Write down standard operating procedures (SOPs) on how you will handle food for donation, storage, and types of food you will be donating.
- Train all staff about your food donation program – hold staff meetings, create signage, and create checklists.
- Share your SOPs with the organizations you partner with so everyone involved is on the same page.
- Understand which foods can and cannot be donated. For example, food from a buffet line **should not** be donated.

