

STATE FACT SHEET | FARMERS FIRST AGENDA

STATE FOOD LIABILITY PROTECTION LAWS REDUCE WASTE & FEED THE VULNERABLE

STATES CAN ENSURE MORE NUTRITIOUS, EXCESS FOODS GO TO THOSE IN NEED

BACKGROUND

According to the U.S. Department of Agriculture, [between 30% and 40%](#) of our national food supply goes uneaten. This equates to roughly 133 billion pounds of nutritious food annually, valued at \$161 billion, that is wasted, and that could go to those in need. Food waste and loss occur at every stage of the supply and consumer chain: retail-level waste accounts for 10% (or 43 billion pounds) of the available food supply, while consumer-level waste accounts for 21% (or 90 billion pounds). In addition to food waste [estimates by industry](#) from the Environmental Protection Agency (EPA), an in-depth [2021 report](#) on hotels around the world estimates that around 20% of total food sourced ends up as waste. More granularly, a [2012 study](#) on theme parks estimates that 15–25% of food concessions/catering becomes food waste.

Fortunately, there are tools available for empowering industry to reduce food waste. Specifically, the Bill Emerson Good Samaritan Food Donation Act provides federal civil and criminal liability protection against liability claims (federal and state) for food donors and the nonprofit organizations that receive and distribute food donations to those in need.

However, this law is a floor that states can and have built upon. States like [Oklahoma](#), [Arkansas](#), [Tennessee](#), [Kentucky](#), [Ohio](#), [Virginia](#), [Maryland](#), [New Jersey](#), [Massachusetts](#), [Rhode Island](#), [California](#), [Alaska](#), [Oregon](#), and [Washington](#) have already passed provisions that build upon federal liability protection standards by in some way either expanding eligible food types or clarifying the ways in which donors are protected.

Further, redirecting food waste is an administration priority, and it now also aligns with the administration's goals of improving nutrition and health outcomes for Americans. EPA Administrator Lee Zeldin recently underscored this point through unveiling EPA's new [Feed it Onward](#) program, which encourages the private sector to take advantage of existing food waste liability protection laws and donate excess nutritious foods.

STATES TAKING ACTION

Tennessee's long-standing food donation [legal protections](#) go above and beyond federal law by also protecting donors of prepared restaurant foods and proteins like deer meat. The Tennessee law also protects donations made by educational facilities to county jails. Protections of these good-faith actions locally are warranted but are not spelled out in the federal statute.

April 2025 protections signed into state law by Arkansas Governor Huckabee Sanders augment federal law by adding provisions that encourage more participation from high-waste sources. These protections, titled [The Good Neighbor Act](#), ensure that more donors acting in good faith will be protected in donating food still fit for human consumption. This includes products typically discarded due to short shelf life and easy spoilage without refrigeration, such as meat, dairy products, fruits, and vegetables.

COMMON STATE SOLUTIONS

There are a variety of actions that states can take to ensure that more nutritious excess foods go to those in need. Below are commonly adopted policies:

- Clarifications of state-level liability protections.
- Statewide education campaigns on existing liability protections.
- Ensuring liability protections specify food types covered to encourage more donations.
- Expanding definitions for those eligible for liability protection beyond just nonprofits and food banks by extending protections to individuals and third-party distributors that do not intend to resell food.

