



# BOSTON AREA GLEANERS

Summer 2019 Policy Brief: Bill Emerson Good Samaritan Act

## WHAT IS THE PROBLEM?

*40 million Americans are food insecure, including 12 million kids.*

- Food insecurity disproportionately affects urban populations, people of color, and children.
- Costs of living in urban areas are increasing, and wages cannot keep up, forcing families to choose between eating and other necessary expenses.
- The cost of food insecurity, including increased healthcare expenses and loss of productivity during work hours, totals to \$2.4 billion a year.

*56% of businesses that could donate food do not, fearing liability.*

- The threat of civil or criminal liability that results from a donation recipient's injury or illness is a deterrent to potential donors.
- Food-borne illness is a serious concern for commercial kitchens and grocery vendors.

*The NRDC reports that up to 40% of food is wasted in the US.*

- This wasted food goes to landfills despite being healthy and edible.

## WHO IS AFFECTED?

*The environmental repercussions of food waste are severe.*

- Food waste begins at production, where water, oil, land, and other resources are spent on food that will go uneaten.
- Uneaten food goes directly into landfills, where it releases methane, a greenhouse gas more damaging than CO<sub>2</sub>.

*Hunger relief agencies and food insecure households face a scarcity of healthy staple items.*

- Scarce but high-demand items include fresh produce, dairy products, tuna, peanut butter, and more.

## WHAT IS THE GOOD SAMARITAN ACT?

*The Bill Emerson Good Samaritan Act is national legislation that protects businesses from civil or criminal liability when they donate food in good faith.*

- Passed in 1999, it was intended to consolidate and strengthen existing protections.
- Under the act, the only exception to these protections are "gross negligence" and "intentional misconduct."

## STATE LEVEL PROTECTION

- The state of Massachusetts has its own food donation protection act with stronger liability protections than the Bill Emerson Good Samaritan Act.
- Protections extend to past-date food donated to hunger relief and food recovery nonprofits.
- Under state law, food that is donated must have been processed, prepared, and/or stored within public health regulations.
- Similar to the Good Samaritan Act, injury or illness resulting from food donated with "gross negligence, recklessness, or intentional misconduct" is the only exception to liability protections.



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## WHO QUALIFIES?

*The act applies to any organization that donates food in good faith in the United States.*

- Restaurants, grocery stores, and prepared food stores are the act's main target.
  - Food donations are the main concern; however, the act also applies to household cleaning items, detergent, and disposable plastic/paper products.
- The act also applies to agencies who perform certain types of hunger-relief action:
  - Field gleaning
  - Perishable produce salvage
  - Perishable and prepared food salvage
  - Nonperishable processed food collection

## WHERE DOES IT APPLY?

*The act applies nationally in all 50 states, with partial preemption.*

- The partial preemption functionally supersedes any state-level legislation that offers less liability protection.
- Additionally, the preemption acts as a baseline, allowing state-level legislation that offers more liability protection to still be passed and practiced.

## ARE THERE FUTURE GOALS?

*Other legislative acts could strengthen the impact of the Good Samaritan Act.*

- Advocates for the Good Samaritan Act also support the 2017 proposed Food Donation Act, which would extend protections to mislabeled or expired food that are still wholesome and food donated directly to individuals from businesses.
  - The 2017 act would also make the oversight of the Good Samaritan Act the sole responsibility of the USDA, making awareness campaigns easier to conduct.
- The proposed Food Labeling Act, which would standardize food labels nationally and across manufacturers, would help clarify to donors exactly what items are still safe to donate.

## WHAT CAN YOU DO?

- Donors and agencies:
  - Seek out resources about the Good Samaritan Act to stay informed on food donation protocol.
- Advocates:
  - Call your local, state, and national legislators in support of the Good Samaritan Act and any state-level liability protections.
  - Also express your support for proposed legislation that would extend liability protection, including the 2017 Food Donation Act and the Food Labeling Act.



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