

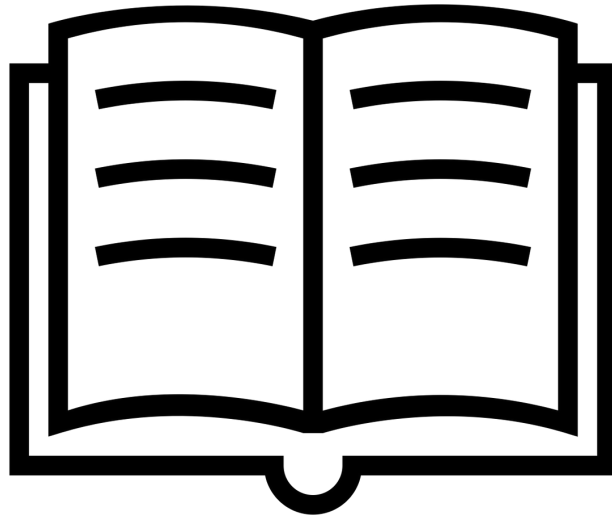
Donating Surplus Food

Resources to Understand
the Good Samaritan Act &
Liability Protection



Spoiler
Alert

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Disclaimer: This information should not be interpreted as legal advice. Please consult your legal counsel to determine how the Good Samaritan Act applies to your particular circumstance.

What is the Bill Emerson Good Samaritan Food Donation Act?

The Good Samaritan Act was signed by President Bill Clinton in 1996 to offer food businesses liability protection associated with food donations to encourage more donation activity.

Despite the Act's existence for 20 years, many food businesses still have concerns when it comes to legal liability and food donations.



You might have these questions:

- Who is covered?
- What type of food qualifies?
- Are there cases of liability for food donors?
- Can I access a copy of the legislation? Find a link **here**.

Who is covered?

Good faith donations to qualified nonprofits, except in cases of gross negligence or intentional misconduct.

Gross negligence is "a voluntary or conscious act or failure to act by a person who knew, at the time of his or her conduct, that the conduct was likely to cause harm to another."*

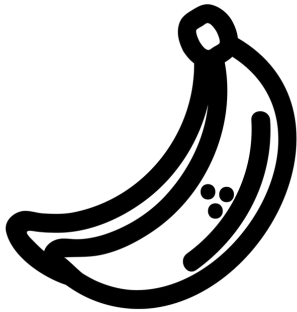
Intentional misconduct "occurs when a person acts with knowledge that his or her actions will be harmful to others."*

Coverage is extended to:

- ✓ Caterers
- ✓ Corporations
- ✓ Farmers
- ✓ Gleaners
- ✓ Grocery stores
- ✓ Hospitals
- ✓ Hotels
- ✓ Manufacturers
- ✓ Nonprofits
- ✓ Restaurants
- ✓ Retailers
- ✓ Wholesalers

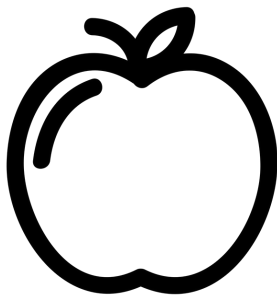
What type of food qualifies?

The donated food must be:



①

“apparently wholesome” or an “apparently fit grocery product”



②

meet “all quality and labeling standards imposed by Federal, State, and local laws and regulations”



③

even if it is not “readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.”

Are there any legal cases of liability for food donors?



We conducted extensive, nationwide legal research looking for lawsuits against food donors alleging liability for harm from donated food. We found absolutely no cases – no claims filed and no judicial decisions – whatsoever.

The apparent absence of litigation or other disputes related to food donation demonstrates that fears of lawsuits and negative publicity related to mishaps with donated food are overstated and largely illusory barriers to food recovery.

**- Nicole Civita,
Professor at the University of
Arkansas School of Law**

Additional Resources

A Legal Guide to Food Recovery

University of Arkansas School of Law

Learn about the history of the Bill Emerson Good Samaritan Food Donation Act and the original purposes of the legislation. **The download** also gives an overview of nonprofit donation recipients, who are covered for their food distribution activities.

Keeping Food Out of the Landfill: Policy Ideas for States and Localities

Harvard Food Law and Policy Clinic

Released in October 2016, **the toolkit** includes a state-by-state breakdown of liability protection laws, the type of protection provided (civil or criminal), and if that protection applies when the end recipient pays for the donated food or if it must be a direct donation. "Social supermarkets" are also spotlighted.

Liability Protection for Food Donation

Public Health Law Center

This PDF details the coverage of a food donor vs. a food donee and defines the terms "gross negligence" and "intentional misconduct."

About Us

Spoiler Alert is a technology company that helps organizations manage unsold food inventory. We enable food manufacturers, distributors, retailers, farms, and nonprofits to create or recover value from surplus food and organic waste.

Our platform facilitates food donations, discounted sales, and organics brokering and offers the relevant accounting and reporting systems to capture tax benefits and document important financial, environmental, and social metrics.

Contact Us

Want to learn more? Visit www.spoileralert.com

Ready to get started?

Email us at info@foodspoileralert.com, or give us a call at 617-917-4123.



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