



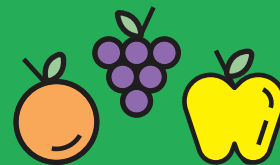
A Guide For Passing Rock and Wrap It Up! Food Donation Acts In Your State

Rock and Wrap It Up!

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We are a 501 C 3 volunteer hunger relief organization
EIN 11-3258486
NYS Tax Exempt EX 215810

www.rockandwrapitup.org



42.2
MILLION

Americans faced
'food insecurity' in 2015



31%
OR
132
BILLION LBS.

of the available food
supply at the retail
and consumer levels
went uneaten in 2010.

The estimated value
of this food loss was

\$161.6
BILLION

using retail prices.



SOURCE: USDA

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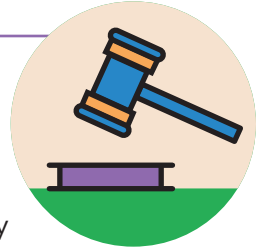
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Guidelines for State Food Donation Act Passage

You will need to follow these steps to pass the State Food Donation Act which will eventually feed millions more in your state and across the United States.

1. Familiarize yourself with:

- **Federal Food Donation Act (FFDA), June 20, 2008.** This Act encourage executive agencies and contractors of executive agencies, to the maximum extent practicable and safe, to donate excess, apparently wholesome food to feed food-insecure people in the United States. (See page 4.) The FFDA passed unanimously in the U.S. Congress in 32 days. It was the fastest bill in U.S. History. (See CQ Today article on page 6.)
- **The State Food Donation Act.** This Act shadows the FFDA. We will write an Act on behalf of each state and send it to you. (See “Sample Draft Act” on page 9.)
- **The Bill Emerson Good Samaritan Act, 1996.** Encourage the donation of food to qualified organizations and provides liability protection to food donors as long as the donor has not acted with negligence or intentional misconduct, the company is not liable for damage incurred as the result of illness. (See page 10.)

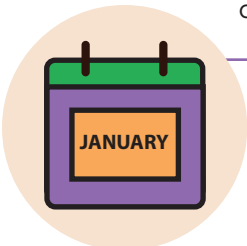


2. Identify Representatives in your state. We need both Democrats and Republicans which have passed similar laws and/or sit on State Committees which address faith-based initiatives in the areas of poverty, homelessness, job growth, sustainability and the environment. Ask these Representative for other like-minded members to co-sponsor the Act. Most of them have fellow Representatives with whom they co-sponsor Acts.

3. Reference the “Tennessee State Food Donation Act”. Representative Kevin Brooks has made himself available to assist us. He is the TN House Assistant Majority Leader (R). Please read his letter to RWU. (See page 8.)



4. Speak to a chief of staff in your Representative’s office. Talk about hunger in your state. Ascertain if they are familiar with the “Bill Emerson Good Samaritan Act” which protects donors of food from liability. More importantly, discuss how the passage of this State Food Donation Act will put a spotlight on food waste in your state and encourage others to follow the state’s actions of food donation and recovery by agencies who work with at-risk populations.



5. Set a calendar timetable with your Representative. Your Representative should submit the Act between January and March for discussion and passage on the floor of their State Capitol. Send us your contact information in a spreadsheet so we can keep you apprised an any further information that could be useful to you.

6. Pass the law! Congratulations on making a difference in helping to feed those who hunger. You can get involved with other Rock and Wrap It Up! anti-poverty activities. Please visit our website at www.rockandwrapitup.org.



122 STAT. 2314

PUBLIC LAW 110–247—JUNE 20, 2008

Public Law 110–247
110th Congress

An Act

June 20, 2008
[S. 2420]

To encourage the donation of excess food to nonprofit organizations that provide assistance to food-insecure people in the United States in contracts entered into by executive agencies for the provision, service, or sale of food.

Federal Food
Donation Act of
2008.
42 USC 1771
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Federal Food Donation Act of 2008”.

42 USC 1792
note.

SEC. 2. PURPOSE.

The purpose of this Act is to encourage executive agencies and contractors of executive agencies, to the maximum extent practicable and safe, to donate excess, apparently wholesome food to feed food-insecure people in the United States.

42 USC 1792
note.

SEC. 3. DEFINITIONS.

In this Act:

(1) **APPARENTLY WHOLESOME FOOD.**—The term “apparently wholesome food” has the meaning given the term in section 2(b) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(b)).

(2) **EXCESS.**—The term “excess”, when applied to food, means food that—

(A) is not required to meet the needs of executive agencies; and

(B) would otherwise be discarded.

(3) **FOOD-INSECURE.**—The term “food-insecure” means inconsistent access to sufficient, safe, and nutritious food.

(4) **NONPROFIT ORGANIZATION.**—The term “nonprofit organization” means any organization that is—

(A) described in section 501(c) of the Internal Revenue Code of 1986; and

(B) exempt from tax under section 501(a) of that Code.

42 USC 1792.
Deadline.

SEC. 4. PROMOTING FEDERAL FOOD DONATION.

(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Federal Acquisition Regulation issued in accordance with section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421) shall be revised to provide that all contracts above \$25,000 for the provision, service, or sale of food in the United States, or for the lease or rental of Federal property to a private entity for events at which food is provided in the United States, shall include a clause that—

GOVERNMENT OPERATIONS

Congress Considers Telling Government Agencies to 'Waste Not, Want Not'

BY ALIYA STERNSTEIN

CQ STAFF WRITER

Like a parent warning a child not to waste food, Congress is weighing legislation that would encourage government agencies and contractors to donate surplus food from events to nonprofits that fight hunger.

The Senate Homeland Security and Governmental Affairs Committee is poised to approve a bill (S 2420) on April 9 that would urge federal agencies and contractors to donate leftover food to shelters, food banks and other agencies that serve the hungry. The House passed similar legislation (HR 4220) in December.

"Anything Congress can do to prevent food waste is a moral obligation for us," said Rep. Jo Ann Emerson, R-Mo., the sponsor of the House bill. "Hunger is at epidemic proportions, even in America, and every meal we can put on a table in a shelter or a soup kitchen helps fight the problem. There are three things government ought never to waste: energy, paper and food. With this bill, at least we would be one for three."

The legislation was conceived by the non-partisan anti-poverty think tank Rock and Wrap It Up, which organizes the recovery of surplus food from rock concerts, sporting contests and other events. The group's



The bill would urge agencies and contractors to donate unused food. Above, produce found in the garbage outside a New York grocery store Dec. 11, 2007.

founder, scientist Syd Mandelbaum, approached Emerson's office in 2007 with research on the amount of food wasted at government events.

Mandelbaum declined to discuss his findings publicly, but said that Emerson, who serves on the group's advisory board, was very receptive. Emerson's husband, the late Rep. Bill Emerson (1981-96), was a leading champion of food donation legislation.

New York Democrat Charles E. Schumer, sponsor of the Senate bill, took an interest because of his longtime involvement in the fight against hunger, said Mandelbaum, who first met Schumer while serving in the early 1990s as president of the Claddagh

Inn soup kitchen in Rockaway Beach, Queens. Mandelbaum said that Schumer would literally roll up his sleeves and help ladle out food to clients.

Today, Rock and Wrap It Up encourages many commercial and local event organizers and sports franchises to include a clause in their food services contracts that requires all "edible leftover food to go to local soup kitchens or shelters."

The pending legislation would alter federal contracting rules to stipulate that all government food contracts above \$25,000 must include a similar clause encouraging the donation of excess food.

Liability Protection

Both bills would protect donors from liability for contaminated food under the legislation known as the Bill Emerson Good Samaritan Act of 1996 (PL 104-210), which says contributors of "apparently wholesome food" given in good faith cannot be held responsible for any resulting injuries.

Mandelbaum said liability is just one reason that many federal vendors have been reluctant to donate food. The bigger driver, he said, is laziness.

"I believe it just became a practice to throw it all away," he said. "This [bill] will make it a practice to donate."

Catering is at best an inexact science, so there are always going to be leftovers, Mandelbaum explained. For example, he said a catered event at the Library of Congress for about 2,000 people would leave 100 to 300 meals, or 5 percent of the food, remaining at the end of the night.

That is about the same percentage the nonprofit has found, "whether it be the Rolling Stones or Springsteen," Mandelbaum said.

His New York-based organization, which was founded in 1991 and went national in 1994, currently partners with several Washington-area nonprofits, including D.C. Central Kitchen and Shelter House. In addition to the Library of Congress, the Environmental Protection Agency and the Agriculture Department also collaborate frequently with Rock and Wrap It Up. ♦

CQT **Tuesday, April 1, 2008**
TODAY
The Legislative News-Daily from Congressional Quarterly

CQ TODAY

Thursday, April 10, 2008

The Legislative News-Daily from Congressional Quarterly



Agriculture 4

Forging ahead
Goodlatte says new farm bill will not be offset by taxes, as conference starts

- War spending draws riders, p. 3
- Today's Hill schedule, p. 34

Speedy Approval Expected for Measure to Urge the Government to Donate Food

BY ALIYA STERNSTEIN, CQ STAFF WRITER

A Senate panel is likely to approve a bill Thursday that would make it routine practice for federal agencies to donate food.

“This bill will help make fighting hunger a national priority. Far too many of our food banks and soup kitchens are turning hungry people away because their shelves are bare,” said Charles E. Schumer, D-N.Y., the sponsor of the bill (S 2420), which will be considered by the Homeland Security and Governmental Affairs Committee.

The measure would urge federal agencies and contractors to donate leftover food to shelters, food banks and other agencies that serve the hungry. The House passed similar legislation (HR 4220) by voice vote in December.

Many commercial and local event organizers and sports franchises include a clause in their food services contracts that requires all “edible leftover food to go to local soup kitchens or shelters.” The Senate language

would modify federal contracting rules to stipulate that all government food contracts above \$25,000 must include a similar clause encouraging the donation of excess food.

While there are no substantive differences between the Senate and House proposals, the wording differs slightly, so the House will have to vote again on the measure if it passes in the full Senate, said Schumer spokesman Brian Fallon.

The nonpartisan anti-poverty organization Rock and Wrap It Up — which arranges the pickup of surplus food from rock concerts, sporting contests and other events — conceived the legislation.

Both bills would protect donors from liability for tainted food under a 1996 law (PL 104-210) that says contributors of “apparently wholesome food” given in good faith cannot be held responsible for any resulting injuries.

Sen. Richard G. Lugar, R-Ind., a cospon-

sor, wants the measure to add momentum to a 2006 provision he wrote that allowed a tax deduction for food donations, said spokesman Andy Fisher. The provision was enacted as part of a pension policy overhaul (PL 109-280).

Susan Collins of Maine, the ranking Republican on the Homeland Security panel, is also a cosponsor of the food donation bill. According to aides for Collins and committee Chairman Joseph I. Lieberman, I-Conn., no one has expressed opposition to the bill.

The only amendment filed as of Wednesday afternoon was a Lieberman-Collins substitute to clarify the intent of the bill. It would strike a proposal to create an Agriculture Department “coordinator of community food security and gleaning.” The new official would be responsible for explaining food donation procedures to agencies, nonprofits, food producers and private companies. ♦



Representative Kevin D. Brooks
Assistant Majority Leader

May 2, 2016

Syd Mandelbaum, MA, MBA
CEO and Founder
Rock and Wrap It Up!
405 Oceanpoint Avenue
Cedarhurst, NY 11516

Dear Syd:

It gives me great pleasure to send to you House Joint Resolution 514, a resolution encouraging the donation of excess, wholesome food in the State of Tennessee.

Governor Haslam signed HJR 514 on April 27, 2016, making it the law of the land in our great Volunteer State of Tennessee!

Thank you for your insight and passion that allowed the State of Tennessee to join you in leading the way in attacking hunger in the United States.

It was an honor to be able to partner with you, and I applaud you for your dedication and your great mission to eliminate hunger in our nation.

In service,

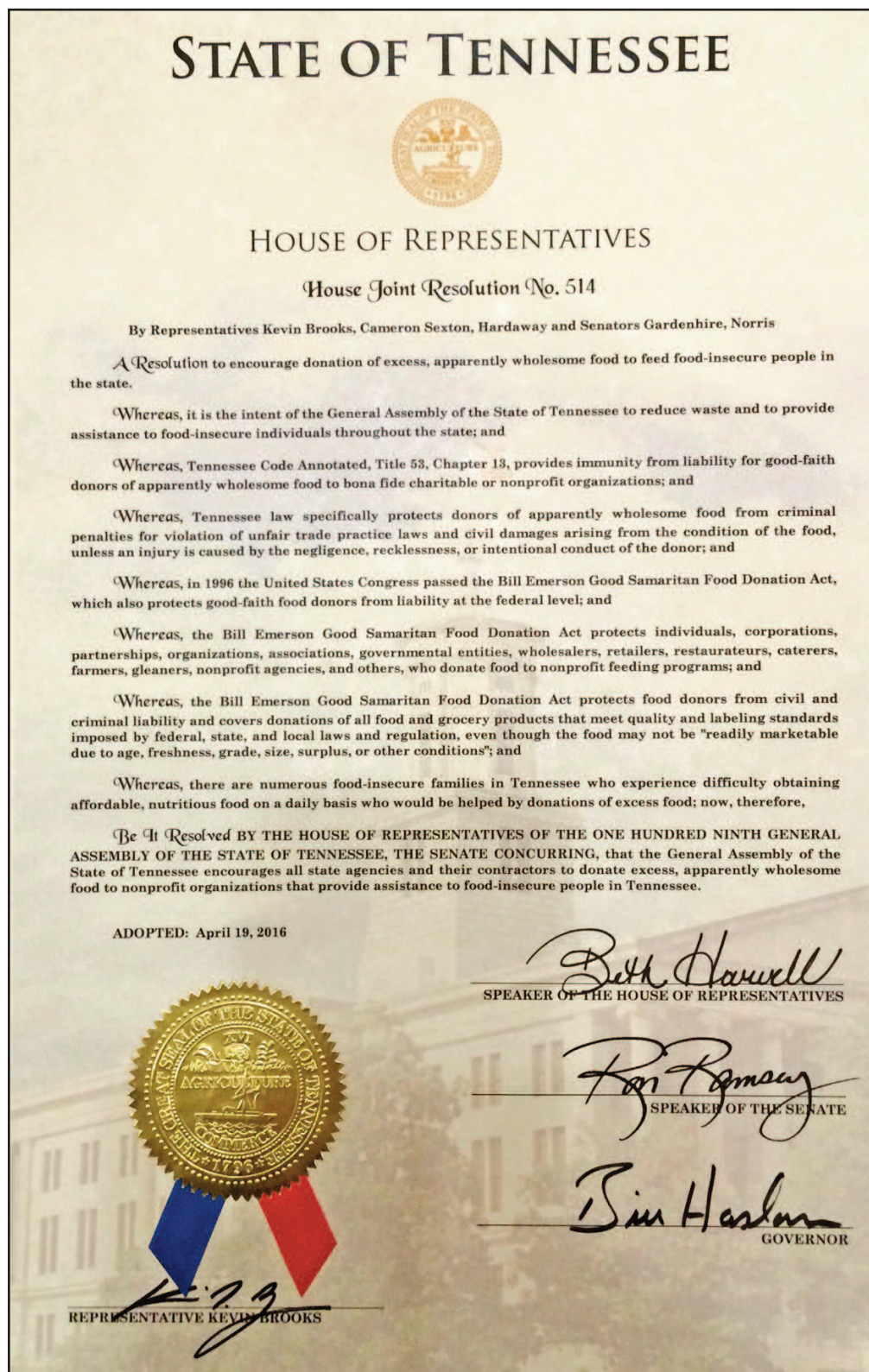
A handwritten signature in black ink, appearing to read "K.D.B.", is written over the printed name and title of the representative.

Kevin D. Brooks
State Representative
24th Legislative District

KDB:ct

Tennessee House of Representatives

103 War Memorial Building • Nashville, Tennessee 37243 • 615-741-1350



State of New York

House of Representatives
House Joint Resolution No ###

By Representatives [Name] and [Name], and Senators [Name] and [Name]

**A Resolution to encourage donations of excess, apparently wholesome food
to feed food-insecure people in the state**

Whereas, it is the intent of the General Assembly of the State of New York to reduce waste and to provide assistance to food insecure individuals throughout the state; and

Whereas, New York Code New York State Law Enacted 1981, Article 4-D, Section 71-2 provides immunity from liability for good-faith donors of apparently wholesome food to bona fide charitable or non-profit organizations; and

Whereas, New York law specifically protects donors of apparently wholesome food from criminal penalties for violation of unfair trade practices, practice laws and civil damage arising from the condition of the food unless injury is caused by the negligence, recklessness or intentional conduct of the donor; and

Whereas, in 1996 the United States Congress passed the Bill Emerson Good Samaritan Food Donation Act, which protects good-faith donors from liability at the federal level; and

Whereas, The Bill Emerson Good Samaritan Food Donation Act protects individuals, corporations, partnerships, organizations, associations, government entities, wholesalers, retailers, restaurateurs, caterers, farmers, gleaners, nonprofit agencies, and others who donate food to nonprofit feeding programs; and

Whereas, the Bill Emerson Good Samaritan Food Donation Act protects food donors from civil and criminal liability and covers donation of all food and grocery products that meet quality and labeling standards imposed by federal, state and local laws and regulations, even though the food may not be “readily marketable due to age, freshness, grade, size, surplus, or other conditions”; and

Whereas the Federal Food Donation of 2008 encourages executive agencies and contractors of executive agencies to donate excess food to food-insecure people and keep it out of land fill; and

Whereas donations of excess food for consumption by food-insecure people reduces greenhouse gas releases in land fills which in turn reduces climate change, and

Whereas, there are numerous food-insecure families in New York who experience difficulty obtaining affordable, nutritious food on a daily basis who would be helped by donation of excess food, now therefore.

Be It Resolved by the House of Representatives of the One Hundred Ninth General Assembly of the State of New York, The Senate Concurring, that the General Assembly of the State of New York encourages all state agencies and their contractors to donate excess, apparently wholesome food to nonprofit organizations that provide assistance to food-insecure people in New York State.

The Federal Bill Emerson Good Samaritan Food Donation Act

On October 1, 1996, President Clinton signed this act to encourage donation of food and grocery products to non-profit organizations for distribution to individuals in need. This law:

- Protects you from liability when you donate to a non-profit organization;
- Protects you from civil and criminal liability should the product donated in good faith later cause harm to the recipient;
- Standardizes donor liability exposure. You or your legal counsel do not need to investigate liability laws in 50 states; and
- Sets a floor of "gross negligence" or intentional misconduct for persons who donate grocery products. According to the new law, gross negligence is defined as "voluntary and conscious conduct by a person with knowledge (at the time of conduct) that the conduct is likely to be harmful to the health or well-being of another person."

The text of the bill itself follows:

The Bill Emerson Food Donation Act

One Hundred Fourth Congress of the United States of America

At the Second Session

Begun and held at the City of Washington on Wednesday, the third day of January, one thousand nine hundred and ninety-six.

An Act

To encourage the donation of food and grocery products to nonprofit organizations for distribution to needy individuals by giving the Model Good Samaritan Food Donation Act the full force and effect of law.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. CONVERSION TO PERMANENT LAW OF MODEL GOOD SAMARITAN FOOD DONATION ACT AND TRANSFER OF THAT ACT TO CHILD NUTRITION ACT OF 1966.

(a) Conversion to Permanent Law. – Title IV of the National and Community Service Act of 1990 is amended –

1. by striking the title heading and sections 401 and 403 (42 U.S.C. 12671 and 12673); and
2. in section 402 (42 U.S.C. 12672) –

(A) in the section heading, by striking "model" and inserting "bill emerson"

(B) in subsection (a), by striking "Good Samaritan" and inserting "Bill Emerson Good Samaritan;"

(C) in subsection (b)(7), to read as follows:

"(7) GROSS NEGLIGENCE. – The term 'gross negligence' means voluntary and conscious conduct (including a failure to act) by a person who, at the time of the conduct, knew that the conduct was likely to be harmful to the health or well-being of another person.";

(D) by striking subsection (c) and inserting the following:

"(c) LIABILITY FOR DAMAGES FROM DONATED FOOD AND GROCERY PRODUCTS.

"(1) LIABILITY OF PERSON OR GLEANER. – A person or gleaner shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the person or gleaner donates in good faith to a nonprofit organization for ultimate distribution to needy individuals.

"(2) LIABILITY OF NONPROFIT ORGANIZATION. – A nonprofit organization shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the nonprofit organization received as a donation in good faith from a person or gleaner for ultimate distribution to needy individuals.

"(3) EXCEPTION. – Paragraphs (1) and (2) shall not apply to an injury to or death of an ultimate user or recipient of the food or grocery product that results from an act or omission of the person, gleaner or nonprofit organization, as applicable, constituting gross negligence or intentional misconduct."; and

(E) in subsection (f), by adding at the end the following: "Nothing in this section shall be construed to supersede State or local health regulations.".

(b) TRANSFER TO CHILD NUTRITION ACT OF 1966. – Section 402 of the National and Community Service Act of 1990 (42 U.S.C. 12762) (as amended by subsection (a))

1. is transferred from the National and Community Service Act of 1990 to the Child Nutrition Act of 1966;
2. is redesignated as section 22 of the Child Nutrition Act of 1966; and
3. is added at the end of such Act.

(c) CONFORMING AMENDMENT. – The table of contents for the National and Community Service Act of 1990 is amended by striking the items relating to title IV.

Newt Gingrich, Speaker of the House of Representatives

Strom Thurmond, President of the Senate Pro Tempore

Approved 10/01/96

William J. Clinton, President of the United States

P.L. 104-210