



Harvard

Food Law and Policy Clinic

A Division of the Center for Health Law and Policy Innovation

Today, Maine Congresswoman Chellie Pingree introduced the [Food Recovery Act](#), a groundbreaking comprehensive piece of legislation aimed at reducing food waste and promoting food recovery. The Food Law and Policy Clinic (FLPC) enthusiastically supports Congresswoman Pingree's bill, which incorporates many of the key policy changes recommended by FLPC. FLPC staff and students believe that food waste is one of the most pressing environmental, social, and moral challenges facing our food system. The Food Recovery Act includes valuable reforms in key areas in order to increase food recovery in our nation.

First, the Food Recovery Act includes various provisions to encourage farms, groceries, restaurants and institutions to donate excess food to food recovery nonprofits. The legislation strengthens federal tax incentives that can increase food donations and recovery efforts by offsetting the costs associated with food donation. Notably, the Food Recovery Act will permanently extend the enhanced tax deduction, which is currently only available to C-corporations, to all business entities. In the absence of this legislation, businesses that are not organized as C-corporations are only eligible for the general tax deduction, which is too low to offset the many costs incurred with food donation. Extending the enhanced tax deduction to all businesses on a permanent basis will encourage more businesses to participate in food donation. The bill will also extend enhanced tax deductions to businesses that donate food to innovative non-profit retail models, which are excluded under the current law. Non-profit retail models that re-sell donated food at low-cost provide a more sustainable approach to addressing food insecurity while increasing food recovery. The current limitations that only allow the enhanced deduction for foods that are given away for free poses a significant barrier to these non-profit retail models. Along the same lines, the Act proposes to update the liability protections available for food donors by covering donations to these non-profit retail models. The extension of the enhanced tax deduction and liability protections for donation to these innovative organizations will encourage donation to additional food recovery organizations that offer great promise for serving those in need.

Second, the Food Recovery Act addresses the pervasive challenge of consumer confusion over date labels. Most consumers do not know how to interpret date labels like "best by," "sell by," or "use by." While these labels are generally intended to indicate a food's peak quality, study after study has shown that consumers believe these dates are actually indicators of safety. This consumer confusion is exacerbated by the lack of a uniform, national system for date labeling. Further, FLPC research published in 2013 showed that in the absence of federal law, many states enforce a variety of inconsistent regulations on date labels, some of which ban the sale or donation of safe, wholesome food after its printed date. The Food Recovery Act provides for a sensible national system for food date labels that will reduce waste while maintaining food safety. The bill standardizes food date labels, giving consumers two messages they can easily

understand: quality dates will bear the uniform phrase “Best If Used By,” while safety dates—used only on foods identified as high risk on a list to be created by FDA—will utilize the uniform phrase “Expires On.” This uniform system for date labeling will reduce consumer confusion, simplify regulatory compliance, and cut food waste across the supply chain and in consumers’ homes. The Food Recovery Act also provides funding to USDA for consumer education and awareness, including related to the new date labels, which can help ensure consumers are familiar with the labels and able to use them properly.

Finally, the Food Recovery Act will modernize the food practices of government institutions in order to encourage them to reduce their food waste, modeling these best practices for individuals and institutions. The bill will establish the USDA Office of Food Recovery, which will coordinate federal activities related to measuring and reducing food waste. This office can provide a directive plan on how to successfully achieve the newly-announced USDA and EPA food waste reduction goal of halving the amount of U.S. food waste by 2030. The bill also strengthens enforcement of the Federal Food Donation Act, which requires the donation of excess food by any company that receives a contract for food service on federal properties. Additionally, the legislation support changes to the National School Lunch Program procurement rules to encourage purchasing of lower-price non-standard size or shape produce, as well as provide fund projects that help schools connect with farms to decrease food waste.

Food waste leads to wasted money on the part of businesses and individuals, harms our environment by causing us to waste the many natural resources that go into food production, and is inexcusable in a nation where so many people in need could benefit from access to this healthy, wholesome food. FLPC is thrilled to work in support of the Food Recovery Act, which provides a groundbreaking, visionary response to this fundamental challenge facing our nation.