



REDUCING HUNGER & FOOD WASTE IN MEXICO

A State Policy Toolkit

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Authors

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About The Global Food Donation Policy Atlas

The Global Food Donation Policy Atlas is a first-of-its-kind initiative to promote better laws on food donation to help address food loss and food insecurity. This project maps the laws affecting food donation in countries across the globe in order to help practitioners understand national laws relating to food donation, compare laws across countries and regions, analyze legal questions and barriers to donation, and share best practices and recommendations for overcoming these barriers. The project is a collaboration between Harvard Law School Food Law and Policy Clinic and The Global FoodBanking Network. To learn about and compare the food donation laws and policies for the countries FLPC has researched to date, visit atlas.foodbanking.org.

About the Harvard Law School Food Law and Policy Clinic

FLPC serves partner organizations and communities by providing guidance on cutting-edge food system legal and policy issues, while engaging law students in the practice of food law and policy. FLPC focuses on increasing access to healthy foods; supporting sustainable food production and food systems; and reducing waste of healthy, wholesome food. For more information, visit www.chlpi.org/FLPC.



About The Global FoodBanking Network

The Global FoodBanking Network supports community-driven solutions to alleviate hunger in more than 40 countries. While millions struggle to access enough safe and nutritious food, nearly a third of all food produced is lost or wasted. GFN is changing that. GFN believes food banks directed by local leaders are key to achieving Zero Hunger and building resilient food systems. For more information, visit www.foodbanking.org.



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TABLE OF CONTENTS

- Introduction.....1**
 - Contents of the Toolkit.....2
 - How to Use the Toolkit.....2
 - Legal System Overview.....2
 - The Hierarchy of Law.....3
- Federal and State Food Law.....4**
- Food Donation Mandates.....5**
 - Background.....5
 - Federal Law.....5
 - State Law.....6
 - Introduction.....6
 - State Best Practices and Additional Suggestions.....7
 - Conclusion.....9
- Liability Protection.....10**
 - Background.....10
 - Federal Law.....10
 - State Law.....11
 - Introduction.....11
 - State Best Practices and Additional Suggestions.....11
 - Conclusion.....12
- Food Safety.....13**
 - Background.....13
 - Federal Law.....14
 - State Law.....14
 - Introduction.....14
 - State Best Practices and Additional Suggestions.....14
 - Conclusion.....14
- Date Labeling.....15**
 - Background.....15
 - Federal Law.....15
 - State Law.....16
 - Introduction.....16
 - State Best Practices and Additional Suggestions.....16
 - Conclusion.....17

Tax Incentives.....18

- Background.....18
- Federal Law.....18
- State Law.....19
 - Introduction.....19
 - State Best Practices and Additional Suggestions.....19
- Conclusion.....20

Government Grants and Programs.....21

- Background.....21
- Federal Law.....21
- State Law.....22
 - Introduction.....22
 - State Best Practices and Additional Suggestions.....22
- Conclusion.....23

Enforcement.....24

- Background.....24
- Federal Law.....24
- State Law.....24
 - Introduction.....24
 - Who Enforces?.....25
 - Enforcement by Type of Offender.....25
 - Food Businesses.....25
 - Food Recovery Organizations.....25
 - State Best Practices and Additional Suggestions.....26
- Conclusion.....26

Conclusion.....27

Appendix A.....28

Appendix B.....32

INTRODUCTION

Food loss and waste is one of the greatest food system challenges, occurring at every stage of the supply chain and generating significant social, environmental, and economic costs.¹ An estimated one-third of the world's food supply is lost or wasted along the supply chain, amounting to approximately 1.3 billion tons of edible food annually.² Mexico experiences similar challenges with over 35% of all the food it produces being lost or wasted each year.³ The estimated economic costs of this food loss and waste total around \$25 billion, equivalent to 2.5% of Mexico's gross domestic product.⁴ In addition to these economic costs, invaluable resources, such as water, land, and energy, are used to produce, harvest, transport, and store food that is never eaten contributing to the current unsustainability of our food system.⁵

At the same time, an increasing number of people are not able to get the nutrition they need.⁶ In 2023, 27.6% of Mexico's population was moderately or severely food insecure,⁷ and 36.3% lived below the poverty line.⁸

To address the environmental, social, and economic costs of food loss and waste, the international community has committed to reducing food loss and waste by half as reflected in the United Nations Sustainable Development Goal 12.3.⁹ Policies that increase food donation provide a solution to the environmental challenges of food loss and waste as well as a mechanism for addressing food insecurity. In furtherance of these objectives, states across Mexico have enacted laws encouraging or mandating food donations at the state level. The titles of these laws generally mention the "altruistic donation of food" while some mention food waste prevention, food recovery, the integral use of food, or are framed as social assistance laws. These laws are collectively referred to in this toolkit as laws promoting the altruistic donation of food. They typically cover an array of policies related to food loss and waste, which may include prohibitions on the destruction of food, food donation requirements, food scrap management directives, or tax incentives, among other policies. Though there has been little to no implementation of some aspects of these state laws, many states continue to iterate on these policies. Across the country, variations in these policies provide examples from which other states and the federal government can draw to strengthen their efforts to direct food to people in need while mitigating the environmental and economic impacts of food loss and waste.

To help tackle common legal and policy questions surrounding food recovery and donation, the Harvard Law School Food Law and Policy Clinic (FLPC) and the Global FoodBanking Network (GFN) partnered to create The Global Food Donation Policy Atlas (Atlas Project).¹⁰ The Atlas Project aims to identify and explain national laws relating to food donation, analyze the most common legal barriers to promoting increased food donation, and share best practices and recommendations for overcoming these barriers. The Atlas Project is mapping the laws and policies affecting food donations in countries around the world and, in 2020, it issued a [legal guide](#) detailing Mexico's relevant food donation laws and policies¹¹ and [recommendations](#) for strengthening those policies.¹² While the Atlas Project's Mexico Legal Guide covers an array of national laws impacting food donation in Mexico, it only briefly touched on sub-national policy. This toolkit, prepared in partnership with Bancos de Alimentos de México (BAMX), supplements the legal guide to provide an in-depth, comprehensive review of state policies aimed at increasing food recovery and donation.

CONTENTS OF THE TOOLKIT

State leaders looking for effective solutions to address the most urgent and common challenges facing their constituents are testing out policies and programs designed to ensure that safe, edible food makes it to those experiencing food insecurity, while also mitigating environmental harms. This toolkit seeks to embolden and equip advocates and officials from across Mexico with a variety of approaches that states can use to prevent food loss and waste through food recovery and redistribution efforts. The target audience is state policy makers and advocates—whether their interest arises from concerns over climate change and sustainability, food security, fiscal responsibility, or identifying opportunities to support local agricultural producers—all of which can be furthered by implementation of the policies described in this toolkit. While this toolkit was drafted with this audience in mind, it may also be helpful to those who are interested in enacting similar policies encouraging or mandating food donations at the national level.

HOW TO USE THIS TOOLKIT

The toolkit introduces a wide range of policies that states can integrate into their altruistic donation of food laws, laws to prevent food waste, or other bodies of law to address food waste and encourage the recovery and redistribution of edible food. For each policy, it includes background on the issue, explains the need for the policy, describes any relevant federal legislation, outlines best practices for the state policy, and offers an example of existing or potential state law that incorporates many of these best practices. The Appendix includes example legislative language, where strong or notable policy examples are available, that states can use as a starting point to develop and reform their own policies. This toolkit was designed to enable users to jump to the sections that will be most useful to them. The toolkit makes frequent use of cross-references to refer readers to other sections of the toolkit that cover related information.

The toolkit begins with an overview of the legal system in Mexico, providing a framework for understanding the extent to which states have the power to enact state level laws. The toolkit then moves into a discussion of the specific policies that states have incorporated into their altruistic donation of food laws beginning with an overview of the states that mandate food donation, sometimes in conjunction with prohibitions on wasting food that is suitable for human consumption. The toolkit then delves into liability protections, food safety, date labeling, tax incentives, government grants and programs, and enforcement. The appendix includes a table of states with altruistic donation of food laws, showing those that require or encourage donation and those that have no policy (Appendix A). The appendix also includes example language from state laws or regulations that could be used as model language for new food donation laws or reform to existing laws (Appendix B).

LEGAL SYSTEM OVERVIEW

The Mexican republic consists of a federal government, 32 states, and municipalities.¹³ The federal government is organized into three branches: legislative, executive, and judicial.¹⁴ State governments are organized into the same three branches, whereas municipalities have a municipal president and council.¹⁵ Powers not entrusted to the federal government are reserved to the states,¹⁶ though in practice the federal government has retained much power for itself.¹⁷ The Constitution also outlines government powers and rights of citizens—including a right to adequate amounts of quality, nutritious food.¹⁸ Mexico has amended its constitution more than 700 times to date since 1917, most recently on March 22, 2024.¹⁹

Mexico is also part of the civil law tradition (i.e., statutes have ultimate authority as compared to judge-made law).²⁰ At the federal level, the legislative branch formally makes the laws.²¹ The legislative branch is composed of the Senate and the Chamber of Deputies.²² The Constitution provides multiple grants of authority

to the federal legislature to regulate commerce, labor, general health, schools, the environment, and national economic and social development.²³ Much of the law produced can be found in the federal civil codes. To a large extent, the state codes mirror federal codes.²⁴

The federal government and states share legislative power in certain important areas, such as social welfare (e.g., health, education, housing) and the environment.²⁵ Though even in these areas, the federal legislature retains much of the authority to shape the balance of power between it and the states.²⁶ This is because the federal legislature can specify what actions states may take through enabling laws.²⁷ Often, these enabling laws provide the federal government with more authority and power than the states.²⁸

State governments are organized with unicameral legislative bodies and a governor.²⁹ The state governors act as executives, in charge of publishing and enforcing the law.³⁰ The states have primary jurisdiction over private law subjects (e.g., contract law, family law, tort law, property law) and criminal law.³¹ In order to pass a law, the state's Congress must approve it by a majority vote, and the Governor must sign it.³² The federal Constitution outlines some shared requirements for all state governments, but each state's constitution also governs the state's structure.³³

THE HIERARCHY OF LAW

Mexico has several different sources of laws, both at the federal and state level. Some laws carry more authority than others, creating a "hierarchy" of law.³⁴ At the hierarchy's highest levels, federal laws carry enforcement power across the country, regardless of whether states have passed laws of their own on the subject.³⁵ At the lower levels of government (such as states), laws are only enforceable in their jurisdiction and cannot be enforced if there are higher laws that conflict with them.³⁶ All state sources of law carry more authority than any municipal source of law, except for Mexico City, which was a federal district and is now a state, and thus can pass statutes or regulations that are equivalent to the state level.³⁷ Legislation governs over regulations within its applicable area (whether that be federal or within a state or municipality).³⁸

The official order of hierarchy in Mexican Law is:

- 1. The Mexican Constitution**
- 2. Federal Regulatory Legislation, Codes, and Treaties**
- 3. Federal Ordinary Legislation**
- 4. Federal Regulations**
- 5. State Constitution**
- 6. State Regulatory Legislation and Codes**
- 7. State Ordinary Legislation**
- 8. State Regulations**
- 9. Municipal Legislation³⁹**

Regulatory legislation is law that elaborate on constitutional provisions, while ordinary legislation is law that does not originate from or elaborate on the constitution.⁴⁰

In practice, there are few constraints on Presidential powers, meaning that the official hierarchy is not always followed.⁴¹ For example, there have been occasions where regulations issued by the executive branch have dominated over conflicting legislative provisions.⁴²

FEDERAL AND STATE FOOD LAW

Relevant to the regulation of food, there generally is concurrent jurisdiction (*facultades coexistentes*) for both the federal and state governments to regulate health, social welfare, and environmental law.⁴³ The federal government has used its concurrent jurisdiction in a limited fashion with regards to food donation. For example, the federal General Health Law states that donated food handled by intermediaries (such as food recovery organizations) is subject to sanitary conditions and other requirements.⁴⁴ And, though there is no national law specifically requiring food donation, a number of federal laws are designed to encourage food donation, such as those prohibiting commercial entities from discarding food fit for human consumption, providing liability protections, and tax incentives for food donation.

Mexico's constitution formally recognizes the human right to adequate food and guarantees the protection of health.⁴⁵ These rights are codified in the General Law of Social Development (*Ley General de Desarrollo Social*), which states that the National Policy for Social Development is intended to promote the right to food, among others.⁴⁶ The rights are further codified and regulated by the General Law on Adequate and Sustainable Food (*Ley General de la Alimentación Adecuada y Sostenible*), which was enacted in April 2024, and establishes principles and a framework for promoting and protecting the constitutional right to adequate food.⁴⁷ This law recognizes the connection between food loss and waste and the right to food and provides that all measures should be used to avoid food waste.⁴⁸ Under the law, commercial establishments are prohibited from discarding food that is fit for human consumption.⁴⁹ The law directs states to promote policies and actions to reduce food loss and waste, including improving food storage and transportation infrastructure.⁵⁰ States have until April 13, 2025, to adapt and harmonize their laws with the new law.⁵¹

Even prior to the enactment of the General Law on Adequate and Sustainable Food, states had been increasingly exercising their powers to pass laws mandating or further encouraging altruistic food donation and food waste reduction.⁵² These laws have many provisions that work together to outline and enforce policies that ensure more safe, edible food reaches those experiencing hunger. We will review the main provisions and unique features of these laws throughout the following sections of this Toolkit.



FOOD DONATION MANDATES

BACKGROUND

Laws requiring businesses to donate surplus food that cannot be sold can increase the amount of food received by those experiencing food insecurity. Food donation requirements can create institutional change and progress toward a more sustainable food system. A handful of countries (Peru, France, and some members of the European Union) and several U.S. states have enacted food donation requirements.⁵³ These policies often exist in partnership with organic waste bans or laws restricting the amount of food waste that can be sent to landfills.

Key considerations for policymakers seeking to enact food donation requirements include the scope of regulated food entities, enforcement, and infrastructure support. For example, some policies may cover all surplus food generators while others may be narrowly applied to only certain generators or offer many exemptions. Some jurisdictions that have enacted food donation requirements may lack enforcement mechanisms, which can diminish the policy's efficacy. Additionally, passing such legislation requires policymakers' attention to adequate financing for required infrastructure (e.g., food recovery transportation, processing, storage, and distribution capacity).

Donation requirements have positive impacts, resulting in more donations and less waste. In France, food donation reportedly increased by 30% after implementing a law prohibiting the destruction of edible food and mandating that food retailers with more than 400 square meters offer food recovery contracts to nonprofit organizations that distribute food to people experiencing food insecurity.⁵⁴ Comerso, a French company providing food waste management support services, reported that 96% of the supermarkets it surveyed had food donation contracts in place three years after the law's enactment.⁵⁵ Although the law did not mandate the frequency of donation, around half of all supermarkets regulated by the French law donated food daily.⁵⁶

FEDERAL LAW

The Mexican federal government does not explicitly require the donation of surplus food suitable for human consumption, though it has considered legislation to do so in the past.⁵⁷ The federal General Health Law simply states that donated food handled by intermediaries (such as food recovery organizations) is subject to sanitary conditions and other requirements.⁵⁸ However, the new federal law on Adequate and Sustainable Food prohibits commercial entities from discarding food that is fit for human consumption.⁵⁹ Regulations are to be issued by October 15, 2024, which will further clarify how commercial entities must manage food to comply with this provision.⁶⁰ Considering the law is intended to establish a framework for promoting the right to food, regulation and enforcement is likely to focus on ensuring that surplus food is distributed to populations in need.

Federal technical standards that impact food donations are found in the Official Mexican Norms (*Normas Oficiales Mexicanas*).⁶¹ To promulgate an Official Mexican Norm, an agency subcommittee must propose the norm, then receive and respond to comments from the public before issuing a final standard.⁶² Federal agencies are run by secretaries appointed by the President.⁶³ The Official Mexican Norms that are related to the regulation of food and food recovery practices are discussed where relevant below.

INTRODUCTION

Even in the absence of a federal directive to states requiring that they promote the right to food and avoid food waste, many states have acted to prohibit the waste of food suitable for human consumption. The following fifteen states require donation of surplus edible food: Aguascalientes,⁶⁴ Baja California,⁶⁵ Chiapas,⁶⁶ Chihuahua,⁶⁷ Coahuila de Zaragoza,⁶⁸ Colima,⁶⁹ Durango,⁷⁰ Jalisco,⁷¹ Mexico City,⁷² Nayarit,⁷³ Oaxaca,⁷⁴ Quintana Roo,⁷⁵ Sinaloa,⁷⁶ Tamaulipas,⁷⁷ and Yucatán.⁷⁸ Even within states that require donation, there are important variations in who is subject to the requirement. For example, in Coahuila de Zaragoza, the state only prohibits the waste of food suitable for human consumption in industrial or commercial quantities, thereby exempting individuals and businesses with nominal quantities of surplus food.⁷⁹ Coahuila's law is ambiguous as to what amounts to "industrial or commercial quantities" of food as it does not provide a definition.

Other states have opted to encourage donation rather than require it. Nuevo León,⁸⁰ San Luis Potosí,⁸¹ Sonora,⁸² the State of Mexico,⁸³ and Zacatecas⁸⁴ have all passed laws to encourage food donations. For example, Nuevo León's law aims to incentivize food donations through tax incentives for donors and state support.⁸⁵ The law also empowers the Secretary of Equality and Inclusion to enter into food recovery agreements with food banks and provide them budgetary assistance.⁸⁶ The law tasks the Secretary of Agriculture with promoting the law with producers.⁸⁷ These provisions are designed to work together to make donation attractive and feasible with state support and guidance.

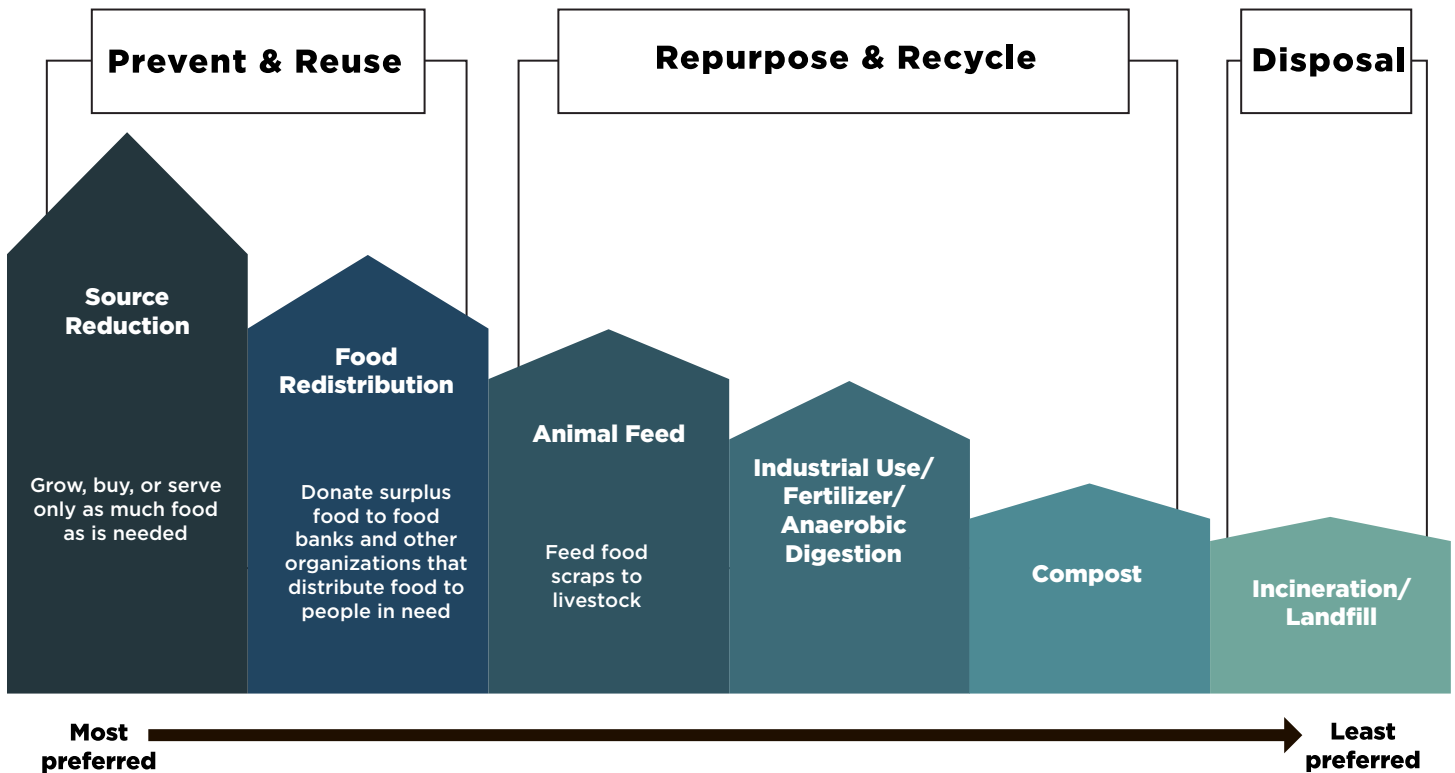
Eight states have proposed legislation to encourage food donations in the past, though they were unsuccessful: Baja California Sur,⁸⁸ Campeche,⁸⁹ Guanajuato,⁹⁰ Hidalgo,⁹¹ Michoacán,⁹² Puebla,⁹³ Tabasco,⁹⁴ and Tlaxcala.⁹⁵ The remaining four states (Guerrero, Morelos, Veracruz, and Querétaro) have not yet taken up legislation to promote or mandate food donations, to our knowledge. At **Appendix A** is a table summarizing which states require food donation, encourage donation, or have no policy regarding food donation as of August 2024.

Finally, some states go even further than requiring donation of food suitable for human consumption, requiring that even food that cannot be donated is recovered and not sent to landfill or incineration. These states require that food be used in accordance with the food recovery hierarchy. The food recovery hierarchy is a hierarchy of uses of food, published by the Food and Agricultural Organization ("FAO") of the United Nations, which first prioritizes the prevention and reduction of food waste, followed by redistribution of food safe for human consumption, then the repurposing and recycling of food unsafe for human consumption.⁹⁶ Two states, Aguascalientes⁹⁷ and Quintana Roo⁹⁸, have enacted laws that require food unsafe for human consumption to be directed to other uses. Aguascalientes directs companies and food marketing chains to observe the following priorities:

- waste of food suitable for human consumption is prohibited and must be donated; then,
- the remaining food waste should be diverted to animal feed;
- composted or used as fertilizer, or;
- used in biofuels.⁹⁹

This is largely consistent with the hierarchy. However, the FAO recommends diversion of food waste for biofuel production (anaerobic digestion) prior to composting.

Quintana Roo requires donation of food suitable for human consumption and where it is not suitable for human consumption, it must be directed towards "animals in captivity" (*animales en cautiverio*).¹⁰⁰ The law does not define "animals in captivity," but the phrase most likely refers to animals kept in zoos, as opposed to livestock.¹⁰¹ This hierarchy approach is surely preferable to permitting food waste but is less aligned with the FAO's hierarchy which specifically prioritizes keeping food scraps in the human food supply chain and sets out further priorities, such as recycling for compost or energy production.



Source: Food and Agriculture Organization of United Nations (FAO). Adapted with permission from the food hierarchy proposed by the FAO in 2019.

Most states with laws requiring or encouraging food donation require food banks to report the amounts and sources of donated food to a state government office. The agency to which donations must be reported varies by state. For example, in Chihuahua, food banks must report to the Secretariat of Human Development and Common Good of the State Government (*La Secretaría de Desarrollo Humano y Bien Común de Gobierno del Estado*) the amount of donations received, the number of people to whom the food was served, and the name of the donor.¹⁰² Similarly, in Quintana Roo, food banks must report quarterly to the Development Integral of the Family (*the Desarrollo Integral de la Familia* or DIF) on the donations received and distributed.¹⁰³ Currently, entities regulated by food waste prohibitions and surplus food donation mandates are not required to report how they manage surplus food. Even companies that waste industrial or commercial quantities of food are not required to report how much food they send for disposal, recycling, or donation.

STATE BEST PRACTICES AND ADDITIONAL SUGGESTIONS

Given the variety in state approaches, some potential best practices have emerged. They include mandating donation, requiring recycling of the remaining food scraps (anything not able to be donated for human consumption), covering all food system entities, conducting education and outreach to support donors, and providing capacity building and infrastructure support. Future enactment of or reforms to laws that encourage or require food donation could:

Require donation of food that meets health and safety requirements

To ensure that food goes to its highest use, human consumption,¹⁰⁴ surplus food that meets local health and safety requirements should be donated to food recovery organizations for distribution to people. The law can acknowledge that whether the donated food is accepted by food recovery organizations is outside the potential donor's control by excusing penalties for waste when food businesses can demonstrate that food recovery organizations decline the food or do not collect it in a timely manner. An example of this approach is Jalisco,

which prohibits the irrational and unjustified waste of food, but exempts a potential donor from penalty if the food bank does not collect the offered donation.¹⁰⁵ Food banks may not have capacity to accept a donation due to time, financial, or storage constraints, or the donation itself may not be suitable for their beneficiaries.

Require recycling of any remaining food scraps

To ensure the maximum amount of food waste is avoided, a law should require that any remaining food scraps, either those that are not fit for human consumption or that food recovery organizations reject (for reasons such as that the food is spoiled or is not nutritious or desirable), be sent to animal feed or organics repurposing or recycling. An example of this approach, as discussed above, is Aguascalientes.¹⁰⁶ Not only does Aguascalientes' state law prohibit certain food entities from wasting any food susceptible to donation, it also requires them to redirect food unfit for human consumption to animal feed, biofuels, compost, or fertilizer.¹⁰⁷

Cover all or a broad range of entities in the food system

To have the most impact, policy should address entities at each step in the supply chain. This ensures that there are not missed opportunities to prevent food loss and waste. Though smaller entities may individually waste less food, they can have an outsized impact in the aggregate, so it is important to require that all entities in the food system donate food safe for human consumption. Most states that require donation cover a broad range of entities. An example can be found in Jalisco, which explicitly states that the law's requirement to avoid food waste spans the food system including production, processing, and distribution.¹⁰⁸

To make this more manageable for businesses and for building the needed food recovery infrastructure, jurisdictions in other countries have opted to use a phased approach with different timelines for when different types of food businesses are subject to the provisions of the law. This allows food recovery organizations, donors, and state agencies time to build and fund the infrastructure and organizational capacity necessary for implementation. A phased approach also allows more time for education and outreach to donors in later tiers, which may consist of donors with less experience in recovering food or donors of prepared foods, the recovery of which involves additional food handling requirements. France provides an example of this approach. France began by only requiring that supermarkets larger than 400 square meters offer food recovery contracts to eligible charitable organizations to facilitate the donation, recovery, and redistribution of unsold food.¹⁰⁹ Three years later, France extended the law to apply to institutional feeding/mass catering entities (i.e., those preparing more than 3,000 meals a day) and the rest of the food industry with revenue greater than 50 million euros annually.¹¹⁰

Perform capacity planning and include grants for food recovery organizations

A donation requirement will benefit some food recovery organizations, but it may also burden food recovery organizations with more limited capacity as it quickly increases the demands on them. Importantly, laws should not require food recovery organizations to accept donations that do not meet their internal requirements. Food recovery organizations may have limited employees and volunteers, which can make it challenging to absorb a major increase in donations. Additionally, food recovery organizations may face challenges coordinating a large increase in donations with limited equipment and staffing. To ensure that the state has sufficient food recovery infrastructure, it should undergo capacity planning. For example, Baja California mandates food donations, but its food recovery organizations have reported facing challenges accepting donations because of limited resources and a lack of state support.¹¹¹

States should offer grants to support the development of food recovery infrastructure to enhance the viability of food donation requirements. Grants could be tailored to support food recovery organizations with insufficient resources, such as by providing consistent, accessible funding not only for the purchase of equipment and other infrastructure, but also to support on-going overhead costs such as staffing and warehouse space. An example of this approach can be seen in Nuevo León, which directs the Secretary of Equality and Inclusion to provide budgetary assistance to food banks.¹¹² Government support for food recovery is discussed in more depth in the [Government Grants and Programs](#) section.

Conduct a public education and outreach campaign to raise awareness

Food donation requirements should include mandated outreach and education by the relevant state agency, including a requirement to solicit input from impacted stakeholders during the drafting of related regulations. Many states with laws promoting or requiring food donation designate a state agency, or multiple, to conduct education and outreach.¹¹³ Guidance issued by such agencies should include sector-specific requirements on who must comply, how to comply, and resources to build industry buy-in and support compliance. The importance of education and outreach is further discussed in the [Enforcement](#) section.

Require reporting to track food waste

Reporting could be required of businesses generating industrial or commercial quantities of food to track how surplus food and food waste is managed. Though food donations are currently tracked in many states through reporting by food recovery organizations, additional reporting requirements could capture the amount of surplus food and food waste sent for recycling, such as for animal feed, compost, or energy production, as well as the amount of food sent to landfills. Reporting requirements lead to increased awareness among food system actors, which leads to better food waste prevention measures, increased donations of surplus food, and better food waste management.¹¹⁴ Reporting requirements are also recommended because they enable the government to identify which policies are most effective at increasing food donations and decreasing food waste.¹¹⁵ Best practices concerning reporting requirements delineate how food donations and food waste will be measured.¹¹⁶ States should educate businesses on how to comply with reporting requirements before new laws are implemented.¹¹⁷ Additional information about reporting requirements is available in the Global Food Donation Policy Atlas [issue brief](#) on Emissions, Environmental, and Food Waste Reporting Policies.¹¹⁸

Soluciones Integrales para la Problemática Ambiental (SIPRA)¹¹⁹

The environmental consulting firm SIPRA works to “transform environmental problems, particularly those linked to waste, into opportunities for the benefit of the local and global environment.” One of SIPRA’s areas of expertise is around food loss and waste. Using this expertise, SIPRA has prepared evaluations and plans to address food loss and waste for both businesses and state governments. Working with Toks restaurant chain, SIPRA identified [opportunities](#) to save the company money while also **reducing its annual greenhouse gas emissions by 40 tons of CO₂**.¹²⁰ SIPRA prepared the first [diagnosis of food loss and waste](#) at the state level for the Secretariate of Environment and Territorial Development of the State of Jalisco, finding that **more than 25% (an estimated 5,044,852 tons) of Jalisco’s agricultural production is lost or wasted each year**.¹²¹

CONCLUSION

Thoughtfully designed food donation mandates and food waste reporting requirements can have a meaningful impact on food waste and food insecurity. Reporting requirements can provide governments with vital data to better understand the food waste landscape while simultaneously focusing food system actors’ attention on the amount of surplus food and food waste they generate and how it is managed. Importantly, food donation requirements and reporting requirements are more likely to significantly change behavior if enforced. Without accountability and potential penalties, potential donors have less incentive to change their current processes and are more likely to maintain the status quo. This is discussed in further depth in the [Enforcement](#) section.

LIABILITY PROTECTION

BACKGROUND

A significant barrier to the donation of safe, surplus, wholesome food is the fear among donors that they will be liable if someone becomes sick after consuming donated food.¹²² Indeed, many donors are so afraid of being sued that they choose to discard food rather than run the risk of liability.¹²³ At the same time, businesses are also concerned about reduced food quality of donated foods negatively impacting their brands.¹²⁴

Where liability protection does exist, the extent to which it covers food donors or food recovery organizations may vary. Some countries offer protection only to food donors but not to food recovery organizations. Liability laws that only protect food donors may hinder the development of robust food donation programs because food recovery organizations may be unwilling to take on the legal risk associated with donations. For example, food recovery organizations may perceive heightened risk when receiving and distributing donated food to beneficiaries as compared to purchasing food to distribute. This limits opportunities to recover and distribute safe, surplus, edible food to those in need.

Separately, even in countries that offer liability protection, many food donors and food recovery organizations are uncertain about whether they are eligible for such protection, what actions are required to maintain the protection, and what limits, if any, apply. Food donors and food recovery organizations may also fear that certain innovative practices are not protected. An opportunity exists for governments to expand or thoughtfully craft their liability protection laws to allow for innovation in food donation that may otherwise be stymied.

FEDERAL LAW

Mexico does not offer comprehensive federal liability protections for donors and intermediaries.¹²⁵ However, it does offer protections for donors who comply with relevant law.¹²⁶ Under Mexico's General Health Law, Article 199-Bis provides that persons or institutions that distribute donated food are exclusively responsible for spoiled food that causes damage to human health.¹²⁷ Because the distributing institution is solely responsible, this shifts the burden of potential liability away from food donors and onto intermediary organizations like food banks.

Article 464-Bis of the General Health Law further provides that any person who, directly or through an intermediary, knowingly authorizes or orders the distribution of spoiled food which endangers a person's health could be subject to a penalty.¹²⁸ In the case of negligence (instead of actual knowledge), a lesser penalty may be imposed.¹²⁹ Article 464-Bis suggests that food recovery organizations generally may not be penalized for harm that is caused to a beneficiary unless a certain level of intention or misconduct is proven.

In situations giving rise to a claim of damages, food donors and food recovery organizations are subject to the liability standards set forth in Mexico's Federal Civil Code (Código Civil Federal). A beneficiary's claim against a food recovery organization or food donor would generally assert "extra-contractual" liability, the standard that is most commonly used by Mexican courts to resolve personal injury or wrongful death cases.¹³⁰ Under this standard, the person alleging injury must prove that the food recovery organization or food donor acted "illicitly" or "against good customs" and would have to defend against a claim of contributory-negligence, (i.e., show that the injury did not result from the victim's own "fault or inexcusable negligence").¹³¹

Without further explanation of this standard, food donors and food recovery organizations are not likely to be held liable, as it is unclear what actions would qualify as "illicit" or "against good custom." The legislature

has not clarified how these terms are defined, nor is it likely to do so.¹³² Instead, the interpretation is left to the courts, which are also unlikely to address any claim of wrongdoing brought against a food recovery organization or food donors as federal civil liability cases in Mexico are so rare that they are considered “simply non-existent.”¹³³

Despite the dearth of civil liability claims, in 2016, the federal government proposed a General Law to Promote Altruistic Food Donation (*Ley General para Fomentar la Donación Altruista de Alimentos* or the *Altruistic Donation Law*), which would have provided liability protection for food recovery organizations, thus expanding the scope of protection offered in the General Health Law.¹³⁴ Specifically, the proposed federal legislation explained that, in cases where donated food causes harm, food recovery organizations will only be held liable if they acted negligently or fraudulently in the reception, care, or distribution of the donated food.¹³⁵ Since this proposed law was not adopted, liability remains based on the standards imposed in the General Health Law, the Civil Code, and any relevant state law.

In summary, federal law protects food donors from liability once food is passed to an intermediary, like a food bank or food recovery organization. The intermediary can be penalized for intentionally distributing unsafe food or, to a lesser degree, for negligently distributing such food. Donors who distribute food directly to beneficiaries and intermediary food recovery organizations are subject to beneficiaries’ claims of harm, though liability is exceedingly unlikely for the reasons set forth above. This framework and lack of clear guidance results in some ongoing perception of risk among donors and intermediaries, leaving room for states to further clarify.

STATE LAW

INTRODUCTION

Some Mexican states, such as Chihuahua,¹³⁶ Jalisco,¹³⁷ and Tamaulipas,¹³⁸ have adopted liability protections for food donors and food recovery organizations, recognizing the perceived risk of donating food. However, these states are very much in the minority as most states have not included such provisions in their altruistic donation of food laws.¹³⁹

While state legislation could help reduce the perceived risk of donating food, it is not clear whether such laws would be upheld if challenged. As explained in the [Legal System Overview](#) section of this report, when there is a conflict between laws in the Mexican legal system, federal laws will take precedence over state legislation. However, private law matters, such as tort and liability claims, are generally left to the state.¹⁴⁰

STATE BEST PRACTICES AND ADDITIONAL SUGGESTIONS

Chihuahua, Jalisco, and Tamaulipas are three examples of states that have provided liability protection at the state level and they each broach this subject in a unique way. States could help incentivize more food donations by enacting laws that:

Provide explicit liability protection for donors

Tamaulipas provides a good example of explicit donor protection from liability. In its law to encourage the altruistic donation of basic necessities, Tamaulipas specifies that donors will not be liable when food that they distribute in good faith results in harm to another.¹⁴¹ Jalisco exempts donors from liability so long as they comply with the food donation law.¹⁴² The benefit of such provisions is that they reaffirm the liability protection that is alluded to at the federal level, thereby decreasing the perceived risk of donating food in the eyes of donors.

Provide explicit liability protection for intermediaries

Chihuahua and Jalisco present examples of liability protection for food banks. Under its law for the altruistic donation of food, Chihuahua provides that persons may be held liable for harm to beneficiaries only when it is found that there was negligence or willful misconduct.¹⁴³ Jalisco similarly provides that food banks will only be liable if negligence or intentional misconduct in the handling or distribution of food is proven.¹⁴⁴ Given that there is no liability protection for food banks or intermediaries at the federal level, a law of this nature could decrease the perceived risk of distributing donations.

Provide education and guidance on liability protections for food donation

Additionally, state governments could serve a vital educational role by designating an agency or department to raise awareness about and provide guidance on existing liability protections (federal or state).

CONCLUSION

Even though the General Health Law limits the potential liability of food donors by shifting responsibility exclusively onto food recovery organizations, food donors may still perceive that there is risk when donating food. States could help to alleviate this perceived risk by including liability protection in state laws. Ideally, states should provide some form of explicit protection for both donors and intermediaries to alleviate the fears and risks to all actors involved in the process of food donation.



BACKGROUND

Lack of clear food safety guidance relevant to food donation poses a challenge to potential food donors.¹⁴⁵ As a result, safe and wholesome food that is not suitable for sale is often wasted instead of donated as businesses and food recovery organizations attempt to minimize risk. Food safety guidance for food donations also helps protect recipients to ensure that they receive only those foods that are suitable for human consumption. Though it is crucial that donated food be safe, our research has not uncovered examples of recipients becoming ill due to donated food.

FEDERAL LAW

Various norms directly implicate food safety and labeling. Labeling requirements for packaged foods are set forth in NOM-086 and NOM-051.¹⁴⁶ Date labels for all pre-packaged food and non-alcoholic beverages are standardized under Official Mexico Norm, NOM-051 (*Especificaciones generales de etiquetado para alimentos y bebidas no alcohólicas preenvasados*), which requires manufacturers to select from either a safety-based date label, referred to as the expiration date (*fecha de caducidad*), or a quality-based date, referred to as the preferred consumption date (*fecha de consumo preferente*).¹⁴⁷ This norm will be discussed in more depth in the [Date Labeling](#) section. Food safety practices are standardized under NOM-251 (*Prácticas de higiene para el proceso de alimentos, bebidas o suplementos alimenticios*), which establishes the minimum requirements for good hygiene practices that must be observed in the processing of foods, beverages, or food supplements and their raw materials to avoid contamination.¹⁴⁸

The federal General Health Law states that donated food handled by intermediaries (such as food recovery organizations) is subject to sanitary conditions and other requirements, but the language is high-level and not very detailed.¹⁴⁹ Chapter I of the General Health Law's Tenth Title includes "common provisions" that describe sanitary controls applicable to the process, import, and export of food; these provisions also apply to other products like medicines and pesticides.¹⁵⁰ Within this Title, article 199-Bis explicitly addresses food donation, explaining that institutions involved in the supply, receipt, and distribution of food donation should:

- 1) have establishments that meet all sanitary conditions required to handle food,
- 2) have trained staff and equipment for the safe and hygienic handling and transportation of food,
- 3) distribute food in a timely manner to avoid contamination, alteration, or decomposition of the food, and
- 4) adopt measures of sanitary control, as mandated by the authorities.¹⁵¹

While the article clearly requires compliance with certain sanitary controls and conditions, it does not specifically identify the relevant General Health Law provisions to which the subject organizations must adhere. Rather, the broad language suggests that food recovery organizations as well as food donors may be subject to all sanitary control provisions in Chapter I, Title 10 of the General Health Law, including those unrelated to food.

The Ministry of Health has also issued NOM-169 to regulate the operation of food assistance programs;¹⁵² NOM-043 to prescribe the quantity and quality of food to which each person is entitled;¹⁵³ and NOM-014 to establish minimum requirements for public, social, and private institutions providing social and food assistance.¹⁵⁴

STATE LAW

INTRODUCTION

Some states have chosen to incorporate food safety provisions into their altruistic donation of food laws that add requirements on top of those specified at the federal level.¹⁵⁵ However, just as uncertainty exists around federal food safety requirements, the language surrounding these state food safety laws is often unclear as well. For example, in its law on the altruistic donation of food, Mexico City states that donated food must be in adequate conditions of “hygiene” and “quality” without specifying what requirements must be met to satisfy these conditions.¹⁵⁶ Similarly, in its law on the right to adequate food and combatting food waste, Nuevo León requires that staff of food banks be trained under “good manufacturing” practices,¹⁵⁷ which it defines partly as “practices aimed at preventing and controlling hazards to product safety,” without providing any further detail.¹⁵⁸

STATE BEST PRACTICES AND ADDITIONAL SUGGESTIONS

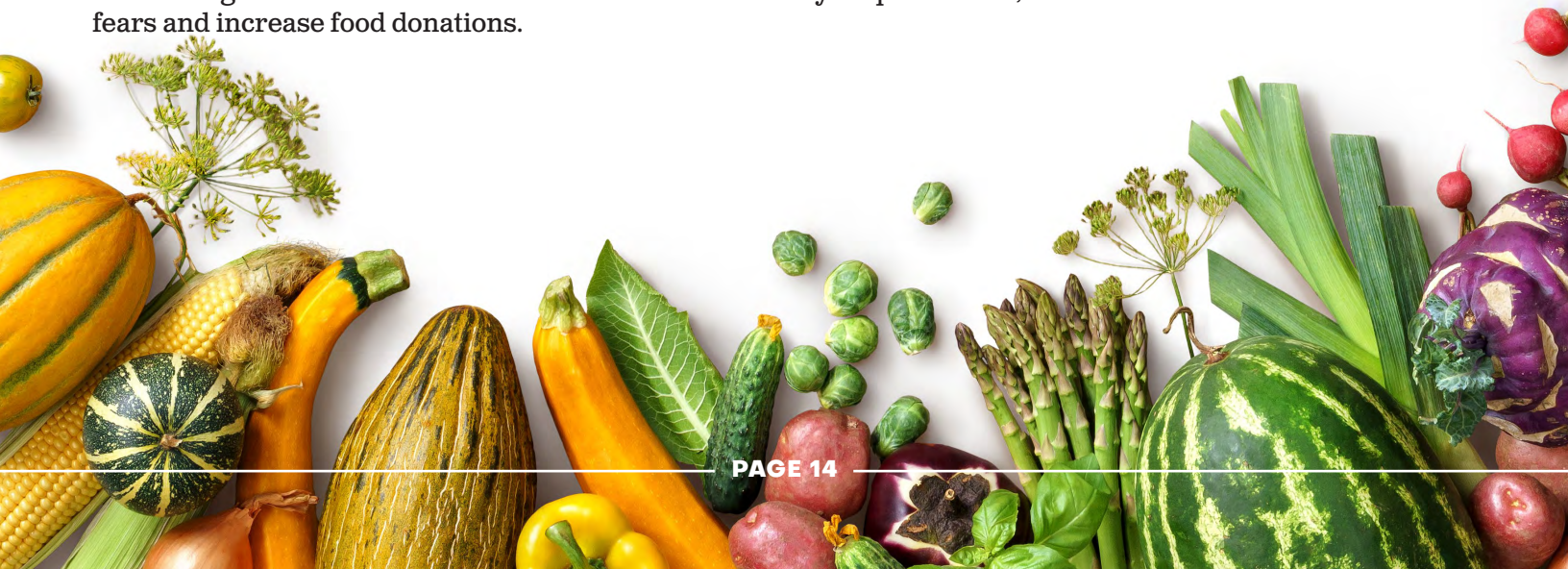
Since much uncertainty exists around food safety regulations both at the state and federal levels in Mexico, food donors and recovery organizations would benefit from additional guidance on food safety requirements to reduce their perceived risk and to ensure they donate safe, edible food even if that food cannot be sold. To provide this guidance, states could:

Designate an agency to interact with and educate donors and related organizations

One way that states could meet this need would be by designating an agency to interact with potential food donors and food recovery organizations to disseminate information and clarify state and federal food safety requirements for donated foods. The [Enforcement](#) section of the toolkit notes that different states designate various state agencies and organizations as being primarily responsible for enforcement of food donation provisions. Additionally, some states leave enforcement up to multiple agencies, while others do not explicitly designate any agency as overseeing enforcement. We recommend that each state designate a single state agency to handle enforcement. In addition to designating a single state agency as an enforcer of food donation laws, states should charge this same agency with the responsibility of educating food donors and food recovery organizations about state and federal food safety requirements for food donation during their interactions with them.

CONCLUSION

Various food safety requirements relating to donated food exist at both the federal and state levels in Mexico. Currently, many of these requirements are unclear, leaving potential food donors and recovery organizations wary about donating food. By designating a specific agency with the responsibility to educate donors and related organizations about state and federal food safety requirements, states could reduce these entities’ fears and increase food donations.



DATE LABELING

BACKGROUND

One major driver of food waste and an obstacle to food donation is the general misconception about date labels, such as “expiry date” or “best before.”¹⁵⁹ While date labels are generally quality indicators, many believe they are about safety and throw away wholesome food based on the quality date. Stakeholders in Mexico have expressed confusion as to whether expiration dates and preferred consumption dates indicate safety as opposed to quality.¹⁶⁰

Several countries developed their date labeling schemes based on the *Codex Alimentarius*’ 2018 update, General Standard for the Labelling of Prepackaged Foods, which sets out a dual date labeling scheme as the model practice.¹⁶¹ The *Codex Alimentarius* is a set of international food standards developed by the Food and Agriculture Organization of the United Nations (“FAO”) and the World Health Organization (“WHO”).¹⁶² The recommended dual labeling scheme distinguishes between dates used to indicate safety and those used to indicate peak quality.¹⁶³ Specifically, the *Codex Alimentarius* recommends using a “Use-By Date” or “Expiration Date” to indicate safety and a “Best-Before Date” or “Best Quality-Before Date” to indicate quality.¹⁶⁴ The standards also state that national laws should require a food to have only one date label: either a quality-based label or a safety-based label.¹⁶⁵ According to *Codex*, foods with the quality label can still be consumed past the date.¹⁶⁶

However, national laws and policies frequently do not align with this best practice as they fail to clearly distinguish between safety or quality dates. Further, even when countries have standard labels, they may not indicate whether food with a quality-based label can be sold or donated past this date. This leads to confusion and unnecessary food waste.

The European Union and the United Kingdom offer strong examples of dual date labeling schemes. The European Union date labeling scheme distinguishes between safety-based and quality-based date labels. It requires manufacturers to affix a safety-based date, expressed as “use by,” only for foods that are considered “highly perishable” and no longer safe to consume after the date.¹⁶⁷ For all other foods, manufacturers are required to affix a quality-based, “best before” date, after which food may still be perfectly safe to consume and donate.¹⁶⁸ Both the EU and the United Kingdom explicitly permit donation of foods past their quality dates.¹⁶⁹

Further, the United Kingdom also issued guidance for its dual labeling scheme to clearly specify which products should be labeled with “Best Before” versus “Use By.”¹⁷⁰ The United Kingdom’s Food Standards Agency and its Department for Environmental, Food and Rural Affairs also collaborated with nonprofit Waste and Resources Action Programme (WRAP) to publish guidance clearly stating that food with a “best before” or quality-based date label can legally be sold, donated, redistributed, and consumed past this date.¹⁷¹ The United Kingdom has also conducted multiple national campaigns to educate the public about date labels.¹⁷² Together, these policies are aimed at directly addressing the United Kingdom’s estimated two million tons of household food waste each year, about one-third of which is due to consumer confusion surrounding date labels.¹⁷³ These campaigns have driven an estimated 11% decrease in household food waste.¹⁷⁴

FEDERAL LAW

In Mexico, consistent with the *Codex Alimentarius*, date labels are standardized under Official Mexico Norm, NOM-051 (*Especificaciones generales de etiquetado para alimentos y bebidas no alcohólicas preenvasados*), which requires manufacturers to select from either a safety-based date label, referred to as the expiration

date (*fecha de caducidad, caducidad, fecha de expiracion, expira, etc.*) or quality-based date referred to as the preferred consumption date (*fecha de consumo preferente, consumir preferentemente antes del, cons pref, etc.*) for all pre-packaged food and non-alcoholic beverages.¹⁷⁵ According to the regulation, the expiration date refers to the date after which the pre-packaged food's safety and quality characteristics are so diminished that the food cannot be safely consumed.¹⁷⁶ The preferred consumption date, on the other hand, is the date after which the product cannot be sold, but can still be consumed.¹⁷⁷

Despite the standardized dual date label system, there is still uncertainty and confusion around date labeling in Mexico. Apart from a few food items, the regulation does not provide guidance as to when or for which types of food products the expiration date as opposed to the preferred consumption date should be applied; it is instead left to the manufacturer's discretion to choose the specific date and preceding language. Even more importantly, the regulation does not address whether food may be donated or offered free of charge after the preferred consumption date has passed, though the current administration has interpreted it to not permit donation of foods past the preferred consumption date.¹⁷⁸ As a result, potential donors are unwilling to donate foods after this quality-based date, thus throwing away past-date food, even if the food is still suitable for human consumption. There is also a lack of a coordinated, national public campaign to educate consumers about what the date labels mean and how to reduce waste related to them.

STATE LAW

INTRODUCTION

Considering the lack of specificity in the federal law, some states have acted to provide more detailed guidance on date labels. In the states that encourage or require donation of food suitable for human consumption, many simply require the donor keep the expiration date label intact on any food that is donated.¹⁷⁹ Oftentimes they do not address the issue of donating food past its best quality date. State legislation can minimize problems associated with the current date labeling system to fight unnecessary food waste. Nuevo León offers a helpful example of an exemplary state-level policy providing clarity that foods may be donated past the best-before date and offering public education on the distinction between expiration and best-before dates.

STATE BEST PRACTICES AND ADDITIONAL SUGGESTIONS

In 2017, Nuevo León passed a law to encourage voluntary food donation and establish incentives in order to guarantee its citizens the right to adequate food.¹⁸⁰ Food banks are obligated to ensure the safety of donations by reviewing the integrity of the packaging and presence of an expiration date, among other things.¹⁸¹ For foods with a safety-based expiration date, food banks must also distribute the food prior to its expiration date.¹⁸² The law authorized the Secretary of Equality and Inclusion of Nuevo León to design implementation regulations in consultation with other agencies.¹⁸³

Nuevo León issued an executive regulation in 2019 to clarify and promote food donations.¹⁸⁴ The regulation explicitly states that food past the preferred consumption or quality date (*la fecha de consumo preferente*) can be donated, but food past its safety expiration date cannot (*la fecha de caducidad*). This regulation explicitly addresses the ambiguity at the federal level, thus paving the way for donors to donate foods past the quality date that are still safe for consumption in the absence of federal laws or regulations prohibiting such donations. However, the current federal administration's interpretation of the date labeling laws renders this provision ineffective as businesses and food donors are unlikely to risk donating or distributing food in contravention of the federal government's interpretation.

As modeled by Nuevo León, strong date labeling laws would:

Clarify that foods past the preferred consumption date can be donated

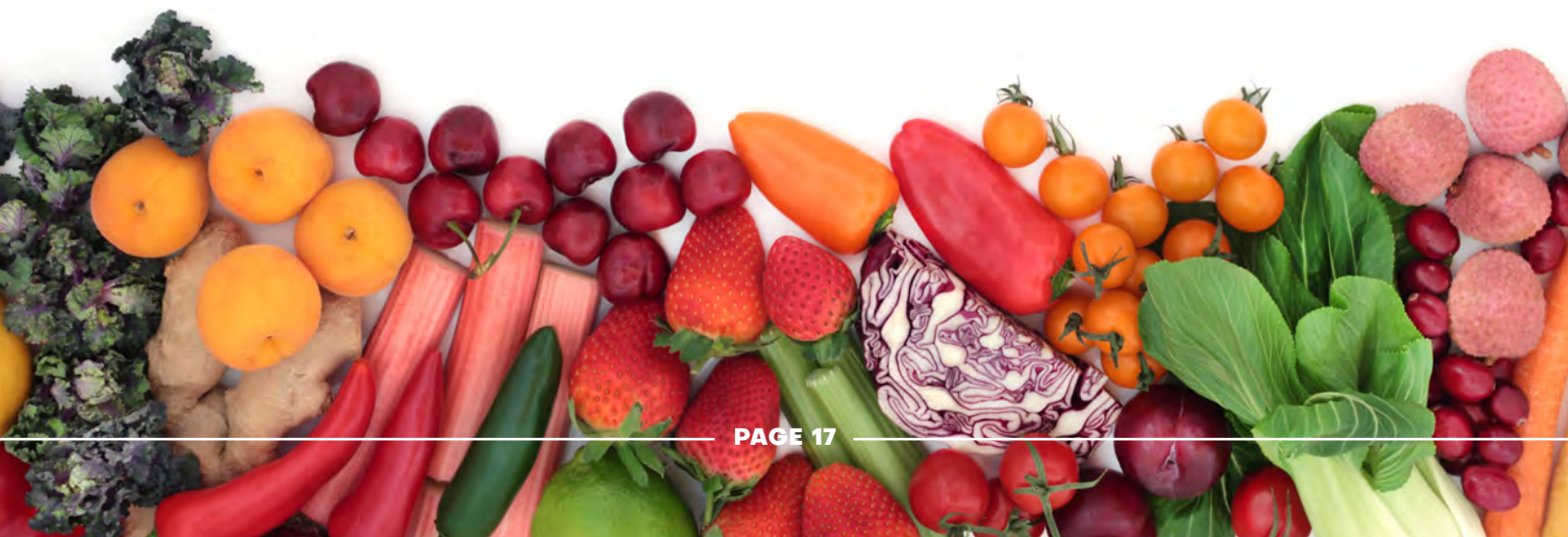
Foods past preferred consumption dates are still safe for human consumption, and the law should make clear that they can be donated. Without clarity, donors often err on the side of caution and do not donate foods past their quality dates without explicit permission.

Provide education and outreach

Given the confusion around date labels, education and outreach is critical to dispel the notion that food past its preferred consumption date must be thrown out. Nuevo León coordinates an interagency program Zero Hunger (*Hambre Cero*) that manages many different projects to reduce food insecurity and food waste, including providing equipment and technology for food banks, conducting a food loss and waste estimation analysis study in Nuevo León, and running a communication and awareness campaign directed toward citizens.¹⁸⁵ *Hambre Cero's* awareness campaign is a critical component to reduce confusion among citizens and organizations regarding the safety of foods past their quality-date.¹⁸⁶

CONCLUSION

Resolving confusion around date labels can reduce waste at multiple points along the supply chain, including at the retail level, and as donated food is being distributed to beneficiaries. Producers, processors, and retailers who know they can safely donate foods past the preferred consumption date can increase their donations to food recovery organizations. Additionally, educating consumers about the different meanings of date labels presents a low-cost way for consumers and recipients of donated foods to maximize their food purchases and avoid sending perfectly safe foods to the landfill. It also assists recipients of donated food to understand that they can safely consume foods from food banks that may be past the preferred consumption date.



TAX INCENTIVES

BACKGROUND

In the absence of governmental intervention, it can be more costly for producers and food businesses to donate food than to discard it. Donors may incur costs to harvest, package, transport, and store food as well as other incidental expenses.¹⁸⁷ This can reduce profit and revenues for businesses that routinely donate food. Though the costs associated with food donation could discourage donations, governments can incentivize producers and food businesses to donate using monetary incentives such as tax benefits.

Tax benefits are a way for governments to counterbalance or offset the additional costs of donating food making it more financially enticing for companies to donate. There are two primary types of tax benefits to incentivize food donations: deductions and credits.¹⁸⁸ Deductions reduce a company's or individual's taxable income, while credits directly offset tax liability. Credits can be more enticing, especially to smaller-scale businesses and farms with low profit margins, as they directly reduce the tax burden rather than decreasing the taxable income, as deductions do. Ideally, donors would have an option of how to translate their donations into tax benefits. Offering one or the other risks not incentivizing large corporations (for which nominal credits would be significantly less valuable than reducing their taxable income) or smaller companies and individual donors (which may not have sufficient income to benefit from a tax deduction).

While many countries recognize the potential of tax benefits in promoting food recovery and have enacted some form of tax incentive for food donations, sometimes incentives are not sufficient for companies to view donating as a more financially responsible choice than discarding surplus food.¹⁸⁹ This is largely due to a cap on the amount of the donation that can be claimed as credits or deductions, such as a set percentage of overall income.¹⁹⁰ Country tax incentives also may be less beneficial—and thus less likely to change business behavior—if they allow for only a minimal value of the donation to be deducted or do not provide a clear structure for how the value is to be calculated.¹⁹¹ An ideal tax incentive would be for the food's full market value, as calculated by the donor, and for such value to be applied even for unmarketable products (allowing the donor to claim the value of similar, still-marketable products).¹⁹² Finally, countries sometimes do not offer tax benefits to offset the associated costs of facilitating donations. Ideally, any benefit would allow donors to claim costs associated with at least the transportation and storage of the donated goods, as France does.¹⁹³

FEDERAL LAW

In Mexico, income taxes are imposed at the federal level. Thus, federal tax deductions or credits are the main avenue for economic incentives for food donation in Mexico. Mexican law provides tax incentives to donors through the Income Tax Law (*Ley del Impuesto Sobre la Renta*). Individuals and corporations in Mexico can claim an annual deduction for the total value of donations made to qualified non-governmental organizations (NGOs) that have registered as “authorized donees” (*donatarias autorizadas*) with the Tax Administration System (*Sistema de Administración Tributaria or SAT*).¹⁹⁴ The deduction is up to 7% of the donor's taxable income (for an individual) or taxable profit (for corporations) from the previous year.¹⁹⁵ The Income Tax Law (*Ley del Impuesto Sobre la Renta*) outlines this benefit. Additionally, donors of food and other basic goods for human subsistence can claim an extra monthly deduction of up to 5% of the market value of the donation.¹⁹⁶ However, donors are only eligible for this benefit if the gross profit margin for selling the donated food would have been at least 10%. Otherwise, the deduction is reduced to 50% of the expected profit margin.¹⁹⁷

According to Articles 108 and 109 of the Regulations of the Income Tax Law (*Reglamento de la Ley del Impuesto Sobre la Renta*), persons seeking the charitable deduction must inform SAT that they intend to donate packaged food products at least five days before the expiration date.¹⁹⁸ Additionally, Article 32-F of the Federal

Tax Code (*Código Fiscal de la Federación*) elaborates that the donor must offer the goods to an authorized donee that is registered with the SAT.¹⁹⁹

Under Article 27, taxpayers are further encouraged to pursue donation before discarding food. The article allows taxpayers to still claim the 7% tax deduction if they destroy or discard food that has lost commercial value, provided that the taxpayer first offered this food for donation to an authorized donee, i.e., a food recovery organization.²⁰⁰ Authorized donees may refuse to accept the donations for several reasons, including a lack of resources or capacity to receive, handle, store, and distribute the food, but food donors that have offered safe, surplus food for donation may still claim the tax benefit even if the food is ultimately wasted.

STATE LAW

INTRODUCTION

Food donors often find that federal tax benefits are not sufficient to overcome the actual or perceived costs of donation.²⁰¹ States can complement existing federal tax incentives by offering deductions from payroll taxes, which are state-level taxes. Payroll taxes are local taxes that charge employers a flat rate percentage of their payroll as a tax; they exist in every state in Mexico and range between 2-4%.²⁰² A tax deduction that functions to reduce the taxable amount of the payroll can be implemented by Mexican states to further incentivize food donors.

STATE BEST PRACTICES AND ADDITIONAL SUGGESTIONS

Though several states have passed altruistic donation of food laws that mention incentives,²⁰³ Nuevo León appears to be the only state that sets out a specific directive for how the tax benefits should operate.²⁰⁴ To encourage private entities to donate—rather than waste—surplus edible food, Nuevo León’s law permits entities that donate edible foods to deduct from their payroll taxes 50-100% of the food’s value.²⁰⁵ It is up to the food bank to evaluate how long the donated food will remain edible and to determine what percentage of the food is suitable for human consumption which in turn determines the amount that will be tax deductible.²⁰⁶ The food bank’s valuation is to be based on the weight and cost of the donated food as well as the valuation of specific foods according to the Federal Consumer Protection Agency or the National System of Information and Market Integration.²⁰⁷ The regulations of the Law on the Right to Adequate Food and Fight Against Food Waste state that the incentives will be applied according to rules established by the Ministry of Finance and Treasury of the State of Nuevo León.²⁰⁸ Research did not reveal any applicable rules issued by this Ministry.

States could help incentivize more food donations by enacting laws that:

Provide state level tax incentives for food donation through payroll tax deductions or credits

All employers, but particularly large-scale ones, can be furthered incentivized to donate food to food banks or food recovery organizations that distribute to those who are food insecure through state level payroll tax incentives such as those outlined in Nuevo León’s law.

Offer a tax incentive that also offsets the costs associated with food donation

Tax structures should permit donors to claim a deduction or credit for expenses like the storage and transportation of donated foods. State governments can ensure that donations are not cost-prohibitive for donors and that food banks do not incur the costs associated with donation by adopting tax schemes that broadly define what may be included in claims for tax credits and deductions. France and the U.S. state of California both have tax structures that allow donors to claim not just the value of the food but also the costs incurred to donate the food.²⁰⁹ California’s transportation-specific tax credit allows a taxpayer in “the business of processing, distributing, or selling agricultural products”²¹⁰ to claim a tax credit equal to 50% of

the transportation costs associated with donating an “agricultural product” to a nonprofit organization.²¹¹ Data shows that California food donors are benefiting from these tax credits, and their numbers are increasing over time: 657 taxpayers claimed the food donation tax credit in tax year 2020, and the following year this number increased by nearly 30%.²¹²

CONCLUSION

Tax incentives such as deductions or credits are a potentially powerful policy tool that state governments can leverage to increase food donation and reduce food loss and waste. These tax benefits can help offset the costs of making donations, which incentivizes taxpayers and ensures that donation is an economically competitive alternative to discarding suitable food.



GOVERNMENT GRANTS AND PROGRAMS

BACKGROUND

Government grants and programs supporting food recovery efforts and infrastructure can help decrease food waste and its adverse environmental impacts while improving food security. Increasing levels of food recovery and redistribution often depend on solutions that assist food entities with the logistics and costs of donating surplus food (e.g., software that allows donors and food recovery organizations to exchange information to coordinate and track food donations, transportation, and cold storage). Such solutions can be supported through governmental policies providing infrastructure support and funding. This section will highlight three main types of government grants and programs: government funding for infrastructure, government grants and programs that provide organizational support, and public recognition programs.

Government grants to support food recovery infrastructure can be particularly impactful at reducing food loss and waste. In some regions, underdeveloped infrastructure might make food recovery and redistribution more difficult. Insufficient cold-chain infrastructure is one such barrier to food recovery efforts in Mexico.²¹³ Grants can address these types of problems by helping to fund the cost of transportation, cold-storage, or food processing equipment that help expand food donation and food recovery efforts. Government grants can also provide funding to strengthen organizational capacity, such as funding for food bank staffing.

Governments can provide operational support by serving as a liaison to support food recovery efforts or facilitating food recovery partnerships between producers or businesses and food recovery organizations. One challenge that often impedes food recovery is a lack of communication between food donors and the organizations that recover food. Government support can fill this need by matching interested food donors with organizations that recover and distribute food.

In addition to providing infrastructural and organizational support, governments can use public recognition programs as a low-cost mechanism to incentivize food donations. In-country stakeholders have reported that food businesses, especially those concerned with environmental, social, and corporate governance, are positively motivated by public recognition of their contributions.²¹⁴ Governmental programs highlighting organizations that donate food are thus another tool for maximizing donations and decreasing food waste.

FEDERAL LAW

At the federal level, there are several poverty reduction and agricultural support programs that are consistent with the goal of reducing food waste and assisting in food recovery efforts. For example, the Social Infrastructure Contribution Fund (*Fondo de Contribución para la Infraestructura Social* or FAIS) could be used to develop infrastructure support with federal funding.²¹⁵ The FAIS operates to fund basic social activities and investments to support populations in extreme poverty in accordance with the General Law of Social Development (*Ley General de Desarrollo Social*).²¹⁶ For 2023, the FAIS has a budget of 112,388,010,675 pesos.²¹⁷ 98,764,952,213 pesos of this amount is allocated for the Contribution Fund for the Municipal Social Infrastructure and Mexico City.²¹⁸ This fund could be used to support food recovery efforts and food donation efforts.

In the past, federal government funds were allocated to develop infrastructure related to food recovery and distribution efforts.²¹⁹ However, these investments were largely related to export supply chains rather than domestic food waste reduction efforts.²²⁰ As of June 2024, there do not appear to be any federal grants or

programs that are directly designed to fund infrastructure to support food recovery efforts at the farm or retail level, increase capacity to recover or redistribute rescued food, or to recognize businesses that donate significant quantities of food to food banks.

STATE LAW

INTRODUCTION

Some form of government grants or support for food recovery is contemplated in many states, including Aguascalientes,²²¹ Ciudad de Mexico,²²² Jalisco,²²³ Nuevo León,²²⁴ Tamaulipas,²²⁵ Yucatán,²²⁶ and Zacatecas.²²⁷ State laws which allow for the appropriation of funding have very general language. Typically, the law generally authorizes the state government to grant incentives without providing additional detail. For example, Yucatan's law (*Ley para Fomentar y Promover el no Desperdiciar Alimentos en el Estado de Yucatán*) provides that subsidies or other state fiscal incentives will be granted to food banks or food entities that manage food to avoid its waste, even if the food has lost its optimal commercial value.²²⁸ The law further states that the Ministry of Administration and Finance (*La Secretaría de Administración y Finanzas*) shall propose the subsidies or fiscal incentives that will be granted to encourage donation and eliminate food waste.²²⁹

Mexico City's law (*Ley para la Donación Altruista de Alimentos de la Ciudad de México*) states that the government will promote the operation of at least one food bank to meet the needs of the most vulnerable communities.²³⁰ However, there are no further details regarding what it would mean to promote the operation of the food bank, nor does the law detail whether this would include financial support or other assistance coordinating food donations, as opposed to public promotion of the food bank's programs.

In accordance with the Law on the Right to Adequate Food and to Combat Food Waste (*Ley del Derecho a la Alimentación Adecuada y Combate contra el Desperdicio de Alimentos*), Nuevo León allocated 10,000,000 pesos to the food bank program to support food donation and recovery in 2021.²³¹ In addition to contemplating or providing financial support, states like Yucatan and Nuevo León have outlined ways that the state government can support food recovery efforts, including promoting collaboration between donors and food banks, providing guidance and advice to donors and food banks to promote the benefits of the law and compliance, as well as launching public awareness campaigns around food waste prevention and food donation.²³² Both Yucatan and Nuevo León's laws specifically contemplate collaboration with the agricultural sector to decrease food loss and increase recovery of fresh agricultural products.²³³

Many state laws include public recognition programs to promote entities that donate significant quantities of surplus food. Some of the states that have passed laws aiming to incentivize food donation through public recognition include Baja California,²³⁴ Chihuahua,²³⁵ Jalisco,²³⁶ Mexico City,²³⁷ Nuevo León,²³⁸ San Luis Potosi,²³⁹ and Zacatecas.²⁴⁰ However, similar to the provisions broadly authorizing fiscal support, many of the laws authorizing public recognition programs do not provide a framework for implementation.

STATE BEST PRACTICES AND ADDITIONAL SUGGESTIONS

Recognizing that federal policies may not sufficiently incentivize or support robust donation of all surplus food, states could:

Provide government funding for infrastructure and operations

Zacatecas' law grants the Secretariat of Social Development of the Government (*Secretaría de Desarrollo Social de Gobierno del Estado de Zacatecas*) with the power to support infrastructure projects established by food banks.²⁴¹ Similarly, Yucatan's law authorizes the government to provide subsidies and incentives to food donors or food banks that are producing, transforming, storing, or distributing surplus food to avoid its

waste.²⁴² Nuevo León's law specifies the governmental allocation of funds for food banks' operational expenses related to agricultural food recovery.²⁴³ As mentioned above, Nuevo León has allocated funding to the food bank program to support food donation and recovery in the state.²⁴⁴ Grant funding and subsidies can help expand the food recovery capacity of organizations by offsetting the cost of transportation, cold-storage, food processing equipment, and other operational expenses.

Provide organizational support

States like Yucatan and Nuevo León have laws contemplating that state government agencies will act as a liaison between food banks and sources of food that can be donated.²⁴⁵ Jalisco's Agri-Food Law (Ley Agroalimentaria del Estado de Jalisco) provides for state coordination to collect food from the agricultural sector and channel it to organizations serving individuals in need of nutrition assistance.²⁴⁶ State governments can help close the gap between organizations that have food to donate and the food banks that distribute the food by serving as a liaison between donors and food recovery organizations, facilitating food recovery agreements, and providing guidance and technical assistance to donors and food banks to ensure that they are well-equipped to comply with the law. This role of the state as a liaison helps make the donation process efficient and increases the total amount of food that can be recovered.

Publicly recognize outstanding food donors

As highlighted above, several states in Mexico have enacted laws that include public recognition programs as a means of incentivizing food donations. Public recognition programs are a low-cost mechanism that can be used to acknowledge donors, especially those that have distinguished themselves by making substantial contributions to particularly vulnerable populations.

Zero Hunger (*Hambre Cero*) Program

The Zero Hunger (*Hambre Cero*) program is an inter-institutional effort between the government, private companies, and the public sector to eliminate hunger and combat food waste.²⁴⁷ Connected to its efforts to address food insecurity and increase the amount of food that is recovered and redistributed, Nuevo León allocated 145 million pesos to the Zero Hunger (*Hambre Cero*) program in 2023.²⁴⁸ Representatives of the Mexican FoodBanking Network (BAMX) report that Nuevo León's significant investment in public-private collaboration has been particularly successful at combating food waste and hunger in the region. In 2022, the Zero Hunger program and *Cáritas* Food Bank in Monterrey recovered 99.5 tons of food waste and delivered 193,152 food packages.²⁴⁹

CONCLUSION

Government funding for infrastructure and capacity building to support food recovery, organizational support such as connecting donors with food recovery organizations or providing guidance or technical assistance, and public recognition programs all have enormous potential to divert food from landfills while encouraging food donations to people in need. Government funding empowers donors and food bank programs to scale their programs and develop new partnerships, including agricultural food recovery projects.



ENFORCEMENT

BACKGROUND

Enforcement plays a critical role in activating policies prohibiting food waste or mandating food donation. Though voluntary compliance is always preferred, policy efficacy can suffer without adequate enforcement. Some entities may not be incentivized to participate and donate without the potential threat of accountability.

Enforcement actions can look different for potential donors and food recovery organizations. Enforcement can range from civil penalties such as warnings and fines to even criminal penalties.

For food recovery organizations, enforcement typically focuses on ensuring compliance with food safety regulations, that food is not inappropriately diverted (i.e., anti-corruption measures), and on preventing food waste. For food businesses/food donors, enforcement may also focus on food safety as well as compliance with donation requirements (i.e., not wasting food).

Though enforcement is important, voluntary compliance can be effective when combined with government outreach and private sector cooperation. For example, France's supermarket food donation law allows for the country to levy sanctions for noncompliance, but even without having levied such fines, food donation within the country increased after the law went into effect.²⁵⁰ As mentioned above, one study found that of the supermarkets surveyed, the percentage donating unsold products rose from 66% prior to 2016 (when the law was enacted) to more than 90% in 2018.²⁵¹

FEDERAL LAW

The General Law on Adequate and Sustainable Food which connects the issue of food loss and waste to the right to food was enacted in April 2024, and regulations on the law are supposed to be issued by October 15, 2024.²⁵² One of the law's purposes is to promote the production, supply, and fair and equitable distribution of food to avoid food waste.²⁵³ In furtherance of this aim, the law prohibits commercial establishments from discarding food fit for human consumption.²⁵⁴ Though the law provides that any acts or omissions in contravention of the law are violations and sets forth penalties for violations of specific articles, no penalty is provided for a violation of the article prohibiting commercial disposal of edible food.²⁵⁵ It remains to be seen whether the forthcoming federal regulations will include enforcement mechanisms or other measures to promote compliance.

STATE LAW

INTRODUCTION

States have approached enforcement of altruistic food donation laws in a variety of ways. Many designate an agency to handle enforcement. Some states treat the magnitude and type of penalties for food businesses versus food recovery organizations differently, others do not. Some states with donation requirements outline penalties for unjustified food waste by any actor, while others limit enforcement to violations by commercial actors. States with food donation laws generally enact anti-corruption measures to punish anyone who diverts donated food for their own purposes. Penalties for violations of food donation policies vary widely across states in form and application. Penalties can be either civil or criminal, though more states choose fines over criminal punishment, such as Aguascalientes,²⁵⁶ Nuevo León,²⁵⁷ Sonora,²⁵⁸ and Yucatán.²⁵⁹ Criminal penalties

for violating the donation law range from three days to three years of imprisonment.²⁶⁰

Some states have not provided for enforcement mechanisms within their food donation laws. Durango and Sinaloa prohibit the irrational and unjustified waste of food that is susceptible to donation but have not provided for sanctions or other consequences for violations.²⁶¹ Others have enacted enforcement mechanisms but have not sufficiently utilized them, in some cases leaving residents frustrated. In Baja California, food recovery organizations have expressed frustration with a lack of state support and lack of donations despite a donation requirement.²⁶² Taken together, there is much diversity in enforcement approaches amongst the states.

WHO ENFORCES?

States often designate an agency (or multiple) to levy sanctions, though some leave it unclear as to which agency oversees enforcement.²⁶³ Some states designate a social state agency, such as the Secretary of Social Development and Well-being (*La Secretaría de Bienestar y Desarrollo Social* o “SEDESOS”)²⁶⁴ or the Integral Family Development (*el Desarrollo Integral de la Familia* o “DIF”)²⁶⁵ to enforce. Some even choose the state Finance Agency (*La Secretaría de Finanzas*).²⁶⁶

Alternatively, instead of selecting just one agency, some states have chosen to task multiple agencies with enforcement, such as Mexico City.²⁶⁷ Mexico City requires both the Ministries of Health and Finance to play a role in enforcement, though it is somewhat unclear from the law how this relates to the Secretary of Social Development’s role as the primary agency developing guidelines for food donation.²⁶⁸ In other states, it is less clear which agency is in charge of enforcement. Jalisco²⁶⁹ and Nayarit²⁷⁰ do not explicitly state who oversees enforcement.

ENFORCEMENT BY TYPE OF OFFENDER

For the state laws that outline enforcement of food donation policies, many distinguish between violations committed by food businesses as opposed to those committed by food recovery organizations in charge of distributing donated foods. For food businesses, states may punish violations of a donation requirement or the delivery of food unsafe for human consumption. For food recovery organizations, penalties may be levied for failure to follow food safety practices, diversion of donated foods for corrupt purposes (e.g., personal benefit, profit, political benefit), or wasting food. The different penalties for both will be further described below in the *Food Businesses* and *Food Recovery Organizations* subsections.

The states that do not discriminate between donors and food recovery organizations in punishment often simply state that violations of the donation law will be punished under their law of Administrative Responsibilities, such as Chiapas²⁷¹ and Mexico City.²⁷² Other states simply outline the same penalties for both.²⁷³

FOOD BUSINESSES

Some states that mandate donation also include sanctions for violations by food businesses. Where sanctions for violations by food businesses are included, they generally take the form of fines based on the amount of food wasted; the amounts make up a broad range, anywhere from 30 to 500 times the daily value Unit of Measure of the food.²⁷⁴ In some states, donors can also be fined for delivering food unsafe for human consumption, such as in Aguascalientes,²⁷⁵ Colima,²⁷⁶ and the State of Mexico.²⁷⁷

Some states distinguish enforcement by types of food businesses or entities. In Nayarit, donation is required for all who would waste food safe for human consumption, but penalties are reserved for persons who waste “industrial or commercial quantities” of food.²⁷⁸ The law does not define “industrial or commercial quantities.”²⁷⁹ Those who waste that much food are subject to an administrative fine of 100 to 500 times the daily value Unit of Measure.²⁸⁰

FOOD RECOVERY ORGANIZATIONS

States with donation laws generally include anti-corruption measures that punish food recovery organizations

or persons (even mentioning public servants in particular) who divert food away from those who experiencing hunger for personal gain (e.g., for profit).²⁸¹ In Baja California²⁸² and Tamaulipas,²⁸³ criminal penalties are reserved for any employee of a food recovery organization who diverts donated foods for personal benefit and only fines can be issued for other violations of the law. The language and activities punished vary. Some states also include penalties for providing food to those who are not in need of donated foods under the law's definitions.²⁸⁴ Baja California defines beneficiaries as those individuals who are temporarily or permanently lacking sufficient economic resources to obtain the food necessary to survive.²⁸⁵

Other measures punish food recovery organizations for mishandling or wasting food themselves. Often, states will require food recovery organizations to distribute the food they receive in an appropriate amount of time to ensure it is distributed prior to becoming unsafe for consumption.²⁸⁶ For example, Coahuila and Baja California both require food recovery organizations to distribute donated foods with due opportunity to prevent decomposition.²⁸⁷ On the other hand, Colima provides for a penalty if a food bank permits 20% of its donated food volume to go to waste prior to distribution.²⁸⁸

STATE BEST PRACTICES AND ADDITIONAL SUGGESTIONS

Considering the diversity in enforcement and approaches, states wishing to maximize the efficacy of their law could:

Designate specific implementation and enforcement authorities

The law should designate a state agency, usually the department responsible for managing social services, that will be in charge of enforcement and will have regulatory authority to implement the law. If possible, it is important that enforcement is consolidated in one agency with the authority to enforce the law; when there are multiple agencies involved, responsibilities can become too diffuse to provide effective monitoring. When one agency is in charge, it can also better aggregate lessons learned from each enforcement action to determine what measures might be necessary to strengthen the law or otherwise promote compliance.

When structuring the law's implementation and enforcement, the authorized state agency should solicit input from local and regional business and government entities that will be impacted by the relevant policies or regulations.

Conduct public education and outreach campaigns to affected entities

States should provide outreach, sector-specific guidance, resources to build industry buy-in and support compliance, and education on donation policies, including who must comply and how to comply. Before resorting to traditional enforcement mechanisms, such as fines, states should encourage compliance through outreach and education or by issuing warnings.

Levy penalties for violations of the law

To make progress in the fight against food waste, states must hold accountable entities that violate donation laws, in particular donation requirements. Without accountability, food system companies are free to violate the law and erode the incentives for others to comply with it. Incorporating reporting requirements in food donation laws can aid state governments in identifying cases of noncompliance.

CONCLUSION

States' approaches on enforcement vary in several ways from the type of penalty, to who is punished, and the agency in charge. Despite this diversity, few (if any) states seem to be actively punishing violations of food donation policies. This lack of enforcement threatens the policies' efficacy in increasing food donations and reducing food waste and food insecurity across Mexico.

CONCLUSION

The Mexican federal government only recently enacted an overarching federal law aiming to prevent and avoid food waste as a means of furthering the constitutional right to food. This law contemplates coordinated implementation across all levels of government and directs states to align their laws with the federal legislation by April 13, 2025. This leaves open a space in which states can strengthen existing or enact new policies at the local level aimed at preventing and reducing food waste, including through the donation and distribution of surplus food.

This toolkit is intended to identify and examine food loss and waste policies that exist at the state level in Mexico. For topics that do not have state law examples, we have identified potential best practices. While these examples are intended to help strengthen food donation in Mexico, they are not exhaustive. Each jurisdiction is different and a particular policy that may work in one state is not guaranteed to be effective in another. Those committed to reducing food loss and waste and promoting food recovery should use this resource as a source of inspiration and examples from which they can draw to propel strong food donation and food waste policy in states across Mexico.



APPENDIX A

State	Title	Published	Last Reformed	State Policy
Aguascalientes	The Law to Prevent Food Waste in the State of Aguascalientes (Ley Para Evitar El Desperdicio de Alimentos en el Estado de Aguascalientes)	17-07-2017	13-05-2024	Requires Food Donations
Baja California	Law to Encourage Altruistic Food Donation in the State of Baja California (Ley Para Formentar la Donación Altruista en Materia Alimentaria en el Estado de Baja California)	06-02-1998	28-07-2023	Requires Food Donations
Baja California Sur				No Policy
Campeche				No Policy
Chiapas	Law for the Integral Use of Food and its Altruistic Donation of the State of Chiapas (Ley Para el Aprovechamiento Integral de Alimentos y su Donación Altruista del Estado de Chiapas)	25-07-2018		Requires Food Donations
Chihuahua	Law for the Donation, Rescue and Integral Use of Food Products for the State of Chihuahua (Ley para la Donación, Rescate y Aprovechamiento Integral de los Productos Alimenticios para el Estado de Chihuahua)	20-12-2023		Requires Food Donations
Coahuila de Zaragoza	Law for the Use and its Altruistic Donation of the State of Coahuila de Zaragoza (Ley para el Aprovechamiento y su Donación Altruista del Estado de Coahuila de Zaragoza)	23-01-2018		Requires Food Donations
Colima	Law to Promote Altruistic Food Donation for the State of Colima (Ley para Fomentar la Donación Altruista en Materia Alimentaria para el Estado de Colima)	23-08-2003	20-10-2018	Requires Food Donations

State	Title	Published	Last Reformed	State Policy
Durango	Law to Regulate and Promote Altruistic Food Donation for the State of Durango (Ley para Regular y Promover la Donación Altruista de Alimentos para el Estado de Durango)	19-05-2013	10-12-2015	Requires Food Donations
Guanajuato				No Policy
Guerrero				No Policy
Hidalgo				No Policy
Jalisco	The Social Assistance Code of the State of Jalisco (El Código de Asistencia Social del Estado de Jalisco)	01-02-2019		Requires Food Donations
	Agri-Food Law of the State of Jalisco (Ley Agroalimentaria del Estado de Jalisco)	28-12-2019	27-04-2021	
Mexico City	Mexico City's Altruistic Food Donation Law (Ley para la Donación Altruista de Alimentos de la Ciudad de México)	16-02-2017	30-09-2022	Requires Food Donations
Michoacán				No Policy
Morelos				No Policy
Nayarit	Law to Promote the Altruistic Donation of Basic Necessities of the State of Nayarit (Ley Para Fomentar la Donación Altruista de Artículos de Primera Necesidad del Estado de Nayarit)	13-10-2010	8-11-2016	Requires Food Donations
Nuevo León	Law on the Right to Adequate Food and Combating Food Waste for the State of Nuevo León (Ley del Derecho a la Alimentación Adecuada y Combate Contra el Desperdicio de Alimentos para el Estado de Nuevo León)	17-11-2017	25-01-2023	Encourages Food Donations
Oaxaca	Law for the Donation and Integral Use of Food of the State of Oaxaca (Ley para la Donación y el Aprovechamiento Integral de Alimentos del Estado de Oaxaca)	16-06-2018		Requires Food Donations
Puebla				No Policy
Querétaro				No Policy
Quintana Roo	Law to Encourage Altruistic Food Donation in the State of Quintana Roo (Ley para Fomentar la Donación Altruista de Alimentos en el Estado de Quintana Roo)	30-04-2013		Requires Food Donations

State	Title	Published	Last Reformed	State Policy
San Luis Potosí	Social Assistance Law for the State and Municipalities of San Luis Potosí (Ley de Asistencia Social para el Estado y Municipios de San Luis Potosi)	20-12-2021	18-04-2022	Encourages Food Donations
Sinaloa	Law for the Integral Use of Food and its Altruistic Donation of the State of Sinaloa (Ley para el Aprovechamiento Integral de Alimentos y su Donación Altruista del Estado de Sinaloa)	01-10-2018		Requires Food Donations
Sonora	Law for the Integral Use of Food and its Altruistic Donation of the State of Sonora (Ley para el Aprovechamiento Integral de Alimentos y su Donación Altruista del Estado de Sonora)	28-06-2018		Encourages Food Donations
State of Mexico	Law for the Recovery and Use of Food of the State of Mexico (Ley para la Recuperación y Aprovechamiento de Alimentos del Estado de México)	26-06-2019	05-04-2024	Encourages Food Donations
Tabasco				No Policy
Tamaulipas	Law to Promote the Altruistic Donation of Basic Necessities of the State of Tamaulipas (Ley para Fomentar la Donación Altruista de Artículos de Primera Necesidad del Estado de Tamaulipas)	13-10-2004	17-08-2017	Requires Food Donations
Tlaxcala				No Policy
Veracruz				No Policy
Yucatán	Law to Encourage and Promote not Wasting Food in the State of Yucatan (Ley Para Fomentar y Promover El No Desperdiciar Alimentos En El Estado De Yucatán)	18-06-2020	22-11-2022	Requires Food Donations
Zacatecas	Law to Prevent Food Waste and Promote Its Use in the State of Zacatecas (Ley Para Prevenir el Desperdicio de Alimentos y Fomentar su Aprovechamiento en el Estado De Zacatecas)	28-12-2019		Encourages Food Donations

APPENDIX B

This Appendix includes sample legislative language for featured policies discussed in the toolkit that states can use as a starting point to develop or reform their own policies to reduce food waste, increase food security, and promote the altruistic donation of food. When our research did not reveal particularly strong or notable sample policy language, it is noted below as “no state model.”

Donation Requirements

Require donation of food that meets health and safety requirements

Source: [Jalisco](#)²⁸⁹

The irrational and unjustified waste of food products, when appropriate for donation for altruistic use by any private legal charity entity officially recognized by [\[insert entity\]](#), is prohibited,

Persons intending to donate food shall be exempted from the responsibility indicated in the previous paragraph, when, having informed the food bank, the latter does not come to collect the food in a timely manner.

Require recycling of any remaining food scraps

Source: [Agascalientes](#)²⁹⁰

Without prejudice to the policies regarding food safety, it is prohibited to waste food when it is appropriate for donation for altruistic use by any public or private entity, officially recognized by [\[insert entity\]](#); likewise, it is prohibited to destroy or render surplus food unusable for consumption or use; and the use of food donations for profit. Therefore, companies and food marketing chains must prevent food waste, and establish the following priorities in the management of their products: (1) To donate or transform products that have not been sold and are still suitable for human consumption; (2) To recover them to be used as animal feed; (3) To be used to produce compost or fertilizers for agriculture; or (4) To be used to produce biofuels.

Cover all or a broad range of entities in the food system

Source: [Jalisco](#)²⁹¹

The obligation to prevent food waste extends to the entire value chain of food production, processing and distribution. The prevention of food waste shall include the useful destination of raw materials as well as finished products.

Perform capacity planning and include grants for food recovery organizations

Source: [Nuevo León](#)²⁹²

[\[Insert entity\]](#), may enter into agreements with the Food Banks, so that they may carry out food rescue with agricultural producers. For this purpose, a budgetary allowance will be allocated to be transferred to the Food Banks in order to support them with the operating expenses that may arise, which will be specified in the agreements entered into, such agreements will establish the control mechanisms for the remittances transferred. The [\[Insert entity\]](#) in conjunction with the Food Banks shall determine the amount and estimates of the budgetary allowance.

Donation Requirements (Continued)

Conduct a public education and outreach campaign to raise awareness

Source: [Yucatan](#)²⁹³

For the purposes of this Law, [\[Insert entity\]](#) shall have the following authority:

- I. To inform and advise Food Entities and Food Banks on the benefits of this Law, as well as its application; and
- II. To implement social campaigns to raise awareness about the importance of food donation and avoiding food waste.

Require reporting to track food waste

No state model

Liability Protections

Provide explicit liability protection for donors

Source: [Tamaulipas](#)²⁹⁴

Donors shall not be held liable for basic necessities for human consumption, delivered in good faith, that cause any harm to the beneficiaries.

Provide explicit liability protection for intermediaries

Source: [Jalisco](#)²⁹⁵

Food donors are exempt from liability in case of harm to the health of the beneficiaries, as long as the food products comply with the conditions established by this law. The Food Banks will only be liable for the harm caused, when it is proven that there was negligence or intentional misconduct in the receipt, care or distribution of food products.

Provide education and guidance on liability protections for food donation

No state model

Food Safety

Designate an agency to interact with and educate donors and related organizations

No state model

Date Labeling

Clarify that foods past the preferred consumption date can be donated

Source: [Nuevo León](#)²⁹⁶

All food for human consumption that has not exceeded the expiration date or that has or has not exceeded the preferential consumption date (best by), may be donated and received by the Food Banks, as long as they comply with the specific acceptance criteria, as well as with the applicable Mexican Official Standards.

Provide education and outreach

No state model

Tax Incentives

Provide state level tax incentives for food donation through payroll tax deductions or credits

Source: [Nuevo León](#)²⁹⁷

I. The Food Entities that donate food fit for human consumption according to the guidelines followed by the Food Banks shall benefit from government tax incentives and benefits under this law.

II. The food products given in donation that comply with the requirements established in this Law are deductible from the Payroll Tax. The **[insert law]** shall determine the fiscal incentives that the State deems necessary to establish in order to promote the donation of food fit for human consumption.

III. The tax receipt issued for deduction of the Payroll Tax under this Law in favor of the donating company, will range from **[insert %]** to **[insert %]** of the value of the product; the Food Banks shall estimate the approximate shelf life of the products at the time they are received, and based on this will determine the percentage of the product suitable for consumption, stating in the receipt the monetary amount that will be tax deductible.

IV. The tax receipt issued under this Law for payroll tax deduction in favor of the food entity shall be supported by the Food Bank inventory record. Said record will contain a breakdown of the fit and unfit product, shall be signed by Food Bank managers, and in the case of product unfit for consumption it shall be processed according to the applicable laws on waste, showing its final disposition in the destruction records.

VI. In order to determine the prices of products on a unit basis and issue the tax receipts in accordance with the provisions of this policy, Food Entities shall deliver a copy of the invoice, remission or output, that show the value of the merchandise; in case of not having this information, the Food Bank shall take as a reference the consumer prices issued by the Federal Consumer Protection Agency or the National Markets Information and Integration System, to establish the value of the product.

VII. The competent tax authority will be in charge of verifying the correct issuance of tax receipts by the Food Banks.

V. The tax record issued under this Law for payroll tax deduction in favor of the donating Food Entity shall be based on the appraisal made by the Food Bank, based on the quality, kilograms **[weight]** and cost of the donated product.

Tax Incentives (Continued)

Offer a tax incentive that also offsets the costs associated with food donation

No state model

Government Grants and Programs

Provide government funding for infrastructure and operation

Source: [Zacatecas](#)²⁹⁸

For the purposes of this Law, **[insert entity]** shall have the following authority:

Based on allocated budget, to support infrastructure projects that the established Food Banks submit to **[insert entity]**.

Source: [Yucatán](#)²⁹⁹

Article 1. The provisions of this Law are of public order, interest and general compliance in the State, and are intended to guarantee the human right of people to access adequate nutrition, through the promotion of food donation by the Food Entities, in order to support mainly those sectors of the population that are poor or vulnerable due to lack of food, creating state mechanisms to encourage the donation and distribution of food, by means of:

I. The granting of subsidies or state fiscal incentives to Food Banks or Food Entities that produce, transform, store, distribute or sell food for human consumption and avoid waste, even if the food has lost its optimum commercial value due to expiration, but is in good condition to be consumed.

Article 2. **[Insert entity]** shall propose to the Executive Branch the subsidies or fiscal incentives to be granted derived from the present law with the objective of promoting donation and eliminating food waste.

Source: [Nuevo León](#)³⁰⁰

[Insert entity], may enter into agreements with the Food Banks, so that they may carry out food rescue with agricultural producers. For this purpose, a budget will be allocated to be transferred to the Food Banks in order to support them with the operating expenses that may arise, which will be specified in the agreements entered into; such agreements will establish the control mechanisms for the amounts transferred. The **[Insert entity]** in conjunction with the Food Banks shall determine the amount and budget estimates.

Government Grants and Programs (Continued)

Provide organizational support

Source: [Nuevo León](#)³⁰¹

I. **[Insert entity]** is the agency that will design and execute the general policies of this Law. To this effect, it will coordinate and promote the celebration of agreements and collaboration agreements with agencies, public authorities, food entities and Food Banks; as well as the creation, study and statistical follow-up of results, to allow for the optimization of the scope of this ordinance;

II. **[Insert entity]** the agency that will be in charge of verifying the safety of the agri-foods that the food entities wish to donate, as well as being the liaison with the agricultural sector in relation to this Law.

III. **[Insert entity]**, may enter into agreements with the Food Banks, so that they may carry out the rescue of food with agricultural producers. For the above, a budget item will be allocated to be transferred to the Food Banks in order to support them with the operating expenses that may arise, to be specified in the agreements entered into; such agreements will establish the control mechanisms for the amounts transferred. The Secretariat **[Entity]** together with the Food Banks will determine the amount and estimates of the budget item.

IV. **[insert entity]**, in accordance with the applicable legal provisions, shall be in charge of:

Informing and advising Food Entities and Food Banks on the benefits of this Law, as well as its application.

Publicly recognize outstanding food donors

Source: [Baja California](#)³⁰²

ARTICLE 16.- The **[insert entity]** as the governing body of social assistance in the **[insert state]** shall:

I. Negotiate tax incentives for food donors with federal and state authorities;

II. Promote the active participation of the media in the dissemination of altruistic food donations;

III. Conduct permanent campaigns to raise awareness about the importance of food donation and motivate citizens to get involved in donating food and avoiding food waste;

IV. Grant annual public recognition to donors who have distinguished themselves for their contributions;

V. Generate an emblem or corporate badge, to publicize donors under the terms of this Law;

VI. Establish and promote relationships between donors and beneficiaries to make the food supply effective and permanent, minimizing the expenses that may arise for this reason;

VII. Negotiate with the competent authorities the necessary support for the altruistic donation of food from abroad, mainly to cover the needs of institutions registered under the terms of this Law;

VIII. Promote a program to encourage the altruistic donation of food fit for human consumption among consumers and the public, social and private sectors, prioritizing the highly marginalized and vulnerable population; and,

IX. Coordinate with the municipalities through their Systems for the Comprehensive Development of the Family, to cooperate in the fulfillment of the purpose of this Law.

Enforcement

Delegate implementation and specify enforcement authority

Source: [Aguascalientes](#)³⁰³

Article 1. [insert entity], shall be the authority of coordination, agreement and collaboration of the social and private sectors in the matter of preventing food waste and encouraging food donation. To such effect, it shall have the following attributions:

- I. Promoting the execution of agreements with Federal Executive agencies, federal entities, municipalities, social and private organizations, as well as companies;
- II. Promoting the creation of food banks, soup kitchens and solidarity organizations for the purpose of receiving food donations destined for the vulnerable population;
- III. Encouraging the participation of citizens, families, organizations and, in general, the social and private sectors for food rescue and use;
- IV. Promoting and carrying out information and awareness campaigns through various media, including mass media, to prevent food waste;
- V. Establishing guidelines for compliance with the obligations of donors and food beneficiaries;
- VI. Exercising the powers of supervision and verification with respect to compliance with this Law; and
- VII. Investigating violations of this Law and imposing the corresponding sanctions.

Article 2. [insert entity] shall promote altruistic food assistance and coordinate public and private efforts, in order to guarantee the universal right to food and food security, under the terms established by the Commission. The municipal systems for the Comprehensive Development of the Family shall carry out the appropriate actions in their area of competence.

To that effect, the [insert entity] shall keep the records and update the information of the food registry, as well as establish the order of priority in the delivery of food among the beneficiaries, in order to ensure a food safety net.

Article 3. [insert entity] shall apply the necessary regulations to guarantee that food donations meet the quality standards for human consumption, applying the corresponding sanctions, as the case may be.

Conduct public education and outreach campaigns to affected entities

Source: [Nuevo León](#)³⁰⁴

I. [Insert entity] is the agency that will design and execute the general policies of this Law. To this effect, it will coordinate and promote the celebration of agreements and collaboration agreements with agencies, public authorities, food entities and Food Banks; as well as the creation, study and statistical follow-up of results, which will allow optimizing the scope of this ordinance;

II. [insert entity], for the application of the provisions under its authority contained in this Law, shall carry out sanitary control; order and carry out verification visits, and if necessary, enforce safety measures, and substantiate procedures as well as apply the corresponding administrative sanctions, in accordance with the State Health Law and other applicable provisions;

III. [Insert entity], the agency that will be in charge of verifying the safety of the agri-foods that food entities wish to donate, as well as being the liaison with the agricultural sector in relation to this Law.

Enforcement (Continued)

Levy penalties for violations of the law

Source: [Tamaulipas](#)³⁰⁵

ARTICLE 1. A fine of [insert amount, fines may vary from thirty to five hundred] Unidades de Medida y Actualización (Measurement and Updating Units) shall be imposed on the following:

- I. Employees or directors of the donation beneficiaries who participate in the diversion of donated food that was received by them for distribution, whether they use it for their personal use or for third parties who do not require it. The sanction will be increased by up to one hundred percent when such food is commercialized;
- II. Those who order, participate in or practice the irrational and unjustified waste of food;
- III. Those who, having been asked for food in donation, do not provide it and waste it unjustifiably;
- IV. Those who, having knowledge that the food is not fit for consumption, order or participate in the donation under the terms of this law; and
- V. Public servants who trade, divert, block, impair, alter or violate the distribution and/or altruistic donation of food.

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for the promotion of agreements to prevent food waste and encourage donation, authorizing incentives, and mandating public recognition of food donors).

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