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Dear Michigan Senators and Representatives:

We believe that Michigan should be on the forefront of the food waste issue. We are submitting a proposed bill for your consideration to address the serious issue of food waste in this country. Research shows that while there is an abundance of food produced in the U.S. every year, a significant amount of this wholesome, healthy, and safe food ends up in businesses' dumpsters and consumers' trash cans, making its way to landfills. In a partnership between the Harvard Law School Food Law and Policy Clinic and the Natural Resources Defense Council, the authors reported that 40% of the food produced in the U.S. goes uneaten, resulting in at least 62.5 million tons of wasted food each year. See, "Don't Waste, Donate -- Enhancing Food Donations Through Federal Policy," March 2017.

Further, the amount of food waste in the U.S. has been on the rise for the past several decades, with per capita food loss increasing by 50 percent from 1974 to 2005. At the same time, 42.2 million individuals, including 13.1 million children, were food insecure in 2015, meaning that at some point during the year they lacked access to a sufficient amount of food to lead an active, healthy lifestyle. Diverting safe, edible food from the waste stream to food insecure individuals can significantly reduce food waste, while also playing a role in hunger relief efforts. See "Don't Waste, Donate," *supra*. Food waste also causes serious health issues in our landfills as noted in the Harvard study. *Id.*, p. 4.

We believe that one effective way to eliminate the problem of food waste in Michigan is to make it mandatory for food producers to donate 10% of their excess food instead of disposing of it. We have drafted a proposed bill for your consideration; see attached. We are willing to provide research assistance in marshalling this bill through the Michigan legislature.

Sincerely,

David Honigman,  
Former Michigan State Senator (1991 – 1996)  
Theresamarie Mantese, Esq.  
Mary Mantese

Gerard V. Mantese, Esq.  
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## **Michigan Food Waste Law**

The purpose of the Michigan Food Waste Law is to fight against food waste in Michigan and the United States and to help solve the pressing challenge of food insecurity in this country.

### **(A) Short title**

This section may be cited as the "Michigan Food Waste Law."

### **(B) Definitions**

As used in this statute, the following definitions shall apply:

#### **(1) Food**

Any raw, cooked, processed, or prepared edible substance, beverage, or ingredient used or intended for use for human consumption but not including pharmaceuticals.

#### **(2) Excess Food**

Food which is still fit for human consumption but which would otherwise be discarded or destroyed. It includes food which has passed its "best if used by date," but not food which has passed its "do not use after" date.

#### **(3) Person**

An individual, corporation, partnership, organization, association, or governmental entity, including but not limited to a producer, distributor, retail grocer, wholesaler, hotel, motel, manufacturer, restaurant, caterer, farmer, and nonprofit food distributor.

#### **(4) Producer**

A person that generates or processes food for sale to a person, including wholesalers and retailers.

#### **(5) Distributor**

A person who supplies food to stores and to other businesses that sell food to a person.

### **(C) Food donation requirement**

All persons, including but not limited to producers, distributors, wholesalers, grocery store owners and other retailers, and restaurant owners, owning an establishment having annual food sale revenues exceeding \$5 million shall donate 10% of their excess food, fit for human consumption, to needy individuals or non-profit organizations that provide food to needy individuals. It shall be unlawful for a person to intentionally render food inedible in order to evade compliance with this Act.

### **(D) Violations punishable by fine; Action by Attorney General; Regulation by Department of Health and Human Services**

Violation of this statute shall be a misdemeanor, punishable by a fine of up to \$25,000. Additionally, if the attorney general has probable cause to believe that a person has engaged, is engaged, or is about to engage, in an act that is unlawful under this Act, the attorney general may bring an action in accordance with principles of equity to restrain such person by temporary or permanent injunction from engaging in the act. The action may be brought in the circuit court of the county where the defendant is established or conducts business or, if the defendant is not established in this state, in the circuit court of Ingham County.

The Department of Health and Human Services shall monitor compliance with this Act and may conduct audits, as necessary. The Department shall also develop and promulgate forms to be made available to persons subject to this Act, by which they must certify compliance herewith. Persons subject to this Act shall maintain records to verify compliance and shall submit the subject form to the Department on an annual basis.

### **(E) Immunity**

Compliance with this law in good faith shall be a defense to any claim against the establishment or owner based on defects in the food. A person shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the person donates in good faith to a nonprofit organization for ultimate distribution to needy individuals. This statute shall not preempt, but shall be complementary to, the Bill Emerson Good Samaritan Food Donation Act, 42 U.S.C. 1791.