

# COMPOST SITE OPERATIONS MANAGEMENT TRAINING FOR HEALTH OFFICIALS

February 26, 2020



# Free Assistance for Businesses & Institutions



RecyclingWorks MA is funded by MassDEP, delivered under contract by the Center for EcoTechnology

[recyclingworksma.com](http://recyclingworksma.com)

# Technical Assistance for Businesses

- Evaluate existing waste streams
- Identify opportunities to prevent, recover, and divert waste
- Empower employees through education and training
- Create customized waste bin signage
- Conduct cost analysis



Contact Us



CALL HOTLINE: (888) 254-5525



info@recyclingworksma.com

# Find-a-Recycler Directory

## Recycling Assistance for Businesses & Institutions

Any Material  Enter location  Pick Up/Drop Off

OR, try a keyword or biz name

RecyclingWorks in Massachusetts is a recycling assistance program that helps businesses and institutions maximize recycling, reuse, and food waste diversion opportunities.

- [LIST YOUR BUSINESS](#)
- [ABOUT RECYCLINGWORKS](#)
- [ABOUT THE FIND-A-RECYCLER TOOL](#)



[www.recyclingworksma.com/](http://www.recyclingworksma.com/)

# RecyclingWorks Resources

- Waste Bin Compliance Tip Sheets
- Hauler Contract Guidance
- Food Waste Estimation Guide
- Source Separation Guidance




# Food Donation Guidance

- Identify types and quantities of food to donate
- Collaborate with partner organizations
- Understand packaging, storage, and label requirements
- Legal fact sheets on liability protections, date labeling, and tax incentives



[www.recyclingworksma.com/donate/](http://www.recyclingworksma.com/donate/)



**Legal Fact Sheet for Massachusetts Food Donation:  
Liability Protections - July 2015**

Businesses and nonprofits that provide or receive donated food are generally well-protected by laws designed to provide immunity from liability related to such donations. The federal Bill Emerson Good Samaritan Food Donation Act provides liability protection for food donors; and Massachusetts' Good Samaritan law provides additional liability protection to businesses in the state.

**The Emerson Good Samaritan Act**  
The Bill Emerson Good Samaritan Food Donation Act (the Emerson Act) provides a federal baseline of protection for food donors.<sup>1</sup> The Emerson Act covers individuals, businesses, non-profit organizations, and the officers of businesses and non-profit organizations. It also covers gleaners—individuals that harvest donated agricultural crops to a nonprofit organization that distributes to the needy.<sup>2</sup> These individuals and businesses are protected so long as they donate qualifying types of food in good faith.

- **Qualifying Food.** The donated food must be "apparently wholesome" or an "apparently fit grocery product" and meet "all quality and labeling standards imposed by Federal, State, and local laws and regulations," even if it is not "readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions."<sup>3</sup>
- **Exception for Reconditioned Food:** Even if a food does not meet all applicable standards, the donor can still be protected by the Emerson Act as long as (s)he follows all of the Act's reconditioning procedures,<sup>4</sup> which include:
  - 1) The donor informs the nonprofit of the nonconforming nature of the product;
  - 2) The nonprofit agrees to recondition the item so that it is compliant; and
  - 3) The nonprofit knows the standards for reconditioning the item.<sup>5</sup>

The Emerson Act protects most but not all donations of qualifying food. In order to get protection, the transaction must be structured such that:

- 1) The donor donates to a non-profit organization.<sup>6</sup>
- 2) This nonprofit organization that receives the donated food distributes it to needy populations.<sup>7</sup>
- 3) The ultimate recipients do not pay for this donated food.<sup>8</sup> However, if one nonprofit donates food to another nonprofit for distribution, the Act allows the first nonprofit to charge the distributing nonprofit a nominal fee to cover handling and processing costs.<sup>10</sup>

So long as these criteria are met, the Emerson Act is quite protective of donors, and does not hold a donor liable unless the donor acts with gross negligence or intentional misconduct.<sup>11</sup>

- **Gross Negligence** involves "voluntary and conscious conduct (including a failure to act)" by a person or organization that knew when the donation was made that the donated food was likely to have harmful health impacts.<sup>12</sup>

<sup>1</sup> 42 U.S.C.A. §1791 (West 2015).  
<sup>2</sup> *Id.* §1791(b)(5).  
<sup>3</sup> There is an exception for mislabeled food products that are "not readily marketable," which can also be protected so long as the donor explains the mislabeling to the donee, and the donee has sufficient knowledge to and does recondition the product to meet applicable standards. *Id.* §1791(b)(1-2).  
<sup>4</sup> *Legal Guide to Food Recovery*, U. Ark. L.L.M. Des't or A&C, & Food Law 10 (2013), available at <http://law.uark.edu/documents/2013/06/Legal-Guide-To-Food-Recovery.pdf>.  
<sup>5</sup> *Id.*  
<sup>6</sup> The Act defines a non-profit as an incorporated or unincorporated entity that satisfies these requirements: (1) operates "for religious, charitable, or educational purposes" and (2) "does not provide net earnings to, or operate in any other manner for the benefit of any officer, employee, or shareholder." 42 U.S.C.A. §1791(b)(9) (West 2015).  
<sup>7</sup> *Id.* §1791(c).



# COMMUNITY TOOLKIT:

Adding Food Waste to a Yard Trimmings Compost Facility

# Compost Site Technical Assistance

- Focusing on sites that are currently composting food materials, or would like to begin composting food materials
- Helps ensure well operated sites by providing no-cost consulting advice on best management practices





# QUESTIONS?

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