



THOUGHT LEADERS



CHRISTINA GROGAN
ILLUSTRATION / GETTY IMAGES

EFFECTIVE JAN. 1

HOW A NEW FOOD RECYCLING LAW COULD IMPACT LOCAL BUSINESS

Food must be donated and scraps recycled

BY KATIE ANDERSON
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A state law that went into effect Jan. 1 requires businesses and organizations that generate food waste to donate food and recycle the scraps.

Companies and institutions generating an annual average of two tons of wasted food per week must donate any edible food waste and to recycle the remaining scraps if the facility is within 25 miles of an organics recycler.

Representatives from Tops Friend-

ly Markets and the University at Buffalo, two organizations that will need to comply with the law, were joined by attorneys from Hodgson Russ LLP during a Jan. 20 virtual Thought Leaders discussion to talk about how the law will affect businesses across the region. The event was sponsored

by Hodgson Russ.

For Tops, the produce department generates a lot of food waste, said Tim Bowen, refrigeration compliance and maintenance manager, as it typically has a shorter shelf life.

"First and foremost, we try to donate excess produce, but if it can't

WITH TIM BOWEN, REETUPARNA DUTTA,
ANDREW FREEDMAN AND RAYMOND KOHL

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“Eventually it will save us money by keeping waste out of the landfill as those costs go up.”

TIM BOWEN, refrigeration compliance and maintenance manager, Tops Friendly Markets



“Anything that we can do to have that food not wasted and go to support somebody’s life, that’s where we find satisfaction.”

RAYMOND KOHL, director of marketing and communications, UB Campus Dining and Shops

be, then it goes into the organics waste.”

Bowen said that for his industry, the state calculates the two-ton figure per singular location and determines it by the number of employees.

“They came up with a benchmark if it exceeded 69 full time, you were going to fall under that generator of more than two tons of wasted food,” he said.

About 40 Tops stores in the state fall into that category. The remaining stores don’t generate enough waste or they acquired waivers based on distance from a recycler or significant increase in costs.

“They were sensitive to the cost pressures of the business and let us walk into this rather than run into this, so it’s working out good,” Bowen said.

At the University at Buffalo, dining facilities generate food waste from grab-and-go stations and other prepared foods, said Raymond Kohl, director of marketing and communications for UB Campus Dining and Shops. He said the college is working

with the Food Recovery Network, a group of volunteer students, to take the campus’ leftover food to other organizations in the community.

“Our students, through the Food Recovery Network, are always looking for locations to be able to accept those food donations because most of our product that we donate is food that’s already been prepared,” Kohl said. “It’s prepared food that will have a limited shelf life over the next day or two, so they’re looking for soup kitchens or places that will be able to serve it relatively quick.”

Tops also had a food donation program in place before this law went into effect. Kathleen Allen, senior manager of community relations, said stores reach out to local food pantries and other nonprofits to donate daily bakery or produce that won’t stay on the shelves.

“The regional food banks have been wonderful,” she said. “They’re dealing with food insecurity. It’s their mission.”

Hodgson Russ partners Reetuparna Dutta and Andrew Freedman founded a nonprofit, WNY Food

Web, which aims to take excess food to places that can distribute it. They work closely with St. Luke’s Mission for Mercy and host regular sandwich drives.

“Wasted food is generally food that goes bad before it’s prepared or prepared food that’s not consumed,” Dutta said. “Wasted food is a real problem in this country. It’s estimated that about 25% of the food that we purchase is ultimately wasted.”

Part of the problem, according to Freedman, is that much of the wasted food and food scraps end up in landfills and incinerators.

“Excessive methane gas is produced when they end up in landfills,” he said. “So what this law is trying to do, is take that food and steer it away from landfills and incinerators and feed it to the food-insecure.”

With 7.8 billion pounds of food wasted each year in New York state and 2.2 billion New Yorkers facing food insecurity, this law aims to address both issues in a cost-effective way, he said.

“I think we’re dealing with two different problems, which are how do we help climate change and assist and reduce methane gas while we also feed the food insecure?” he said.

The new law includes restaurants, malls, prisons, grocery stores, colleges, amusement parks, casinos and other similar entities. Nursing homes, hospitals and K-12 schools were not included.

“I think there’s just so much going on in those places right now that they probably were given a temporary reprieve,” Freedman said.

Dutta said it’s not the first law of its kind. Other states and New York City have adopted similar legislation. She said potential food donors often ask about liability such as what happens if they donate food and someone gets sick.

The federal bill – Emerson Good Samaritan Food Donation Act – protects food donors from civil and criminal liability if they “operate in good faith,” and have “no reason to believe the food is contaminated or harmful.”

A counterpart law in New York, Dutta said, requires donors to reasonably inspect the food before donating to avoid liability.

“The answer is you are most likely going to be protected in that instance,” she said.

HODGSON’S TAKE



“Those entities that are the designated food scrap generators are going to have to file an annual report quantifying these metrics. I think once we get that data, we’ll be in a position to see what kind of impact this law has had.”

REETUPARNA DUTTA, partner, Hodgson Russ LLP



“We have such an opportunity here to have a win-win on the environmental side and on the food insecurity side, and it also gives people and businesses the opportunity to promote the good things they do for the community.”

ANDREW FREEDMAN, partner, Hodgson Russ LLP

CLOSER LOOK AT THOUGHT LEADERS

Thought Leaders is an ongoing series of discussions with Western New York business leaders and attorneys at Hodgson Russ LLP.

Ten times a year, leaders in diverse industries meet for a roundtable discussion moderated by Business First journalists.

The conversations are usually held in the law firm’s Pearl Street offices in Buffalo, but have shifted to a virtual format during the Covid-19 crisis.