

# Food Donation Liability Protections & Food Safety

## Food Donation Liability Protections

### Can my business get sued for donating food?

Federal and State food donation laws **protect you from liability** when donating food **as long as the food was handled safely before donation**. Food facilities may legally donate food to any non-profit or directly to individuals/the community.

Bill Emerson Good Samaritan Food Donation Act

"A person or gleaner **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 or gleaner donates in good faith to a nonprofit organization for ultimate distribution to needy individuals."

–Bill Emerson Good Samaritan Food Donation Act, Title 42, Chapter 13A, Section 1791 – (c)(1)

## Federal law protecting food donors:

- **Bill Emerson Good Samaritan Food Donation Act**
- **Food Donation Improvement Act**
  - Expanded Liability Protections: Broadens the scope of the original Good Samaritan Act by allowing food donations to be made directly to individuals or groups other than 501c3 organizations.
  - Reduced-Price Donations: Allows nonprofits and other organizations to sell donated food at a "Good Samaritan reduced price," which is defined as the cost of handling, administering, and distributing the food.
  - Direct Donations to Individuals: Clarifies that qualified direct donors (e.g., schools, restaurants, caterers) can donate food directly to individuals or groups without the need for a 501c3 intermediary.

## California laws protecting food donors:

California has also taken extra steps to provide civil and criminal liability protections by building it into the following civil and health and safety codes:

- California Health and Safety Code, Section 114432 & 114433
- California Food and Agricultural Code, Section 58505
- California Civil Code, Section 1714.25(a)



## Food Safety

**Safety procedures and protocols are important to ensure your food donation helps make the greatest impact in your community.** Local food banks have robust processes in place to ensure that food donations are handled safely after they leave your establishment. Here are some of the food safety practices the food banks have implemented:

- ✓ Require food donation recipients to go through Food Safety Certification and obtain Food Handlers Cards.
- ✓ Require time and temperature monitoring.
- ✓ Provide materials to ensure safe transportation (e.g freezer blankets), and require food donation recipients to undergo safety training.
- ✓ Monitor food donation recipient sites annually for food safety compliance, ensuring their facility has proper materials and protocols in place (e.g. cold storage, temperature control, etc.)
- ✓ Ensure food safety training has been taken by key staff.



“The **County of San Diego Department of Environmental Health** encourages you to donate food. Food donations must be handled according to all standard food safety protocols outlined in the California Retail Food Code (CalCode).”

–*Vanessa Mello, Supervising Program Coordinator, San Diego County Department of Environmental Health and Quality*



## Learn More About Food Safety Practices & Protocols

If you have questions or need more information about food safety practices, contact the **DEHQ Information Specialist/Duty Specialist** at (858) 505-6900 or by email at [fhdutyeh@sdcounty.ca.gov](mailto:fhdutyeh@sdcounty.ca.gov).

Contact your **local food recovery organization** to understand what their requirements are for food safety related to food donations.



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