

FOOD FACILITY OPERATORS: SAFE FOOD DONATION



Donating surplus food can be a great way to help serve those in need. Leftover prepared foods and meals may be donated by permitted food facilities (e.g., restaurants, hotels, grocery stores, school cafeterias, corporate cafeterias, mobile food facilities, temporary food facilities, etc.) to nonprofit charitable organizations or food banks for them to distribute to persons free of charge. All food shall be:

- Pure and free from adulteration and spoilage and shall otherwise be fully fit for human consumption.
- Limited to foods or food portions which have not been previously served to a consumer.
- Protected from potential contamination at all times and transport vehicles clean and free of vermin.
- At proper temperature prior to transportation (41°F or below for cold foods or 135°F or above for hot foods.)

California recently passed AB1219 which expanded liability protection to food donations made by food facilities. Here are some food donation-related code sections. *Please seek legal assistance to determine all applicable laws and requirements for food donations.*

Health and Safety Code Section 114432:

- (a) A person, gleaner, or food facility may donate food to a food bank or to any other nonprofit charitable organization for distribution to persons free of charge. Food facilities may donate food directly to end recipients for consumption.
- (b) For purposes of this section, “person” has the same meaning as defined in Section 1714.25 of the Civil Code.
- (c) For purposes of this section “gleaner” has the same meaning as defined in Section 1714.25 of the Civil Code.

Health and Safety Code Section 114433:

A person, gleaner, or food facility that donates food as permitted by Section 114432 shall not be subject to civil or criminal liability or penalty for violation of any laws, regulations, or ordinances regulating the labeling or packaging of the donated product or, with respect to any other laws, regulations, or ordinances, for a violation occurring after the time of the donation. The donation of nonperishable food that is fit for human consumption but that has exceeded the labeled shelf life date recommended by the manufacturer is protected under the California Good Samaritan Food Donation Act. The donation of perishable food that is fit for human consumption but that has exceeded the labeled shelf life date recommended by the manufacturer is protected under the California Good Samaritan Food Donation Act if the person that distributes the food to the end recipient makes a good faith evaluation that the food to be donated is wholesome.

Health and Safety Code Section 114434:

The immunities provided in Section 114433 and by Section 1714.25 of the Civil Code, the California Good Samaritan Food Donation Act, are in addition to any other immunities provided by law, including those provided by Chapter 5 (commencing with Section 58501) of Part 1 of Division 21 of the Food and Agricultural Code.

California Civil Code Section 1714.25: *partial excerpt*

(a) Except for injury resulting from gross negligence or intentional misconduct in the preparation or handling of donated food, no person, gleaner, or food facility that donates food that is fit for human consumption at the time it was donated to a nonprofit charitable organization or a food bank shall be liable for any damage or injury resulting from the consumption of the donated food. Food facilities may donate food directly to end recipients for consumption.

Attached is a sample tracking form for prepared foods that you may wish to utilize for food donations.



Perishable Food Donation Tracking Form (sample)

Perishable Food Item(s)	Quantity	DONOR		RECEIVER		
		Temperature	Time	Temperature	Time	Accepted
						YES or NO
						YES or NO
						YES or NO
						YES or NO
						YES or NO
						YES or NO
						YES or NO
						YES or NO
						YES or NO
						YES or NO
						YES or NO
						YES or NO
						YES or NO
						YES or NO
						YES or NO

Donated From:

Facility name:	Health Permit #:
Address:	Phone #:

Transported By (if other than donor or recipient):

Organization name:	Health Permit #: (if applicable)
Address:	Phone #:
Driver name:	

Donated To:

Facility name:	Health Permit #: (or Facility ID#)
Address:	Phone #:

I acknowledge that the food item(s) listed above meet the temperature holding requirements for potentially hazardous foods, as defined in Section 113871 of the California Retail Food Code.

Donor Name:	Donor Signature:	Date:
Recipient Name:	Recipient Signature:	Date: