



# Food Donations FAQ & State Law Protections



## ***Do you ever throw away excess food and wish you could have given it to those in need?***

At the [County of San Diego Department of Environmental Health](#) (DEH) our goal is to ensure food safety and support the *Live Well San Diego Food System Initiative* which works towards a resilient local food system that builds healthy communities, supports the economy and enhances the environment. Here's how you can be a part of the solution and donate excess food.

## **Will DEH allow me to donate food?**

DEH **encourages you** to donate food! In addition to saving on disposal costs and potential [tax benefits](#) for your business, you can help reduce food insecurity and the amount of wasted food going to landfills. In San Diego County 1 in 7 San Diegans face food insecurity while 40% of food produced goes to the landfill. Additionally, state laws including AB 1826 (2016) and SB 1383 (2019) mandate a state-wide reduction in wasted food and increase in food donation.

## **Is there liability for me to donate food?**

State and Federal 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 the community. See the next page for more information on each of these statute's legal protections.

- ⇒ **California Health and Safety Code, Section 114432**
- ⇒ **California Health and Safety Code, Section 114433**
- ⇒ **California Food and Agricultural Code, Section 58505**
- ⇒ **California Civil Code, Section 1714.25(a)**
- ⇒ **United State Code, Bill Emerson Good Samaritan Food Donation Act, Title 42, Chapter 13A**

## **Is there a minimum amount of food to be able to donate?**

There are **no legal requirements** around what types of food or quantity can be donated. Work with your food bank partner agency to decide what the best items and quantities are for the community they serve.

## **What about expiration dates?**

Expiration dates refer to quality, not safety. Food past the expiration date can be donated if it still looks, smells, and feels safe to eat. Your food bank partner agency can provide more info.

After "Sell by date," food is SAFE to donate  
After "Use by date," food is SAFE to donate  
After "Best by date," food is SAFE to donate

Moldy, discolored, rotting food is UNSAFE for donation  
Food that smells "off" is UNSAFE for donation  
Expired infant formula is UNSAFE for donation

## **How can I donate food?**

If you are ready to start donating food, contact a local food bank below for assistance in establishing partnerships.

[Feeding San Diego](#) | (858) 452-3663 | [infosd@feedingsandiego.org](mailto:infosd@feedingsandiego.org)  
[San Diego Food Bank](#) | (858) 863-5133 | [kcastillo@sandiegofoodbank.org](mailto:kcastillo@sandiegofoodbank.org)



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[WWW.SDFSA.ORG](http://WWW.SDFSA.ORG)



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***Which laws protect you from liability when donating food?*** The following State and Federal 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 the community.

## California Health and Safety Code

Section 114432 – **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.

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.

## California Food and Agricultural Code

Section 58505 – Except for injury resulting from gross negligence or willful act, no county or agency of a county established pursuant to this chapter and **no person who donates any agricultural product shall be liable for any injury**, including, but not limited to, injury resulting from the ingesting of such agricultural product, as a result of any act, or the omission of any act, in connection with any product pursuant to this chapter.

## California Civil Code

Section 1714.25(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 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. The immunity from civil liability provided by this subdivision applies regardless of compliance with any laws, regulations, or ordinances regulating the packaging or labeling of food, and regardless of compliance with any laws, regulations, or ordinances regulating the storage or handling of the food by the donee after the donation of the food.

## United State Code, Bill Emerson Good Samaritan Food Donation Act

Title 42, Chapter 13A, Section 1791 – (c)(1) **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.** (f) This section shall not be construed to create any liability. Nothing in this section shall be construed to supercede State or local health regulations.

