

Introduced by Senator Oropeza

February 21, 2008

An act to amend Section 1714.25 of, and to add Section 1714.26 to, the Civil Code, relating to food facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1443, as introduced, Oropeza. Food facilities: donated food.

Existing law, with specified exceptions, exempts a food facility that donates any food that is fit for human consumption at the time it was donated to a nonprofit charitable organization or a food bank from liability for any damage or injury resulting from the consumption of the donated food.

This bill would make a technical, nonsubstantive change to this provision.

This bill would also require every written contract entered into by a retail food facility to prepare or serve food for immediate human consumption to include language that provides the purchaser of the food with the option of authorizing the food facility to donate any leftover food, as defined, to a nonprofit food bank or to provide all leftover food to the purchaser.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1714.25 of the Civil Code is amended
- 2 to read:
- 3 1714.25. (a) Except for injury resulting from negligence or a
- 4 willful act in the preparation or handling of donated food, no food

1 facility that donates any food that is fit for human consumption at
2 the time it was donated to a nonprofit charitable organization or a
3 food bank shall be liable for any damage or injury resulting from
4 the consumption of the donated food.

5 The immunity from civil liability provided by this subdivision
6 applies regardless of compliance with any laws, regulations, or
7 ordinances regulating the packaging or labeling of food, and
8 regardless of compliance with any laws, regulations, or ordinances
9 regulating the storage or handling of the food by the donee after
10 the donation of the food.

11 (b) A nonprofit charitable organization or a food bank that, in
12 good faith, receives and distributes food without charge that is fit
13 for human consumption at the time it was distributed is not liable
14 for an injury or death due to the food unless the injury or death is
15 a direct result of the negligence, recklessness, or intentional
16 misconduct of the organization.

17 (c) For the purposes of this section:

18 (1) “Nonprofit charitable organization” has the meaning defined
19 in Section ~~114440~~ 113841 of the Health and Safety Code.

20 (2) “Food bank” has the meaning defined in Section ~~114445~~
21 113783 of the Health and Safety Code.

22 SEC. 2. Section 1714.26 is added to the Civil Code, to read:

23 1714.26. Every written contract entered into by a retail food
24 facility, as defined in Sections 113789 and 113895 of the Health
25 and Safety Code, to prepare, provide, or serve food for immediate
26 human consumption shall include language that provides the
27 purchaser of the food with the option of authorizing the food
28 facility to donate any leftover food to a nonprofit food bank, as
29 defined in Section 113783 of the Health and Safety Code, or to
30 provide all leftover food to the purchaser. For purposes of this
31 section, “leftover food” means food purchased pursuant to a written
32 contract with a food facility but not provided or served on behalf
33 of the purchaser for immediate human consumption, but is
34 otherwise fit for human consumption.