

AMENDED IN SENATE MARCH 28, 2008

SENATE BILL

No. 1443

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 amended, 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, *as described*, 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. *It would also establish immunity from liability for damages or injury from the consumption of leftover food provided to the purchaser, except as specified.*

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

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

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

21 (c) For the purposes of this section:

22 (1) “Nonprofit charitable organization” has the meaning defined
23 in Section 113841 of the Health and Safety Code.

24 (2) “Food bank” has the meaning defined in Section 113783 of
25 the Health and Safety Code.

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

27 1714.26. (a) Every written contract entered into by a retail
28 ~~food facility, as defined in Sections 113789 and 113895 of the~~
29 ~~Health~~ *facility described in paragraph (1) of subdivision (a) of*
30 *Section 113789 of the Health and Safety Code, to prepare, provide,*
31 *or serve food for immediate human consumption shall include*
32 *language that provides the purchaser of the food with the option*
33 *of authorizing the food facility to donate any leftover food to a*
34 *nonprofit food bank, as defined in Section 113783 of the Health*
35 *and Safety Code, or to provide all leftover food to the purchaser.*

36 ~~For~~

37 (b) *Except for injury resulting from negligence or a willful act*
38 *in the preparation or handling of leftover food, no food facility*

1 *that provides leftover food to a purchaser pursuant to subdivision*
2 *(a) shall be liable for any damage or injury resulting from the*
3 *consumption of the leftover food.*
4 *(c) For purposes of this section, “leftover food” means food*
5 *purchased pursuant to a written contract with a food facility but*
6 *not provided or served on behalf of the purchaser for immediate*
7 *human consumption, but is otherwise fit for human consumption.*

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