

AMENDED IN SENATE APRIL 24, 2008

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~~ *defined*, 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 a nonprofit charitable organization*, or to provide all leftover food to the purchaser. It would also establish immunity *for retail food facilities* from liability for damages or injury from the consumption of leftover food *that is fit for human consumption at the time it is 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 ~~described in paragraph (1) of subdivision (a) of~~
29 ~~Section 113789 of the Health and Safety Code~~, to prepare, provide,
30 or serve food for immediate human consumption *at a catered event*
31 shall include language that provides the purchaser of the food with
32 the option of authorizing the food facility to donate ~~any~~ leftover
33 food *that would otherwise be discarded* to a nonprofit food bank,
34 ~~as defined in Section 113783 of the Health and Safety Code or a~~
35 ~~nonprofit charitable organization~~, or to provide ~~all~~ leftover food
36 to the purchaser.

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

1 facility that provides leftover food *that is fit for human consumption*
2 *at the time it is provided* to a purchaser pursuant to subdivision (a)
3 shall be liable for any damage or injury resulting from the
4 consumption of the leftover food.

5 ~~(e) For purposes of this section, “leftover food” means food~~
6 ~~purchased pursuant to a written contract with a food facility but~~
7 ~~not provided or served on behalf of the purchaser for immediate~~
8 ~~human consumption, but is otherwise fit for human consumption.~~

9 (c) *A retail food facility shall be solely responsible for*
10 *determining what leftover food is fit for human consumption prior*
11 *to providing it to a nonprofit food bank, a nonprofit charitable*
12 *organization, or the purchaser of the food pursuant to a written*
13 *contract described in subdivision (a), and is not required to donate*
14 *or provide any leftover food that will not be discarded.*

15 (d) *For purposes of this section:*

16 (1) *“Leftover food” means food purchased and prepared*
17 *pursuant to a written contract with a retail food facility that is*
18 *determined to be fit for human consumption but does not include*
19 *raw or uncooked food that is brought by the retail food facility for*
20 *the service or event referenced in the written contract.*

21 (2) *“Nonprofit charitable organization” means an organization*
22 *as defined in Section 113841 of the Health and Safety Code.*

23 (3) *“Nonprofit food bank” means an organization defined in*
24 *Section 113783 of the Health and Safety Code.*

25 (4) *“Retail food facility” means a facility as defined in*
26 *paragraph (1) of subdivision (a) of Section 113789 of the Health*
27 *and Safety Code.*