

AMENDED IN SENATE MAY 6, 2008  
AMENDED IN SENATE APRIL 24, 2008  
AMENDED IN SENATE MARCH 28, 2008

**SENATE BILL**

**No. 1443**

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**Introduced by Senator Oropeza**

February 21, 2008

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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 require every written contract entered into by a retail food facility, as defined, to prepare *provide*, 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 to prepare, provide, or serve food for immediate  
29 human consumption at a catered event shall include language that  
30 provides the purchaser of the food with the option of authorizing  
31 the food facility to donate leftover food that would otherwise be  
32 discarded to a nonprofit food bank, or a nonprofit charitable  
33 organization, or to provide leftover food to the purchaser.

34 (b) Except for injury resulting from negligence or a willful act  
35 in the preparation or handling of leftover food, no retail food  
36 facility that provides leftover food that is fit for human  
37 consumption at the time it is provided to a purchaser pursuant to

1 subdivision (a) shall be liable for any damage or injury resulting  
2 from the consumption of the leftover food.

3 (c) (1) A retail food facility shall be solely responsible for  
4 determining what leftover food is fit for human consumption prior  
5 to providing it to a nonprofit food bank, a nonprofit charitable  
6 organization, or the purchaser of the food pursuant to a written  
7 contract described in subdivision (a), and is not required to donate  
8 or provide any leftover food that will not be discarded.

9 (2) *A retail food facility that is authorized to donate leftover  
10 food to a nonprofit food bank or a nonprofit charitable  
11 organization pursuant to the written contract described in  
12 subdivision (a) shall be responsible for selecting the nonprofit  
13 food bank or nonprofit charitable organization that will receive  
14 the leftover food, unless the retail food facility and the purchaser  
15 mutually agree otherwise.*

16 (d) For purposes of this section:

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

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

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

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