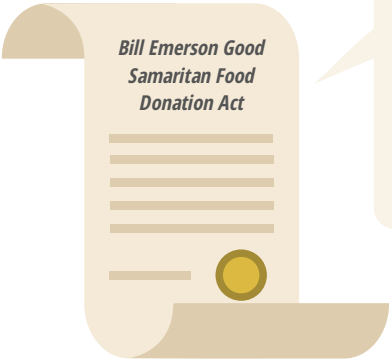
Food Donation Liability Protections & Food Safety

Food Donation Liability Protections

Can my business get sued for donating food?

Federal and State 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 individuals/the community.



"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."

– Bill Emerson Good Samaritan Food Donation Act, Title 42, Chapter 13A, Section 1791 – (c)(1)

Federal law protecting food donors:

- United States Code, Bill Emerson Good Samaritan Food Donation Act

California laws protecting food donors:

- California Health and Safety Code, Section 114432 & 114433
- California Food and Agricultural Code, Section 58505
- California Civil Code, Section 1714.25(a)

Food Safety

"The **County of San Diego Department of Environmental Health** encourages you to donate food. Food donations must be handled according to all standard food safety protocols outlined in the California Retail Food Code (CalCode)."

– Vanessa Mello, Supervising Environmental Health Specialist, San Diego County Department of Environmental Health and Quality

Local food banks have robust processes in place to ensure that food donations are handled safely after they leave your establishment. The food banks:

- Require food donation recipients to go through Food Safety Certification and obtain Food Handlers Cards.
- Require time and temperature monitoring.
- Provide materials to ensure safe transportation (e.g. freezer blankets), and require food donation recipients to undergo safety training.
- Monitor food donation recipient sites annually for food safety compliance, ensuring their facility has proper materials and protocols in place (e.g. cold storage, temperature control, etc.).

For more information, visit https://www.calrecycle.ca.gov/organics/slcp.

Local Spotlight: Feeding San Diego

"Food safety is integral to our organization and an absolute necessity in our mission to end hunger through food rescue. As a member of the Feeding America network of food banks, we follow a **strict food safety certification process** developed by Feeding America and ServSafe. This process is paramount in our work with the 292 distribution partners that help us get food out into the community. As a standard, **we provide food safety training at no cost to every community partner** before deliveries begin, as well as **food safety equipment to safely temperature check and transport rescued food**. Every partner must also have a staff member that is **Food Safety Certified** on site at all times during a food distribution. Sites are **monitored annually for food safety compliance** to ensure that our high standards are being met, and we regularly check in with partners. These measures help us provide the freshest, highest quality food to our partners to serve to neighbors in need."

– Patty O'Connor, Chief Supply Officer, Feeding San Diego

Learn more about Feeding San Diego:

https://feedingsandiego.org/get-involved/donate-food/

(858) 452-3663 fooddonation@feedingsandiego.org

Local Spotlight: San Diego Food Bank

"The San Diego Food Bank is committed to fighting hunger and food waste through our food recovery program, the Fresh Rescue Program. Through rigorous food safety requirements and training, the San Diego Food Bank ensures that the partnered nonprofit partners responsible for picking up food donations from donors do so as safely as possible. The Food Bank ensures that nonprofit partners are **monitored on an annual basis to ensure their facility has proper materials and protocols in place**, including: cold storage, temperature control, proper food storage, proper food sourcing, general sanitation, food sorting and quality checking. The Food Bank's partnership with San Diego County Department of Environmental Health ensures that food safety best practices are followed at all times. Additionally, all partners that wish to enroll in the Fresh Rescue Program must have or obtain a **Food Handler's Card**, as well as undergo a specialized **Fresh Rescue Training**. All Fresh Rescue agencies have **access to equipment (scales, freezer blankets) that help with safe food transportation and sorting**. Ongoing oversight by Food Bank representatives ensure that donation partnerships are consistently maintained and matters of concern are addressed as soon as possible.

– Kayla Thomson, Food Procurement Supervisor at San Diego Food Bank

Learn more about San Diego Food Bank:

https://sandiegofoodbank.org/food-drives/food-industry-donations/

(858) 527-1419 acarson@sandiegofoodbank.org