



Information Regarding the Donation of Food to Nonprofit Organizations



Food facilities may donate food to nonprofit charitable organizations as long as it is fit for human consumption at the time of the donation. There are specific limitations of liability as well as potential tax deductions for the donating company that are outlined in state and federal statutes. Links to the applicable statutes in their entirety are listed below, along with excerpts from those statutes. You should read and review the regulations to ensure the information is appropriate for your particular business activity.

Reference	Applicable Text
California Health and Safety Code	Section 114433 No food facility that donates food as permitted by Section 114432 shall be subject to civil or criminal liability or penalty for violation of any laws, regulations, or ordinances regulating the labeling or packaging of the donated product or with respect to any other laws, regulations, or ordinances, for a violation occurring after the time of the donation.
California Civil Code	Section 1714.25 (a) Except for injury resulting from negligence or a willful act in the preparation or handling of donated food, no 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 shall be liable for any damage or injury resulting from the consumption of the donated food. The immunity from civil liability provided by this subdivision applies regardless of compliance with any laws, regulations, or ordinances regulating the packaging or labeling of food, and regardless of compliance with any laws, regulations, or ordinances regulating the storage or handling of the food by the donee after the donation of the food.
California Food and Agriculture Code	Section 58505 Except for any injury resulting from gross negligence or willful act, no county or agency of a county established pursuant to this chapter and no person who donates any agricultural product shall be liable for any injury, including, but not limited to, injury resulting from the ingesting of such agricultural product, as a result of any act, or the omission of any act, in connection with donating any product pursuant to this chapter.
United States Code, Bill Emerson Good Samaritan Food Donation Act	Title 42, Chapter 13A, Section 1791 (c) Liability for damages from donated food and grocery products (1) Liability of person or gleaner 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.
United States Code, Charitable Contributions and Gifts	Title 26, Subtitle A, Chapter 1, Section 170 Allowance of deduction General Rule There shall be allowed as a deduction any charitable contribution (as defined in subsection (c)) payment of which is made within the taxable year. A charitable contribution shall be allowable as a deduction only if verified under regulations prescribed by the Secretary.