

SB 1383 requires certain businesses—such as grocery stores, food distributors, and large restaurants—to recover and donate their surplus edible food to reduce waste and address food insecurity. But all businesses, as well as nonprofits and institutions, can participate in this important work and are protected under law from liability. Besides making a positive impact in our communities, organizations that donate surplus food may also save on reduced compost and disposal costs and may be eligible for enhanced tax deductions.

This guide will help businesses, nonprofits, and institutions set up a successful food recovery program.



Spotlight: Surplus Edible Food Storage

Designating refrigerators, freezers, or other storage equipment exclusively for food donations helps both donors and recovery partners streamline the process and ensure safe handling of donated food.

Who is Required to Donate?

Under California law, SB 1383, and the Alameda County Organics Reduction and Recycling Ordinance, certain food generating businesses must donate surplus edible food to feed people instead of composting it. The compliance due date depends on the type and size of business:

January 1, 2022: Tier 1 sites – Large supermarkets (\$2M+ gross annual sales), grocery stores (>10,000 sq. ft.), food service providers, food distributors, and wholesale food vendors.

January 1, 2024: Tier 2 sites – Large health facilities (100+ beds), hotels (200+ rooms), large venues and special events (2,000+ individuals per day), restaurants (>5,000 sq. ft. or 250+ seats), state agency facilities, and public schools.

For details, visit www.StopWaste.org/Rules-Food-Recovery.

Legal Protections

Primary legal protection for food donors include:

Federal Bill Emerson Good Samaritan Food Donation Act

California Good Samaritan Food Donation Act (AB 1219)

All donors are protected from criminal and civil liability when food such as shelf-stable items, prepared foods, produce, beverages, and other food items are donated in good faith, using safe food handling procedures, to an individual, nonprofit, or charitable organization.

Enhanced Tax Deductions

While businesses can claim tax deductions on food losses, deductions are higher when surplus edible food is donated for human consumption. Instead of just the basis value of the donated food, the federal enhanced tax deduction takes the expected profit margin into account, resulting in a substantially higher deduction. For details, consult IRS Publication 526 at

www.irs.gov/forms-pubs/about-publication-526.

Spotlight: Waste Prevention and Cost Savings



Instead of donating produce and other whole foods left over at end of day, **Bay Area Natural Grocers** uses them as ingredients for their prepared foods like salads and soups.



While tracking and weighing their food donations, the **Claremont Hotel** in Berkeley noticed recurring amounts of surplus bread and other baked goods and adjusted their orders to reduce waste.



Spotlight: Daylight Foods and Daily Bowl

Daylight Foods, based in Union City, delivers produce and other fresh foods to grocery stores, restaurants, and institutional kitchens. When orders are canceled at short notice or food is left over and cannot be sold quickly at a discount, Daylight Foods gets help from Daily Bowl, their food recovery partner. Daily Bowl collects the perishables and distributes them to agencies and nonprofits serving food insecure communities in Union City, Newark, and Fremont.

"The amount of our surplus edible food is rather unpredictable, but usually one call to Daily Bowl makes the difference between that food feeding people or going to waste."

Paul Jennings, Vice President, Daylight Foods

State and Local Ordinances

Under state law SB 1383 and its local implementation, the Organics Reduction & Recycling Ordinance, all businesses in Alameda County must:

- Have compost (organics) and recycling collection service.
- Place color-coded and labeled compost and recycling bins next to all garbage (landfill) bins.
- Sort materials into the proper bins—recycling, compost, and landfill.
- Educate employees and contractors at least annually and check bins to ensure proper sorting.
- Certain food-generating businesses only: Recover and donate surplus edible food to feed people.

For details, visit www.StopWaste.org/Rules.

Setting Up a Food Donation Program



Step 1

Assess Your Surplus Edible Food

Determine the amount, type, and frequency of surplus edible food that your organization is currently composting or discarding.

- Can surplus food production be prevented in the first place?
- Are foods to be donated shelf-stable, prepared, perishable? Can they be frozen?
- Are similar amounts of surplus food generated year-round, or does it vary, e.g. after events or during seasonal kitchen closures?
- How much storage space is available to hold donated food?



Step 2

Find a Food Recovery Partner

Develop a partnership with one or more local food recovery organizations or services that are a good match for your surplus edible food.

- Does the organization accept the types and amounts of foods you generate and at the frequency you generate them?
- What are their requirements for packaging, labeling, and storing food prior to donation?
- Can they pick up or will you drop off?

TIP: Find a list of food recovery organizations and services in Alameda County at [Resource.StopWaste.org/Food-Recovery-Organizations](https://www.stopwaste.org/Food-Recovery-Organizations)



Step 3

Establish a Donation Process and Agree in Writing

Enter into a written agreement with your selected food recovery partner(s) to outline the donation procedure. If your business or organization is covered under SB 1383, this is a requirement.

- Determine appropriate, food-safe packaging materials and who provides them.
- Determine proper surplus food labeling (item description, date, and weight or count, etc.)
- Ensure that foods requiring temperature control for safety, are maintained at safe internal temperatures until pickup/drop-off.
- Establish a pickup or drop-off schedule.

TIP: For a customizable agreement template visit www.StopWaste.org/Rules-Food-Recovery.



Step 4

Track Donations and Keep Records

Tier 1 and Tier 2 Commercial Edible Food Generators (see details on page 2) are required to keep records of donated food under SB 1383. They may also be needed to claim enhanced tax deductions.

- Maintain a log of food recovery partner contact information, food type and weight in pounds of food donated per month, and/or gather receipts.
- Use donation data to identify surplus food prevention opportunities. For example, repeatedly donated food items may point to overproduction or improper ordering.

TIP: For reporting and record-keeping templates visit www.StopWaste.org/Rules-Food-Recovery.

Safe Food Handling Procedures

Under federal and state law you are protected from civil and criminal liability if surplus food is donated in good faith. This means following the same standard safe food handling procedures for food to be donated as for any other food prepared at your facility.

Preparing foods for donation:

- Donate only foods that were not served, such as hot trays that remained in the back of the house. Foods that have been previously served to a consumer cannot be donated.
- Always protect foods from potential contamination by using sanitary, food-grade containers.
- Up until pickup or drop-off, hot foods must be held at 135°F or above, cold foods at 41°F or below, and frozen foods at 0°F.

Transporting donated foods:

- Always ensure that transport vehicles are clean and free of vermin to protect foods from potential contamination.
- During transport, use portable coolers, a refrigerated vehicle, or thermal blankets when possible. Do not let food go out of temperature controls for more than 30 minutes during transport.



Spotlight: Eat Real Festival and Copia

Eat Real, a recurring 3-day food festival in Oakland, brings together farmers, food producers, chefs, and food lovers. Food recovery service Copia worked with the organizers to provide participating festival vendors with appropriate packaging materials and food safety instructions, and picked up the donations at the end of each day. The surplus edible foods were collected in Copia's refrigerated truck and delivered to local agencies and nonprofits for further distribution.

"Besides 2,000 lbs. of bottled beverages and fresh produce, we rescued 1,037 lbs. of prepared and perishable foods. That's equivalent to 864 meals that would have otherwise ended up in the compost."

Flora Kaplan, Eat Real Festival



Resources

Food recovery organizations and services in Alameda County:

[Resource.StopWaste.org/Food-Recovery-Organizations](https://www.StopWaste.org/Food-Recovery-Organizations)

SB 1383/ORRO compliance information and resources:

www.StopWaste.org/Rules-Food-Recovery

Food Donation resources by the State of California (CalRecycle):

www.calrecycle.ca.gov/organics/slcp/foodrecovery/donors

USDA Guidance on shelf life and expiration dates by type of food:

www.FoodSafety.gov/Keep/Foodkeeperapp

Support

Request in-person, phone, or virtual assistance to help set up a donation program, identify food waste reduction opportunities, etc.:

www.StopWaste.org/Request-Help

For questions, visit www.StopWaste.org/Rules-Questions