

AB 1990/AB 234 | COMMUNITY FOOD PRODUCTION | FREQUENTLY ASKED QUESTIONS



California Conference
of Directors of
Environmental Health

COMMUNITY FOOD PRODUCTION

FREQUENTLY ASKED QUESTIONS

AB 1990/AB 234 – GORDON

Note: The information in this Frequently Asked Questions (FAQ) handout is intended to provide a uniform statewide response to questions posed and will be updated as needed. The answers were evaluated by the CCDEH Ad Hoc AB 1990/AB 234 Implementation Workgroup. This information should not be construed as a legal interpretation. **Text of Chaptered Law:** http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB234

1. When does this new law go into effect?

This new law becomes effective on January 1, 2016. Unless prohibited by a local ordinance (California Retail Food Code [Cal Code] Section 114376(a)), it authorizes a Community Food Producer or a Gleaner, as defined, to sell or provide whole uncut fruits or vegetables and up to 15 dozen unrefrigerated shell eggs per month if they meet specified requirements. Community Food Producers may sell directly to the public, to a permitted food facility, a Cottage Food Operator, or they may donate to a food bank or food kitchen. A gleaner may only sell directly to the public or donate to a food bank or food kitchen.

While the law does not require routine inspections, it authorizes an enforcement officer to inspect the operations of a Community Food Producer or Gleaner in response to a food safety recall or food safety complaint, issue a cease and desist order for violations to the provisions of the law, conduct re-inspections to verify violations are corrected before operations resume, and to recover reasonable costs associated with these inspections.

Failure to meet the requirements of the law is a crime. Community Food Producers and Gleaners must be in compliance with applicable local land use and zoning restrictions and use best management practices, as described in the “Food Safety Guidelines for Small Farms” document (http://www.cdffa.ca.gov/is/i_&c/sffsg.html), published by the California Department of Food and Agriculture (CDFA), to grow, harvest and distribute the community foods they are producing.

2. What is a “Community Food Producer”?

“Community Food Producer” means a producer of agricultural products on land that is not zoned for agricultural use but is otherwise in compliance with applicable local land use and zoning restrictions, including, but not limited to, restrictions governing personal gardens, community gardens, school gardens, and culinary gardens (Cal Code Section 113752).

3. What is a “Community Food Product”?

“Community Food Product”, as referenced in this document, means whole uncut fruits and vegetables, including unshelled nuts, and unrefrigerated shell eggs (up to 15 dozen per month). (Cal Code Section 114376)

4. What is a “Gleaner”?

“Gleaner” means a person who legally gathers remnants of an agricultural crop or harvests part of, or all of, an agricultural crop made available by the owner of the agricultural crop (Cal Code Sections 113796 and 113855).

AB 1990/AB 234 | COMMUNITY FOOD PRODUCTION | FREQUENTLY ASKED QUESTIONS

REGULATORY REQUIREMENTS

5. What agencies should I contact to ensure I have all the information and permits needed for my Community Food Operation?

- **Land Use and Zoning approval:** Contact your local Planning / Community Development Agency to verify compliance with applicable local land use and zoning restrictions (Cal Code Section 113752).
- **Sales permit/license:** Contact your local jurisdiction to obtain a business license or peddling permit, if required.
- **Local registration as a Community Food Producer:** Contact your local Health Enforcement Agency to find out if registration is required in your jurisdiction (Cal Code Sections 114376(b) and (c)).
- **Egg Handler registration:** Contact the California Department of Food and Agriculture (CDFA) Egg Safety and Quality Management Program for registration information if you plan to sell or donate eggs (<http://www.cdffa.ca.gov/ahfss/mpes/esqm.html>).
- **Pesticide use:** Contact your local Agricultural Commissioner's Office if you are planning to use pesticides.
- **Organic Registration:** Contact the CDFA Organic Program for registration information (<https://organic.cdffa.ca.gov/OrganicReg/>) if you plan on identifying your community food product as "organic".
- **Certified Farmers' Market (CFM):** Contact your local Agricultural Commissioner's Office for Certified Producer Certificate requirements if you plan to sell at a CFM.
- **Community (Temporary) Event:** Contact the local Health Enforcement Agency for Temporary Food Facility requirements if you plan to sell at a Community Event such as a festival or fair.

6. Do I need to register to become a Community Food Producer or a Gleaner?

Registration may be required only if the local jurisdiction adopted a local ordinance requiring registration. Check with your local Health Enforcement Agency to find out if registration is required in your jurisdiction (Cal Code Sections 114376(b) and (c)).

7. What are the requirements to sell or donate eggs as a Community Food Producer?

A Community Food Producer may raise chickens and sell up to 15 dozen unrefrigerated shell eggs per month. To sell or donate eggs, you must:

- Comply with the local land use and zoning restrictions (Cal Code Section 113752).
- Register with the CDFA Egg Safety and Quality Management Program. Registration information can be found at: <http://www.cdffa.ca.gov/ahfss/mpes/esqm.html>.
- Register with the local Health Enforcement Agency as a Community Food Producer, if required (Cal Code Sections 114376(b) and (c)).

The US Food and Drug Administration (FDA) recommends that, within 36 hours after the eggs are laid, you refrigerate eggs at 45° F or less during storage and transportation. Here is a link to the Egg Safety Rule which pertains to egg producers with 3,000 egg laying chickens, but has information on the safe handling of raw shell eggs: <http://www.fda.gov/downloads/Food/GuidanceRegulation/UCM232271.pdf>

AB 1990/AB 234 | COMMUNITY FOOD PRODUCTION | FREQUENTLY ASKED QUESTIONS

8. Will my property be inspected if I become a Community Food Producer or a Gleaner?

No, your property will not receive a routine inspection by your local Health Enforcement Agency. Inspections of Community Food Producer or Gleaners will only be conducted in response to a food safety recall or food safety complaint (Cal Code Section 114376.5). The law allows local health enforcement agencies to recover costs from the Community Food Producer or Gleaner that are associated with complaint investigations.

9. What records do I need to maintain?

- **Community Food Producer**
Records related to the sale or provision of the community food product shall be maintained by the Community Food Producer or Gleaner for at least 30 days. Records shall include the type of food sold and the date of sale. (Cal Code Section 114376(d))
- **Food Bank or Food Kitchen**
The food bank or food kitchen shall retain records related to the donation of the community food product for 30 days, which shall include the type of food received, the date of receipt, and the name and contact information of the Community Food Producer or Gleaner that donated the food. (Cal Code Section 114376 (e))

FOOD DISTRIBUTION

10. What community food products from my garden can I distribute?

You can distribute the following community food products from your garden:

- Whole uncut fruits and vegetables, including unshelled nuts
 - Cutting beyond that required during harvesting is considered food processing and will require further permitting.
- Unrefrigerated shell eggs (up to 15 dozen per month) (Cal Code Sections 114376(a) (5) and (b)(1)).
- Certain high-risk products (such as sprouts, mushrooms, leafy greens, etc.) may require further evaluation and be subject to additional requirements. Check with your local Health Enforcement Agency.

11. Where can Community Food Producers and Gleaners sell the community food products they glean or grow in their gardens?

- **Community Food Producers** may sell the products they grow **directly** to:
 - The public (Cal Code Section 114376(a)).
 - Permitted food facility, such as a restaurant or market (Cal Code Sections 114376(a), 113789(a) and (b)).
 - Cottage Food Operators (Cal Code Section 114376(a)).
 - On premises controlled by the producer (Cal Code Section 113789(c)(6)).
- **Gleaners** may sell the products they acquire or grow **directly** to:
 - The public (Cal Code Section 114376(b)(1)).

Both Community Food Producers and Gleaners must still comply with other local licensing requirements, including business licenses and land use/zoning approval. If required by local ordinance, they must register as Community Food Producers and/or Gleaners. For more information, contact the local Health Enforcement Agency regarding any registration requirements (Cal Code Section 114376(b)).

AB 1990/AB 234 | COMMUNITY FOOD PRODUCTION | FREQUENTLY ASKED QUESTIONS

12. Can a Community Food Producer donate community food products to a food bank or food kitchen?

Yes, provided the following:

- The food bank or food kitchen provides food at no cost to consumers (Cal Code Section 114376 (b)(2) and (c)(2)).
- The food bank or food kitchen must retain records related to the food donation for 30 days, which shall include the type of food received, the date of receipt, and the name and contact information of the Community Food Producer or Gleaner that donated the food (Cal Code Section 114376(e)).
- If you plan to sell or donate eggs, contact the California Department of Food and Agriculture (CDFA) Egg Safety and Quality Management Program for registration information <http://www.cdfa.ca.gov/ahfss/mpes/esqm.html>

13. Can a group of community producers sell from one common location in a neighborhood?

Yes. However, other local land use and zoning requirements, such as special event permits, may apply. For more information contact the local Planning and Health Enforcement Agencies (Cal Code Section 113752).

14. Can I sell my community food products in other counties?

Yes, you may sell community food products in other counties in California if you meet their local requirements. For more information, contact the local Planning and Health Enforcement Agencies in the jurisdiction where you want to sell the community food products. (Cal Code Sections 114376(b) and (c)).

15. Can I use the community food products from my garden to make foods to sell, such as pie or jam?

Yes, as long as the product meets the state and local requirements applicable for the type of product being sold, such as a Cottage Food Operation-approved food product (Cal Code Section 114365.5(b)), or otherwise prepared in a permitted kitchen. (Cal Code Section 113735)

16. Can a Community Food Producer sell other products?

Yes, but a separate permit may be required. Check with your local Health Enforcement Agency or the California Department of Public Health (CDPH) Food and Drug Branch (for processed foods). For more information on Processed Food Registration requirements, visit the CDPH Food and Drug Branch website at: <http://www.cdph.ca.gov/programs/Pages/FDB%20ProcessedFoods.aspx>.

17. What are limitations on internet sales and delivery of community food products?

Community Food Products may not be introduced into interstate commerce.

AB 1990/AB 234 | COMMUNITY FOOD PRODUCTION | FREQUENTLY ASKED QUESTIONS

APPROVED SOURCE OF FOOD

18. Can any garden be considered an approved source of community food products?

Yes, any garden can be considered an approved source of community food products if the following conditions are met:

- Best management practices, as detailed in the CDFA “Food Safety Guidelines for Small Farms” (http://www.cdfa.ca.gov/is/i_&c/sffsg.html), are used for the safe growing, production, and handling of the community food product. (Cal Code Sections 114376(a)(4) and (b)(2)(A)).
- The Community Food Producer only conducts direct sales to the public (such as at Community Events, food facilities, or cottage food operations.) (Cal Code Section 114376(a)).
- A Gleaner only conducts direct sales to the public. (Cal Code Section 114376(b)(1)).
- Both Community Food Producers and Gleaners may donate community food products to food banks or food kitchens (Cal Code Sections 114376(b)(2) and (c)(2)).
- The producer is registered as a Community Food Producer, if required by the jurisdiction where the community food product is grown. (Cal Code Sections 114376(b)(1) and (c)).

19. As a Gleaner, how can I be assured that the community food products I glean are safe?

To help ensure that the community food products you glean are safe:

- Discuss with Community Food Producers and Farms if they meet all local registration requirements (if required) and followed the CDFA “Food Safety Guidelines for Small Farms” (http://www.cdfa.ca.gov/is/i_&c/sffsg.html) to grow the community food products. (Cal Code Section 114376(a)(4))
- Follow the CDFA “Food Safety Guidelines for Small Farms” (http://www.cdfa.ca.gov/is/i_&c/sffsg.html) during harvest and distribution activities.

20. Are there specific labeling requirements for the community food products I sell?

Yes. Community food products that are packaged must be labeled with the name and address of the Community Food Producer. If the community food product will be sold by the Community Food Producer or Gleaner on the site of production, conspicuous signage must be provided in lieu of a product label. At a minimum, the signage shall include the name and address of the Community Food Producer (Cal Code Section 114376(a)).