

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 375 Session of  
2005

INTRODUCED BY SCARNATI, CORMAN, THOMPSON, GORDNER, PICCOLA,  
PUNT, RAFFERTY, WENGER, BRIGHTBILL, KITCHEN, EARLL,  
WONDERLING, TOMLINSON, WAUGH, ROBBINS, ARMSTRONG AND  
D. WHITE, MARCH 10, 2005

REFERRED TO JUDICIARY, MARCH 10, 2005

AN ACT

1 Providing for civil immunity for food purveyors under certain  
2 circumstances.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Common Sense  
7 Food Consumption Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall  
10 have the meanings given to them in this section unless the  
11 context clearly indicates otherwise:

12 "Claim." A claim by or on behalf of a natural person, as  
13 well as a derivative or other claim arising therefrom asserted  
14 by or on behalf of a person.

15 "Food." As defined in section 201(f) of the Federal Food,  
16 Drug, and Cosmetic Act (52 Stat. 1040, 21 U.S.C. § 321).

1 "Food purveyor." A manufacturer, packer, distributor,  
2 carrier, holder, seller, marketer or advertiser of a food.

3 "Generally known condition caused by or likely to result from  
4 long-term consumption." A condition generally known to result  
5 or likely to result from the cumulative effect of consumption  
6 and not from a single instance of consumption.

7 "Knowing and willful." In reference to conduct constituting  
8 a violation, means that the conduct:

9 (1) Was committed with the intent to deceive or injure  
10 consumers or with actual knowledge that such conduct was  
11 injurious to consumers.

12 (2) Was not required by Federal, State or local law.

13 Section 3. Civil immunity for food purveyors.

14 (a) General rule.--Except as provided in subsection (b), a  
15 food purveyor or association of food purveyors shall not be  
16 subject to civil liability arising under any law of this  
17 Commonwealth for a claim arising out of weight gain, obesity, a  
18 health condition associated with weight gain or obesity or other  
19 generally known condition caused by or likely to result from  
20 long-term consumption of food.

21 (b) Exception.--Subsection (a) shall not apply where the  
22 claim of weight gain, obesity, a health condition associated  
23 with weight gain or obesity or other generally known condition  
24 caused by or likely to result from long-term consumption of food  
25 is based on:

26 (1) a material violation of an adulteration or  
27 misbranding requirement prescribed by Federal or State law  
28 and the claimed injury was proximately caused by the  
29 violation; or

30 (2) any other material violation of Federal or State law

1 applicable to the manufacturing, marketing, distribution,  
2 advertising, labeling or sale of food, provided that the  
3 violation is knowing and willful and the claimed injury was  
4 proximately caused by the violation.

5 Section 4. Effective date.

6 This act shall take effect in 60 days.