

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2912 Session of
2004

INTRODUCED BY REICHLEY, TURZAI, RUBLEY, ARMSTRONG, BARRAR, BOYD,
CAPPELLI, FAIRCHILD, FORCIER, GODSHALL, HARRIS, HICKERNELL,
KILLION, LEH, S. MILLER, NAILOR, NICKOL, PICKETT, SAYLOR,
SCHRODER, R. STEVENSON, WATSON AND YOUNGBLOOD,
OCTOBER 18, 2004

REFERRED TO COMMITTEE ON JUDICIARY, OCTOBER 18, 2004

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for food
3 purveyor immunity.

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

6 Section 1. Title 42 of the Pennsylvania Consolidated
7 Statutes is amended by adding a section to read:

8 § 8338.1. Food purveyor immunity.

9 (a) General rule.--A food purveyor or association of food
10 purveyors is not subject to civil liability arising out of
11 weight gain, obesity, a health condition associated with weight
12 gain or obesity or other generally known condition caused by or
13 likely to result from long-term consumption of food.

14 (b) Exceptions.--Subsection (a) shall not preclude civil
15 liability where the claim of weight gain, obesity, a health
16 condition associated with weight gain or obesity or other
17 generally known condition caused by or likely to result from

1 long-term consumption of food is based on either:

2 (1) A material violation of an adulteration or
3 misbranding requirement prescribed by Federal or State law
4 where the claimed injury was proximately caused by the
5 violation.

6 (2) Any other material violation of Federal or State law
7 applicable to the manufacturing, marketing, distribution,
8 advertising, labeling or sale of food, provided that the
9 violation is knowing and willful and the claimed injury was
10 proximately caused by the violation.

11 (c) Definitions.--As used in this section, the following
12 words and phrases shall have the meanings given to them in this
13 subsection:

14 "Food purveyor." A manufacturer, packer, distributor,
15 carrier, holder, seller, marketer or advertiser of a food as
16 defined in section 201(f) of the Federal Food, Drug, and
17 Cosmetic Act (52 Stat. 1040, 21 U.S.C. § 301 et seq.).

18 "Generally known condition caused by or likely to result from
19 long-term consumption." A condition generally known to result
20 or likely to result from the cumulative effect of consumption
21 and not from a single instance of consumption.

22 "Knowing and willful." Conduct:

23 (1) committed with the intent to deceive or injure
24 consumers or with actual knowledge that such conduct was
25 injurious to consumers; and

26 (2) that was not required by Federal, State or local
27 law.

28 Section 2. This act shall take effect in 60 days.