

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1049 Session of  
2007

INTRODUCED BY REICHLEY, BENNINGHOFF, BOYD, CAPPELLI, COX,  
EVERETT, FAIRCHILD, GINGRICH, GODSHALL, GRELL, HARRIS,  
HERSHEY, HICKERNELL, HORNAMAN, KAUFFMAN, M. KELLER, KIRKLAND,  
KORTZ, R. MILLER, NAILOR, O'NEILL, PEIFER, PICKETT, REED,  
ROAE, SAYLOR, SCHRODER, STERN, TURZAI, VULAKOVICH, WATSON AND  
YOUNGBLOOD, APRIL 10, 2007

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 10, 2007

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 § 8338.2. Food purveyor immunity.

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

15 (b) Exceptions.--Subsection (a) shall not preclude civil  
16 liability where the claim of weight gain, obesity, a health

1 condition associated with weight gain or obesity or other  
2 generally known condition caused by or likely to result from  
3 long-term consumption of food is based on either:

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

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

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

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

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

24 "Knowing and willful." Conduct:

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

28 (2) that was not required by Federal, State or local  
29 law.

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