

ASSEMBLY BILL

No. 173

Introduced by Assembly Member Houston

January 20, 2005

An act to add Section 1714.4 to the Civil Code, relating to liability.

LEGISLATIVE COUNSEL'S DIGEST

AB 173, as introduced, Houston. Liability: immunity: food and beverages.

Under existing law, everyone is generally responsible, not only for the result of his or her willful acts, but also for an injury occasioned to another by his or her want of ordinary care or skill in the management of his or her property or person, except so far as the latter has, willfully or by want of ordinary care, brought the injury upon himself or herself.

Existing law provides immunity from liability for certain actions and for certain products.

This bill would provide immunity from civil liability to a manufacturer, packer, distributor, carrier, holder, or seller of a food or beverage, as defined, or an association of one or more of these entities, for any claim arising from weight gain, obesity, a health condition associated with weight gain or obesity the long-term consumption of the food. The bill would except from this immunity a case in which the claim of injury is based on a material violation of a state or federal composition, branding, or labeling standard, and that violation caused the injury claimed, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares the
2 following:

3 (a) Obesity and many other conditions that are detrimental to
4 the health and well-being of individuals are long-term
5 manifestations of poor choices that those individuals habitually
6 make.

7 (b) Despite commercial influences, individuals remain
8 ultimately responsible for the choices they make regarding their
9 bodies.

10 (c) Excessive litigation restricts the ranges of choices that
11 would otherwise be available to individuals who consume
12 products responsibly.

13 SEC. 2. Section 1714.4 is added to the Civil Code, to read:

14 1714.4. (a) For purposes of this section:

15 (1) "Claim" means any claim by, or on behalf of, a natural
16 person, and any claim derived or arising from it, that is asserted
17 by any other person.

18 (2) "Food" means any nutritive substance or beverage
19 intended for human consumption, including chewing gum, and
20 the articles used as the components for these substances and
21 beverages.

22 (3) "Injury caused by, or likely to result from, long-term
23 consumption" means an injury or condition resulting from, or
24 likely to result from, the cumulative effect of consumption and
25 not from a single instance of consumption.

26 (4) "Other person" means any individual, corporation,
27 company, association, firm, partnership, society, joint-stock
28 company, governmental entity, or any other entity, including a
29 private attorney general.

30 (b) Except as provided in subdivision (c), a manufacturer,
31 packer, distributor, carrier, holder, or seller of a food, or an
32 association of one or more of these entities, shall not be subject
33 to civil liability for any claim arising from weight gain, obesity, a
34 health condition associated with weight gain or obesity, or other
35 injury caused by, or likely to result from, the long-term
36 consumption of the food.

37 (c) The immunity provided by subdivision (b) shall not
38 preclude civil liability in cases in which the claim of injury is

- 1 based on a material violation of a composition, branding, or
- 2 labeling standard prescribed by state or federal law, and the
- 3 injury claimed was the actually and proximately caused by the
- 4 violation.

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