50328.0400

FIRST ENGROSSMENT with Senate Amendments

Fifty-ninth Legislative Assembly of North Dakota

ENGROSSED HOUSE BILL NO. 1241

Introduced by

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

Representatives Koppelman, Iverson, Kasper, Thoreson Senators Christmann, Trenbeath

- 1 A BILL for an Act to provide for limited liability for a food producer, processor, manufacturer,
- 2 packer, distributor, carrier, holder, seller, marketer, trade association, or advertiser for a claim
- 3 of injury resulting from weight gain, obesity, or any health condition related to weight gain.

4 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Limited liability.

- 1. Except as provided in subsection 2, a producer, processor, manufacturer, packer, distributor, carrier, holder, seller, marketer, trade association, or advertiser of a food, as defined in section 201(f) of the Federal Food Drug and Cosmetic Act [21 U.S.C. 321(f)], or an association of one or more of those entities, may not be subject to civil liability arising under any state statute, rule, public policy, court or administrative decision, municipal ordinance, or other action having the effect of law, for any claim arising out of weight gain, obesity, or a health condition associated with weight gain or obesity.
- 2. Subsection 1 does not apply to the claim of obesity or weight gain that is based on:
 - A material violation of an adulteration or misbranding requirement prescribed by state or federal statute, rule, or ordinance and the claimed injury was proximately caused by the violation; or
 - b. Any other material violation of federal or state law applicable to the manufacturing, marketing, distribution, advertising, labeling, or sale of food, provided that the violation is knowing and willful, and the claimed injury was proximately caused by the violation.
- **SECTION 2. Pleading requirements.** In any action commenced under this Act, the complaint or petition must state with particularity the following:
 - 1. The statute, rule, regulation, ordinance, or other law that was allegedly violated;

Fifty-ninth Legislative Assembly

- The facts that are alleged to constitute a material violation of the statute, rule,
 regulation, ordinance, or other law; and
- 3 3. The facts alleged to demonstrate that the violation proximately caused actual injury4 to the plaintiff.
- 5 **SECTION 3. APPLICATION.** This Act applies to all claims filed after the effective date 6 of this Act, regardless of when the claim arose.