

HOUSE BILL NO. 1243

Introduced by

Representatives Hoverson, Louser, Monson, Motschenbacher, Schneider, Weisz

Senator Burckhard

1 A BILL for an Act to amend and reenact sections 32-03.1-01, 32-03.1-02, and 32-03.1-02.2 of
2 the North Dakota Century Code, relating to the Good Samaritan Act, actions barred, and
3 immunity for persons offering wholesome food or grocery product.

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

5 **SECTION 1. AMENDMENT.** Section 32-03.1-01 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **32-03.1-01. Definitions.**

8 For the purposes of this chapter, the following terms shall have the designated meanings:

- 9 1. "Aid or assistance necessary or helpful in the circumstances" means any actions
10 which the aider reasonably believed were required to prevent death or serious
11 permanent injury, disability or handicap, or reasonably believed would benefit the
12 injured or ill person, depending upon the aider's perception of the nature and severity
13 of the injury or illness and the total emergency situation, and that the aider reasonably
14 believed the aider could successfully undertake.
- 15 2. "Apparently wholesome food" means food that meets all quality and labeling standards
16 imposed by federal, state, and local laws and regulations even though the food may
17 not be readily marketable due to appearance, age, freshness, grade, size, surplus, or
18 other conditions.
- 19 3. "Apparently fit grocery product" means a grocery product that meets all quality and
20 labeling standards imposed by federal, state, and local laws and regulations even
21 though the product may not be readily marketable due to appearance, age, freshness,
22 grade, size, surplus, or other conditions.
- 23 4. "Appropriate person licensed or certified by this state or by any state or province to
24 provide medical care or assistance" means any physician, nurse, emergency medical

1 technician, or other medical or paramedical personnel whom the aider reasonably
2 believes is such, based upon the representations of the person or that person's
3 actions in providing medical aid.

4 ~~3-5.~~ "Employed expressly or actually" means either that the person's formal duties include
5 the provision of emergency medical aid, or that the person customarily provides such
6 aid and is informally expected or relied upon to do so in the course of the person's
7 employment.

8 ~~4-6.~~ "Gross negligence" means acts or omissions falling short of intentional misconduct
9 which nevertheless show a failure to exercise even slight care or any conscious
10 interest in the predictable consequences of the acts or omissions. For the purposes of
11 this chapter, "gross negligence" includes the failure of an aider to relinquish direction
12 of the care of an injured or ill person when an appropriate person licensed or certified
13 by this state or by any state or province to provide medical care or assistance
14 assumes or attempts to assume responsibility for the care of the injured or ill person.

15 **SECTION 2. AMENDMENT.** Section 32-03.1-02 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **32-03.1-02. Actions barred.**

18 ~~No person~~An individual, or the ~~person's~~individual's employer, subject to the exceptions in
19 sections 32-03.1-03, 32-03.1-04, and 32-03.1-08, who renders aid or assistance necessary or
20 helpful in the circumstances to ~~other persons~~another individual who ~~have~~has been injured or
21 ~~are~~is ill as the result of an accident or illness, or any mechanical, external or organic trauma, or
22 in the offering of apparently wholesome food or an apparently fit grocery product may not be
23 named as a defendant or held liable in any personal injury civil action by any party in this state
24 for acts or omissions arising out of a situation in which emergency aid or assistance is
25 rendered, unless it is plainly alleged in the complaint and later proven that ~~such person's~~the
26 individual's acts or omissions constituted intentional misconduct or gross negligence.

27 **SECTION 3. AMENDMENT.** Section 32-03.1-02.2 of the North Dakota Century Code is
28 amended and reenacted as follows:

1 **32-03.1-02.2. Immunity for a licensed health care provider who provides volunteer**
2 **medical care at free clinics - Immunity for persons offering wholesome food or grocery**
3 **product.**

4 1. A health care provider licensed under title 43 who renders medical care on a voluntary
5 basis at a free clinic is not liable in any personal injury civil action for acts or omissions
6 resulting in the rendering of that care unless it is plainly alleged in the complaint and
7 later proven that the health care provider's acts or omissions constituted intentional
8 misconduct or gross negligence. For purposes of this section, "voluntary" is defined as
9 without receiving remuneration of any sort. "Free clinic" is defined as a clinic that is
10 established to provide primary health care to persons who are otherwise unable to
11 obtain medical services due to their lack of access to health insurance or medical
12 assistance.

13 2. A restaurant, grocery store, or an individual or entity offering apparently wholesome
14 food and apparently fit grocery products, free of charge may not be held liable for any
15 acts or omissions resulting in the offering of food care unless it is plainly alleged in the
16 complaint and later proven the act of the individual or entity constituted intentional
17 misconduct or gross negligence.