

SENATE BILL NO. 313—SENATOR NOLAN

MARCH 24, 2005

Referred to Committee on Judiciary

SUMMARY—Provides immunity from liability to certain persons and governmental entities for certain claims based on consumption of food. (BDR 3-748)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted-material] is material to be omitted.

AN ACT relating to civil liability; providing immunity from liability to certain persons and governmental entities for certain claims based on the consumption of food; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 41 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 8, inclusive, of this
3 act.

4 **Sec. 2.** *As used in sections 2 to 8, inclusive, of this act, unless*
5 *the context otherwise requires, the words and terms defined in*
6 *sections 3 to 6, inclusive, of this act have the meanings ascribed to*
7 *them in those sections.*

8 **Sec. 3.** *“Food” means any raw, cooked, processed or*
9 *prepared food or beverage which is intended for human*
10 *consumption.*

11 **Sec. 4.** *“Governmental entity” means a government,*
12 *governmental agency or political subdivision of a government.*

13 **Sec. 5.** *“Health problem related to obesity” means a disease,*
14 *illness or disability which has been clinically linked to obesity,*
15 *including, without limitation, heart attack, diabetes, stroke,*
16 *asthma and cancer.*



1 **Sec. 6.** *“Long-term consumption” means multiple instances*
2 *of the consumption of food over a period of time.*

3 **Sec. 7.** 1. *Except as otherwise provided in subsection 2, a*
4 *person or governmental entity who manufactures, packs,*
5 *distributes, sells, markets or otherwise provides food to another*
6 *person or governmental entity for consumption is immune from*
7 *civil liability for claims based upon the long-term consumption of*
8 *such food, including, without limitation, any claim for a health*
9 *problem related to obesity caused by the consumption of food.*

10 2. *The immunity from civil liability provided pursuant to*
11 *subsection 1 is not applicable to a claim based upon the long-term*
12 *consumption of food if the claim is based on a knowing and willful*
13 *violation of law related to adulterating, branding, manufacturing,*
14 *marketing, distributing, advertising, labeling or selling food.*

15 **Sec. 8.** 1. *If an action is brought against a person based*
16 *upon the long-term consumption of food, the person or*
17 *governmental entity against whom the action is brought may file a*
18 *special motion to dismiss.*

19 2. *A special motion to dismiss must be filed within 60 days*
20 *after service of the complaint, which period may be extended by*
21 *the court for good cause shown.*

22 3. *If a special motion to dismiss is filed pursuant to*
23 *subsection 2, the court shall:*

24 (a) *Treat the motion as a motion for summary judgment;*

25 (b) *Stay discovery pending;*

26 (1) *A ruling by the court on the motion; and*

27 (2) *The disposition of any appeal from the ruling on the*
28 *motion; and*

29 (c) *Rule on the motion within 30 days after the motion is filed.*

30 4. *If the court dismisses the action pursuant to a special*
31 *motion to dismiss filed pursuant to subsection 2, the dismissal*
32 *operates as an adjudication upon the merits.*

33 **Sec. 9.** 1. *Except as otherwise provided in subsection 2, the*
34 *provisions of this act apply to an action accrued before, on or after*
35 *the effective date of this act, including any pending action.*

36 2. *The provisions of this act do not apply to any action for*
37 *which a final judgment has been entered and for which no further*
38 *appeal may be filed.*

39 **Sec. 10.** *This act becomes effective upon passage and*
40 *approval.*

