

**FIRST ENGROSSMENT
with Senate Amendments**

Fifty-ninth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1241

Introduced by

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:**

5 **SECTION 1. Limited liability.**

6 1. Except as provided in subsection 2, a producer, processor, manufacturer, packer,
7 distributor, carrier, holder, seller, marketer, trade association, or advertiser of a
8 food, as defined in section 201(f) of the Federal Food Drug and Cosmetic Act
9 [21 U.S.C. 321(f)], or an association of one or more of those entities, may not be
10 subject to civil liability arising under any state statute, rule, public policy, court or
11 administrative decision, municipal ordinance, or other action having the effect of
12 law, for any claim arising out of weight gain, obesity, or a health condition
13 associated with weight gain or obesity.

14 2. Subsection 1 does not apply to the claim of obesity or weight gain that is based on:

15 a. A material violation of an adulteration or misbranding requirement prescribed
16 by state or federal statute, rule, or ordinance and the claimed injury was
17 proximately caused by the violation; or

18 b. Any other material violation of federal or state law applicable to the
19 manufacturing, marketing, distribution, advertising, labeling, or sale of food,
20 provided that the violation is knowing and willful, and the claimed injury was
21 proximately caused by the violation.

22 **SECTION 2. Pleading requirements.** In any action commenced under this Act, the
23 complaint or petition must state with particularity the following:

24 1. The statute, rule, regulation, ordinance, or other law that was allegedly violated;

- 1 2. The facts that are alleged to constitute a material violation of the statute, rule,
- 2 regulation, ordinance, or other law; and
- 3 3. The facts alleged to demonstrate that the violation proximately caused actual injury
- 4 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.