

(PRE-FILED)

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By: **Delegate Arnick**  
 Requested: September 2, 2004  
 Introduced and read first time: January 12, 2005  
 Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Common Sense Food Consumption Act**

3 FOR the purpose of prohibiting a person from bringing a civil action against a seller  
 4 of food for damages or injunctive relief based on a claim of injury or death  
 5 resulting from the person's weight gain, obesity, or a health condition that is  
 6 related to weight gain or obesity; exempting certain actions from the  
 7 prohibition; defining a certain term; providing for the application of this Act;  
 8 and generally relating to civil actions against sellers of food.

9 BY adding to  
 10 Article - Courts and Judicial Proceedings  
 11 Section 5-808  
 12 Annotated Code of Maryland  
 13 (2002 Replacement Volume and 2004 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article - Courts and Judicial Proceedings**

17 5-808.

18 (A) IN THIS SECTION, "FOOD" MEANS:

19 (1) A SUBSTANCE THAT IS USED AS FOOD OR DRINK FOR HUMAN BEINGS  
 20 OR OTHER ANIMALS;

21 (2) A SUBSTANCE THAT IS USED AS A COMPONENT OF FOOD OR DRINK  
 22 FOR HUMAN BEINGS OR OTHER ANIMALS; OR

23 (3) CHEWING GUM.

24 (B) A PERSON MAY NOT BRING A CIVIL ACTION AGAINST A SELLER OF FOOD  
 25 FOR DAMAGES OR INJUNCTIVE RELIEF BASED ON A CLAIM OF INJURY OR DEATH

1 RESULTING FROM WEIGHT GAIN, OBESITY, OR A HEALTH CONDITION THAT IS  
2 RELATED TO WEIGHT GAIN OR OBESITY.

3 (C) THIS SECTION DOES NOT INCLUDE AN ACTION:

4 (1) IN WHICH A SELLER KNOWINGLY AND WILLFULLY VIOLATED A  
5 FEDERAL OR STATE LAW APPLICABLE TO THE MARKETING, DISTRIBUTION,  
6 ADVERTISEMENT, LABELING, OR SALE OF THE FOOD, AND THE VIOLATION WAS A  
7 PROXIMATE CAUSE OF THE INJURY OR DEATH RESULTING FROM WEIGHT GAIN,  
8 OBESITY, OR A HEALTH CONDITION RELATED TO WEIGHT GAIN OR OBESITY;

9 (2) FOR BREACH OF CONTRACT OR EXPRESS WARRANTY IN  
10 CONNECTION WITH THE PURCHASE OF FOOD; OR

11 (3) FOR THE SALE OF ADULTERATED FOOD.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
13 construed to apply only prospectively and may not be applied or interpreted to have  
14 any effect on or application to any cause of action arising before the effective date of  
15 this Act.

16 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17 October 1, 2005.