

Department of Legislative Services  
Maryland General Assembly  
2005 Session

FISCAL AND POLICY NOTE

House Bill 15  
Judiciary

(Delegate Arnick)

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Common Sense Food Consumption Act

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This bill prohibits a person from bringing a civil action against a seller of food for damages or injunctive relief based on a claim of injury or death resulting from a person's weight gain or obesity, or a health condition that is related to weight gain or obesity. It does not prohibit an action (1) in which a seller knowingly and willfully violated a federal or State law applicable to the marketing, distribution, advertisement, labeling, or sale of food which proximately caused the injury or death resulting from weight gain, obesity, or a related health condition; (2) for breach of contract or express warranty in connection with the purchase of food; or (3) for the sale of adulterated food.

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Fiscal Summary

**State Effect:** None. The bill would not directly affect governmental operations or finances, but may potentially reduce the number of law suits filed in State courts.

**Local Effect:** None.

**Small Business Effect:** None.

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Analysis

**Current Law:** State law does not expressly prohibit persons from bringing suits against a seller of food for damages or a health condition based on obesity.

**Background:** A New York federal judge's dismissal of two highly publicized class action lawsuits against McDonald's has sparked members of Congress and several state

legislators to introduce so-called “cheeseburger laws.” Currently, 11 states, Colorado, Florida, Georgia, Idaho, Illinois, Louisiana, Missouri, South Dakota, Tennessee, Utah, and Washington, have enacted such laws prohibiting individuals from bringing a suit against sellers of food for weight gain or obesity.

A 2003 study by the Centers for Disease Control estimates that nearly two-thirds of adults in the U.S. are overweight and nearly one-third of adults are obese. According to that same report, Maryland ranks twenty-eighth among the states with 21.9% of its adult population considered clinically obese.

An individual is considered obese when weight is 20% (25% for females) or more above the maximum desirable for their height. Individuals 100 pounds or more overweight are considered morbidly obese.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of Health and Mental Hygiene, Department of Legislative Services

**Fiscal Note History:** First Reader - January 18, 2005  
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