



**93RD GENERAL ASSEMBLY**

**State of Illinois**

**2003 and 2004**

**HB3981**

Introduced 1/5/2004, by John A. Fritchey

**SYNOPSIS AS INTRODUCED:**

New Act

Creates the Illinois Commonsense Consumption Act. Provides that no person shall bring a qualified civil action in State court against any manufacturer, seller, or trade association of a qualified product. Defines "qualified civil action" to include a civil action brought by any person against a manufacturer or seller of a qualified product, or a trade association, for damages or injunctive relief based on a claim of injury resulting from a person's weight gain, obesity, or any health condition that is related to weight gain or obesity. Makes exceptions to the limited liability.

LRB093 13138 LCB 40162 b

**A BILL FOR**

1 AN ACT concerning liability.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Illinois Commonsense Consumption Act.

6 Section 5. Definitions. As used in this Act:

7 "Engaged in the business" means a person who manufactures,  
8 markets, distributes, advertises, or sells a qualified product  
9 in the person's regular course of trade or business.

10 "Manufacturer" means, with respect to a qualified product,  
11 a person who is lawfully engaged in the business of  
12 manufacturing the product.

13 "Person" means an individual, corporation, company,  
14 association, firm, partnership, society, joint stock company,  
15 or any other entity, including any governmental entity.

16 "Qualified product" means a food (as defined in Section  
17 201(f) of the Federal Food Drug and Cosmetic Act (21 U.S.C.  
18 321(f)).

19 "Qualified civil liability action" means a civil action  
20 brought by any person against a manufacturer or seller of a  
21 qualified product, or a trade association, for damages or  
22 injunctive relief based on a claim of injury resulting from a  
23 person's weight gain, obesity, or any health condition that is  
24 related to weight gain or obesity.

25 "Seller" means, with respect to a qualified product, a  
26 person lawfully engaged in the business of marketing,  
27 distributing, advertising, or selling a qualified product.

28 "Trade association" means an association or business  
29 organization (whether or not incorporated under federal or  
30 State law) that is not operated for profit, and 2 or more  
31 members of which are manufacturers, marketers, distributors,  
32 advertisers, or sellers of a qualified product.

1           Section 10. Limited liability. No person shall bring a  
2 qualified civil liability action in State court against any  
3 manufacturer, seller, or trade association of a qualified  
4 product.

5           Section 15. Exceptions. A qualified civil liability action  
6 shall not include:

7           (a) an action in which a manufacturer or seller of a  
8 qualified product knowingly and willfully violated a federal or  
9 State statute applicable to the manufacturing, marketing,  
10 distribution, advertisement, labeling, or sale of the product,  
11 and the violation was a proximate cause of the claim of injury  
12 resulting from a person's weight gain, obesity, or health  
13 condition related to weight gain or obesity;

14           (b) an action for breach of contract or express warranty in  
15 connection with the purchase of a qualified product; or

16           (c) an action regarding the sale of a qualified product  
17 which is adulterated (as described in Section 402 of the  
18 Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342)).

19           Section 20. Dismissal of pending actions. A qualified  
20 civil liability action that is pending on the effective date of  
21 this Act shall be dismissed immediately by the court in which  
22 the action was brought or is currently pending.