

SESSION OF 2005

**CONFERENCE COMMITTEE REPORT BRIEF  
SENATE BILL NO. 75**

As Agreed to March 30, 2005

**Brief \***

SB 75 would provide immunity from civil lawsuits for manufacturers, producers, sellers, marketers, or advertisers of food based on claims arising out of weight gain, obesity, a health condition associated with weight gain or obesity, or other generally know condition allegedly caused by the long-term consumption of food. The term "food" does not include food additives.

No immunity is provided when a claim is based on adulteration or misbranding or any material violation of the federal Food, Drug, and Cosmetic Act or state law if the violation is knowing and wilful and the injury was proximately caused by the violation.

The bill is effective upon publication in the *Kansas Register*.

**Conference Committee Action**

The Conference Committee agreed to the House revisions of the bill and to add back in a provision that in any action not subject to the immunity provisions, all discovery and other proceedings shall be stayed during the pendency of any motion to dismiss, unless the court finds upon motion of any party that discovery is necessary to preserve evidence or to present undue prejudice to that party.

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\*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. The conference committee summary report may be accessed on the Internet at <http://www.kslegislature.org>

## **Background**

The bill was supported by the Kansas Restaurant and Hospitality Association, the Kansas Beverage Association, the Kansas Chamber, the Petroleum Marketers and Convenience Store Association of Kansas, the Kansas Farm Bureau, the Kansas Livestock Association, the Kansas Cooperative Council, the National Federation of Independent Business, the Kansas Grain and Feed Association, and the Kansas Agribusiness Retailers Association.

The bill was opposed by a spokesman for the Kansas Trial Lawyer Association who said the bill was overbroad.

Proponents said 14 states had passed this type of legislation based on the National Restaurant Association model act.

The House Committee amendments would do the following:

- Delete the title of the bill, The Obesity Frivolous Lawsuit Act.
- Delete the civil procedure provisions regarding discovery and other proceedings.
- Add a technical change.

The bill has no fiscal impact on the state.