Article 5.

Commonsense Consumption Act.

§ 99E-40. Title.

This act shall be known and may be cited as the "Commonsense Consumption Act." (2013-309, s. 1.)

§ 99E-41. Definitions.

The following definitions apply in this Article:

(1) Claim. – Any claim by or on behalf of a natural person, as well as any derivative or other claim arising from a common set of facts or circumstances and asserted by or on behalf of any other person.

(2) Knowing and willful conduct. – Conduct which meets all of the following criteria:

a. The conduct was committed with any of the following:

1. The intent to deceive or injure consumers.
2. Actual knowledge that such conduct was injurious to consumers.
3. Reason to know there is a reasonable probability of injury to consumers.

b. The conduct constituting the violation was not required by regulations, orders, rules, or other pronouncement of, or any statute administered by, a federal, State, or local government agency.

(3) Other person. – Any individual, corporation, company, association, firm, partnership, society, joint-stock company, or any other entity, including any governmental entity or private attorney general. (2013-309, s. 1.)

§ 99E-42. Claims arising from weight gain, obesity, associated health conditions, or long-term consumption of food – Limitation on liability.

Except as set forth in G.S. 99E-43, a packer, distributor, manufacturer, carrier, holder, seller, marketer, or advertiser of a food, as defined in section 201(f) of the federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 321(f), or an association of one or more such entities, shall not be liable in any civil action for any claim arising out of weight gain, obesity, a health condition associated with weight gain or obesity, or other generally known condition allegedly caused by or allegedly likely to result from long-term consumption of food. For purposes of this section, a health condition arising from a single instance of consumption shall not be considered to result from long-term consumption of food. (2013-309, s. 1.)

§ 99E-43. Claims arising from weight gain, obesity, associated health conditions, or long-term consumption of food – Exceptions to limit on liability.

G.S. 99E-42 shall not preclude liability in a civil action in which the claim of weight gain, obesity, health condition associated with weight gain or obesity, or other generally known condition allegedly caused by or allegedly likely to result from long-term consumption of food meets either of the following:

(1) The claim includes as an element of the cause of action a material violation of an adulteration or misbranding requirement prescribed by statute or rule of this State or the United States of America and the claimed injury was proximately caused by such violation.

(2) The claim is based on knowing and willful conduct applicable to the manufacturing, marketing, distribution, advertising, labeling, or sale of food, in violation of any other State or federal law and the claimed injury was proximately caused by such violation. (2013-309, s. 1.)

§ 99E-44. Construction of Article.

(a) Nothing in this Article shall be construed to create any new claim, right of action, or civil liability not previously existing under State law.

(b) Nothing in this Article shall be construed to interfere with any agency's exclusive or primary jurisdiction to find or declare violations of a food adulteration or misbranding statute or rule. (2013-309, s. 1.)

§ 99E-45: Reserved for future codification purposes.

§ 99E-46: Reserved for future codification purposes.

§ 99E-47: Reserved for future codification purposes.

§ 99E-48: Reserved for future codification purposes.

§ 99E-49: Reserved for future codification purposes.