

411.610 Immunity from liability for condition arising due to long-term consumption of food -- Exceptions.

A food establishment, or an association of one (1) or more food establishments, shall not be subject to civil liability 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, except where the claim:

- (1) Includes as an element of the cause of action a material violation of an adulteration or misbranding requirement prescribed by federal or state statute or regulation, and the claimed injury was proximately caused by the violation. Nothing in this subsection shall be construed to create new or expand existing private rights, if any, under adulteration or misbranding statutes or regulations, nor shall this subsection be construed to interfere with any agency's exclusive or primary jurisdiction to find or declare violations of those statutes or regulations; or
- (2) Is based on any other material violation of federal or state law applicable to the manufacturing, marketing, distribution, advertising, labeling, or sale of food, if the violation was a knowing and willful violation, and the claimed injury was proximately caused by the violation.

Effective: June 20, 2005

History: Created 2005 Ky. Acts ch. 23, sec. 2, effective June 20, 2005.