

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-ONE

—
S.P. 304 - L.D. 952

An Act To Limit Liability Regarding Donations of Menstrual Products

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 14 MRSA §173 is enacted to read:

§173. Immunity for menstrual product donations

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Apparently usable" means, with respect to a product, that the product meets all quality and labeling standards imposed by federal, state and local laws and regulations even if the product may not be readily marketable.

B. "Menstrual product" means a sanitary napkin, tampon, liner, cup, underwear or any similar item used by an individual with respect to menstruation.

2. Immunity for donor. Notwithstanding any other provision of law, a good faith donor of menstrual products that are apparently usable at the time they are donated to a bona fide charitable or nonprofit organization for free distribution is immune from civil or criminal liability arising from injury or death due to the condition of the menstrual products, unless the injury or death is a direct result of the gross negligence, recklessness or intentional misconduct of the donor.

3. Immunity of distributor. Notwithstanding any other provision of law, a bona fide charitable or nonprofit organization and any employee or volunteer of that organization who in good faith receive and distributes menstrual products that are apparently usable at the time they are distributed are immune from civil or criminal liability arising from an injury or death due to the condition of the menstrual products, unless the injury or death is a direct result of the gross negligence, recklessness or intentional misconduct of the organization employee or volunteer.

4. Application. This section applies to all good faith donations of menstrual products that are not readily marketable due to appearance, grade, surplus or other conditions, but nothing in this section restricts the authority of any appropriate agency to regulate or bar the use of those menstrual products for use.

5. Immunity of facilities. Notwithstanding any provision of law to the contrary, a hospital or other health care facility licensed by the Department of Health and Human Services that, in good faith and in accordance with guidelines established by the recipient organization, donates menstrual products that are apparently usable at the time they are donated to a bona fide charitable or nonprofit organization for free distribution is immune from civil or criminal liability arising from injury, illness or death due to the condition of the menstrual products, unless the injury, illness or death is a direct result of intentional misconduct of the donor. Nothing in this subsection prevents a licensed hospital or health care facility from receiving the immunity provided in subsection 2 if the donor qualifies for immunity under the terms of that subsection.