

SHB 2261 - S AMD 161

By Senators Padden, Keiser

ADOPTED 03/02/2012

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 4.24 RCW
4 to read as follows:

5 (1) A charitable organization is not liable for any civil damages
6 arising out of any act or omission, other than acts or omissions
7 constituting gross negligence or willful or wanton misconduct,
8 associated with providing previously owned eyeglasses or hearing
9 instruments to a person if:

10 (a) The person is at least fourteen years of age; and

11 (b) The eyeglasses or hearing instruments are provided to the
12 person without compensation or the expectation of compensation.

13 (2) The immunity provided by subsection (1) of this section applies
14 to eyeglasses only if the eyeglasses are provided by a physician
15 licensed under chapter 18.71 RCW, an osteopathic physician licensed
16 under chapter 18.57 RCW, an optometrist licensed under chapter 18.53
17 RCW, or an optician licensed under chapter 18.34 RCW who has:

18 (a) Personally examined the person who will receive the eyeglasses;
19 or

20 (b) Personally consulted with the licensed physician, osteopathic
21 physician, or optometrist who examined the person who will receive the
22 eyeglasses.

23 (3) The immunity provided by subsection (1) of this section applies
24 to eyeglasses if the eyeglasses are provided by a physician's or
25 optician's optical assistant who has personally consulted with the
26 licensed physician, osteopathic physician, or optometrist who examined
27 the person who will receive the eyeglasses.

28 (4) The immunity provided by subsection (1) of this section applies
29 to hearing instruments only if the hearing instruments are provided by

1 a physician licensed under chapter 18.71 RCW, an osteopathic physician
2 licensed under chapter 18.57 RCW, or hearing health care professional
3 licensed under chapter 18.35 RCW who has:

4 (a) Personally examined the person who will receive the hearing
5 instruments; or

6 (b) Personally consulted with the licensed physician, osteopathic
7 physician, or hearing health care professional who has examined the
8 person who will receive the hearing instruments.

9 (5) For purposes of this section, "charitable organization" means
10 an organization:

11 (a) That regularly engages in or provides financial support for
12 some form of benevolent or charitable activity with the purpose of
13 doing good to others rather than for the convenience of its members;

14 (b) In which no part of the organization's income is distributable
15 to its members, directors, or officers; and

16 (c) In which no member, director, officer, agent, or employee is
17 paid, or directly receives, in the form of salary or other
18 compensation, an amount beyond that which is just and reasonable
19 compensation commonly paid for such services rendered and which has
20 been fixed and approved by the members, directors, or other governing
21 body of the organization."

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22 On page 1, line 2 of the title, after "instruments;" strike the
23 remainder of the title and insert "and adding a new section to chapter
24 4.24 RCW."

EFFECT: Examining eye doctors are not required to issue
prescriptions for donated eyeglasses. A physician's or optician's

optical assistant who has personally consulted with the licensed physician, osteopathic physician, or optometrist may provide the donated eyewear to the eyeglass recipient.

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