

SSB 6216 - H COMM AMD

By Committee on Judiciary

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

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

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

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

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

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

20 (a) Personally examined the person who will receive the eyeglasses
21 and issued a prescription for the eyeglasses; or

22 (b) Personally consulted with the licensed physician, osteopathic
23 physician, or optometrist who issued the prescription for the
24 eyeglasses.

25 (3) The immunity provided by subsection (1) of this section
26 applies to hearing instruments only if the hearing instruments are
27 provided by a physician licensed under chapter 18.71 RCW, an

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

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

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

8 (4) For purposes of this section, "charitable organization" means
9 an organization:

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

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

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

21

22 Correct the title.

23

Effect: The amendment makes the following changes:

- Removes the section expanding the Eye Care for the Homeless Program to include services for the poor and uninsured.
- Grants immunity to charitable organizations, rather than nonprofit corporations and charitable corporations.
- Gives charitable organizations immunity for facilitating donations of hearing instruments in addition to eyeglasses.
- Expands the list of potential providers of eyeglasses to include licensed physicians.
- Narrows the immunity provision by not limiting liability for acts or omissions that constitute gross negligence or willful or wanton misconduct.
- Provides a definition of charitable organizations.
- Requires a prescription in order for the charitable organization to be immune from liability for providing

eyeglasses.

- Grants immunity in situations in which the optometrist or ophthalmologist did not examine the recipient as long as the optometrist or ophthalmologist personally consulted with the optometrist or ophthalmologist who examined the recipient and issued a prescription.
- Requires dispensing opticians to be licensed in order for the immunity to apply.

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