

# MAINE STATE LEGISLATURE

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# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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Legislative Document

No. 952

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S.P. 304

In Senate, March 9, 2021

### **An Act To Limit Liability Regarding Donations of Menstrual Products**

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Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator BREEN of Cumberland.  
Cosponsored by Representative TEPLER of Topsham and  
Senators: BRENNER of Cumberland, CARNEY of Cumberland, DAUGHTRY of  
Cumberland, KEIM of Oxford, MOORE of Washington, SANBORN of Cumberland.

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

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

3 **§173. Immunity for menstrual product donations**

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

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

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

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

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

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

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

38 **SUMMARY**

39 This bill provides immunity from civil and criminal liability arising from an injury or  
40 death for good faith donors, including hospitals and other health care facilities, of menstrual  
41 products that are donated to bona fide charitable and nonprofit organizations. It also

1 provides the same immunity to the charitable and nonprofit organizations that distribute  
2 those donations.