

Legislative Council—No 151

As introduced and read a first time, 22 September 2021

South Australia

**Civil Liability (BYO Containers) Amendment
Bill 2021**

A BILL FOR

An Act to amend the *Civil Liability Act 1936*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Civil Liability (BYO Containers) Amendment Bill 2021*.

5 2—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Civil Liability Act 1936*

3—Insertion of Part 9 Division 11B

10 After section 74A insert:

Division 11B—Supply of food in customers' containers

74B—Supplying food in customers' own containers

- 15 (1) A person who sells food to a customer in a container supplied by the customer incurs no civil liability for any personal injury caused by the use of the container.
- (2) The immunity under subsection (1) extends to the agents and employees of the person selling the food.
- (3) However, the immunity does not operate—
 - 20 (a) if, when the food left the person's possession or control, the person knew or was recklessly indifferent to the fact that it would be unsafe or unsuitable when consumed from the container; or
 - (b) if the use of the container was negligent; or
 - (c) if use of the container was unlawful under any Act; or

- (d) if the food was subject to a recall order at the time it was sold.
- (4) In this section, the terms *food*, *recall order*, *unsafe* and *unsuitable* all have the same meaning as in the *Food Act 2001*.