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**SSB 6216** - H COMM AMD

By Committee on Judiciary

Strike everything after the enacting clause and insert the following:

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

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

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

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

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

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

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

(3) The immunity provided by subsection (1) of this section applies to hearing instruments only if the hearing instruments are provided by a physician licensed under chapter 18.71 RCW, an osteopathic physician licensed under chapter 18.57 RCW, or hearing health care professional licensed under chapter 18.35 RCW who has:

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

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

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

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

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

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

Correct the title.

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|  | 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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