

1989 Assembly Bill 295

Date of enactment: **December 7, 1989**
Date of publication*: **December 19, 1989**

1989 WISCONSIN ACT 108

AN ACT *to renumber* 895.51 (1) (a); *to amend* 895.51 (title) and 895.51 (2) and (3); and *to create* 895.51 (1) (c) and (e) and 895.51 (5) of the statutes, **relating to:** exemption from civil liability for donation, sale or distribution of certain food.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 895.51 (title) of the statutes is amended to read:

895.51 (title) Liability exemption: food donation, sale or distribution.

SECTION 2. 895.51 (1) (a) of the statutes is renumbered 895.51 (1) (d).

SECTION 3. 895.51 (1) (c) and (e) of the statutes are created to read:

895.51 (1) (c) "Food distribution service" means a program of a private nonprofit organization that provides food products directly to individuals with low incomes or that collects food products for and distributes food products to persons who provide the food products directly to individuals with low incomes.

(e) "Qualified food" means food products that meet the standards of quality established by state law or rule or federal law or regulations, including food products that are not readily marketable due to appearance, age, freshness, grade, size, surplusage or other condition, except that "qualified food" does not include canned food products that are leaking, swollen, dented on a seam or not airtight.

SECTION 4. 895.51 (2) and (3) of the statutes are amended to read:

895.51 (2) Any person engaged in the processing, distribution or sale of food products, for profit or not for profit, who donates or sells, at a price not to exceed overhead and transportation costs, qualified food products to

a charitable organization or food distribution service is immune from civil liability for the death of or injury to ~~any person~~ an individual caused by the qualified food products donated or sold by such the person. This subsection applies only if the donor has complied with all applicable state and federal rules and regulations concerning the processing and handling of the donated food products, and if at the time of donation the donor reasonably inspects the food and finds it fit for human consumption.

(3) Any charitable organization or food distribution service which distributes free of charge qualified food products to any person is immune from civil liability for the death of or injury to ~~any person~~ an individual caused by the qualified food products distributed by such the charitable organization, ~~except that the charitable organization is liable to the injured person for health care costs that are paid by the person and are not reimbursable by any other person.~~ This subsection applies only if at the time of distribution the charitable organization reasonably inspects the food and finds it fit for human consumption or food distribution service.

SECTION 4g. 895.51 (5) of the statutes is created to read:

895.51 (5) This section does not apply after June 30, 1992.

SECTION 4r. Nonstatutory provisions; health and social services. (1) FOOD DONATION STUDY. The department of health and social services shall study all of the following and shall, by January 1, 1992, submit a report of the results of the study to the chief clerk of each house

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of the legislature for distribution to the legislature in the manner provided under section 13.172 (2) of the statutes:

(a) The extent to which qualified food, as defined in section 895.51 (1) (e) of the statutes, as created by this act, is donated or sold, at a price not to exceed the costs of overhead and transportation, to charitable organizations, individuals with low income and the homeless in

this state.

(b) The effect that section 895.51 of the statutes, as affected by this act, has on the donation, or selling for reduced prices, of qualified food.

(c) The extent to which any death or injury has resulted from the donation, or selling for reduced prices, of qualified food.
