



## 2001 SENATE BILL 458

February 22, 2002 - Introduced by Senator RISSER, cosponsored by Representatives BERCEAU, YOUNG, J. LEHMAN, ALBERS and STONE. Referred to Committee on Judiciary, Consumer Affairs, and Campaign Finance Reform.

1     **AN ACT to amend** 895.48 (title); and **to create** 895.48 (5) of the statutes; **relating**  
2           **to:** immunity from civil liability for those who provide, or administer the  
3           provision of, transportation to an individual who is believed to be under the  
4           influence of an intoxicant.

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### *Analysis by the Legislative Reference Bureau*

Under current law, certain persons are given civil immunity for their acts or omissions when performing certain services. For example, a person who renders emergency care at the scene of an accident is given civil immunity for his or her acts in providing that service. That immunity does not apply if the person is a health care provider and provides the emergency care for compensation within the scope of his or her employment. In another example, current law grants civil immunity to ski patrol members' acts or omissions while acting in the scope of their ski patrol duties. That immunity does not apply to acts or omissions that involve reckless, wanton, or intentional misconduct.

This bill provides civil immunity for the acts or omissions of persons who administer a transportation program and the individuals who drive a motor vehicle in the transportation program. Under the bill, "transportation program" is defined as a program that is specifically created to provide transportation to individuals who are believed to be incapable of safely driving because of their consumption of an intoxicant. The immunity does not apply to a driver who is under the influence of an intoxicant or who has a prohibited blood alcohol concentration while driving, who receives compensation for transporting the person, or whose act or omission while

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driving involves reckless, wanton, or intentional misconduct. The immunity does not apply to the act or omission of a person administering a transportation program if that act or omission involves reckless, wanton, or intentional misconduct.

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

1           **SECTION 1.** 895.48 (title) of the statutes is amended to read:

2           **895.48 (title) Civil liability exemption; emergency care, athletic events**  
3 **health care, hazardous substances, transportation services, and**  
4 **information concerning paternity.**

5           **SECTION 2.** 895.48 (5) of the statutes is created to read:

6           895.48 (5) (a) In this subsection:

7           1. "Compensation" means wages, salary, commission, or bonuses paid for  
8 services rendered, but does not include reimbursement of expenses or the provision  
9 of incidental benefits, such as discounted or free food, clothing, or tickets.

10          2. "Intoxicant" means any of the following:

11          a. Alcohol, a controlled substance, a controlled substance analog, any other  
12 drug, or a vapor-releasing substance.

13          b. Any combination of alcohol, a controlled substance, a controlled substance  
14 analog, any other drug, or a vapor-releasing substance.

15          3. "Transportation program" means a program that is specifically created to  
16 provide transportation to individuals who are believed to be under the influence of  
17 an intoxicant.

18          4. "Under the influence of an intoxicant" means a condition in which a person's  
19 ability to operate a motor vehicle, because of the consumption or use of an intoxicant,

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1 is impaired to the extent that the person is less able to exercise the clear judgment  
2 and steady hand necessary to handle and control a motor vehicle.

3 (b) Any person administering a transportation program or driving a motor  
4 vehicle in that program shall be immune from civil liability for any act or omission  
5 in providing transportation under that program.

6 (c) The civil immunity under this subsection does not apply to the driver of the  
7 motor vehicle if:

8 1. The driver has a prohibited alcohol concentration, as defined in s. 340.01  
9 (46m), or is under the influence of an intoxicant at the time that he or she is driving  
10 the motor vehicle.

11 2. The driver's act or omission while driving involves reckless, wanton, or  
12 intentional misconduct.

13 3. The driver receives compensation for driving the motor vehicle.

14 (d) The civil immunity under this subsection does not apply to a person  
15 administering the transportation program if the person's act or omission involves  
16 reckless, wanton, or intentional misconduct.

17 **SECTION 3. Initial applicability.**

18 (1) This act first applies to acts or omissions occurring on the effective date of  
19 this subsection.

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(END)