

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1031/1dn
RCT:cmh:cph

December 9, 2002

This is the draft related to the sale of halal food. It is based on this state's kosher food statute, s. 97.56.

I am not aware that there has been a legal challenge to this state's kosher food statute. The kosher food laws in some other jurisdictions have been successfully challenged as violating the Establishment Clause of the First Amendment to the U.S. Constitution. See *Commack Self-Service Kosher Meats v. Rubin*, 106 F. Supp. 2d 445 (E.D. New York, 2000); *Ran-Dav's County Kosher, Inc. v. New Jersey*, 129 N.J. 141, 608A. 2d 1353 (1992), cert. denied, 507 U.S. 952, 113 S. Ct. 1366, 122 L. Ed. 2d 744 (1993); *Barghout v. Bureau of Kosher Meat and Food Control*, 66 F.3d 1337 (4th Cir. 1995). The courts held that the laws created an excessive entanglement between religion and the state and had the effect of advancing religion. The laws challenged in those cases are not identical to this state's kosher food statute, but it is possible that a constitutional challenge to that statute or to the halal food statute created in this draft would be successful.

Please contact me with any questions or with redraft instructions.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.state.wi.us