

2005 DRAFTING REQUEST

Bill

Received: **02/17/2005**

Received By: **mlief**

Wanted: **As time permits**

Identical to LRB:

For: **Daniel Vrakas (608) 266-3007**

By/Representing: **mealnie**

This file may be shown to any legislator: **NO**

Drafter: **mlief**

May Contact:

Addl. Drafters:

Subject: **Courts - immunity liability**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Vrakas@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Civil liability exemption for weight gain and obesity claims

Instructions:

Redraft 2003 AB 595

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mlief 02/17/2005	lkunkel 02/17/2005		_____			
/1			jfrantze 02/17/2005	_____	lnorthro 02/17/2005	lnorthro 04/04/2005	

FE Sent For:

none needed

<END>

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/?	mlief	1 Imk 2/17	<i>J. P. Self</i> 2/17				

FE Sent For:

<END>

To edit 2/17

Due 2/18

2003 ASSEMBLY BILL 595

October 15, 2003 - Introduced by Representatives VRAKAS, GUNDRUM, GRONEMUS, ALBERS, BIES, J. FITZGERALD, FRISKE, GOTTLIEB, GROTHMAN, GUNDERSON, HAHN, HINES, HONADEL, HUNDERTMARK, JESKEWITZ, KESTELL, KRAWCZYK, KREIBICH, LADWIG, F. LASEE, M. LEHMAN, LEMAHIEU, MCCORMICK, MONTGOMERY, MUSSER, NASS, NISCHKE, OLSEN, OTT, PETTIS, PETROWSKI, SCHNEIDER, SERATTI, STONE, SUDER, TOWNS, TOWNSEND, VAN ROY, WARD, WEBER, M. WILLIAMS, J. WOOD, YOUNG, ZEPNICK and ZIEGELBAUER, cosponsored by Senators REYNOLDS, S. FITZGERALD, ZIEN, BRESKE, HARSDORE, KANAVAS, LAZICH, LEIBHAM, ROESSLER and SCHULTZ, by request of Wisconsin Restaurant Association. Referred to Committee on Judiciary.

ReGen

1 AN ACT to amend 814.04 (intro.); and to create 895.506 of the statutes; relating
2 to: civil liability exemption for claims resulting from weight gain and obesity. ✓

Analysis by the Legislative Reference Bureau

This bill provides a civil liability exemption for food manufacturers, marketers, packers, advertisers, distributors, and sellers for claims resulting from a person's weight gain or obesity or health condition related to weight gain or obesity caused by the consumption of food. ✓ The bill also provides an exception to this immunity if the claim involves a knowing violation of a state or federal law ✓ concerning the food, a breach of contract or express warranty in connection with the purchase of the food, ✓ or a claim that the food is adulterated under federal law. ✓ Finally, a defendant on a summary judgment motion concerning one of these claims may, in addition to the attorney fees of not more than \$100 recoverable under current law, recover reasonable attorney fees and the costs of the investigation and litigation. ✓

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

3 SECTION 1. 814.04 (intro.) of the statutes is amended to read:
4 814.04 Items of costs. (intro.) Except as provided in ss. 93.20, 100.30 (5m),
5 106.50 (6) (i) and (6m) (a), 115.80 (9), 281.36 (2) (b) 1., 767.33 (4) (d), 769.313, 814.025,

ASSEMBLY BILL 595**SECTION 1**

1 814.245, 895.035 (4), 895.10 (3), 895.506, 895.75 (3), 895.77 (2), 895.79 (3), 895.80 (3),
2 943.212 (2) (b), 943.245 (2) (d) and 943.51 (2) (b), when allowed costs shall be as
3 follows:

4 **SECTION 2.** 895.506 of the statutes is created to read:

5 **895.506 Liability exemption; weight gain and obesity claims.** (1) Any
6 person who manufactures, markets, packs, distributes, advertises, or sells food, as
7 defined in 21 USC 321 (f), is immune from civil liability for a person's weight gain
8 or obesity caused by the consumption of the food, or for a health condition related to
9 weight gain or obesity.

10 (2) Subsection (1) does not apply to any of the following:

11 (a) A claim that a defendant under sub. (1) knowingly violated a federal or state
12 law concerning the manufacturing, marketing, distribution, advertisement,
13 labeling, or sale of the food, and the violation was the proximate cause of the weight
14 gain, obesity, or related health condition.

15 (b) A claim for breach of contract or express warranty in connection with the
16 purchase of the food.

17 (c) A claim regarding the sale of food that is adulterated under 21 USC 342.

18 (3) In addition to the costs allowed under s. 814.04, a defendant that prevails
19 on a motion under s. 802.08 filed in an action under sub. (2) may recover reasonable
20 attorney fees and the costs of the investigation and litigation.

21 **SECTION 3. Initial applicability.**

22 (1) This act first applies to actions pending on the effective date of this
23 subsection.

24

(END)

Northrop, Lori

From: Hubbard, Melanie
Sent: Monday, April 04, 2005 4:42 PM
To: LRB.Legal
Subject: Draft review: LRB 05-2176/1 Topic: Civil liability exemption for weight gain and obesity claims

It has been requested by <Hubbard, Melanie> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-2176/1 Topic: Civil liability exemption for weight gain and obesity claims