

2019 DRAFTING REQUEST**Bill**

For: **Legislative Fiscal Bureau** Drafter: **swalkenh**
 By: **Rory** Secondary Drafters:
 Date: **4/1/2020** May Contact:

Same as LRB:

Submit via email: **YES**
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Pre Topic:

No specific pre topic given

Topic:

Civil liability exemption for individuals and businesses that manufacture or sell medical supplies or equipment to address public health emergency

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	swalkenh 4/1/2020	aernsttr 4/1/2020			
/P1	swalkenh 4/3/2020		wjackson 4/1/2020		
/P2	swalkenh 4/3/2020	ccarmich 4/3/2020	wjackson 4/3/2020		
/P3	swalkenh 4/7/2020	aernsttr 4/3/2020	anienaja 4/3/2020		
/P4	swalkenh 4/7/2020	swinder 4/7/2020	mbarman 4/7/2020		

Instructions:

Draft exemption from civil liability to individuals and businesses that manufacture or sell medical supplies or equipment to help with addressing public health emergency

4/3/2020--/p2 redraft:

1) Would you please delete the two definitions and replace them with one: "emergency medical supplies and equipment" and define it as any medical equipment or supplies necessary to limit the spread of, or provide treatment for, a disease associated with a public health emergency, including life support devices, personal protective equipment, cleaning supplies, and any other item determined to be necessary by the Secretary of the Department of Health Services.

2) Would you please swap: "the cost of inputs, salaries, overhead, and transportation costs" to " the cost of production, including only the cost of inputs, wages, operating the manufacturing facility, and transporting the product"

3) Strike "for profit or not for profit" on lines 5-6 of page 2. I think the language regarding "at cost" designates activities may not be not for profit so this might confuse things.

4/3/2020 /p3:

1. Change definition to be of the term "emergency medical supplies" and then define it to include both supplies and equipment

2. Define "cost of production" separately and pull out of the substantive provision

4/7/2020: /p4 Per LFB, apply the exemption only to the COVID-19 public health emergency.

4/7/2020: /p5--Per LFB:

On page 2 line 4, strike "the public health emergency during" so it reads "...governmental unit to respond to the state of emergency related to public health..."

04/11/20 update: tie to federal declaration.

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P5	tdodge 4/11/2020	swinder 4/7/2020	mbarman 4/7/2020		
/P6		csicilia 4/11/2020	wjackson 4/11/2020		

FE Sent For:

<END>



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to amend* 895.51 (title); and *to create* 895.51 (1) (bg) and (br), 895.51
2 (1) (dp), 895.51 (2r) and 895.51 (3r) of the statutes; **relating to:** immunity from
3 civil liability for manufacturers, distributors, and sellers of emergency medical
4 equipment and emergency medical supplies to respond to a declared state of
5 emergency.

Analysis by the Legislative Reference Bureau

COURTS AND PROCEDURE

***Liability exemption for persons who manufacture, distribute, or sell
emergency medical equipment or emergency medical supplies***

This bill establishes a civil liability exemption for persons who manufacture, distribute, or sell emergency medical equipment or emergency medical supplies to respond to a declared state of emergency, including a public health emergency. Under the bill, any person engaged in the manufacturing, distribution, or sale of emergency medical supplies or emergency medical equipment who donates or sells, for a price not to exceed a certain amount established in the bill, the supplies or equipment to a charitable organization or governmental unit in response to a state of emergency, including a public health emergency, is immune from civil liability for the death of or injury to an individual caused by supplies or equipment donated or sold.

The bill also provides that any charitable organization that distributes free of charge emergency medical equipment or emergency medical supplies received from

a manufacturer, distributor, or seller is immune from civil liability for a death or injury caused by the emergency medical equipment or emergency medical supplies.

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

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

2 **895.51 (title) Civil liability exemption: food or emergency household**
3 **products; emergency medical equipment or emergency medical supplies;**
4 **donation, sale, or distribution.**

5 **SECTION 2.** 895.51 (1) (bg) and (br) of the statutes are created to read:

6 895.51 (1) (bg) “Emergency medical equipment” means any of the following:

7 1. Medical equipment used in the provision of health care during a public
8 health emergency, including any equipment necessary to limit the spread of, or
9 provide treatment for, a disease associated with a public health emergency.

10 2. Any other medical equipment determined by the secretary of health services
11 to be necessary to limit the spread of, or provide treatment for, any disease associated
12 with a public health emergency.

13 (br) “Emergency medical supplies” means any of the following:

14 1. Personal protective equipment such as face masks, gloves, gowns, and face
15 shields.

16 2. Cleaning supplies, including those used to eliminate contamination by
17 bacterial or viral infections.

18 3. Any other medical supplies determined by the secretary of health services
19 to be necessary to limit the spread of, or to provide treatment for, any disease
20 associated with a public health emergency.

21 **SECTION 3.** 895.51 (1) (dp) of the statutes is created to read:



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to amend* 895.51 (title); and *to create* 895.51 (1) (bg), 895.51 (1) (dp),
2 895.51 (2r) and 895.51 (3r) of the statutes; **relating to:** immunity from civil
3 liability for manufacturers, distributors, and sellers of emergency medical
4 supplies and equipment to respond to a declared state of emergency.

Analysis by the Legislative Reference Bureau

COURTS AND PROCEDURE

***Liability exemption for persons who manufacture, distribute, or sell
emergency medical supplies and equipment***

This bill establishes a civil liability exemption for persons who manufacture, distribute, or sell emergency medical supplies and equipment to respond to a declared state of emergency, including a public health emergency. Under the bill, any person engaged in the manufacturing, distribution, or sale of emergency medical supplies and equipment, as defined in the bill, who donates or sells, for a price not to exceed a certain amount established in the bill, the emergency medical supplies and equipment to a charitable organization or governmental unit in response to a state of emergency, including a public health emergency, is immune from civil liability for the death of or injury to an individual caused by emergency medical supplies and equipment donated or sold.

The bill also provides that any charitable organization that distributes free of charge emergency medical supplies and equipment received from a manufacturer,

distributor, or seller is immune from civil liability for a death or injury caused by the emergency medical supplies and equipment.

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

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

2 **895.51 (title) Civil liability exemption: food or emergency household**
3 **products; emergency medical supplies and equipment; donation, sale, or**
4 **distribution.**

5 **SECTION 2.** 895.51 (1) (bg) of the statutes is created to read:

6 895.51 (1) (bg) "Emergency medical supplies and equipment" means any
7 medical equipment or supplies necessary to limit the spread of, or provide treatment
8 for, a disease associated with a public health emergency, including life support
9 devices, personal protective equipment, cleaning supplies, and any other items
10 determined to be necessary by the secretary of health services.

11 **SECTION 3.** 895.51 (1) (dp) of the statutes is created to read:

12 895.51 (1) (dp) "Public health emergency" has the meaning given in s. 323.02
13 (16).

14 **SECTION 4.** 895.51 (2r) of the statutes is created to read:

15 895.51 (2r) Any person engaged in the manufacturing, distribution, or sale of
16 emergency medical supplies and equipment, who donates or sells, at a price not to
17 exceed the cost of production, including only the cost of inputs, wages, operating the
18 manufacturing facility, and transporting the product, emergency medical supplies
19 and equipment to a charitable organization or governmental unit in response to a
20 state of emergency declared under s. 323.10 or 323.11, including a public health
21 emergency, is immune from civil liability for the death of or injury to an individual

1 caused by the emergency medical supplies and equipment donated or sold by the
2 person.

3 **SECTION 5.** 895.51 (3r) of the statutes is created to read:

4 895.51 (3r) Any charitable organization that distributes free of charge
5 emergency medical supplies and equipment received under sub. (2r) is immune from
6 civil liability for the death of or injury to an individual caused by the emergency
7 medical supplies and equipment distributed by the charitable organization.

8 (END)



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-6079/P3
SWB:ahe&cdc

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to amend* 895.51 (title); and *to create* 895.51 (1) (bd), 895.51 (1) (bg),
2 895.51 (1) (dp), 895.51 (2r) and 895.51 (3r) of the statutes; **relating to:**
3 immunity from civil liability for manufacturers, distributors, and sellers of
4 emergency medical supplies to respond to a declared state of emergency.

Analysis by the Legislative Reference Bureau

COURTS AND PROCEDURE

***Liability exemption for persons who manufacture, distribute, or sell
emergency medical supplies***

This bill establishes a civil liability exemption for persons who manufacture, distribute, or sell emergency medical supplies to respond to a declared state of emergency, including a public health emergency. The bill defines “emergency medical supplies” to mean any medical equipment or supplies necessary to limit the spread of, or provide treatment for, a disease associated with a public health emergency, including life support devices, personal protective equipment, cleaning supplies, and any other items determined to be necessary by the secretary of health services. Under the bill, any person engaged in the manufacturing, distribution, or sale of emergency medical supplies who donates or sells, for a price not to exceed a certain amount established in the bill, the emergency medical supplies to a charitable organization or governmental unit in response to a state of emergency, including a public health emergency, is immune from civil liability for the death of or injury to an individual caused by emergency medical supplies donated or sold.

The bill also provides that any charitable organization that distributes free of charge emergency medical supplies received from a manufacturer, distributor, or seller is immune from civil liability for a death or injury caused by the emergency medical supplies.

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

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

2 **895.51 (title) Civil liability exemption: food or emergency household**
3 **products; emergency medical supplies; donation, sale, or distribution.**

4 **SECTION 2.** 895.51 (1) (bd) of the statutes is created to read:

5 **895.51 (1) (bd)** “Cost of production” means the cost of inputs, wages, operating
6 the manufacturing facility, and transporting the product.

7 **SECTION 3.** 895.51 (1) (bg) of the statutes is created to read:

8 **895.51 (1) (bg)** “Emergency medical supplies” means any medical equipment
9 or supplies necessary to limit the spread of, or provide treatment for, a disease
10 associated with a public health emergency, including life support devices, personal
11 protective equipment, cleaning supplies, and any other items determined to be
12 necessary by the secretary of health services.

13 **SECTION 4.** 895.51 (1) (dp) of the statutes is created to read:

14 **895.51 (1) (dp)** “Public health emergency” has the meaning given in s. 323.02
15 (16).

16 **SECTION 5.** 895.51 (2r) of the statutes is created to read:

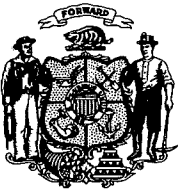
17 **895.51 (2r)** Any person engaged in the manufacturing, distribution, or sale of
18 emergency medical supplies, who donates or sells, at a price not to exceed the cost
19 of production, emergency medical supplies to a charitable organization or
20 governmental unit in response to a state of emergency declared under s. 323.10 or

1 323.11, including a public health emergency, is immune from civil liability for the
2 death of or injury to an individual caused by the emergency medical supplies donated
3 or sold by the person.

4 **SECTION 6.** 895.51 (3r) of the statutes is created to read:

5 895.51 **(3r)** Any charitable organization that distributes free of charge
6 emergency medical supplies received under sub. (2r) is immune from civil liability
7 for the death of or injury to an individual caused by the emergency medical supplies
8 distributed by the charitable organization.

9 (END)



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-6079/P4
SWB:ahe/cdc/skw

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to amend** 895.51 (title); and **to create** 895.51 (1) (bd), 895.51 (1) (bg),
2 895.51 (1) (dp), 895.51 (2r) and 895.51 (3r) of the statutes; **relating to:**
3 immunity from civil liability for manufacturers, distributors, and sellers of
4 emergency medical supplies to respond to the public health emergency declared
5 by the governor on March 12, 2020.

Analysis by the Legislative Reference Bureau

COURTS AND PROCEDURE

***Liability exemption for persons who manufacture, distribute, or sell
emergency medical supplies***

This bill establishes a civil liability exemption for persons who manufacture, distribute, or sell emergency medical supplies to respond to the public health emergency during the state of emergency related to public health declared by the governor on March 12, 2020, by executive order 72. The bill defines “emergency medical supplies” to mean any medical equipment or supplies necessary to limit the spread of, or provide treatment for, a disease associated with a public health emergency, including life support devices, personal protective equipment, cleaning supplies, and any other items determined to be necessary by the secretary of health services. Under the bill, any person engaged in the manufacturing, distribution, or sale of emergency medical supplies who donates or sells, for a price not to exceed a certain amount established in the bill, the emergency medical supplies to a

charitable organization or governmental unit to respond to the public health emergency during the state of emergency related to public health declared by the governor on March 12, 2020, by executive order 72, is immune from civil liability for the death of or injury to an individual caused by emergency medical supplies donated or sold.

The bill also provides that any charitable organization that distributes free of charge emergency medical supplies received from a manufacturer, distributor, or seller is immune from civil liability for a death or injury caused by the emergency medical supplies.

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

- 1 **SECTION 1.** 895.51 (title) of the statutes is amended to read:
- 2 **895.51 (title) Civil liability exemption: food or emergency household**
- 3 **products; emergency medical supplies; donation, sale, or distribution.**
- 4 **SECTION 2.** 895.51 (1) (bd) of the statutes is created to read:
- 5 895.51 (1) (bd) “Cost of production” means the cost of inputs, wages, operating
- 6 the manufacturing facility, and transporting the product.
- 7 **SECTION 3.** 895.51 (1) (bg) of the statutes is created to read:
- 8 895.51 (1) (bg) “Emergency medical supplies” means any medical equipment
- 9 or supplies necessary to limit the spread of, or provide treatment for, a disease
- 10 associated with a public health emergency, including life support devices, personal
- 11 protective equipment, cleaning supplies, and any other items determined to be
- 12 necessary by the secretary of health services.
- 13 **SECTION 4.** 895.51 (1) (dp) of the statutes is created to read:
- 14 895.51 (1) (dp) “Public health emergency” has the meaning given in s. 323.02
- 15 (16).
- 16 **SECTION 5.** 895.51 (2r) of the statutes is created to read:



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-6079/P5
SWB:ahe/cdc/skw

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to amend* 895.51 (title); and *to create* 895.51 (1) (bd), 895.51 (1) (bg),
2 895.51 (1) (dp), 895.51 (2r) and 895.51 (3r) of the statutes; **relating to:**
3 immunity from civil liability for manufacturers, distributors, and sellers of
4 emergency medical supplies to respond to the state of emergency related to
5 public health declared by the governor on March 12, 2020.

Analysis by the Legislative Reference Bureau

COURTS AND PROCEDURE

***Liability exemption for persons who manufacture, distribute, or sell
emergency medical supplies***

This bill establishes a civil liability exemption for persons who manufacture, distribute, or sell emergency medical supplies to respond to the public health emergency during the state of emergency related to public health declared by the governor on March 12, 2020, by executive order 72. The bill defines “emergency medical supplies” to mean any medical equipment or supplies necessary to limit the spread of, or provide treatment for, a disease associated with a public health emergency, including life support devices, personal protective equipment, cleaning supplies, and any other items determined to be necessary by the secretary of health services. Under the bill, any person engaged in the manufacturing, distribution, or sale of emergency medical supplies who donates or sells, for a price not to exceed a certain amount established in the bill, the emergency medical supplies to a

charitable organization or governmental unit to respond to the state of emergency related to public health declared by the governor on March 12, 2020, by executive order 72, is immune from civil liability for the death of or injury to an individual caused by emergency medical supplies donated or sold.

The bill also provides that any charitable organization that distributes free of charge emergency medical supplies received from a manufacturer, distributor, or seller is immune from civil liability for a death or injury caused by the emergency medical supplies.

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

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

2 **895.51 (title) Civil liability exemption: food or emergency household**
3 **products; emergency medical supplies; donation, sale, or distribution.**

4 **SECTION 2.** 895.51 (1) (bd) of the statutes is created to read:

5 **895.51 (1) (bd)** “Cost of production” means the cost of inputs, wages, operating
6 the manufacturing facility, and transporting the product.

7 **SECTION 3.** 895.51 (1) (bg) of the statutes is created to read:

8 **895.51 (1) (bg)** “Emergency medical supplies” means any medical equipment
9 or supplies necessary to limit the spread of, or provide treatment for, a disease
10 associated with a public health emergency, including life support devices, personal
11 protective equipment, cleaning supplies, and any other items determined to be
12 necessary by the secretary of health services.

13 **SECTION 4.** 895.51 (1) (dp) of the statutes is created to read:

14 **895.51 (1) (dp)** “Public health emergency” has the meaning given in s. 323.02
15 (16).

16 **SECTION 5.** 895.51 (2r) of the statutes is created to read:

17 **895.51 (2r)** Any person engaged in the manufacturing, distribution, or sale of
18 emergency medical supplies, who donates or sells, at a price not to exceed the cost

1 of production, emergency medical supplies to a charitable organization or
2 governmental unit to respond to the state of emergency related to public health
3 declared by the governor under s. 323.10 on March 12, 2020, by executive order 72,
4 is immune from civil liability for the death of or injury to an individual caused by the
5 emergency medical supplies donated or sold by the person.

6 **SECTION 6.** 895.51 (3r) of the statutes is created to read:

7 895.51 (3r) Any charitable organization that distributes free of charge
8 emergency medical supplies received under sub. (2r) is immune from civil liability
9 for the death of or injury to an individual caused by the emergency medical supplies
10 distributed by the charitable organization.

11

(END)



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-6079/P6
SWB&TJD:ahe/cdc/skw/cjs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to amend* 895.51 (title); and *to create* 895.51 (1) (bd), 895.51 (1) (bg),
2 895.51 (1) (dp), 895.51 (2r) and 895.51 (3r) of the statutes; **relating to:**
3 immunity from civil liability for manufacturers, distributors, and sellers of
4 emergency medical supplies to respond to the COVID-19 public health
5 emergency.

Analysis by the Legislative Reference Bureau

COURTS AND PROCEDURE

***Liability exemption for persons who manufacture, distribute, or sell
emergency medical supplies***

This bill establishes a civil liability exemption for persons who manufacture, distribute, or sell emergency medical supplies to respond to the public health emergency during the public health emergency related to COVID-19 declared by the federal secretary of health and human services or the national emergency related to COVID-19 declared by the president. The bill defines “emergency medical supplies” to mean any medical equipment or supplies necessary to limit the spread of, or provide treatment for, a disease associated with the public health emergency related to the COVID-19 pandemic, including life support devices, personal protective equipment, cleaning supplies, and any other items determined to be necessary by the secretary of health services. Under the bill, any person engaged in the manufacturing, distribution, or sale of emergency medical supplies who donates or

sells, for a price not to exceed a certain amount established in the bill, the emergency medical supplies to a charitable organization or governmental unit to respond to the public health emergency related to COVID-19 is immune from civil liability for the death of or injury to an individual caused by emergency medical supplies donated or sold.

The bill also provides that any charitable organization that distributes free of charge emergency medical supplies received from a manufacturer, distributor, or seller is immune from civil liability for a death or injury caused by the emergency medical supplies.

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

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

2 **895.51 (title) Civil liability exemption: food or emergency household**
3 **products; emergency medical supplies; donation, sale, or distribution.**

4 **SECTION 2.** 895.51 (1) (bd) of the statutes is created to read:

5 895.51 (1) (bd) “Cost of production” means the cost of inputs, wages, operating
6 the manufacturing facility, and transporting the product.

7 **SECTION 3.** 895.51 (1) (bg) of the statutes is created to read:

8 895.51 (1) (bg) “Emergency medical supplies” means any medical equipment
9 or supplies necessary to limit the spread of, or provide treatment for, a disease
10 associated with the public health emergency related to the 2019 novel coronavirus
11 pandemic, including life support devices, personal protective equipment, cleaning
12 supplies, and any other items determined to be necessary by the secretary of health
13 services.

14 **SECTION 4.** 895.51 (1) (dp) of the statutes is created to read:

15 895.51 (1) (dp) “Public health emergency related to the 2019 novel coronavirus
16 pandemic” means the period covered by the public health emergency declared under
17 42 USC 247d by the secretary of the federal department of health and human

1 services on January 31, 2020, in response to the 2019 novel coronavirus or the
2 national emergency declared by the U.S. president under 50 USC 1621 on March 13,
3 2020, in response to the 2019 novel coronavirus.

4 **SECTION 5.** 895.51 (2r) of the statutes is created to read:

5 895.51 (2r) Any person engaged in the manufacturing, distribution, or sale of
6 emergency medical supplies, who donates or sells, at a price not to exceed the cost
7 of production, emergency medical supplies to a charitable organization or
8 governmental unit to respond to the public health emergency related to the 2019
9 novel coronavirus pandemic is immune from civil liability for the death of or injury
10 to an individual caused by the emergency medical supplies donated or sold by the
11 person.

12 **SECTION 6.** 895.51 (3r) of the statutes is created to read:

13 895.51 (3r) Any charitable organization that distributes free of charge
14 emergency medical supplies received under sub. (2r) is immune from civil liability
15 for the death of or injury to an individual caused by the emergency medical supplies
16 distributed by the charitable organization.

17 (END)