



## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

**2005 Wisconsin Act 459**  
[2005 Assembly Bill 958]

**Civil Immunity for Actions Taken  
in Certain Emergencies**

Prior to enactment of Act 459, any person who provided equipment or services under the direction of the Governor, Adjutant General, the head of a local or tribal emergency management service, or the state or local department of health during a state of emergency declared by the Governor was immune from liability for death or injury to any person or damage to any property caused by his or her actions while providing that service. This immunity did not apply if the person who caused the death, injury, or damage acted intentionally or with gross negligence.

Act 459 makes the following changes to the immunity provisions described above:

### **Types of Assistance to Which Immunity Applies**

Prior to enactment of Act 459, immunity applied to the provision of equipment or services.

Under **Act 459** immunity also applies to the provision of materials, facilities, and labor.

### **Under Whose Direction a Person Must be Acting to Receive Immunity**

Prior to enactment of Act 459, immunity applied to any person acting under the direction of any of the following:

- The Governor.
- The Adjutant General.
- The head of a local or tribal emergency management service.
- The state Department of Health and Family Services.
- A local health department.

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

Under **Act 459**, immunity also applies to a person acting under the direction of the governing body or the chief or acting chief executive officer of any county, town, municipality, or federally recognized American Indian tribe or band in Wisconsin.

**Emergency Situations to Which Immunity Applies**

Prior to enactment of Act 459, immunity applied to any person acting during a state of emergency declared by the Governor.

Under **Act 459**, immunity also applies to a person acting in response to any of the following:

- Enemy action.
- A natural or man-made disaster.
- A federally declared state of emergency.

**Exception to Immunity**

Prior to enactment of Act 459, immunity did not apply if a person acted intentionally or with gross negligence.

Act 459 provides, instead, that immunity does not apply if a person's act or omission involved reckless, wanton, or intentional misconduct.

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