

1        **AN ACT** *to amend* 895.51 (2); and *to create* 895.51 (1) (dm), 895.51 (2m) and 895.51  
 2            (3m) of the statutes; **relating to:** immunity from liability for qualified food and  
 3            household products.

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

**JOINT LEGISLATIVE COUNCIL PREFATORY NOTE:** This bill draft was prepared for the Joint Legislative Council’s Special Committee on Disaster Preparedness Planning.

Under current law, any person engaging in the processing, distribution, or sale of food products, for profit or not for profit, who donates or sells, at a price not to exceed overhead and transportation costs, qualified food to a charitable organization or food distribution service is immune from civil liability for death or injury caused by the food. Any charitable organization that distributes qualified food free of charge to any person is immune from civil liability for death or injury caused by the food. These immunity provisions do not apply if the death or injury was caused by willful or wanton acts or omissions.

This bill draft extends the current immunity provision to include donating or selling, at a price not to exceed overhead and transportation costs, qualified food to a governmental unit. The bill draft defines “governmental unit” by cross-referencing another statute that defines the term as the United States; the state; any county, city, village, or town; or any political subdivision, department, division, board, or agency of the United States, the state, or any county, city, village, or town. The new definition also includes a federally recognized American Indian tribe or band in this state or an agency of such a tribe or band.

The bill draft also creates new immunity provisions to cover donating or selling, at a price not to exceed overhead and transportation costs, household products to a charitable organization or governmental unit in response to a declared state of emergency; and to cover charitable organizations that distribute those household products free of charge.

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

1           895.51 (1) (dm) “Governmental unit” has the meaning given in s. 146.50 (1) (hr) and  
2 also includes a federally recognized American Indian tribe or band in this state or an agency  
3 of the tribe or band.

4           **SECTION 2.** 895.51 (2) of the statutes is amended to read:

5           895.51 (2) Any person engaged in the processing, distribution or sale of food products,  
6 for profit or not for profit, who donates or sells, at a price not to exceed overhead and  
7 transportation costs, qualified food to a charitable organization or a food distribution service,  
8 or governmental unit is immune from civil liability for the death of or injury to an individual  
9 caused by the qualified food donated or sold by the person.

10          **SECTION 3.** 895.51 (2m) of the statutes is created to read:

11          895.51 (2m) Any person engaged in the manufacturing, distribution, or sale of  
12 household products, for profit or not for profit, who donates or sells, at a price not to exceed  
13 overhead and transportation costs, household products to a charitable organization or  
14 governmental unit in response to a state of emergency declared under s. 166.03 (1) (b) 1. or  
15 166.23 is immune from civil liability for the death of or injury to an individual caused by the  
16 household product donated or sold by the person. In this subsection, “household products”  
17 includes flashlights, generators, blankets, and personal care products.

**COMMENT:** The committee should consider whether a more precise  
definition of “household products” can be drafted or whether more  
examples can be included in the definition.

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

19          895.51 (3m) Any charitable organization that distributes free of charge household  
20 products received under sub. (2m) is immune from civil liability for the death of or injury to  
21 an individual caused by the household product distributed by the charitable organization.

22          **SECTION 5. Initial applicability.**

