

2007 BILL

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

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill 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 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.

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This bill also creates new immunity provisions to cover donating or selling, at a price not to exceed overhead and transportation costs, emergency 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 emergency household products free of charge.

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; donation, sale, or distribution.**

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

5 895.51 (1) (bm) “Emergency household products” includes flashlights,
6 generators, blankets, personal care products, household cleaning products, and
7 emergency supplies.

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

9 895.51 (1) (dm) “Governmental unit” means the United States; the state; any
10 county, city, village, or town; any political subdivision, department, division, board,
11 or agency of the United States, the state, or any county, city, village, or town; or any
12 federally recognized American Indian tribe or band in this state or an agency of the
13 tribe or band.

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

15 895.51 (2) Any person engaged in the processing, distribution, or sale of food
16 products, for profit or not for profit, who donates or sells, at a price not to exceed
17 overhead and transportation costs, qualified food to a charitable organization or, food
18 distribution service, or governmental unit is immune from civil liability for the death
19 of or injury to an individual caused by the qualified food donated or sold by the
20 person.

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

