



Testimony in Opposition to Assembly Bill 897

January 11, 2023

Chairman Callahan and Members of the Assembly Committee on Consumer Protection,

Thank you for the opportunity to submit testimony on Assembly Bill 897. My name is Kyle Koenen and I am the Policy Director at the Wisconsin Institute for Law & Liberty (WILL), a law and policy center based out of Milwaukee. Part of WILL's mission is a commitment to free markets that allow for private enterprise, entrepreneurship and voluntary exchange within the rule of law. For that reason, WILL opposes Assembly Bill 897 as written.

Prior to 2017, Wisconsin's cottage food producers faced restrictions, prohibiting the sale of baked goods without obtaining an expensive license and commercial-grade kitchen. The Institute for Justice, representing cottage food producers, successfully challenged this law, asserting its arbitrariness and lack of necessity for consumer health and welfare protection. The court concurred, declaring the law unconstitutional and liberating home bakers from unnecessary government interference.

Regrettably, Assembly Bill 897 would take Wisconsin in the opposite direction, introducing additional barriers for entrepreneurs. The bill would introduce a \$20,000 gross sales cap on all cottage foods, positioning Wisconsin as one of the most restrictive states for cottage food producers. Currently, 29 states do not impose sales caps on cottage food, including many of our neighbors in the upper Midwest. Even among those with caps, Wisconsin's proposed limit would be among the lowest in the nation. In contrast, neighboring Minnesota recently increased its sales cap from \$18,000 to \$78,000, while Florida maintains a \$250,000 sales cap. Considering escalating food costs, a \$20,000 cap would significantly curtail any worthwhile profits for these small business owners.

Advocates of this legislation may argue its necessity for public health protection. However, evidence contradicts this claim, as cottage foods, particularly baked goods, present minimal safety risks to consumers. A comprehensive study by the Institute for Justice examined seven states with broad homemade food laws, encompassing not only shelf-stable foods but also perishable items like tamales, pizza, and sandwiches. The findings revealed zero complaints or confirmed cases of foodborne illness attributable to homemade food.

To position Wisconsin as a state open for business, it is imperative that we refrain from imposing undue challenges on small entrepreneurs striving to sustain their livelihoods. These individuals, who have perfected their crafts and showcase their products at farmers markets and events across the state, should not be cast as adversaries. As consumer preferences evolve, we should not employ the full weight of government to impede competition that is actively meeting market demands.

In conclusion, we request the committee to consider rejecting AB 897. Alternatively, we respectfully propose amending the bill to eliminate any restrictions on sales. This approach will not only foster a more conducive environment for small businesses but also ensure that Wisconsin remains a welcoming hub for aspiring entrepreneurs. Thank you for your attention to this matter.