

State of Wisconsin



2003 Senate Bill 223

Date of enactment: **March 15, 2004**
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2003 WISCONSIN ACT 148

AN ACT *to create* 895.049 and 901.053 of the statutes; **relating to:** the reduction and recovery of damages and admissibility of evidence in civil actions related to use or nonuse of protective headgear by operators and passengers of motorcycles, all-terrain vehicles, and snowmobiles.

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

SECTION 1. 895.049 of the statutes is created to read:

895.049 Recovery by a person who fails to use protective headgear while operating certain motor vehicles. Notwithstanding s. 895.045, failure by a person who operates or is a passenger on a motorcycle, as defined in s. 340.01 (32), an all-terrain vehicle, as defined in s. 340.01 (2g), or a snowmobile, as defined in s. 340.01 (58a), on or off a highway, to use protective headgear shall not reduce recovery for injuries or damages by the person or the person's legal representative in any civil action. This section does not apply to any person required to wear protective headgear under s. 23.33 (3g) or 347.485 (1).

SECTION 2. 901.053 of the statutes is created to read:

901.053 Admissibility of evidence relating to use of protective headgear while operating certain motor

vehicles. Evidence of use or nonuse of protective headgear by a person, other than a person required to wear protective headgear under s. 23.33 (3g) or 347.485 (1), who operates or is a passenger on a motorcycle, as defined in s. 340.01 (32), an all-terrain vehicle, as defined in s. 340.01 (2g), or a snowmobile, as defined in s. 340.01 (58a), on or off a highway, is not admissible in any civil action for personal injury or property damage. This section does not apply to the introduction of such evidence in a civil action against the manufacturer or producer of the protective headgear arising out of any alleged deficiency or defect in the design or manufacture of the protective headgear or, with respect to such use of protective headgear, in a civil action on the sole issue of whether the protective headgear contributed to the personal injury or property damage incurred by another person.

SECTION 3. Initial applicability.

(1) This act first applies to actions commenced on the effective date of this subsection.

* Section 991.11, WISCONSIN STATUTES 2001-02 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].