

## 2003 SENATE BILL 223

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.

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*Analysis by the Legislative Reference Bureau*

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

1           **SECTION 1.** 895.049 of the statutes is created to read:  
2           **895.049 Recovery by a person who fails to use protective headgear**  
3 **while operating certain motor vehicles.** Notwithstanding s. 895.045, failure by  
4 a person who operates or is a passenger on a motorcycle, as defined in s. 340.01 (32),  
5 an all-terrain vehicle, as defined in s. 340.01 (2g), or a snowmobile, as defined in s.  
6 340.01 (58a), on or off a highway, to use protective headgear shall not reduce recovery

**SENATE BILL 223****SECTION 1**

1 for injuries or damages by the person or the person's legal representative in any civil  
2 action. This section does not apply to any person required to wear protective  
3 headgear under s. 23.33 (3g) or 347.485 (1).

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

5 **901.053 Admissibility of evidence relating to use of protective**  
6 **headgear while operating certain motor vehicles.** Evidence of use or nonuse  
7 of protective headgear by a person, other than a person required to wear protective  
8 headgear under s. 23.33 (3g) or 347.485 (1), who operates or is a passenger on a  
9 motorcycle, as defined in s. 340.01 (32), an all-terrain vehicle, as defined in s. 340.01  
10 (2g), or a snowmobile, as defined in s. 340.01 (58a), on or off a highway, is not  
11 admissible in any civil action for personal injury or property damage. This section  
12 does not apply to the introduction of such evidence in a civil action against the  
13 manufacturer or producer of the protective headgear arising out of any alleged  
14 deficiency or defect in the design or manufacture of the protective headgear or, with  
15 respect to such use of protective headgear, in a civil action on the sole issue of whether  
16 the protective headgear contributed to the personal injury or property damage  
17 incurred by another person.

18 **SECTION 3. Initial applicability.**

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

21 (END)