



## Wis. man has little recourse after highway mishap

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A Wisconsin man who was blinded in one eye after a chunk of concrete flew through his windshield last spring isn't finding many avenues for recourse.

That's because of the state's "pothole-liability law," which took effect two weeks earlier. The law makes it harder for drivers to sue local governments for most damages or injuries resulting from highway defects, according to a Capital Times report ( <http://bit.ly/TDvsnX>).

If Kevin Droz, 51, had been injured before the law went into effect he could have filed a claim for up to \$50,000. But the accident happened 13 days afterward, leaving him with substantially fewer options.

A \$50,000 award is "still peanuts but it's something," Droz said. "My medical bills are well beyond that amount now."

The law was pushed by two Republican lawmakers: state Sen. Glenn Grothman of West Bend and state Rep. Andre Jacques of De Pere. Neither returned messages left Friday by the newspaper, but Jacques's website said the \$50,000 would be better spent fixing roads than enriching trial lawyers.

He called the measure "a basic fairness issue." He said on his website that most drivers leave the scene, making it difficult to connect any damage to a specific road defect. He also said the measure wouldn't apply to instances of "egregious negligence" such as a bridge failure.

Droz isn't exactly sure what happened in his case. He does know he was driving April 17 when a softball-size piece of concrete crashed through his windshield, hitting him in the head and opening a deep gash in the left side of his head.

Somehow he drove himself to a hospital 20 miles away. Doctors inserted a titanium plate in his head to compensate for a skull fracture, and he lost sight in his left eye.

"When I got out of the hospital all I did was sleep for a month," Droz said. "I'm an emotional wreck. Everything has changed in a big way."

He began studying his legal options but found his efforts stymied. He discovered the pothole-liability law gives presumptive immunity to counties, cities, towns, and villages for most damages or injuries resulting from highway defects.

The only way people can sue and win is by overcoming the law's immunity clause, which is challenging, according to personal injury lawyer Ann Jacobs. To overcome the clause claimants have to prove the government body violated a specific duty to remove a known danger.

"It is possible to overcome the immunity provisions but it is under really unusual circumstances,"

said Jacobs, a spokeswoman for the Wisconsin Association of Justice, which lobbied against the legislation. "That means we, the travelers and users of roads, have lost the right to bring a claim against the people entrusted with the care and maintenance of roads."

Local governments pushed for the new law for years. Entities who lobbied for the bill included Dane, Waukesha and Rock counties, along with the city of Milwaukee, the Wisconsin Towns Association and the Wisconsin Counties Association.

Supporters argued that the measure could save money, ensuring that limited funds were spent to fix roads for the benefit of all taxpayers.

But Gregory Wright, Droz's attorney, thinks the Legislature simply undercut the ability of innocent victims to seek fair compensation.

"We have our work cut out for us," Wright said.

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Information from: The Capital Times, <http://www.madison.com/tct>