



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-5602/1
ZDW:amn

2023 ASSEMBLY BILL 1039

February 1, 2024 - Introduced by Representatives MURSAU, EDMING, O'CONNOR, OLDENBURG, SCHMIDT and TRANEL, cosponsored by Senators MARKLEIN, BALLWEG, COWLES, JAMES and TESTIN. Referred to Committee on Sporting Heritage.

1 **AN ACT** *to repeal* 23.33 (11) (am) 3. c.; *to renumber* 23.33 (1) (ja), 23.33 (1) (jc),
2 23.33 (1) (jd) and 23.33 (1) (je); *to renumber and amend* 23.33 (11m); *to*
3 **amend** 23.33 (3) (a), 23.33 (4) (d) 3. b., 23.33 (11) (am) 3. (intro.), 23.33 (11) (am)
4 4., 340.01 (3) (a), 340.01 (3) (b), 340.01 (3) (c), 340.01 (3) (d), 340.01 (3) (dg),
5 340.01 (3) (dh) and 340.01 (3) (dm) (intro.); and *to create* 23.33 (1) (jb), 23.33
6 (1) (jf), 23.33 (1) (jg), 23.33 (1) (jh), 23.33 (4) (d) 8., 23.33 (11m) (b), 23.33 (13) (g)
7 and 340.01 (37r) of the statutes; **relating to:** operation of all-terrain and utility
8 terrain vehicles, off-highway motorcycles, and snowmobiles and revision of the
9 Department of Transportation highway maintenance manual.

Analysis by the Legislative Reference Bureau

This bill makes numerous changes to laws relating to all-terrain vehicles (ATVs), utility terrain vehicles (UTVs), off-highway motorcycles (OHMs), and snowmobiles.

Careless operation of an ATV or UTV

Current law prohibits a person from operating an ATV or UTV in any careless way that endangers the person or property of another. The bill prohibits a person from operating an ATV or UTV in any careless, reckless, or negligent manner so as

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to impair the life, person, or property of another. Under the bill, for a violation of this prohibition that results in impairment of the property of another, the court may hold the defendant liable for treble damages, to be recovered by the person responsible for maintenance of the property, and may order the defendant to restore, rebuild, repair, or replace the property.

ATV and UTV operation on bridges

Under current law generally, a person may not operate an ATV or UTV on a highway. However, a person may operate an ATV or UTV on the shoulder or roadway of a highway to cross a bridge that is no more than 1,000 feet long if the operation complies with a local ordinance that applies to the bridge. Current law requires that such an ordinance requires a person to stop his or her ATV or UTV before crossing the bridge. The bill eliminates the 1,000-foot limitation and the requirement that a person stop before crossing the bridge.

Ordinances authorizing ATV and UTV operation on highways

Under current law, a city, village, or town (municipality) may enact an ordinance to authorize the operation of ATVs and UTVs on a highway with a speed limit of 35 miles per hour or less that is located within the territorial boundaries of the municipality, regardless of whether the municipality has jurisdiction over the highway. The bill eliminates the requirement that the highway have a speed limit of 35 miles per hour or less.

Emergency operation of ATVs and UTVs

The bill provides that ATVs and UTVs may be operated on any roadway if the operation is for emergency purposes during a period of emergency declared by the governmental agency having jurisdiction over the roadway.

Authorized emergency vehicles

Under current law, “authorized emergency vehicle” is defined to include vehicles operated by various entities, such as law enforcement officers, fire departments, conservation wardens, and ambulance services. The bill expands the definition of “authorized emergency vehicle” to include ATVs, UTVs, and snowmobiles operated by these same entities and to include off-highway motorcycles operated by law enforcement officers and conservation wardens.

Patrol vehicles

The bill creates definitions for “patrol all-terrain vehicle,” “patrol utility terrain vehicle,” “patrol off-highway motorcycle,” and “patrol snowmobile,” which are ATVs, UTVs, OHMs, and snowmobiles that are owned or leased by a city, village, town, county, state agency, federal agency, federally recognized American Indian tribe, or public safety corporation, used for law enforcement, fire fighting, or emergency medical response, and equipped with required sirens and lights. The bill exempts patrol ATVs, UTVs, OHMs, and snowmobiles from certain operation limitations such speed and proximity to highways while responding to emergencies or violations of the law, subject to specified use of sirens and lights.

Revision to highway maintenance manual

Under current law, no state trunk highway or connecting highway may be designated as an ATV route without DOT approval. DOT standards for ATV route

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approval are detailed in DOT's Highway Maintenance Manual (HMM), which includes policies, technical information, administrative direction, and operational information for administration of DOT's highway maintenance program. The HMM currently provides that requests for ATV routes or trails to use short segments of state trunk highways for the purpose of connecting to businesses may not be approved. The bill requires DOT to revise the HMM to remove these provisions.

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

1 **SECTION 1.** 23.33 (1) (ja) of the statutes is renumbered 23.33 (1) (ji).

2 **SECTION 2.** 23.33 (1) (jb) of the statutes is created to read:

3 23.33 (1) (jb) "Patrol all-terrain vehicle" means an all-terrain vehicle that is
4 owned or leased by a city, village, town, county, state agency, federal agency, federally
5 recognized American Indian tribe, or public safety corporation, used for law
6 enforcement, fire fighting, or emergency medical response, and equipped with a siren
7 and one or more flashing, oscillating, or rotating red lights, or red and white lights
8 or, if the all-terrain vehicle is operated by a law enforcement officer, a blue light or
9 a blue and white light, and a red light or a red and white light, all of which are
10 flashing, oscillating, or rotating.

11 **SECTION 3.** 23.33 (1) (jc) of the statutes is renumbered 23.33 (1) (jj).

12 **SECTION 4.** 23.33 (1) (jd) of the statutes is renumbered 23.33 (1) (jk).

13 **SECTION 5.** 23.33 (1) (je) of the statutes is renumbered 23.33 (1) (jL).

14 **SECTION 6.** 23.33 (1) (jf) of the statutes is created to read:

15 23.33 (1) (jf) "Patrol off-highway motorcycle" means an off-highway
16 motorcycle, as defined in s. 23.335 (1) (q), that is owned or leased by a city, village,
17 town, county, state agency, federal agency, federally recognized American Indian
18 tribe, or public safety corporation, used for law enforcement, fire fighting, or
19 emergency medical response, and equipped with a siren and one or more flashing,

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1 oscillating, or rotating red lights, or red and white lights or, if the off-highway
2 motorcycle is operated by a law enforcement officer, a blue light or a blue and white
3 light, and a red light or a red and white light, all of which are flashing, oscillating,
4 or rotating.

5 **SECTION 7.** 23.33 (1) (jg) of the statutes is created to read:

6 23.33 (1) (jg) "Patrol snowmobile" means a snowmobile, as defined in s. 340.01
7 (58a), that is owned or leased by a city, village, town, county, state agency, federal
8 agency, federally recognized American Indian tribe, or public safety corporation,
9 used for law enforcement, fire fighting, or emergency medical response, and
10 equipped with a siren and one or more flashing, oscillating, or rotating red lights, or
11 red and white lights or, if the snowmobile is operated by a law enforcement officer,
12 a blue light or a blue and white light, and a red light or a red and white light, all of
13 which are flashing, oscillating, or rotating.

14 **SECTION 8.** 23.33 (1) (jh) of the statutes is created to read:

15 23.33 (1) (jh) "Patrol utility terrain vehicle" means a utility terrain vehicle that
16 is owned or leased by a city, village, town, county, state agency, federal agency,
17 federally recognized American Indian tribe, or public safety corporation, used for law
18 enforcement, fire fighting, or emergency medical response, and equipped with a siren
19 and one or more flashing, oscillating, or rotating red lights, or red and white lights
20 or, if the utility terrain vehicle is operated by a law enforcement officer, a blue light
21 or a blue and white light, and a red light or a red and white light, all of which are
22 flashing, oscillating, or rotating.

23 **SECTION 9.** 23.33 (3) (a) of the statutes is amended to read:

24 23.33 (3) (a) In any careless way, reckless, or negligent manner so as to
25 endanger impair the life, person, or property of another.

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1 **SECTION 10.** 23.33 (4) (d) 3. b. of the statutes is amended to read:

2 23.33 (4) (d) 3. b. A person may operate an all-terrain vehicle or utility terrain
3 vehicle on the roadway or shoulder of any highway to cross a bridge that is 1,000 feet
4 in length or less if the operation is in compliance with a county ordinance adopted
5 under sub. (11) (am) 3. that applies to that bridge and a city, village, or town
6 ordinance adopted under sub. (11) (am) 3. that applies to that bridge.

7 **SECTION 11.** 23.33 (4) (d) 8. of the statutes is created to read:

8 23.33 (4) (d) 8. On any roadway if the operation is for emergency purposes
9 during a period of emergency declared by the governmental agency having
10 jurisdiction over the roadway.

11 **SECTION 12.** 23.33 (11) (am) 3. (intro.) of the statutes is amended to read:

12 23.33 (11) (am) 3. (intro.) A county, city, village, or town may enact an ordinance
13 to authorize the operation of all-terrain vehicles and utility terrain vehicles on a
14 highway bridge that is not part of the national system of interstate and defense
15 highways, that is 1,000 feet in length or less, and that is located within the territorial
16 boundaries of the county, city, village, or town regardless of whether the county, city,
17 village, or town has jurisdiction over the highway. Any such ordinance shall require
18 a person crossing a bridge to do all of the following:

19 **SECTION 13.** 23.33 (11) (am) 3. c. of the statutes is repealed.

20 **SECTION 14.** 23.33 (11) (am) 4. of the statutes is amended to read:

21 23.33 (11) (am) 4. A city, village, or town may enact an ordinance to authorize
22 the operation of all-terrain vehicles and utility terrain vehicles on a highway that
23 is not part of the national system of interstate and defense highways, that has a
24 speed limit of 35 miles per hour or less, and that is located within the territorial

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1 boundaries of the city, village, or town regardless of whether the city, village, or town
2 has jurisdiction over the highway.

3 **SECTION 15.** 23.33 (11m) of the statutes is renumbered 23.33 (11m) (a) and
4 amended to read:

5 23.33 **(11m)** (a) Subsections (3) (em), (6) (cd), (ch), (cp), and (i), and (6r) do not
6 apply to the operator of an all-terrain vehicle or utility terrain vehicle owned or
7 leased by a city, village, town, county, state agency, federal agency, federally
8 recognized American Indian tribe, public safety corporation, or public utility while
9 the operator is engaged in an emergency or in the pursuit of an actual or suspected
10 violator of the law.

11 **SECTION 16.** 23.33 (11m) (b) of the statutes is created to read:

12 23.33 **(11m)** (b) 1. Subject to subds. 2. to 5., sub. (3) (g), (gm), (h), and (ht) do
13 not apply to the operator of a patrol all-terrain vehicle, a patrol utility terrain
14 vehicle, a patrol off-highway motorcycle, or a patrol snowmobile when responding
15 to an emergency call, engaged in an emergency, or in the pursuit of an actual or
16 suspected violator of the law.

17 2. Except as provided in subd. 3., par. (a) applies only if the operator of a patrol
18 all-terrain vehicle, a patrol utility terrain vehicle, a patrol off-highway motorcycle,
19 or a patrol snowmobile is giving an audible signal by means of a siren and a visual
20 signal by means of at least one flashing, oscillating, or rotating red light or, if the
21 patrol all-terrain vehicle, patrol utility terrain vehicle, patrol off-highway
22 motorcycle, or patrol snowmobile is being operated by a law enforcement officer, a
23 blue light and a red light, both of which are flashing, oscillating, or rotating.

24 3. A law enforcement officer operating a patrol all-terrain vehicle, a patrol
25 utility terrain vehicle, a patrol off-highway motorcycle, or a patrol snowmobile may

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1 exceed a speed limit without giving audible or visual signals if the officer is obtaining
2 evidence of a speed violation or responding to what the officer reasonably believes
3 is a felony in progress and the officer reasonably believes any of the following:

4 a. Knowledge of the officer's presence may endanger the safety of a victim or
5 other person.

6 b. Knowledge of the officer's presence may cause the suspected violator to evade
7 apprehension.

8 c. Knowledge of the officer's presence may cause the suspected violator to
9 destroy evidence of a suspected felony or may otherwise result in the loss of evidence
10 of a suspected felony.

11 d. Knowledge of the officer's presence may cause the suspected violator to cease
12 the commission of a suspected felony before the officer obtains sufficient evidence to
13 establish grounds for arrest.

14 4. The operator of a patrol all-terrain vehicle, a patrol utility terrain vehicle,
15 a patrol off-highway motorcycle, or a patrol snowmobile may proceed past a red light,
16 stop signal, or stop sign but only after slowing down as necessary for safe operation.

17 5. The privileges granted to the operator of a patrol all-terrain vehicle, a patrol
18 utility terrain vehicle, a patrol off-highway motorcycle, or a patrol snowmobile
19 under this paragraph do not relieve the operator from the duty to drive or ride with
20 due regard under the circumstances for the safety of all persons or provide immunity
21 from liability from the consequences of the operator's reckless disregard for the
22 safety of others.

23 **SECTION 17.** 23.33 (13) (g) of the statutes is created to read:

24 23.33 (13) (g) *Penalties related to operation causing impairment of property.*

25 In addition to any other penalty, for a violation of sub. (3) (a) that results in

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1 impairment of the property of another, the court may hold the defendant liable for
2 treble damages, to be recovered by the person responsible for maintenance of the
3 property, and may order the defendant to restore, rebuild, repair, or replace the
4 property.

5 **SECTION 18.** 340.01 (3) (a) of the statutes is amended to read:

6 340.01 (3) (a) Police vehicles, whether publicly or privately owned, including
7 all-terrain vehicles, utility terrain vehicles, off-highway motorcycles, snowmobiles,
8 and bicycles being operated by law enforcement officers.

9 **SECTION 19.** 340.01 (3) (b) of the statutes is amended to read:

10 340.01 (3) (b) Conservation wardens' vehicles, including all-terrain vehicles,
11 utility terrain vehicles, off-highway motorcycles, and snowmobiles, foresters'
12 trucks, or vehicles used by commission wardens, whether publicly or privately
13 owned.

14 **SECTION 20.** 340.01 (3) (c) of the statutes is amended to read:

15 340.01 (3) (c) Vehicles, including all-terrain vehicles, utility terrain vehicles,
16 and snowmobiles, of a fire department or fire patrol.

17 **SECTION 21.** 340.01 (3) (d) of the statutes is amended to read:

18 340.01 (3) (d) Privately owned motor vehicles, including all-terrain vehicles,
19 utility terrain vehicles, and snowmobiles, being used by deputy state fire marshals
20 or by personnel of a full-time or part-time fire department or by members of a
21 volunteer fire department while en route to a fire or on an emergency call pursuant
22 to orders of their chief or other commanding officer.

23 **SECTION 22.** 340.01 (3) (dg) of the statutes is amended to read:

24 340.01 (3) (dg) Privately owned motor vehicles, including all-terrain vehicles,
25 utility terrain vehicles, and snowmobiles, being used by an organ procurement

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1 organization, or by any person under an agreement with an organ procurement
2 organization, to transport organs for human transplantation or to transport medical
3 personnel for the purpose of performing human organ harvesting or transplantation
4 immediately after the transportation.

5 **SECTION 23.** 340.01 (3) (dh) of the statutes is amended to read:

6 340.01 (3) (dh) Privately owned motor vehicles, including all-terrain vehicles,
7 utility terrain vehicles, and snowmobiles, being operated in the course of a business
8 and being used, in response to an emergency call from a treating physician or his or
9 her designee declaring the transportation to be an emergency, to transport medical
10 devices or equipment to a hospital or ambulatory surgery center, or to pick up
11 medical devices or equipment for immediate transportation to a hospital or
12 ambulatory surgery center, if the medical devices or equipment are to be used for
13 human implantation or for urgent medical treatment immediately after the
14 transportation.

15 **SECTION 24.** 340.01 (3) (dm) (intro.) of the statutes is amended to read:

16 340.01 (3) (dm) (intro.) Privately owned motor vehicles, including all-terrain
17 vehicles, utility terrain vehicles, and snowmobiles, that are all of the following:

18 **SECTION 25.** 340.01 (37r) of the statutes is created to read:

19 340.01 (37r) “Off-highway motorcycle” has the meaning given in s. 23.335 (1)
20 (q).

21 **SECTION 26. Nonstatutory provisions.**

22 (1) The department of transportation shall revise the department’s highway
23 maintenance manual to eliminate the provisions that an all-terrain vehicle route or

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SECTION 26

1 trail request be disallowed for a short state trunk highway segment to connect a local
2 route, trail, or crossing to a gas station, grocery store, bar, or other business.

3 (END)