



2013 ASSEMBLY BILL 527

November 22, 2013 - Introduced by Representatives MURSAU, RIPP, A. OTT, BIES, KAUFERT, CZAJA, MARKLEIN, KAPENGA, WEATHERSTON, T. LARSON, LEMAHIEU and WRIGHT, cosponsored by Senators PETROWSKI, GUDEx and GROTHMAN. Referred to Committee on Transportation.

1 **AN ACT to amend** 23.33 (4) (b), 23.33 (5) (a) 5., 23.33 (11) (am) 1., 23.33 (11) (b),
2 23.50 (1), 23.50 (3), 23.53 (1), 23.56 (1), 23.57 (1) (intro.), 23.58, 23.62 (1) (intro.)
3 and 800.02 (2) (b); and **to create** 23.33 (1) (fg), 23.33 (1) (ii), 23.33 (4) (g) and
4 23.33 (11g) of the statutes; **relating to:** the operation of all-terrain vehicles
5 and utility terrain vehicles on highways for the purpose of certain types of
6 access and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, a person may operate an all-terrain vehicle (ATV) or utility terrain vehicle (UTV) on the roadway of a highway, street, or road only in certain limited circumstances. This bill specifically authorizes the operation of an ATV or UTV by an operator who is at least 16 years old on a portion of a roadway and shoulder of a highway, street, or road if the highway, street, or road is within the territorial boundaries of a county, city, village, or town (municipality) that has enacted an ordinance allowing the operation of an ATV or UTV on that roadway and shoulder for the purpose of traveling between an ATV trail or route and a filling station, a residence, or a lodging establishment, including a campground. For UTVs, a city, village, or town must have authorized the operation of UTVs on the ATV route or trail for which UTV access is being allowed. A municipality may not enact an ordinance opening a highway for ATV and UTV access to and from a lodging establishment unless it has also enacted an ordinance opening a highway for ATV and UTV access to and from residences.

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Under the bill, for a state trunk highway (STH), the portion of the highway that may be open for UTV or ATV access must be the shortest distance between the residence, lodging establishment, or filling station and the ATV route or trail. For distances on a STH that are more than one-quarter mile, the Department of Transportation (DOT) must approve the access. For distances on a STH that are one-quarter mile or less, a municipality may enact an ATV or UTV access ordinance unless the portion of the STH to be affected has been closed to ATVs or UTVs based on DOT's finding that it is unsafe to operate ATVs or UTVs on that portion of the STH. For any highway other than a STH, the distance open for ATV or UTV access may not be more than five miles.

The bill prohibits a municipality from enacting an ordinance that allows the operation of ATVs or UTVs for residential, lodging or fueling access on the roadway or shoulder of any freeway or interstate highway and on any highway that is located in a state park or state forest if ATV or UTV operation is prohibited in the park or forest. Under the bill, an access ordinance must impose a speed limit of 25 miles per hour and must require that the ATV be operated as far on the right as possible.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

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

2 23.33 (1) (fg) "Fueling station" means a means a place where fuel that is used
3 in all-terrain vehicles is sold at retail.

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

5 23.33 (1) (ii) "Lodging establishment" means any of the following:

6 1. A bed and breakfast establishment, as defined in s. 254.61 (1).

7 2. A hotel, as defined in s. 254.61 (3).

8 3. A tourist rooming house, as defined in s. 254.61 (6).

9 4. A campground.

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

11 23.33 (4) (b) *Other highways; operation restricted.* No person may operate an
12 all-terrain vehicle or utility terrain vehicle on a highway except as authorized under

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1 pars. (d), (e), and (f), and (g) and sub. subs. (11) (am) 2. and (11g) or as authorized by
2 rules promulgated by the department and approved by the department of
3 transportation.

4 **SECTION 4.** 23.33 (4) (g) of the statutes is created to read:

5 23.33 (4) (g) *Operation for purpose of access.* A person may operate an
6 all-terrain vehicle or utility terrain vehicle on a portion of the roadway or shoulder
7 of a highway for the purpose of residential access or for the purpose of access to and
8 from a lodging establishment or fueling station if the operation is in compliance with
9 an ordinance enacted under sub. (11g).

10 **SECTION 5.** 23.33 (5) (a) 5. of the statutes, as affected by 2013 Wisconsin Act 15,
11 is amended to read:

12 23.33 (5) (a) 5. No person who is under 16 years of age may operate an
13 all-terrain vehicle under the authorization provided under sub. (4) (f) or (g) under
14 any circumstances.

15 **SECTION 6.** 23.33 (11) (am) 1. of the statutes is amended to read:

16 23.33 (11) (am) 1. Any county, town, city or village may enact an ordinance
17 ~~which~~ that is in strict conformity with this section and rules promulgated by the
18 department under this section, if the ordinance encompasses all aspects
19 encompassed by this section, except as provided in subd. 2. and sub. (11g).

20 **SECTION 7.** 23.33 (11) (b) of the statutes is amended to read:

21 23.33 (11) (b) If a county, town, city, or village adopts an ordinance regulating
22 all-terrain vehicles, utility terrain vehicles, or both, its clerk shall immediately send
23 a copy of the ordinance to the department, to the state traffic patrol, and to the office
24 of any law enforcement agency of the ~~municipality or county~~, town, city, or village

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1 having jurisdiction over any ~~highway designated as an all-terrain vehicle route of~~
2 the highways to which the ordinance is applicable.

3 **SECTION 8.** 23.33 (11g) of the statutes is created to read:

4 23.33 **(11g)** ORDINANCES FOR ACCESS TO RESIDENCES, LODGING, AND FUELING. (a)

5 *Definition.* In this subsection, “municipality” means a county, town, city, or village.

6 (b) *On state trunk highways.* 1. Subject to subds. 4. and 5. and pars. (d) and
7 (e), a municipality may enact an ordinance allowing the operation of all-terrain
8 vehicles or utility terrain vehicles on a roadway and shoulder of a state trunk
9 highway for any portion of the highway that is within the territorial boundaries of
10 the municipality for the purpose of traveling the shortest distance that is necessary
11 to go between a residence and any of the following:

12 a. With respect to all-terrain vehicles, the all-terrain vehicle route or
13 all-terrain vehicle trail that is closest to the residence.

14 b. With respect to utility terrain vehicles, the all-terrain vehicle route or
15 all-terrain vehicle trail that is closest to the residence or fueling station and on which
16 utility terrain vehicles have been authorized to operate under sub. (1m) (b).

17 2. If a municipality enacts or has in effect an ordinance enacted under subd.
18 1., that allows travel to and from residences and subject to subds. 4. and 5. and pars.
19 (d) and (e), a municipality may enact an ordinance allowing the operation of
20 all-terrain vehicles or utility terrain vehicles on a roadway and shoulder of a state
21 trunk highway for any portion of the highway that is within the territorial
22 boundaries of the municipality for the purpose of traveling the shortest distance that
23 is necessary to go between a lodging establishment and either of the following:

24 a. With respect to all-terrain vehicles, the all-terrain vehicle route or
25 all-terrain vehicle trail that is closest to the lodging establishment.

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1 b. With respect to utility terrain vehicles, the all-terrain vehicle route or
2 all-terrain vehicle trail that is closest to the lodging establishment and on which
3 utility terrain vehicles have been authorized to operate under sub. (1m) (b).

4 3. Subject to subds. 4. and 5. and pars. (d) and (e), a municipality may enact
5 an ordinance allowing the operation of all-terrain vehicles or utility terrain vehicles
6 on a roadway and shoulder of a state trunk highway for any portion of the highway
7 that is within the territorial boundaries of the municipality for the purpose of
8 traveling the shortest distance that is necessary to go between a fueling station and
9 any of the following:

10 a. With respect to all-terrain vehicles, the all-terrain vehicle route or
11 all-terrain vehicle trail that is closest to the fueling station.

12 b. With respect to utility terrain vehicles, the all-terrain vehicle route or
13 all-terrain vehicle trail that is closest to the fueling station and on which utility
14 terrain vehicles have been authorized to operate under sub. (1m) (b).

15 4. A county or town may not enact an ordinance under subd. 1., 2., or 3. that
16 will allow the operation of all-terrain vehicles or utility terrain vehicles on a roadway
17 and shoulder of a portion of a state trunk highway that is more than one-quarter
18 mile in length unless the county or town has first received specific authorization from
19 the department of transportation to allow the operation of all-terrain vehicles or
20 utility terrain vehicles on the roadway and shoulder of that portion of the state trunk
21 highway.

22 5. A county or town may enact an ordinance under subd. 1., 2., or 3. that will
23 allow the operation of all-terrain vehicles or utility terrain vehicles on a roadway
24 and shoulder of a portion of a state trunk highway that is one-quarter mile in length
25 or less if the operation of all-terrain vehicles or utility terrain vehicles on the

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1 roadway and shoulder has not been prohibited by rule by the department of
2 transportation based on a finding by the department of transportation that such
3 operation is unsafe.

4 (c) *On other highways.* 1. Subject to pars. (d) and (e), a municipality may enact
5 an ordinance allowing the operation of all-terrain vehicles or utility terrain vehicles
6 on a roadway and shoulder of a highway that is not a state trunk highway for any
7 portion of the highway that is within the territorial boundaries of the municipality
8 for the purpose of traveling a distance of not more than 5 miles to go between a
9 residence and either of the following:

10 a. With respect to all-terrain vehicles, the all-terrain vehicle route or
11 all-terrain vehicle trail that is closest to the residence.

12 b. With respect to utility terrain vehicles, the all-terrain vehicle route or
13 all-terrain vehicle trail that is closest to the residence and on which utility terrain
14 vehicles have been authorized to operate under sub. (1m) (b).

15 2. If a municipality enacts or has in effect an ordinance enacted under subd.
16 1., and subject to pars. (d) and (e), the municipality may enact an ordinance allowing
17 the operation of all-terrain vehicles or utility terrain vehicles on a roadway and
18 shoulder of a highway that is not a state trunk highway for any portion of the
19 highway that is within the territorial boundaries of the municipality for the purpose
20 of traveling a distance of not more than 5 miles to go between a lodging establishment
21 and either of the following:

22 a. With respect to all-terrain vehicles, the all-terrain vehicle route or
23 all-terrain vehicle trail that is closest to the lodging establishment.

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1 b. With respect to utility terrain vehicles, the all-terrain vehicle route or
2 all-terrain vehicle trail that is closest to the lodging establishment and on which
3 utility terrain vehicles have been authorized to operate under sub. (1m) (b).

4 3. Subject to pars. (d) and (e), a municipality may enact an ordinance allowing
5 the operation of all-terrain vehicles or utility terrain vehicles on a roadway and
6 shoulder of a highway that is not a state trunk highway for any portion of the
7 highway that is within the territorial boundaries of the municipality for the purpose
8 of traveling a distance of not more than 5 miles to go between a fueling station and
9 either of the following:

10 a. With respect to all-terrain vehicles, the all-terrain vehicle route or
11 all-terrain vehicle trail that is closest to the fueling station.

12 b. With respect to utility terrain vehicles, the all-terrain vehicle route or
13 all-terrain vehicle trail that is closest to the fueling station and on which utility
14 terrain vehicles have been authorized to operate under sub. (1m) (b).

15 (d) *On highways in state parks and forests.* A municipality may not enact an
16 ordinance under par. (b) or (c) that allows the operation of all-terrain vehicles or
17 utility terrain vehicles on roadways or shoulders of highways that are located within
18 a state park or state forest if the operation of all-terrain vehicles or utility terrain
19 vehicles is prohibited within the state park or state forest.

20 (e) *On interstates and freeways.* A municipality may not enact an ordinance
21 under par. (b) or (c) that allows the operation of all-terrain vehicles or utility terrain
22 vehicles on a roadway or shoulder of a freeway that is a part of the federal system
23 of interstate and defense highways or on a roadway or shoulder of any other freeway.

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1 (f) *Speed limits.* An ordinance enacted under par. (b) or (c) shall limit the speed
2 of all-terrain vehicles and utility terrain vehicles being operated as authorized
3 under this subsection to speed limits not in excess of 25 miles per hour.

4 (g) *Right side of roadway.* An ordinance enacted under par. (b) or (c) shall
5 require that the operation of all-terrain vehicles or utility terrain vehicles as
6 authorized under this subsection be as far on the right of the roadway or shoulder
7 as is practicable.

8 (h) *Model ordinances.* The department shall prepare model ordinances as
9 examples of ordinances that a municipality may enact under this subsection.

10 **SECTION 9.** 23.50 (1) of the statutes is amended to read:

11 23.50 (1) The procedure in ss. 23.50 to 23.85 applies to all actions in circuit
12 court to recover forfeitures, plus costs, fees, and surcharges imposed under ch. 814,
13 for violations of ss. 77.09, 90.21, 134.60, 167.10 (3), 167.31 (2), 281.48 (2) to (5),
14 283.33, 285.57 (2), 285.59 (2), (3) (c) and (4), 287.07, 287.08, 287.81 and 299.64 (2),
15 subch. VI of ch. 77, this chapter, and chs. 26 to 31, ch. 169, and ch. 350, and any
16 administrative rules promulgated thereunder, violations specified under s. 280.98
17 (2) or 285.86, violations of ch. 951 if the animal involved is a captive wild animal,
18 violations of rules of the Kickapoo reserve management board under s. 41.41 (7) (k),
19 violations to which s. 299.85 (7) (a) 2. or 4. applies, or violations of local ordinances
20 enacted by any local authority in accordance with s. 23.33 (11) (am) or (11g) or 30.77.

21 **SECTION 10.** 23.50 (3) of the statutes is amended to read:

22 23.50 (3) All actions in municipal court to recover forfeitures, plus costs, fees,
23 and surcharges imposed under ch. 814, for violations of local ordinances enacted by
24 any local authority in accordance with s. 23.33 (11) (am) or (11g) or 30.77 shall utilize
25 the procedure in ch. 800. The actions shall be brought before the municipal court

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1 having jurisdiction. Provisions relating to citations, arrests, questioning, releases,
2 searches, deposits, and stipulations of no contest in ss. 23.51 (1m), (3), and (8), 23.53,
3 23.54, 23.56 to 23.64, 23.66, and 23.67 shall apply to violations of such ordinances.

4 **SECTION 11.** 23.53 (1) of the statutes is amended to read:

5 23.53 (1) The citation created under this section shall, in all actions to recover
6 forfeitures, plus costs, fees, and surcharges imposed under ch. 814, for violations of
7 those statutes enumerated in s. 23.50 (1), any administrative rules promulgated
8 thereunder, and any rule of the Kickapoo reserve management board under s. 41.41
9 (7) (k) be used by any law enforcement officer with authority to enforce those laws,
10 except that the uniform traffic citation created under s. 345.11 may be used by a
11 traffic officer employed under s. 110.07 in enforcing s. 167.31 or by an officer of a law
12 enforcement agency of a municipality or county or a traffic officer employed under
13 s. 110.07 in enforcing s. 287.81. In accordance with s. 345.11 (1m), the citation shall
14 not be used for violations of ch. 350 relating to highway use. The citation may be used
15 for violations of local ordinances enacted by any local authority in accordance with
16 s. 23.33 (11) (am) or (11g) or 30.77.

17 **SECTION 12.** 23.56 (1) of the statutes is amended to read:

18 23.56 (1) A person may be arrested for a violation of those statutes enumerated
19 in s. 23.50 (1), any administrative rules promulgated thereunder, any rule of the
20 Kickapoo reserve management board under s. 41.41 (7) (k), or any local ordinances
21 enacted by any local authority in accordance with s. 23.33 (11) (am) or (11g) or 30.77,
22 after a warrant that substantially complies with s. 968.04 has been issued. Except
23 as provided in sub. (2), the person arrested shall be brought without unreasonable
24 delay before a court having jurisdiction to try the action.

25 **SECTION 13.** 23.57 (1) (intro.) of the statutes is amended to read:

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1 23.57 (1) (intro.) A person may be arrested without a warrant when the
2 arresting officer has probable cause to believe that the person is committing or has
3 committed a violation of those statutes enumerated in s. 23.50 (1), any
4 administrative rules promulgated thereunder, any rule of the Kickapoo reserve
5 management board under s. 41.41 (7) (k), or any local ordinances enacted by any local
6 authority in accordance with s. 23.33 (11) (am) or (11g) or 30.77; and:

7 **SECTION 14.** 23.58 of the statutes is amended to read:

8 **23.58 Temporary questioning without arrest.** After having identified
9 himself or herself as an enforcing officer, an enforcing officer may stop a person in
10 a public place for a reasonable period of time when the officer reasonably suspects
11 that such person is committing, is about to commit or has committed a violation of
12 those statutes enumerated in s. 23.50 (1), any administrative rules promulgated
13 thereunder, any rule of the Kickapoo reserve management board under s. 41.41 (7)
14 (k), or any local ordinances enacted by any local authority in accordance with s. 23.33
15 (11) (am) or (11g) or 30.77. Such a stop may be made only where the enforcing officer
16 has proper authority to make an arrest for such a violation. The officer may demand
17 the name and address of the person and an explanation of the person's conduct. Such
18 detention and temporary questioning shall be conducted in the vicinity where the
19 person was stopped.

20 **SECTION 15.** 23.62 (1) (intro.) of the statutes is amended to read:

21 23.62 (1) (intro.) Whenever an enforcing officer has probable cause to believe
22 that a person subject to his or her authority is committing or has committed a
23 violation of those statutes enumerated in s. 23.50 (1), any administrative rules
24 promulgated thereunder, any rule of the Kickapoo reserve management board under
25 s. 41.41 (7) (k), or any local ordinances enacted by any local authority in accordance

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1 with s. 23.33 (11) (am) or (11g) or 30.77, the officer may proceed in the following
2 manner:

3 **SECTION 16.** 800.02 (2) (b) of the statutes is amended to read:

4 800.02 (2) (b) Except for parking violations, in traffic regulation actions in
5 municipal court, the uniform traffic citation specified in s. 345.11 shall be used in lieu
6 of the citation form specified in par. (ag). In actions for violations of local ordinances
7 enacted in accordance with s. 23.33 (11) (am) or (11g) or 30.77, the citation form
8 specified in s. 23.54 shall be used in lieu of the citation form specified in par. (ag).

9 (END)