

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1965/4dn  
MGG:cjs:jf

Attention Rob:

It is possible that the definition of “vehicle” for purposes of s. 167.31 (2) (b), in current law and as treated in this draft, could be interpreted to exclude ATVs. If that were the case, the prohibition in s. 167.31 (2) (b) would not cover ATVs in the first place. However, for purposes of this draft, it does not matter whether “vehicle” includes ATVs because any “vehicle” subject to the prohibition under s. 167.31 (2) (b) 1. is exempted under s. 167.31 (4g), and, therefore, no additional language is necessary. If you want a further explanation regarding as how the definition of “vehicle” is used in s. 167.30 and the ambiguities caused, let me know.

In light of this issue, please review s. 23.33 (3) (intro.) and (e), and the definition of “operate”, which is used in s. 23.33 (3) (intro.) See. s. 23.33 (1) (ir). The definition of “operate” is very broad and includes the scenario when any of an ATVs controls are activated. This includes, sitting on an ATV with the motor running. If you want the exemption in s. 23.33 (3) to apply when an ATV’s controls are “activated”, additional drafting will be required. Also, it is unclear whether the exemption under s. 167.31 (4g) applies when a vehicle’s motor is running or is in gear because there is no definition of “stationary.” I do not know how, or if, DNR interprets the word “stationary.”

If you wish for me to speak with DNR to find out how they currently interpret these any of the provisions described above, please let me know.

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