

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

LRB-1965/5dn  
MGG:kjf:jf

August 1, 2011

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 (4) (ag) and, therefore, no additional language is necessary. If you want a further explanation regarding 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 may include sitting on an ATV even with the motor not 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 (4) (ag) 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 any of the provisions described above, please let me know.

Mary Gibson-Glass  
Senior Legislative Attorney  
Phone: (608) 267-3215