

2003 Senate Bill 277

Date of enactment: **April 13, 2004**
Date of publication*: **April 27, 2004**

2003 WISCONSIN ACT 251

AN ACT *to amend* 20.370 (1) (ms), 20.370 (5) (cu), 23.33 (1) (if), 23.33 (2) (a), 23.33 (2) (c), 23.33 (2) (d), 23.33 (2) (dm) 2., 23.33 (2) (e), 23.33 (13) (b) (title) and 23.33 (13) (b) 2.; *to repeal and recreate* 23.33 (5) (b); and *to create* 23.33 (2j), 23.33 (6m), 23.33 (13) (ar), 23.33 (13) (bg) and 23.33 (13) (br) of the statutes; **relating to:** intoxicated operation of all-terrain vehicles, registration fees for all-terrain vehicles, nonresident trail passes for all-terrain vehicles, safety training for operating all-terrain vehicles, noise level requirements for all-terrain vehicles, granting rule-making authority, making appropriations, and providing penalties.

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

SECTION 1. 20.370 (1) (ms) of the statutes is amended to read:

20.370 (1) (ms) *General program operations — state all-terrain vehicle projects.* The amounts in the schedule from moneys received from all-terrain vehicle fees under s. 23.33 (2) (c) to (e) and (2j) for state all-terrain vehicle projects.

SECTION 2. 20.370 (5) (cu) of the statutes is amended to read:

20.370 (5) (cu) *Recreation aids — all-terrain vehicle project aids.* As a continuing appropriation, the amounts in the schedule from moneys received from all-terrain vehicle fees under s. 23.33 (2) (c) to (e) and (2j) to provide aid to towns, villages, cities, counties, and federal agencies for nonstate all-terrain vehicle projects.

SECTION 3. 23.33 (1) (if) of the statutes is amended to read:

23.33 (1) (if) “Land under the management and control of a the person’s immediate family” means land owned or leased by the person or a member of the per-

son’s immediate family over which the owner or lessee has management and control. This term excludes land owned or leased by an organization of which the person or a member of the person’s immediate family is a member.

SECTION 4. 23.33 (2) (a) of the statutes is amended to read:

23.33 (2) (a) *Requirement.* No person may operate and no owner may give permission for the operation of an all-terrain vehicle within this state unless the all-terrain vehicle is registered for public use or for private use under this subsection or sub. (2g), is exempt from registration, or is operated with a reflectorized plate attached in the manner specified under par. (dm) 3. No person may operate and no owner may give permission for the operation of an all-terrain vehicle on a ~~public~~ an all-terrain vehicle route or an all-terrain vehicle trail unless the all-terrain vehicle is registered for public use under this subsection or sub. (2g).

SECTION 5. 23.33 (2) (c) of the statutes is amended to read:

23.33 (2) (c) *Registration; public use; fee.* Any all-terrain vehicle may be registered for public use. The fee

* Section 991.11, WISCONSIN STATUTES 2001-02 : Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated” by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

for the issuance or renewal of a registration certificate for public use is ~~\$12~~ \$30.

SECTION 6. 23.33 (2) (d) of the statutes is amended to read:

23.33 (2) (d) *Registration; private use; fee.* An all-terrain vehicle used exclusively for agricultural purposes or used exclusively on private property may be registered for private use. The fee for the issuance of a registration certificate for private use is ~~\$6~~ \$15.

SECTION 7. 23.33 (2) (dm) 2. of the statutes is amended to read:

23.33 (2) (dm) 2. The fee for the issuance or renewal of a commercial all-terrain vehicle certificate is ~~\$36~~ \$90. Upon receipt of the application form required by the department and the fee required under this subdivision, the department shall issue to the applicant a commercial all-terrain vehicle certificate and 3 reflectorized plates. The fee for additional reflectorized plates is ~~\$12~~ \$30 per plate.

SECTION 8. 23.33 (2) (e) of the statutes is amended to read:

23.33 (2) (e) *Other fees.* The fee for the transfer of an all-terrain vehicle registration certificate is ~~\$2~~ \$5. The fee for the issuance of a duplicate all-terrain vehicle registration certificate, duplicate commercial all-terrain vehicle certificate or duplicate registration decals is ~~\$2~~ \$5. The fee for the issuance of registration decals to a county or municipality is ~~\$2~~ \$5. There is no fee for the issuance of registration decals to the state.

SECTION 9. 23.33 (2j) of the statutes is created to read:

23.33 (2j) **NONRESIDENT TRAIL PASSES.** (a) In this subsection, "public all-terrain vehicle corridor" means an all-terrain vehicle trail or other established all-terrain vehicle corridor that is open to the public but does not include an all-terrain vehicle route.

(b) Except as provided in par. (e), no person may operate an all-terrain vehicle on a public all-terrain vehicle corridor in this state unless a nonresident trail pass issued under this subsection is displayed on the all-terrain vehicle.

(c) The fee for a nonresident trail pass issued for an all-terrain vehicle that is exempt from registration under sub. (2) (b) 2. is \$17.25. A nonresident trail pass issued for such an all-terrain vehicle may be issued only by the department and persons appointed by the department and expires on June 30 of each year.

(d) There is no fee for a nonresident trail pass issued for an all-terrain vehicle that is registered under sub. (2g) or s. 23.35. The department or Indian tribe or band shall issue a nonresident trail pass for such an all-terrain vehicle when it issues the registration certificate for the all-terrain vehicle. The department shall provide Indian tribes or bands that register all-terrain vehicles under sub. (2g) or s. 23.35 with a supply of trail passes.

(e) An all-terrain vehicle that is registered under sub. (2) (a) or that is exempt from registration under sub. (2) (b) 1., 3., or 4. is exempt from having a nonresident trail pass displayed as required under par. (b). The department may promulgate a rule to exempt all-terrain vehicles that are exempt from registration under sub. (2) (b) 5. from having nonresident trail passes displayed as required under par. (b) or may promulgate a rule to exempt owners of such all-terrain vehicles from having to pay any applicable nonresident trail pass fee.

(f) 1. The department may appoint any person who is not an employee of the department as the department's agent to issue nonresident trail passes and collect the fees for these passes.

2. Any person, including the department, who issues a nonresident trail pass shall collect in addition to the fee under par. (c) an issuing fee of 75 cents. An agent appointed under subd. 1. may retain 50 cents of the issuing fee to compensate the agent for the agent's services in issuing the pass.

3. The department shall establish, by rule, procedures for issuing nonresident trail passes, and the department may promulgate rules regulating the activities of persons who are appointed to be agents under this paragraph.

SECTION 10. 23.33 (5) (b) of the statutes is repealed and recreated to read:

23.33 (5) (b) *All-terrain vehicle safety certificate.* 1. No person who is at least 12 years of age and who is born on or after January 1, 1988, may operate an all-terrain vehicle unless he or she holds a valid safety certificate.

2. Any person who is required to hold an all-terrain vehicle safety certificate while operating an all-terrain vehicle shall carry the certificate on the all-terrain vehicle and shall display the certificate to a law enforcement officer on request. Persons enrolled in a safety certification program approved by the department may operate an all-terrain vehicle in an area designated by the instructor.

SECTION 11. 23.33 (6m) of the statutes is created to read:

23.33 (6m) **NOISE LIMITS.** (a) No person may manufacture, sell, rent or operate an all-terrain vehicle that is constructed in such a manner that noise emitted from the all-terrain vehicle exceeds 96 decibels on the A scale as measured in the manner prescribed under rules promulgated by the department.

SECTION 12. 23.33 (13) (ar) of the statutes is created to read:

23.33 (13) (ar) *Penalty related to nonresident trail passes.* Any person who violates sub. (2j) shall forfeit not more than \$1,000.

SECTION 13. 23.33 (13) (b) (title) of the statutes is amended to read:

23.33 (13) (b) (title) *Penalties related to prohibited intoxicated operation of an all-terrain vehicle; intoxicants; refusal.*

SECTION 14. 23.33 (13) (b) 2. of the statutes, as affected by 2003 Wisconsin Act 97, is amended to read:

23.33 (13) (b) 2. Except as provided under subd. 3., a person who violates sub. (4c) (a) 1., 2., or 2m. or (4p) (e) and who, within 5 years prior to the arrest for the current violation, was convicted previously under the intoxicated operation of an all-terrain vehicle law or the refusal law shall be fined not less than \$300 nor more than ~~\$1,000~~ \$1,100 and shall be imprisoned not less than 5 days nor more than 6 months.

SECTION 15. 23.33 (13) (bg) of the statutes is created to read:

23.33 (13) (bg) *Penalties related to intoxicated operation of an all-terrain vehicle; underage passengers.* If there is a passenger under 16 years of age on the all-terrain vehicle at the time of a violation that gives rise to a conviction under sub. (4c) (a) 1. or 2. or (4p) (e), the applicable minimum and maximum forfeitures, fines, and terms of imprisonment under pars. (b) 1., 2., and 3. for the conviction are doubled.

SECTION 16. 23.33 (13) (br) of the statutes is created to read:

23.33 (13) (br) *Penalties related to intoxicated operation of an all-terrain vehicle; enhancers.* 1. If a person convicted under sub. (4c) (a) 1. or 2. had an alcohol concentration of 0.17 to 0.199 at the time of the offense, the minimum and maximum fines specified under par. (b) 3. for the conviction are doubled.

2. If a person convicted under sub. (4c) (a) 1. or 2. had an alcohol concentration of 0.20 to 0.249 at the time of the offense, the minimum and maximum fines specified under par. (b) 3. for the conviction are tripled.

3. If a person convicted under sub. (4c) (a) 1. or 2. had an alcohol concentration of 0.25 or above at the time of the offense, the minimum and maximum fines under par. (b) 3. for the conviction are quadrupled.

4. The increased fines in this paragraph do not apply if the person convicted under sub. (4c) (a) 1. or 2. is subject to par. (bg).

SECTION 17. Nonstatutory provisions.

(1) Notwithstanding section 16.42 (1) (e) of the statutes, in submitting information under section 16.42 of the statutes for purposes of the 2005-07 budget bill, the department of natural resources shall submit information concerning the appropriation under section 20.370 (3) (as) of the statutes as though the increase in the dollar amount of that appropriation by SECTION 18 (2) of this act had been \$276,000 instead of \$556,000.

SECTION 18. Appropriation changes.

(1) STATE ALL-TERRAIN VEHICLE TRAIL MAINTENANCE. In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of natural resources under section 20.370 (1) (ms) of the statutes, as affected

by the acts of 2003, the dollar amount is increased by \$165,000 for fiscal year 2004-05 for maintenance of state all-terrain trails.

(2) STATE LAW ENFORCEMENT POSITIONS. In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of natural resources under section 20.370 (3) (as) of the statutes, as affected by the acts of 2003, the dollar amount is increased by \$556,000 for fiscal year 2004-05 to increase the authorized FTE positions for the department by 4.0 SEG warden positions.

(3) ALL-TERRAIN VEHICLE SAFETY EDUCATION. In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of natural resources under section 20.370 (3) (as) of the statutes, as affected by the acts of 2003, the dollar amount is increased by \$154,200 for fiscal year 2004-05 to increase the authorized FTE positions for the department by 1.0 SEG education position and to provide funding for all-terrain vehicle safety education activities.

(4) ALL-TERRAIN VEHICLE SAFETY PROGRAM. In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of natural resources under section 20.370 (5) (cx) of the statutes, as affected by the acts of 2003, the dollar amount is increased by \$150,000 for fiscal year 2003-04 and the dollar amount is increased by \$150,000 for fiscal year 2004-05 to increase funding for the purpose for which the appropriation is made.

(5) ALL-TERRAIN VEHICLE EQUIPMENT. In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of natural resources under section 20.370 (3) (as) of the statutes, as affected by the acts of 2003, the dollar amount is increased by \$100,000 for fiscal year 2003-04 and the dollar amount is increased by \$100,000 for fiscal year 2004-05 to purchase equipment to determine whether all-terrain vehicles comply with applicable noise limitations.

(6) COUNTY ALL-TERRAIN VEHICLE TRAILS. In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of natural resources under section 20.370 (5) (cu) of the statutes, as affected by the acts of 2003, the dollar amount is increased by \$871,000 for fiscal year 2004-05 to provide aid to counties for county all-terrain vehicle trails.

(7) COUNTY LAW ENFORCEMENT. In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of natural resources under section 20.370 (5) (er) of the statutes, as affected by the acts of 2003, the dollar amount is increased by \$70,000 for fiscal year 2004-05 to provide aid to counties for all-terrain vehicle law enforcement.

SECTION 19. Initial applicability.

(1) FEE INCREASE. The treatment of section 23.33 (2) (c), (d), (dm) 2., and (e) of the statutes first applies to all-

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terrain vehicle registration certificates issued or renewed on the effective date of this subsection.

(2) INTOXICATED OPERATION. The treatment of section 23.33 (13) (b) (title) and 2., (bg), and (br) of the statutes first applies to violations committed on the effective date of this subsection, but does not preclude the counting of

convictions that occurred before the effective date of this subsection as prior convictions for purposes of sentencing by a court.

SECTION 20. Effective date.

(1) This act takes effect on April 1, 2004, or on the day after publication, whichever is later.
