

## PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

## Color Coding KEY

RED = Text that is suggested for removal

BLUE = Text that is suggested for adding

~~Light blue highlight~~ = Draws the attention of the reader to newly created sections

Yellow highlight = Indicates comments by Karl Brooks

AN ACT *to amend* 20.370 (1) (mr), 20.370 (1) (ms), 20.370 (3) (as), 20.370 (5) (cu),  
20.370 (5) (er), 23.33 (1) (jn), 23.33 (2) (b) 2m. b., 23.33 (2) (c), 23.33 (2) (d), 23.33  
(2) (dm) 4., 23.33 (2) (e), 23.33 (2g) (c) (title), 23.33 (2g) (c) 2., 23.33 (5) (c), 23.33  
(6) (e), 23.33 (9) (a), 23.33 (13) (b) (title), 23.33 (13) (b) 2., 23.35 (1) (a), 23.35 (1)  
(b) and 25.29 (1) (dm); *to repeal and recreate* 23.33 (5) (b); and *to create* 20.380 (1) (r),  
23.33 (2) (h), 23.33 (2j), 23.33 (6) (f), 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, registration s and ~~trail-use stickers~~ **nonresident trail passes** for  
all-terrain vehicles, safety training for operating all-terrain vehicles, a study concerning  
the recreational operation of all-terrain vehicles, noise level requirements for all-terrain  
vehicles, the formula used for calculating the all-terrain vehicle gas tax payment, granting  
rule-making authority, making appropriations, and providing penalties.

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*Analysis by the Legislative Reference Bureau*

This is a preliminary draft. An analysis will be provided in a later version.

1 Because this bill creates a new crime or revises a penalty for an existing crime, the  
 2 Joint Review Committee on Criminal Penalties may be requested to prepare a report  
 3 concerning the proposed penalty and the costs or savings that are likely to result if the bill  
 4 is enacted.

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

7 *The people of the state of Wisconsin, represented in senate and assembly, do*  
 8 *enact as follows:*  
 9

10 SECTION 1. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the  
 11 following amounts for the purposes indicated:

	2003-04	2004-05
13 <b>20.380 Tourism, department of</b>		
14 (1) TOURISM DEVELOPMENT AND PROMOTION		
15 (r) All-terrain vehicle impact study SEG B	45,000	-0-

16 ~~SECTION 2. 20.370 (1) (mr) of the statutes is amended to read:~~

17 ~~20.370 (1) (mr) General program operations — park and forest trails, all-terrain~~  
 18 ~~vehicle revenues. The amounts in the schedule from moneys received from all-terrain~~  
 19 ~~vehicle fees under s. 23.33 (2) (c) to (e) and (2j) for the maintenance of trails that are~~  
 20 ~~located in state parks or southern state forests, as defined in s. 27.016 (1) (c).~~

21 SECTION 3. 20.370 (1) (ms) of the statutes is amended to read:

22 20.370 (1) (ms) *General program operations — state all-terrain vehicle projects.*

23 The amounts in the schedule from moneys received from all-terrain vehicle fees under s.

24 23.33 (2) (c) to (e) **and (2j)** for state all-terrain vehicle projects.

25 SECTION 4. 20.370 (3) (as) of the statutes is amended to read:

26

1        20.370 (3) (as) Law enforcement — all-terrain vehicle enforcement. The amounts  
2        in the schedule from moneys received from all-terrain vehicle fees under s. 23.33  
3        (2) (c) to (e) and (2j), for state law enforcement operations related to all-terrain  
4        vehicles, including actual enforcement, safety training, accident reporting, and  
5        similar activities.

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

7        20.370 (5) (cu) *Recreation aids — all-terrain vehicle project aids.* As a continuing  
8        appropriation, the amounts in the schedule from moneys received from all-terrain vehicle  
9        fees under s. 23.33 (2) (c) to (e) and (2j) to provide aid to towns, villages, cities, counties,  
10       and federal agencies for nonstate all-terrain vehicle projects.

11       SECTION 6. 20.370 (5) (er) of the statutes is amended to read:

12       20.370 (5) (er) *Enforcement aids — all-terrain vehicle enforcement.* The amounts  
13       in the schedule from moneys received from all-terrain vehicle fees under s. 23.33 (2) (c)  
14       to (e) and (2j) for local law enforcement aids.

15       **SECTION 7. 20.380 (1) (r) *All-terrain vehicle impact study.***  
16       20.380 (1) (r) *All-terrain vehicle impact study.* Biennially, from the conservation  
17       fund, the amounts in the schedule from moneys received from all-terrain vehicle fees  
18       under s. 23.33 (2) (c) to (e) and (2j) for the all-terrain vehicle impact study under 2003  
19       Wisconsin Act .... (this act), section 31 (1).

20       SECTION 8. 23.33 (1) (jn) of the statutes is amended to read:

21       23.33 (1) (jn) "Registration documentation" means an all-terrain vehicle  
22       registration certificate, a validated registration receipt, or a registration decal.

23       SECTION 9. 23.33 (2) (b) 2m. b. of the statutes is amended to read:

1           23.33 (2) (b) 2m. b. The all-terrain vehicle displays the registration decal required  
2 by the tribe or band.

3           SECTION 10. 23.33 (2) (c) of the statutes is amended to read:

4           23.33 (2) (c) *Registration; public use; fee.* Any all-terrain vehicle may be  
5 registered for public use. The fee for the issuance or renewal of a registration certificate  
6 for public use is ~~\$12~~ \$30.

7           SECTION 11. 23.33 (2) (d) of the statutes is amended to read:

8           23.33 (2) (d) *Registration; private use; fee.* An all-terrain vehicle used exclusively  
9 for agricultural purposes or used exclusively on private property may be registered for  
10 private use. The fee for the issuance of a registration certificate for private use is ~~\$6~~ \$15.

11           SECTION 12. 23.33 (2) (dm) 4. of the statutes is amended to read:

12           23.33 (2) (dm) 4. ~~Paragraphs (i), (ig), and (ir) do not apply to commercial all-~~  
13 ~~terrain vehicle certificates or reflectorized s issued under subd. 2.~~

14           (dm) *Registration; commercial owner; fee.*

15  
16           1. Every person who is an all-terrain vehicle manufacturer, all-terrain vehicle  
17 dealer, all-terrain vehicle distributor or all-terrain vehicle renter or any combination  
18 thereof engaged in business in this state shall register with the department and obtain from  
19 the department a commercial all-terrain vehicle certificate.

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

1           3.       A person who is required to obtain a commercial all-terrain vehicle  
2 certificate under subd. 1. shall attach in a clearly visible place a reflectorized plate to any  
3 all-terrain vehicle that the person leases, rents, offers for sale or otherwise allows to be  
4 used whenever the all-terrain vehicle is being operated.

5           **SECTION 13.** 23.33 (2) (e) of the statutes is amended to read:

6           23.33 (2) (e) *Other fees.* The fee for the transfer of an all-terrain vehicle  
7 registration certificate is ~~\$2~~ **\$5** The fee for the issuance of a duplicate all-terrain vehicle  
8 registration certificate, duplicate commercial all-terrain vehicle certificate or duplicate  
9 registration decals is ~~\$2~~ **\$5**. The fee for the issuance of registration decals to a county or  
10 municipality is ~~\$2~~ **\$5**. There is no fee for the issuance of registration decals to the state.

11           **SECTION 14.** 23.33 (2) (h) of the statutes is amended to read:

12           23.33 (2) (h) *Effective period; transitional provision.* An owner **or operator** of an  
13 all-terrain vehicle that displays a registration decal issued under s. 23.33 (2) or (2g) **or**  
14 **current nonresident trail pass issued under 23.33 (2j)**, 2001 stats.,  
15 is exempt from displaying a registration during the period of validity for the decal issued  
16 under s. 23.33 (2) or (2g), 2001 stats.

17           **SECTION 15.** 23.33 (2g) (c) (title) of the statutes is amended to read:

18           23.33 (2g) (c) (title) *Requirements for registration applications and decals*

19           **SECTION 16.** 23.33 (2g) (c) 2. of the statutes is amended to read:

20           23.33 (2g) (c) 2. The Lac du Flambeau band shall use registration decals that are  
21 substantially similar to those under sub. (2) with regard to color, size, legibility,  
22 information content, and placement on the all-terrain vehicle.

23           **SECTION 17.** 23.33 (2) of the statutes is amended to read:

1 under par. (b) or may promulgate a rule to exempt owners of such all-terrain vehicles  
2 from having to pay any applicable ~~trail-use sticker~~ **nonresident trail pass fee**.

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

6 2. Any person, including the department, who issues a ~~trail-use sticker~~ **nonresident**  
7 **trail passes** shall collect in addition to the fee under par. (c) an issuing fee of 75 cents. An  
8 agent appointed under subd. 1. may retain 50 cents of the issuing fee to compensate the  
9 agent for the agent's services in issuing the ~~sticker~~ **passes**.

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

13 **SECTION 19. 23.33 (5) (b) of the statutes is amended to read:**

14 **23.33 (5) (b) All-terrain vehicle safety certificate.** 1. No person who is at least 12  
15 years of age and who is born on or after January 1, 1988, may operate an all-terrain  
16 vehicle unless he or she holds a valid safety certificate.

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

22 **SECTION 19. 23.33 (5) (c) of the statutes is amended to read:**

1           23.33 (5) (c) *Exceptions*. Paragraphs (a) and (b) do not apply to a person who  
 2 operates an all-terrain vehicle exclusively on private lands, except paragraphs (a) and  
 3 (b) do apply to all public areas including trails crossing private lands. ~~land under the~~  
 4 ~~management and control of the person's immediate family.~~ Paragraphs (a) and (b) do not  
 5 apply to a person ~~at least 12 years of age but under 16 years of age~~ who holds a valid  
 6 certificate issued by another state or a province of Canada.

7           SECTION 20. 23.33 (6) (e) of the statutes is amended to read:

8           23.33 (6) (e) Every all-terrain vehicle is required to be equipped with a  
 9 functioning muffler to prevent excessive or unusual noise and with a functioning spark  
 10 arrester of a type approved by the U.S. forest service.

11           ~~SECTION 21. 23.33 (6) (f) of the statutes is amended to read:~~

12           23.33 (6) (f) Every all-terrain vehicle manufactured leased, rented or operated  
 13 ~~before January 1, 1998,~~ is required to be constructed or equipped with a functioning  
 14 muffler so as to limit total vehicle noise to not more than 101 decibels of A sound pressure  
 15 ~~at 20 inches, as measured by Society of Automotive Engineers standards. Every all-terrain~~  
 16 ~~vehicle manufactured on or after July 1, 1998, is required to be constructed or equipped~~  
 17 ~~with a functioning muffler so as to limit total vehicle noise to not more than 96 decibels of~~  
 18 A sound pressure ~~at 20 inches,~~ as measured in the manner prescribed under rules  
 19 promulgated by the department ~~by Society of Automotive Engineers standards.~~

20           \*\*\*\*NOTE: This provision is based on the current language regarding noise levels for  
 21 snowmobiles under s. 350.09 (7). Please review

22  
 23           SECTION 22. 23.33 (9) (a) of the statutes is amended to read:

24           23.33 (9) (a) *Enforcement*. The department may utilize moneys received under ~~sub.~~  
 25 ~~(2)~~ subs. (2) and (2i) for all-terrain vehicle registration aids administration and for the

1 purposes specified under s. 20.370 (3) (as) and (5) (er) including costs associated with  
 2 enforcement, safety education, accident reports and analysis, law enforcement aids to  
 3 counties, and other similar costs in administering and enforcing this section.

4

5 **23.33 (13) (ar) Penalty related to ~~trail use stickers~~ nonresident trail passes.** Any  
 6 person who violates sub. (2j) shall forfeit not more than \$1,000.

7 **SECTION 24.** 23.33 (13) (b) (title) of the statutes is amended to read:

8 **23.33 (13) (b) (title) Penalties related to ~~prohibited~~ intoxicated operation of an**  
 9 **~~all-terrain vehicle, intoxicants, refusal.~~**

10 **SECTION 25.** 23.33 (13) (b) 2. of the statutes is amended to read:

11 **23.33 (13) (b) 2.** Except as provided under subd. 3., a person who violates sub. (4c)  
 12 (a) 1. or 2. or (4p) (e) and who, within 5 years prior to the arrest for the current violation,  
 13 was convicted previously under the intoxicated operation of an all-terrain vehicle law or  
 14 the refusal law shall be fined not less than \$300 nor more than ~~\$1,000~~ **\$1,100** and shall be  
 15 imprisoned not less than 5 days nor more than 6 months.

16 **\*\*\*\*NOTE:** In 2001 Assembly Bill 667, introduced by the Joint Legislative Council, the  
 17 maximum fine was increased from \$1,000 to \$1,100, but I thought this might be a typographical  
 18 error. Please let me know if the increase in this penalty should remain or should be deleted.

19

20 **SECTION 26.** 23.33 (13) (bg) of the statutes is created to read:

21 **23.33 (13) (bg) Penalties related to intoxicated operation of an all-terrain vehicle;**  
 22 ***underage passengers.*** If there is a passenger under 16 years of age on the all-terrain  
 23 vehicle at the time of a violation that gives rise to a conviction under sub. (4c) (a) 1. or 2.  
 24 or (4p) (e), the applicable minimum and maximum forfeitures, fines, and terms of  
 25 imprisonment under pars. (b) 1., 2., and 3. for the conviction are doubled.

26 **SECTION 27.** 23.33 (13) (br) of the statutes is created to read:



1       23.33 (13) (br) *Penalties related to intoxicated operation of an all-terrain vehicle;*

2       *enhancers.* 1. If a person convicted under sub. (4c) (a) 1. or 2. had an alcohol  
3       concentration of 0.17 to 0.199 at the time of the offense, the minimum and maximum  
4       fines specified under par. (b) 3. for the conviction are doubled.

5               2. If a person convicted under sub. (4c) (a) 1. or 2. had an alcohol concentration of  
6       0.20 to 0.249 at the time of the offense, the minimum and maximum fines specified under  
7       par. (b) 3. for the conviction are tripled.

8               3. If a person convicted under sub. (4c) (a) 1. or 2. had an alcohol concentration of  
9       0.25 or above at the time of the offense, the minimum and maximum fines under par. (b)  
10      3. for the conviction are quadrupled.

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

13      ~~SECTION 28. 23.35 (1) (a) of the statutes is amended to read:~~

14      ~~23.35 (1) (a) Requires that boats, snowmobiles and all-terrain vehicles display~~  
15      ~~decals or identification numbers showing valid registration by the tribe or band.~~

16      ~~SECTION 29. 23.35 (1) (b) of the statutes is amended to read:~~

17      ~~23.35 (1) (b) Employs registration decals and certificates of number that are~~  
18      ~~substantially similar to those employed by the registration or certification programs of this~~  
19      ~~state with regard to size, legibility, information content and placement on the boat,~~  
20      ~~snowmobile or all-terrain vehicle.~~

21              SECTION 30. 25.29 (1) (dm) of the statutes is amended to read:

22              25.29 (1) (dm) For fiscal year 1991-92 and for each fiscal year thereafter, an  
23      amount equal to the estimated all-terrain vehicle gas tax payment. The estimated all-

1 terrain vehicle gas tax payment is calculated by multiplying the sum of the number of all-  
2 terrain vehicles registered for public use under s. 23.33 (2) (c) or (2g) and the number of  
3 reflectorized s issued under s. 23.33 (2) (dm) on the last day of February of the previous  
4 fiscal year by ~~25~~ 52 gallons and multiplying that product by the excise tax imposed under  
5 s. 78.01 (1) on the last day of February of the previous fiscal year.

6 **SECTION 31 Nonstatutory provisions.**

7 (1) From the appropriation under section 20.380 (1) (r) of the statutes, as created  
8 by this act, the department of tourism shall expend not more than \$45,000 to conduct a  
9 study concerning the impact the recreational operation of all-terrain vehicles has on  
10 statewide tourism and economic development. No later than June 30, 2005, the department  
11 of tourism shall distribute the results of the completed study to the appropriate standing  
12 committees of the legislature in the manner provided under section 13.172 (3) of the  
13 statutes.

14 **SECTION 32 Appropriation changes.**

15 (1) In the schedule under section 20.005 (3) of the statutes for the appropriation to  
16 the department of natural resources under section 20.370 (1) (ms) of the statutes, as  
17 affected by the acts of 2003, the dollar amount is increased by \$22,500 for fiscal year  
18 2003-04 and the dollar amount is increased by \$22,500 for fiscal year 2004-05 to conduct  
19 a study concerning the impact of the recreational operation of all-terrain vehicles has on  
20 statewide tourism and economic development.

21 (2) In the schedule under section 20.005 (3) of the statutes for the appropriation to  
22 the department of natural resources under section 20.370 (3) (as) of the statutes, as  
23 affected by the acts of 2003, the dollar amount is increased by \$100,000 for fiscal year

1 2003-04 to purchase equipment to determine whether all-terrain vehicles comply with  
2 applicable noise limitations.

3 **SECTION 33 Initial applicability.**

4 (1) FEE INCREASE. The treatment of section 23.33 (2) (c) and (d) of the statutes first  
5 applies to all-terrain vehicle registration certificates issued or renewed on the effective  
6 date of this subsection.

7 (2) INTOXICATED OPERATION. The treatment of section 23.33 (13) (b) (title) and 2.,  
8 (bg), and (br) of the statutes first applies to violations committed on the effective date of  
9 this subsection, but does not preclude the counting of convictions that occurred before the  
10 effective date of this subsection as prior convictions for purposes of sentencing by a court.

11  
12 **SECTION 34 Effective dates.** This act takes effect on the first day of the 7<sup>th</sup> month  
13 beginning after publication, except as follows:

14 (1) GAS TAX FORMULA. The treatment of section 25.29 (1) (dm) of the statutes takes  
15 effect on the first July 1 after publication.

16 (2) ALL-TERRAIN VEHICLE SAFETY CERTIFICATES; INTOXICATED OPERATION. The  
17 treatment of section 23.33 (5) (b) and (c) and (13) (b) (title) and 2., (bg), and (br) of the  
18 statutes and SECTION 33 (2) of this act take effect on July 1, 2005.

19 (3) STUDY AND FUNDING. The treatment of section 20.380 (1) (r) of the statutes and  
20 SECTIONS 31 (1), 32 (1) and (2), and 33 (1) of this act take effect on the 2nd day after  
21 publication of the 2001-03 biennial budget act, or on the day after publication, whichever  
22 is later.

23 (END)



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-1708/P2

MGG/AM:cjs:HW

1P3  
RMR

D-Note

DF

Today Mon 5/12

PRELIMINARY DRAFT NOT READY FOR INTRODUCTION

stays

NOW

inserts  
d-note

SA ✓

Reopen cat.

1 AN ACT to amend 20.370 (1) (mr), 20.370 (1) (ms), 20.370 (3) (as), 20.370 (5) (cu),  
2 20.370 (5) (er), 23.33 (1) (jn), 23.33 (2) (b) 2m. b., 23.33 (2) (c), 23.33 (2) (d), 23.33  
3 (2) (dm) 4., 23.33 (2) (e), 23.33 (2g) (c) (title), 23.33 (2g) (c) 2., 23.33 (5) (c), 23.33  
4 (6) (e), 23.33 (9) (a), 23.33 (13) (b) (title), 23.33 (13) (b) 2., 23.35 (1) (a), 23.35 (1)  
5 (b) and 25.29 (1) (dm); to repeal and recreate 23.33 (5) (b); and to create  
6 20.380 (1) (r), 23.33 (2) (h), 23.33 (2j), 23.33 (6) (f), 23.33 (13) (ar), 23.33 (13) (bg)  
7 and 23.33 (13) (br) of the statutes; relating to: intoxicated operation of  
8 all-terrain vehicles, registration fees for all-terrain vehicles, registration  
9 plates and trail use stickers for all-terrain vehicles, safety training for  
10 operating all-terrain vehicles, a study concerning the recreational operation of  
11 all-terrain vehicles, noise level requirements for all-terrain vehicles, the  
12 formula used for calculating the all-terrain vehicle gas tax payment, granting  
13 rule-making authority, making appropriations, and providing penalties.

8  
9

**Analysis by the Legislative Reference Bureau**

This is a preliminary draft. An analysis will be provided in a later version.

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1           20.370 (3) (as) *Law enforcement — all-terrain vehicle enforcement.* The  
2 amounts in the schedule from moneys received from all-terrain vehicle fees under  
3 s. 23.33 (2) (c) to (e) and (2j), for state law enforcement operations related to  
4 all-terrain vehicles, including actual enforcement, safety training, accident  
5 reporting, and similar activities.

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

7           20.370 (5) (cu) *Recreation aids — all-terrain vehicle project aids.* As a  
8 continuing appropriation, the amounts in the schedule from moneys received from  
9 all-terrain vehicle fees under s. 23.33 (2) (c) to (e) and (2j) to provide aid to towns,  
10 villages, cities, counties, and federal agencies for nonstate all-terrain vehicle  
11 projects.

12           **SECTION 6.** 20.370 (5) (er) of the statutes is amended to read:

13           20.370 (5) (er) *Enforcement aids — all-terrain vehicle enforcement.* The  
14 amounts in the schedule from moneys received from all-terrain vehicle fees under  
15 s. 23.33 (2) (c) to (e) and (2j) for local law enforcement aids.

16           **SECTION 7.** 20.380 (1) (r) of the statutes is created to read:

17           20.380 (1) (r) *All-terrain vehicle impact study.* Biennially, from the  
18 conservation fund, the amounts in the schedule from moneys received from  
19 all-terrain vehicle fees under s. 23.33 (2) (c) to (e) and (2j) for the all-terrain vehicle  
20 impact study under 2003 Wisconsin Act .... (this act), section 31 (1).

21           **SECTION 8.** 23.33 (1) (jn) of the statutes is amended to read:

22           23.33 (1) (jn) ~~“Registration documentation”~~ means an all-terrain vehicle  
23 registration certificate, a validated registration receipt, or a registration decal plate.

24           ~~**SECTION 9.** 23.33 (2) (b) 2m. b. of the statutes is amended to read:~~

1 ~~23.33 (2) (b) 2m. b. The all-terrain vehicle displays the registration decal plate~~  
2 required by the tribe or band.

3 SECTION 10. 23.33 (2) (c) of the statutes is amended to read:

INSERT  
4-3

4 23.33 (2) (c) *Registration; public use; fee.* Any all-terrain vehicle may be  
5 registered for public use. The fee for the issuance or renewal of a registration  
6 certificate for public use is ~~\$12~~ \$30.

7 SECTION 11. 23.33 (2) (d) of the statutes is amended to read:

8 23.33 (2) (d) *Registration; private use; fee.* An all-terrain vehicle used  
9 exclusively for agricultural purposes or used exclusively on private property may be  
10 registered for private use. The fee for the issuance of a registration certificate for  
11 private use is ~~\$6~~ \$15.

12 SECTION 12. 23.33 (2) (dm) 4. of the statutes is amended to read:

13 ~~23.33 (2) (dm) 4. Paragraphs (i), (ig), and (ir) do not apply to commercial~~  
14 ~~all-terrain vehicle certificates or reflectorized plates issued under subd. 2.~~

INSERT  
4-14

15 SECTION 13. 23.33 (2) (e) of the statutes is amended to read:

16 23.33 (2) (e) *Other fees.* The fee for the transfer of an all-terrain vehicle  
17 registration certificate is ~~\$2~~ <sup>\$5</sup>. The fee for the issuance of a duplicate all-terrain  
18 vehicle registration <sup>plain</sup> ~~certificate~~, duplicate commercial all-terrain vehicle certificate  
19 or duplicate registration ~~decal plates~~ <sup>PLAIN</sup> is ~~\$2~~ <sup>\$5</sup>. The fee for the issuance of registration  
20 ~~decal plates~~ <sup>↓ \$5</sup> to a county or municipality is ~~\$2~~ <sup>\$5</sup>. There is no fee for the issuance of  
21 registration ~~decal plates~~ to the state.

22 SECTION 14. 23.33 (2) (h) of the statutes is created to read:

23 ~~23.33 (2) (h) *Effective period; transitional provision.* An owner of an all-terrain~~  
24 ~~vehicle that displays a registration decal issued under s. 23.33 (2) or (2g), 2001 stats.,~~

1 is exempt from displaying a registration plate during the period of validity for the  
2 decal issued under s. 23.33 (2) or (2g), 2001 stats.

3 SECTION 15. 23.33 (2g) (c) (title) of the statutes is amended to read:

4 23.33 (2g) (c) (title) *Requirements for registration applications and decals*  
5 *plates.*

6 SECTION 16. 23.33 (2g) (c) 2. of the statutes is amended to read:

7 23.33 (2g) (c) 2. The Lac du Flambeau band shall use registration decals plates  
8 that are substantially similar to those under sub. (2) with regard to color, size,  
9 legibility, information content, and placement on the all-terrain vehicle.

10 SECTION 17. 23.33 (2j) of the statutes is created to read:

11 <sup>NONRESIDENT TRAIL PASSES</sup>  
~~23.33 (2j) Trail use stickers~~

11 23.33 (2j) (a) In this subsection, "public all-terrain vehicle  
12 corridor" means an all-terrain vehicle trail or other established all-terrain vehicle  
13 corridor that is open to the public but does not include an all-terrain vehicle route.

14 (b) Except as provided in par. (e), no person ~~who is the owner of an all-terrain~~  
15 ~~vehicle may operate, or give permission for another person to operate,~~  
16 vehicle on a public all-terrain vehicle corridor in this state unless a <sup>nonresident</sup>~~trail use sticker~~  
17 <sup>trail pass</sup> issued under this subsection is displayed on the all-terrain vehicle.

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

22 (d) There is no fee for a ~~trail use sticker~~ issued for an all-terrain vehicle that  
23 is registered under sub. (2g) or s. 23.35. The department or Indian tribe or band shall  
24 issue a ~~trail use sticker~~ for such an all-terrain vehicle when it issues the registration  
25 certificate for the all-terrain vehicle. The department shall provide Indian tribes or



nonresident trail pass

1 bands that register all-terrain vehicles under sub. (2g) or s. 23.35 with a supply of  
2 trail use stickers.

3 (e) An all-terrain vehicle that is registered under sub. (2) <sup>(a)</sup> or that is exempt from  
4 registration under sub. (2) (b) 1. <sup>3.</sup> or 4. is exempt from having a ~~trail use sticker~~  
5 displayed as required under par. (b). The department may promulgate a rule to  
6 exempt all-terrain vehicles that are exempt from registration under sub. (2) (b) 5.  
7 from having ~~trail use stickers~~ <sup>nonresident trail passes</sup> displayed as required under par. (b) or may promulgate  
8 a rule to exempt owners of such all-terrain vehicles from having to pay any  
9 applicable ~~trail use sticker~~ fee.

10 (f) 1. The department may appoint any person who is not an employee of the  
11 department as the department's agent to issue ~~trail use stickers~~ <sup>nonresident trail passes</sup> and collect the fees  
12 for these ~~stickers~~ <sup>passes</sup>.

13 2. Any person, including the department, who issues a ~~trail use sticker~~  
14 collect in addition to the fee under par. (c) an issuing fee of 75 cents. An agent  
15 appointed under subd. 1. may retain 50 cents of the issuing fee to compensate the  
16 agent for the agent's services in issuing the ~~sticker~~ <sup>pass</sup>.

17 3. The department shall establish, by rule, procedures for issuing ~~trail use~~ <sup>nonresident</sup>  
18 ~~stickers~~ <sup>passes</sup> and the department may promulgate rules regulating the activities of  
19 persons who are appointed to be agents under this paragraph.

20 SECTION 18. 23.33 (5) (b) of the statutes is repealed and recreated to read:

21 23.33 (5) (b) *All-terrain vehicle safety certificate.* 1. No person who is at least  
22 12 years of age and who is born on or after January 1, 1988, may operate an  
23 all-terrain vehicle unless he or she holds a valid safety certificate.

24 2. Any person who is required to hold an all-terrain vehicle safety certificate  
25 while operating an all-terrain vehicle shall carry the certificate on the all-terrain

that is not open to the public.

1 vehicle and shall display the certificate to a law enforcement officer on request.  
2 Persons enrolled in a safety certification program approved by the department may  
3 operate an all-terrain vehicle in an area designated by the instructor.

Note

4 SECTION 19. 23.33 (5) (c) of the statutes is amended to read:

5 23.33 (5) (c) *Exceptions.* Paragraphs (a) and (b) do not apply to a person who  
6 operates an all-terrain vehicle exclusively on land under the management and  
7 ~~control of the person's immediate family.~~ Paragraphs (a) and (b) do not apply to a  
8 person at least 12 years of age but under 16 years of age who holds a valid certificate  
9 issued by another state or a province of Canada.

10 SECTION 20. 23.33 (6) (e) of the statutes is amended to read:

11 ~~23.33 (6) (e) Every all-terrain vehicle is required to be equipped with a~~  
12 ~~functioning muffler to prevent excessive or unusual noise and with a functioning~~  
13 ~~spark arrester of a type approved by the U.S. forest service.~~

14 SECTION 21. 23.33 (6) (f) of the statutes is created to read:

15 ~~23.33 (6) (f) Every all-terrain vehicle manufactured before January 1, 1998,~~  
16 ~~is required to be constructed or equipped with a functioning muffler so as to limit~~  
17 ~~total vehicle noise to not more than 101 decibels of A sound pressure at 20 inches,~~  
18 ~~as measured by Society of Automotive Engineers standards. Every all-terrain~~  
19 ~~vehicle manufactured on or after July 1, 1998, is required to be constructed or~~  
20 ~~equipped with a functioning muffler so as to limit total vehicle noise to not more than~~  
21 ~~96 decibels of A sound pressure at 20 inches, as measured by Society of Automotive~~  
22 ~~Engineers standards.~~

\*\*\*\*NOTE: This provision is based on the current language regarding noise levels for snowmobiles under s. 350.09 (7). Please review

23 SECTION 22. 23.33 (9) (a) of the statutes is amended to read:

INSERT  
7-22

1       23.33 (9) (a) *Enforcement.* The department may utilize moneys received under  
2       ~~sub. (2)~~ subs. (2) and (2j) for all-terrain vehicle registration aids administration and  
3       for the purposes specified under s. 20.370 (3) (as) and (5) (er) including costs  
4       associated with enforcement, safety education, accident reports and analysis, law  
5       enforcement aids to counties, and other similar costs in administering and enforcing  
6       this section.

① *nonresident trail pass*

7       SECTION 23. 23.33 (13) (ar) of the statutes is created to read:

8       23.33 (13) (ar) *Penalty related to ~~trail use~~*. Any person who violates sub.  
9       (2j) shall forfeit not more than \$1,000.

10       SECTION 24. 23.33 (13) (b) (title) of the statutes is amended to read:

11       23.33 (13) (b) (title) *Penalties related to prohibited intoxicated operation of an*  
12       *all-terrain vehicle; intoxicants; refusal.*

13       SECTION 25. 23.33 (13) (b) 2. of the statutes is amended to read:

14       23.33 (13) (b) 2. Except as provided under subd. 3., a person who violates sub.  
15       (4c) (a) 1. or 2. or (4p) (e) and who, within 5 years prior to the arrest for the current  
16       violation, was convicted previously under the intoxicated operation of an all-terrain  
17       vehicle law or the refusal law shall be fined not less than \$300 nor more than \$1,000  
18       \$1,100 and shall be imprisoned not less than 5 days nor more than 6 months.

\*\*\*\*NOTE: In 2001 Assembly Bill 667, introduced by the Joint Legislative Council, the maximum fine was increased from \$1,000 to \$1,100, but I thought this might be a typographical error. Please let me know if the increase in this penalty should remain or should be deleted.

19       SECTION 26. 23.33 (13) (bg) of the statutes is created to read:

20       23.33 (13) (bg) *Penalties related to intoxicated operation of an all-terrain*  
21       *vehicle; underage passengers.* If there is a passenger under 16 years of age on the  
22       all-terrain vehicle at the time of a violation that gives rise to a conviction under sub.  
23       (4c) (a) 1. or 2. or (4p) (e), the applicable minimum and maximum forfeitures, fines,

1 and terms of imprisonment under pars. (b) 1., 2., and 3. for the conviction are  
2 doubled.

3 SECTION 27. 23.33 (13) (br) of the statutes is created to read:

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

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

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

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

16 SECTION 28. 23.35 (1) (a) of the statutes is amended to read:

17 23.35 (1) (a) Requires that boats, snowmobiles and all-terrain vehicles display  
18 decals, plates, or identification numbers showing valid registration by the tribe or  
19 band.

20 SECTION 29. 23.35 (1) (b) of the statutes is amended to read:

21 23.35 (1) (b) Employs registration decals and plates and certificates of number  
22 that are substantially similar to those employed by the registration or certification  
23 programs of this state with regard to size, legibility, information content and  
24 placement on the boat, snowmobile or all-terrain vehicle.

25 SECTION 30. 25.29 (1) (dm) of the statutes is amended to read:

1       25.29 (1) (dm) For fiscal year 1991–92 and for each fiscal year thereafter, an  
2 amount equal to the estimated all–terrain vehicle gas tax payment. The estimated  
3 all–terrain vehicle gas tax payment is calculated by multiplying the sum of the  
4 number of all–terrain vehicles registered for public use under s. 23.33 (2) (c) or (2g)  
5 and the number of reflectorized plates issued under s. 23.33 (2) (dm) on the last day  
6 of February of the previous fiscal year by ~~25~~ 52 gallons and multiplying that product  
7 by the excise tax imposed under s. 78.01 (1) on the last day of February of the previous  
8 fiscal year.

9           **SECTION 31. Nonstatutory provisions.**

10       (1) From the appropriation under section 20.380 (1) (r) of the statutes, as  
11 created by this act, the department of tourism shall expend not more than \$45,000  
12 to conduct a study concerning the impact the recreational operation of all–terrain  
13 vehicles has on statewide tourism and economic development. No later than June  
14 30, 2005, the department of tourism shall distribute the results of the completed  
15 study to the appropriate standing committees of the legislature in the manner  
16 provided under section 13.172 (3) of the statutes.

17           **SECTION 32. Appropriation changes.**

18       ~~(1) In the schedule under section 20.005 (3) of the statutes for the appropriation  
19 to the department of natural resources under section 20.370 (1) (ms) of the statutes,  
20 as affected by the acts of 2003, the dollar amount is increased by \$22,500 for fiscal  
21 year 2003–04 and the dollar amount is increased by \$22,500 for fiscal year 2004–05  
22 to conduct a study concerning the impact of the recreational operation of all–terrain  
23 vehicles has on statewide tourism and economic development.~~

24       (2) In the schedule under section 20.005 (3) of the statutes for the appropriation  
25 to the department of natural resources under section 20.370 (3) (as) of the statutes,

1 as affected by the acts of 2003, the dollar amount is increased by \$100,000 for fiscal  
2 year 2003-04 to purchase equipment to determine whether all-terrain vehicles  
3 comply with applicable noise limitations.

4 **SECTION 33. Initial applicability.**

5 (1) **FEE INCREASE.** The treatment of section 23.33 (2) (c) and (d) of the statutes  
6 first applies to all-terrain vehicle registration certificates issued or renewed on the  
7 effective date of this subsection.

8 (2) **INTOXICATED OPERATION.** The treatment of section 23.33 (13) (b) (title) and  
9 2., (bg), and (br) of the statutes first applies to violations committed on the effective  
10 date of this subsection, but does not preclude the counting of convictions that  
11 occurred before the effective date of this subsection as prior convictions for purposes  
12 of sentencing by a court.

13 **SECTION 34. Effective dates.** This act takes effect on the first day of the 7th  
14 month beginning after publication, except as follows:

15 (1) **GAS TAX FORMULA.** The treatment of section 25.29 (1) (dm) of the statutes  
16 takes effect on the first July 1 after publication.

17 (2) **ALL-TERRAIN VEHICLE SAFETY CERTIFICATES; INTOXICATED OPERATION.** The  
18 treatment of section 23.33 (5) (b) and (c) and (13) (b) (title) and 2., (bg), and (br) of the  
19 statutes and SECTION 33 (2) of this act take effect on July 1, 2005.

20 (3) **STUDY AND FUNDING.** The treatment of section 20.380 (1) (r) of the statutes  
21 and SECTIONS 31 (1), 32 ~~(1)~~ and (2), and 33 (1) of this act take effect on the 2nd day  
22 after publication of the 2001-03 biennial budget act, or on the day after publication,  
23 whichever is later.

24 *check auto reb*  
(END)

2003-2004 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1708/P3ins  
MGG::

54

**Insert 4-3**

**SECTION 1.** 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 person'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.

History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1995 a. 436, 448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109.

**SECTION 2.** 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).

History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1995 a. 436, 448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109.

**Insert 4-14**

**SECTION 3.** 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.

History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1995 a. 436, 448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109.



DOA:.....Wagner - BB0168, Noise limits for ATV's

FOR 2003-05 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**NATURAL RESOURCES**

**RECREATION**

This bill prohibits a person from selling, renting, or operating an all-terrain vehicle (ATV) that is constructed in such a manner that the noise from the ATV exceeds 96 decibels on the A scale. It also prohibits any person from equipping an ATV with a noise suppression system or muffler that contains a cutout, bypass, or other similar device. Finally the bill provides that no person may modify or alter an ATV exhaust system so that the noise level exceeds the limit specified in the bill unless the modification or alteration is made to an ATV participating in a competitive ATV event or to an ATV being tested by the manufacturer, distributor, or dealer of the ATV.

For further information see the *state* 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:*

2

SECTION 1. 23.33 (7m) of the statutes is created to read:

INSERT 7-22



manufacture, sell,  
rent or

INSERT  
7-22  
CONT.

1 23.33 (7m) NOISE LIMITS. (a) No person may ~~sell, offer for sale, rent, or~~ operate  
2 an all-terrain vehicle that is constructed in such a manner that noise emitted from  
3 the all-terrain vehicle exceeds 96 decibels on the A scale as measured in the manner  
4 prescribed under rules promulgated by the department. ✓

5 (b) No person may do any of the following:  
6 1. Equip an all-terrain vehicle with a noise suppression system or muffler that  
7 contains a cutout, bypass, or similar device.  
8 2. Modify or alter the exhaust system of an all-terrain vehicle in a manner that  
9 amplifies or increases the noise emitted by the all-terrain vehicle so that it exceeds  
10 the noise level specified under par. (a).  
11 (c) Paragraph (b) 2. does not apply to a person who modifies or alters the  
12 exhaust system of an all-terrain vehicle if any of the following applies:  
13 1. The all-terrain vehicle is used only for the purpose of competing in an  
14 all-terrain vehicle event sponsored by a county, town, city, or village, by a promoter,  
15 by a chamber of commerce, or by an all-terrain vehicle club or other similar  
16 organization.  
17 2. The all-terrain vehicle is used only for testing by the manufacturer,  
18 distributor, or dealer of the all-terrain vehicle while the all-terrain vehicle is on land  
19 under the control of that manufacturer, distributor, or dealer.

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

LRB-1708/P3dn

MGG: . . . . .

1. The changes in s. 23.33 (1) <sup>if</sup> (b) and (2) (a) are totally technical in nature. Please call me if you wish to discuss them further.

2. Regarding s. 23.33 (2j) (b): I deleted the phrase suggested in the redraft instructions stating that an operator may not give another operator permission to operate an ATV. I did this because an operator who is not an owner does not have permission in the first place to allow another person to operate the ATV unless the owner has specifically granted that authority. As drafted, only the operator, regardless of whether he or she is the owner, is subject to the prohibition. ✓

3. Regarding s. 23.33 (5) (c): I have deleted the references to par. (a) in the last sentence since par. (a) only deals with minors who are under 12 years of age. ✓

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

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

LRB-1708/P3dn  
MGG:cjs:rs

May 12, 2003

1. The changes in s. 23.33 (1) (if) and (2) (a) are totally technical in nature. Please call me if you wish to discuss them further.
2. Regarding s. 23.33 (2j) (b): I deleted the phrase suggested in the redraft instructions stating that an operator may not give another operator permission to operate an ATV. I did this because an operator who is not an owner does not have permission in the first place to allow another person to operate the ATV unless the owner has specifically granted that authority. As drafted, only the operator, regardless of whether he or she is the owner, is subject to the prohibition.
3. Regarding s. 23.33 (5) (c): I have deleted the reference to par. (a) in the last sentence since par. (a) only deals with minors who are under 12 years of age.

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

relates to ATV - for registries only  
used

exclusively on private property (of the ATV)  
(1)(n) used by the owner or family member  
on land owned or leased by the ATV owner  
or family member

land under person's immediate family  
land owner or leased by a person  
or family member - do not  
have to own

(3a)(d) → the  
(5)(c) → needs immediate

private and land on corridor  
public

23.33(1)(d) def. of ATV trail

(1)(n) see above

23.33(2)(a) public ATV-trail

(3)(c) private property w/ consent

large  
approp

D-Note (1)(f)

(2)(a) - techn. correction

(5)(c) -

(e)(e) + (f)

ANL

trail sticker program } noise levels  
impact study } gas tax formula  
increase in fees } DWI  
safety certs. }

**Nelson, Robert P.**

---

**From:** Schneider, Christian  
**Sent:** Thursday, June 26, 2003 9:38 AM  
**To:** Nelson, Robert P.  
**Subject:** FW: ATV Draft (1708)

Bob,

I sent this to Mary Gibson-Glass, but she is obviously out until mid-July.

Thanks.

-----Original Message-----

**From:** Schneider, Christian  
**Sent:** Thursday, June 26, 2003 9:36 AM  
**To:** Gibson-Glass, Mary  
**Subject:** FW: ATV Draft (1708)

Mary,

You have drafted LRB 1708 for Senator Leibham, which raises ATV fees. Senator Harsdorf will be taking over as Senate lead on this bill, so please let us know when you have a completed draft. I will probably need the bill summary to see exactly what it does.

Thanks,

Chris Schneider  
Senator Harsdorf's Office

-----Original Message-----

**From:** Vander Sanden, Patrick  
**Sent:** Wednesday, June 25, 2003 1:55 PM  
**To:** Schneider, Christian  
**Subject:** ATV Draft



Preliminary  
TV draft 5.12.03.

Chris,

This is the draft. I know there are some parts of it the Randy Harden, ATV Assn President, may want adjusted. Don't know if you have talked with Randy - but eventually you might.

We haven't told Randy that we may be passing this bill off to you guys - so maybe hold off on talking with him until we do? If that is ok.

Call or reply with any questions. Thanks.

Patrick

---

Patrick B. Vander Sanden  
Policy Director

**Office of State Senator Joe Leibham**  
**409 South, State Capitol**  
**(608) 266-2056**

Lebham's ATV draft

Bob -

This one is ready to go except for one DUI issue on p. 8. - Peggy was not in on Mon to help

You do not need to put this editing unless they call asking for it

If you do put it in editing, after taking care of the issue on p. 8, make sure the analysis in pg 5 is correct.

point

Thanks,

MOB

I have forwarded this to your in-box

If you do put it in editing, please tell the redraft maker.





State of Wisconsin  
2003 - 2004 LEGISLATURE

RMR

LRB-1708/PB 4

D-Note to requester  
9 AM Tues  
7/22

MGG:cjs

stays

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

SA ✓

Regen cat.

1 AN ACT to amend 20.370 (1) (ms), 20.370 (3) (as), 20.370 (5) (cu), 20.370 (5) (er),  
 2 23.33 (1) (if), 23.33 (2) (a), 23.33 (2) (c), 23.33 (2) (d), 23.33 (2) (dm) 2., 23.33 (2)  
 3 (e), 23.33 (5) (c), 23.33 (9) (a), 23.33 (13) (b) (title), 23.33 (13) (b) 2. and 25.29 (1)  
 4 (dm); to repeal and recreate 23.33 (5) (b); and to create 20.380 (1) (r), 23.33  
 5 (2j), 23.33 (7m), 23.33 (13) (ar), 23.33 (13) (bg) and 23.33 (13) (br) of the statutes;  
 6 relating to: intoxicated operation of all-terrain vehicles, registration fees for  
 7 all-terrain vehicles, nonresident trail passes for all-terrain vehicles, safety  
 8 training for operating all-terrain vehicles, a study concerning the recreational  
 9 operation of all-terrain vehicles, noise level requirements for all-terrain  
 10 vehicles, the formula used for calculating the all-terrain vehicle gas tax  
 11 payment, granting rule-making authority, making appropriations, and  
 12 providing penalties.

**Analysis by the Legislative Reference Bureau**

This is a preliminary draft. An analysis will be provided in a later version.  
Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a

INS  
ANL

report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert  
2 the following amounts for the purposes indicated:

	<b>2003-04</b>	<b>2004-05</b>
--	----------------	----------------

4           **20.380 Tourism, department of**

5           (1) TOURISM DEVELOPMENT AND PROMOTION

(r) All-terrain vehicle impact study	SEG	B	45,000	-0-
--------------------------------------	-----	---	--------	-----

7           **SECTION 2.** 20.370 (1) (ms) of the statutes is amended to read:

8           20.370 (1) (ms) *General program operations — state all-terrain vehicle projects.*

9           The amounts in the schedule from moneys received from all-terrain vehicle fees  
10 under s. 23.33 (2) (c) to (e) and (2j) for state all-terrain vehicle projects.

11           **SECTION 3.** 20.370 (3) (as) of the statutes is amended to read:

12           20.370 (3) (as) *Law enforcement — all-terrain vehicle enforcement.* The  
13 amounts in the schedule from moneys received from all-terrain vehicle fees under  
14 s. 23.33 (2) (c) to (e) and (2j), for state law enforcement operations related to  
15 all-terrain vehicles, including actual enforcement, safety training, accident  
16 reporting, and similar activities.

17           **SECTION 4.** 20.370 (5) (cu) of the statutes is amended to read:

18           20.370 (5) (cu) *Recreation aids — all-terrain vehicle project aids.* As a  
19 continuing appropriation, the amounts in the schedule from moneys received from

1 all-terrain vehicle fees under s. 23.33 (2) (c) to (e) and (2j) to provide aid to towns,  
2 villages, cities, counties, and federal agencies for nonstate all-terrain vehicle  
3 projects.

4 SECTION 5. 20.370 (5) (er) of the statutes is amended to read:

5 20.370 (5) (er) *Enforcement aids — all-terrain vehicle enforcement.* The  
6 amounts in the schedule from moneys received from all-terrain vehicle fees under  
7 s. 23.33 (2) (c) to (e) and (2j) for local law enforcement aids.

8 SECTION 6. 20.380 (1) (r) of the statutes is created to read:

9 20.380 (1) (r) *All-terrain vehicle impact study.* Biennially, from the  
10 conservation fund, the amounts in the schedule from moneys received from  
11 all-terrain vehicle fees under s. 23.33 (2) (c) to (e) and (2j) for the all-terrain vehicle  
12 impact study under 2003 Wisconsin Act .... (this act), section 24 (1).

13 SECTION 7. 23.33 (1) (if) of the statutes is amended to read:

14 23.33 (1) (if) "Land under the management and control of a the person's  
15 immediate family" means land owned or leased by the person or a member of the  
16 person's immediate family over which the owner or lessee has management and  
17 control. This term excludes land owned or leased by an organization of which the  
18 person or a member of the person's immediate family is a member.

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

20 23.33 (2) (a) *Requirement.* No person may operate and no owner may give  
21 permission for the operation of an all-terrain vehicle within this state unless the  
22 all-terrain vehicle is registered for public use or for private use under this subsection  
23 or sub. (2g), is exempt from registration, or is operated with a reflectorized plate  
24 attached in the manner specified under par. (dm) 3. No person may operate and no  
25 owner may give permission for the operation of an all-terrain vehicle on a public an

1 all-terrain vehicle route or an all-terrain vehicle trail unless the all-terrain vehicle  
2 is registered for public use under this subsection or sub. (2g).

3 SECTION 9. 23.33 (2) (c) of the statutes is amended to read:

4 23.33 (2) (c) *Registration; public use; fee.* Any all-terrain vehicle may be  
5 registered for public use. The fee for the issuance or renewal of a registration  
6 certificate for public use is ~~\$12~~ \$30.

7 SECTION 10. 23.33 (2) (d) of the statutes is amended to read:

8 23.33 (2) (d) *Registration; private use; fee.* An all-terrain vehicle used  
9 exclusively for agricultural purposes or used exclusively on private property may be  
10 registered for private use. The fee for the issuance of a registration certificate for  
11 private use is ~~\$6~~ \$15.

12 SECTION 11. 23.33 (2) (dm) 2. of the statutes is amended to read:

13 23.33 (2) (dm) 2. The fee for the issuance or renewal of a commercial all-terrain  
14 vehicle certificate is ~~\$36~~ \$90. Upon receipt of the application form required by the  
15 department and the fee required under this subdivision, the department shall issue  
16 to the applicant a commercial all-terrain vehicle certificate and 3 reflectorized  
17 plates. The fee for additional reflectorized plates is ~~\$12~~ \$30 per plate.

18 SECTION 12. 23.33 (2) (e) of the statutes is amended to read:

19 23.33 (2) (e) *Other fees.* The fee for the transfer of an all-terrain vehicle  
20 registration certificate is ~~\$2~~ \$5. The fee for the issuance of a duplicate all-terrain  
21 vehicle registration certificate, duplicate commercial all-terrain vehicle certificate  
22 or duplicate registration decals is ~~\$2~~ \$5. The fee for the issuance of registration  
23 decals to a county or municipality is ~~\$2~~ \$5. There is no fee for the issuance of  
24 registration decals to the state.

25 SECTION 13. 23.33 (2j) of the statutes is created to read:

1           23.33 (2j) NONRESIDENT TRAIL PASSES. (a) In this subsection, "public all-terrain  
2 vehicle corridor" means an all-terrain vehicle trail or other established all-terrain  
3 vehicle corridor that is open to the public but does not include an all-terrain vehicle  
4 route.

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

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

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

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

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

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

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

11 SECTION 14. 23.33 (5) (b) of the statutes is repealed and recreated to read:

12 23.33 (5) (b) *All-terrain vehicle safety certificate.* 1. No person who is at least  
13 12 years of age and who is born on or after January 1, 1988, may operate an  
14 all-terrain vehicle unless he or she holds a valid safety certificate.

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

20 SECTION 15. 23.33 (5) (c) of the statutes is amended to read:

21 23.33 (5) (c) *Exceptions.* Paragraphs (a) and (b) do not apply to a person who  
22 operates an all-terrain vehicle exclusively on land under the management and  
23 control of the person's immediate family. Paragraphs (a) and (b) do that is not open  
24 to the public. Paragraph (b) does not apply to a person at least 12 years of age but

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1 ~~under 16 years of age~~ who holds a valid certificate issued by another state or a  
2 province of Canada.

3 <sup>(6 m)</sup> SECTION 16. 23.33 <sup>(7 m)</sup> of the statutes is created to read:

4 <sup>(6 m)</sup> 23.33 <sup>(7 m)</sup> NOISE LIMITS. (a) No person may manufacture, sell, rent or operate  
5 an all-terrain vehicle that is constructed in such a manner that noise emitted from  
6 the all-terrain vehicle exceeds 96 decibels on the A scale as measured in the manner  
7 prescribed under rules promulgated by the department.

8 SECTION 17. 23.33 (9) (a) of the statutes is amended to read:

9 23.33 (9) (a) *Enforcement.* The department may utilize moneys received under  
10 sub. (2) subs. (2) and (2j) for all-terrain vehicle registration aids administration and  
11 for the purposes specified under s. 20.370 (3) (as) and (5) (er) including costs  
12 associated with enforcement, safety education, accident reports and analysis, law  
13 enforcement aids to counties, and other similar costs in administering and enforcing  
14 this section.

15 SECTION 18. 23.33 (13) (ar) of the statutes is created to read:

16 23.33 (13) (ar) *Penalty related to nonresident trail passes.* Any person who  
17 violates sub. (2j) shall forfeit not more than \$1,000.

18 SECTION 19. 23.33 (13) (b) (title) of the statutes is amended to read:

19 23.33 (13) (b) (title) *Penalties related to ~~prohibited~~ intoxicated operation of an*  
20 *all-terrain vehicle; intoxicants; refusal.*

21 SECTION 20. 23.33 (13) (b) 2. of the statutes is amended to read:

22 23.33 (13) (b) 2. Except as provided under subd. 3., a person who violates sub.  
23 (4c) (a) 1. or 2. or (4p) (e) and who, within 5 years prior to the arrest for the current  
24 violation, was convicted previously under the intoxicated operation of an all-terrain

1 vehicle law or the refusal law shall be fined not less than \$300 nor more than \$1,000  
2 \$1,100 and shall be imprisoned not less than 5 days nor more than 6 months.

3 SECTION 21. 23.33 (13) (bg) of the statutes is created to read:

4 23.33 (13) (bg) *Penalties related to intoxicated operation of an all-terrain*  
5 *vehicle; underage passengers.* If there is a passenger under 16 years of age on the  
6 all-terrain vehicle at the time of a violation that gives rise to a conviction under sub.  
7 (4c) (a) 1. or 2. or (4p) (e), the applicable minimum and maximum forfeitures, fines,  
8 and terms of imprisonment under pars. (b) 1., 2., and 3. for the conviction are  
9 doubled.

10 SECTION 22. 23.33 (13) (br) of the statutes is created to read:

11 23.33 (13) (br) *Penalties related to intoxicated operation of an all-terrain*  
12 *vehicle; enhancers.* 1. If a person convicted under sub. (4c) (a) 1. or 2. had an alcohol  
13 concentration of 0.17 to 0.199 at the time of the offense, the minimum and maximum  
14 fines specified under par. (b) 3. for the conviction are doubled.

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

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

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

23 SECTION 23. 25.29 (1) (dm) of the statutes is amended to read:

24 25.29 (1) (dm) ~~For fiscal year 1991-92 and for each fiscal year thereafter, an~~  
25 *An* amount equal to the estimated all-terrain vehicle gas tax payment. The estimated



1 all-terrain vehicle gas tax payment is calculated by multiplying the sum of the  
2 number of all-terrain vehicles registered for public use under s. 23.33 (2) (c) or (2g)  
3 and the number of reflectorized plates issued under s. 23.33 (2) (dm) on the last day  
4 of February of the previous fiscal year by ~~25~~ 52 gallons and multiplying that product  
5 by the excise tax imposed under s. 78.01 (1) on the last day of February of the previous  
6 fiscal year.

7 **SECTION 24. Nonstatutory provisions.**

8 (1) From the appropriation under section 20.380 (1) (r) of the statutes, as  
9 created by this act, the department of tourism shall expend not more than \$45,000  
10 to conduct a study concerning the impact the recreational operation of all-terrain  
11 vehicles has on statewide tourism and economic development. No later than June  
12 30, 2005, the department of tourism shall distribute the results of the completed  
13 study to the appropriate standing committees of the legislature in the manner  
14 provided under section 13.172 (3) of the statutes.

15 **SECTION 25. Appropriation changes.**

16 (1) In the schedule under section 20.005 (3) of the statutes for the appropriation  
17 to the department of natural resources under section 20.370 (3) (as) of the statutes,  
18 as affected by the acts of 2003, the dollar amount is increased by \$100,000 for fiscal  
19 year 2003–04 to purchase equipment to determine whether all-terrain vehicles  
20 comply with applicable noise limitations.

21 **SECTION 26. Initial applicability.**

22 (1) FEE INCREASE. The treatment of section 23.33 (2) (c) and (d) of the statutes  
23 first applies to all-terrain vehicle registration certificates issued or renewed on the  
24 effective date of this subsection.



2003-2004 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1708/linsan  
MGG:.....

Under current law, the Department of Natural Resources (DNR) administers the laws relating to the operation and registration of all-terrain vehicles (ATVs) and to providing funding for ATV projects, such as trails, and for ATV vehicle safety. This bill makes changes to these laws including the following:

1. The bill increases all of the registration related fees for registering ATVs. ✓  
2. The bill creates a nonresident trail pass that is required to be displayed on any ATV that is being operated in this state on public trails and corridors and that is exempt from being registered in this state because the ATV is in the state for less than 15 consecutive days or because the ATV has been registered by an American Indian tribe or bands that has an agreement with the state for registering ATVs. Current law requires nonresident stickers, which are similar to these ATV passes, for the operation of snowmobiles which are not registered by this state.

3. The bill broadens the provisions that exempt ATV operators from having to comply with certain regulations on private land. Under current law, a minor under the age of 12 (younger minor) may only operate an ATV if the operation is for an agricultural purpose not on a roadway and he or she is under the supervision of a person over 18 years of age or if he is or she operating a small ATV on a trail designated by the DNR. No safety certificate is required for younger minors.

A minor who is 12, 13, 14, or 15 years old (older minor) may not operate a ATV unless he or she has a ATV safety certificate or is accompanied by a person over 18 years of age. An older minor may operate an ATV on a roadway, as opposed to a trail, only for limited purposes and only if the minor has a safety certificate.

Under current law, ~~all~~ of the above restrictions ~~do not~~ apply to a minor if he or she is operating the ATV on land that is exclusively under the control of the minor's immediately family. This bill broadens the exemption to include any land that is not open to the public.

4. The bill requires that any person who is at least 12 years old and who is born on or after January 1, 1988, have a valid safety certificate issued by the DNR or a similar certificate issued by another state or Canadian province in order to operate an ATV. This provision does not affect the exemption for minors under the age of 12 who are authorized to operate ATVs without having a safety certificate under the limited circumstances described above.

5. The bill increases the penalties imposed on a person operating an ATV under the influence of an intoxicant or controlled substance if the person's alcohol level is above a given ~~offense~~ <sup>ATV</sup> level. For example, if a person has an alcohol concentration level of 0.17 to 0.199 at the time of the offense, the minimum and maximum fines if convicted are doubled. Higher alcohol concentration levels result in the minimum and maximum fines being tripled and quadrupled.

6. The bill prohibits the manufacturing, sale, rental, or operation of an ATV that is constructed in such a manner that the noise from the ATV exceed 96 decibels on the A scale as measured in compliance with rules promulgated by DNR. Current law only requires that an ATV muffler not produce excessive or unusual noise.

7. The bill increases the number of gallons used in calculating the estimate<sup>d</sup> ATV gas tax payment from 25 to 52 gallons. The estimated payment is calculated for each fiscal year by multiplying the number of registered ATVs (except those registered only for private use) by this number of gallons and then multiplying this product by the excise tax imposed on gasoline and diesel fuel on the last day of February of the previous fiscal year.

MGG

DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1708/1dn

MGG:cjs:77

Stamps

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✓  
Please review the changes in s. 23.33 (5), both in the bill and as described in the analysis. These changes are described in the analysis under points 3, and 4, in the analysis. In doing so, note the following:

A minor under 12 years old (younger minor) does not need an ATV safety certificate but everybody else born after January 1, 1988 will. I realize that the permitted operation by a younger minor is limited, but I want to make sure that these changes comply with your intent.

that  
In the /P3 version of this draft, I amended the last sentence in s. 23.33 (5) (c) to take out the cross-reference to s. 23.33 (5) (a) because a younger minor does not need an ATV safety certificate so it seemed to be an error in current law to exempt a younger minor under s. 23.33 (5) (c). Then I realized that current law allowed a younger minor, if he or she has a safety certificate issued by another state or by a Canadian province to be exempt from all of the requirements apply to younger minors and older minors (ages 12 to 15) under s. 23.33 (5) (a) and (b) and that this change was a substantive change and was outside the scope of the draft. I, therefore, restored this last sentence to way it appeared in the previous drafts. the

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

b

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

LRB-1708/1dn  
MGG:cjs:pg

July 21, 2003

Please review the changes in s. 23.33 (5), both in the bill and as described in the analysis. These changes are described in the analysis under points 3. and 4. in the analysis. In doing so, note the following:

A minor under 12 years old (younger minor) does not need an ATV safety certificate but everybody else born after January 1, 1988 will. I realize that the permitted operation by a younger minor is limited, but I want to make sure that these changes comply with your intent.

In the /P3 version of this draft, I amended the last sentence in s. 23.33 (5) (c) to take out the cross-reference to s. 23.33 (5) (a) because a younger minor does not need an ATV safety certificate so it seemed to be an error in current law to exempt a younger minor under s. 23.33 (5) (c). Then I realized that current law allowed a younger minor, if he or she has a safety certificate issued by another state or by a Canadian province to be exempt from all of the requirements that apply to younger minors and older minors (ages 12 to 15) under s. 23.33 (5) (a) and (b) and that this change was a substantive change and was outside the scope of the draft. I, therefore, restored this last sentence to the way it appeared in the previous drafts.

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



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-1708/1

MGG:cjs:pg

2003 BILL

1 AN ACT *to amend* 20.370 (1) (ms), 20.370 (3) (as), 20.370 (5) (cu), 20.370 (5) (er),  
2 23.33 (1) (if), 23.33 (2) (a), 23.33 (2) (c), 23.33 (2) (d), 23.33 (2) (dm) 2., 23.33 (2)  
3 (e), 23.33 (5) (c), 23.33 (9) (a), 23.33 (13) (b) (title), 23.33 (13) (b) 2. and 25.29 (1)  
4 (dm); *to repeal and recreate* 23.33 (5) (b); and *to create* 20.380 (1) (r), 23.33  
5 (2j), 23.33 (6m), 23.33 (13) (ar), 23.33 (13) (bg) and 23.33 (13) (br) of the statutes;  
6 **relating to:** intoxicated operation of all-terrain vehicles, registration fees for  
7 all-terrain vehicles, nonresident trail passes for all-terrain vehicles, safety  
8 training for operating all-terrain vehicles, a study concerning the recreational  
9 operation of all-terrain vehicles, noise level requirements for all-terrain  
10 vehicles, the formula used for calculating the all-terrain vehicle gas tax  
11 payment, granting rule-making authority, making appropriations, and  
12 providing penalties.

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*Analysis by the Legislative Reference Bureau*

Under current law, the Department of Natural Resources (DNR) administers the laws relating to the operation and registration of all-terrain vehicles (ATVs) and

**BILL**

to providing funding for ATV projects, such as trails, and for ATV vehicle safety. This bill makes changes to these laws including the following:

1. The bill increases all of the registration related fees for registering ATVs.
2. The bill creates a nonresident trail pass that is required to be displayed on any ATV that is being operated in this state on public trails and corridors and that is exempt from being registered by this state because the ATV is in the state for less than 15 consecutive days or because the ATV has been registered by an American Indian tribe or band that has an agreement with the state for registering ATVs. Current law requires nonresident stickers, which are similar to these ATV passes, for the operation of snowmobiles which are not registered by this state.

3. The bill broadens the provisions that exempt ATV operators from having to comply with certain regulations on private land. Under current law, a minor under the age of 12 (younger minor) may only operate an ATV if the operation is for an agricultural purpose not on a roadway and he or she is under the supervision of a person over 18 years of age or if he is or she operating a small ATV on a trail designated by the DNR. No safety certificate is required for younger minors.

A minor who is 12, 13, 14, or 15 years old (older minor) may not operate a ATV, unless he or she has a ATV safety certificate or is accompanied by a person over 18 years of age. An older minor may operate an ATV on a roadway, as opposed to a trail, only for limited purposes and only if the minor has a safety certificate.

Under current law, none of the above restrictions apply to a minor if he or she is operating the ATV on land that is exclusively under the control of the minor's immediately family. This bill broadens the exemption to include any land that is not open to the public.

4. The bill requires that any person who is at least 12 years old and who is born on or after January 1, 1988, have a valid safety certificate issued by the DNR or a similar certificate issued by another state or Canadian province in order to operate an ATV. This provision does not affect the exemption for minors under the age of 12 who are authorized to operate ATVs without having a safety certificate under the limited circumstances described above.

5. The bill increases the penalties imposed on a person operating an ATV under the influence of an intoxicant or controlled substance if the person's alcohol level is above a given level. For example, if a person has an alcohol concentration level of 0.17 to 0.199 at the time of the offense, the minimum and maximum fines if convicted are doubled. Higher alcohol concentration levels result in the minimum and maximum fines being tripled and quadrupled.

6. The bill prohibits the manufacturing, sale, rental, or operation of an ATV that is constructed in such a manner that the noise from the ATV exceed 96 decibels on the A scale as measured in compliance with rules promulgated by DNR. Current law only requires that an ATV muffler not produce excessive or unusual noise.

7. The bill increases the number of gallons used in calculating the estimated ATV gas tax payment from 25 to 52 gallons. The estimated payment is calculated for each fiscal year by multiplying the number of registered ATVs (except those registered only for private use) by this number of gallons and then multiplying this



**BILL**

product by the excise tax imposed on gasoline and diesel fuel on the last day of February of the previous fiscal year.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert  
2 the following amounts for the purposes indicated:

	2003-04	2004-05
3		
4	<b>20.380 Tourism, department of</b>	
5	(1) TOURISM DEVELOPMENT AND PROMOTION	
6	(r) All-terrain vehicle impact study SEG B	45,000            -0-

7           SECTION 2. 20.370 (1) (ms) of the statutes is amended to read:

8           ~~20.370 (1) (ms) General program operations — state all-terrain vehicle projects.~~

9           The amounts in the schedule from moneys received from all-terrain vehicle fees  
10 under s. 23.33 (2) (c) to (e) and (2j) for state all-terrain vehicle projects.

11           SECTION 3. 20.370 (3) (as) of the statutes is amended to read:

12           20.370 (3) (as) *Law enforcement — all-terrain vehicle enforcement.* The  
13 amounts in the schedule from moneys received from all-terrain vehicle fees under  
14 s. 23.33 (2) (c) to (e) and (2j), for state law enforcement operations related to  
15 all-terrain vehicles, including actual enforcement, safety training, accident  
16 reporting, and similar activities.

17           SECTION 4. 20.370 (5) (cu) of the statutes is amended to read:

**BILL**

1       20.370 (5) (cu) *Recreation aids — all-terrain vehicle project aids.* As a  
2 continuing appropriation, the amounts in the schedule from moneys received from  
3 all-terrain vehicle fees under s. 23.33 (2) (c) to (e) and (2j) to provide aid to towns,  
4 villages, cities, counties, and federal agencies for nonstate all-terrain vehicle  
5 projects.

6       **SECTION 5.** 20.370 (5) (er) of the statutes is amended to read:

7       20.370 (5) (er) *Enforcement aids — all-terrain vehicle enforcement.* The  
8 amounts in the schedule from moneys received from all-terrain vehicle fees under  
9 s. 23.33 (2) (c) to (e) and (2j) for local law enforcement aids.

10       **SECTION 6.** 20.380 (1) (r) of the statutes is created to read:

11       20.380 (1) (r) *All-terrain vehicle impact study.* Biennially, from the  
12 conservation fund, the amounts in the schedule from moneys received from  
13 all-terrain vehicle fees under s. 23.33 (2) (c) to (e) and (2j) for the all-terrain vehicle  
14 impact study under 2003 Wisconsin Act .... (this act), section 24 (1).

15       **SECTION 7.** 23.33 (1) (if) of the statutes is amended to read:

16       ~~23.33 (1) (if) “Land under the management and control of a~~ the person’s  
17 immediate family” means land owned or leased by the person or a member of the  
18 person’s immediate family over which the owner or lessee has management and  
19 control. This term excludes land owned or leased by an organization of which the  
20 person or a member of the person’s immediate family is a member.

21       **SECTION 8.** 23.33 (2) (a) of the statutes is amended to read:

22       23.33 (2) (a) *Requirement.* No person may operate and no owner may give  
23 permission for the operation of an all-terrain vehicle within this state unless the  
24 all-terrain vehicle is registered for public use or for private use under this subsection  
25 or sub. (2g), is exempt from registration, or is operated with a reflectorized plate

**BILL**

1 attached in the manner specified under par. (dm) 3. No person may operate and no  
2 owner may give permission for the operation of an all-terrain vehicle on a ~~public~~ an  
3 all-terrain vehicle route or an all-terrain vehicle trail unless the all-terrain vehicle  
4 is registered for public use under this subsection or sub. (2g).

5 **SECTION 9.** 23.33 (2) (c) of the statutes is amended to read:

6 **23.33 (2) (c) *Registration; public use; fee.*** Any all-terrain vehicle may be  
7 registered for public use. The fee for the issuance or renewal of a registration  
8 certificate for public use is ~~\$12~~ \$30.

9 **SECTION 10.** 23.33 (2) (d) of the statutes is amended to read:

10 **23.33 (2) (d) *Registration; private use; fee.*** An all-terrain vehicle used  
11 exclusively for agricultural purposes or used exclusively on private property may be  
12 registered for private use. The fee for the issuance of a registration certificate for  
13 private use is ~~\$6~~ \$15.

14 **SECTION 11.** 23.33 (2) (dm) 2. of the statutes is amended to read:

15 **23.33 (2) (dm) 2.** The fee for the issuance or renewal of a commercial all-terrain  
16 vehicle certificate is ~~\$36~~ \$90. Upon receipt of the application form required by the  
17 department and the fee required under this subdivision, the department shall issue  
18 to the applicant a commercial all-terrain vehicle certificate and 3 reflectorized  
19 plates. The fee for additional reflectorized plates is ~~\$12~~ \$30 per plate.

20 **SECTION 12.** 23.33 (2) (e) of the statutes is amended to read:

21 **23.33 (2) (e) *Other fees.*** The fee for the transfer of an all-terrain vehicle  
22 registration certificate is ~~\$2~~ \$5. The fee for the issuance of a duplicate all-terrain  
23 vehicle registration certificate, duplicate commercial all-terrain vehicle certificate  
24 or duplicate registration decals is ~~\$2~~ \$5. The fee for the issuance of registration

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1 decals to a county or municipality is \$2 ~~\$5~~. There is no fee for the issuance of  
2 registration decals to the state.

3 **SECTION 13.** 23.33 (2j) of the statutes is created to read:

4 **23.33 (2j) NONRESIDENT TRAIL PASSES.** (a) In this subsection, “public all-terrain  
5 vehicle corridor” means an all-terrain vehicle trail or other established all-terrain  
6 vehicle corridor that is open to the public but does not include an all-terrain vehicle  
7 route.

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

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

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

21 (e) An all-terrain vehicle that is registered under sub. (2) (a) or that is exempt  
22 from registration under sub. (2) (b) 1., 3., or 4. is exempt from having a nonresident  
23 trail pass displayed as required under par. (b). The department may promulgate a  
24 rule to exempt all-terrain vehicles that are exempt from registration under sub. (2)  
25 (b) 5. from having nonresident trail passes displayed as required under par. (b) or

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1 may promulgate a rule to exempt owners of such all-terrain vehicles from having to  
2 pay any applicable nonresident trail pass fee.

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

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

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

13 **SECTION 14.** 23.33 (5) (b) of the statutes is repealed and recreated to read:

14 23.33 (5) (b) *All-terrain vehicle safety certificate.* 1. No person who is at least  
15 12 years of age and who is born on or after January 1, 1988, may operate an  
16 all-terrain vehicle unless he or she holds a valid safety certificate.

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

22 **SECTION 15.** 23.33 (5) (c) of the statutes is amended to read:

23 23.33 (5) (c) *Exceptions.* Paragraphs (a) and (b) do not apply to a person who  
24 operates an all-terrain vehicle exclusively on land under the management and  
25 control of the person's immediate family that is not open to the public. Paragraphs

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1 (a) and (b) do not apply to a person at least 12 years of age but under 16 years of age  
2 who holds a valid certificate issued by another state or a province of Canada.

3 **SECTION 16.** 23.33 (6m) of the statutes is created to read:

4 **23.33 (6m) NOISE LIMITS.** (a) No person may manufacture, sell, rent or operate  
5 an all-terrain vehicle that is constructed in such a manner that noise emitted from  
6 the all-terrain vehicle exceeds 96 decibels on the A scale as measured in the manner  
7 prescribed under rules promulgated by the department.

8 **SECTION 17.** 23.33 (9) (a) of the statutes is amended to read:

9 **23.33 (9) (a) Enforcement.** The department may utilize moneys received under  
10 ~~sub. (2)~~ subs. (2) and (2j) for all-terrain vehicle registration aids administration and  
11 for the purposes specified under s. 20.370 (3) (as) and (5) (er) including costs  
12 associated with enforcement, safety education, accident reports and analysis, law  
13 enforcement aids to counties, and other similar costs in administering and enforcing  
14 this section.

15 **SECTION 18.** 23.33 (13) (ar) of the statutes is created to read:

16 **23.33 (13) (ar) Penalty related to nonresident trail passes.** Any person who  
17 violates sub. (2j) shall forfeit not more than \$1,000.

18 **SECTION 19.** 23.33 (13) (b) (title) of the statutes is amended to read:

19 **23.33 (13) (b) (title) Penalties related to ~~prohibited~~ intoxicated operation of an**  
20 **~~all-terrain vehicle; intoxicants; refusal.~~**

21 **SECTION 20.** 23.33 (13) (b) 2. of the statutes is amended to read:

22 **23.33 (13) (b) 2.** Except as provided under subd. 3., a person who violates sub.  
23 (4c) (a) 1. or 2. or (4p) (e) and who, within 5 years prior to the arrest for the current  
24 violation, was convicted previously under the intoxicated operation of an all-terrain

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1 vehicle law or the refusal law shall be fined not less than \$300 nor more than ~~\$1,000~~  
2 \$1,100 and shall be imprisoned not less than 5 days nor more than 6 months.

3 **SECTION 21.** 23.33 (13) (bg) of the statutes is created to read:

4 23.33 (13) (bg) *Penalties related to intoxicated operation of an all-terrain*  
5 *vehicle; underage passengers.* If there is a passenger under 16 years of age on the  
6 all-terrain vehicle at the time of a violation that gives rise to a conviction under sub.  
7 (4c) (a) 1. or 2. or (4p) (e), the applicable minimum and maximum forfeitures, fines,  
8 and terms of imprisonment under pars. (b) 1., 2., and 3. for the conviction are  
9 doubled.

10 **SECTION 22.** 23.33 (13) (br) of the statutes is created to read:

11 23.33 (13) (br) *Penalties related to intoxicated operation of an all-terrain*  
12 *vehicle; enhancers.* 1. If a person convicted under sub. (4c) (a) 1. or 2. had an alcohol  
13 concentration of 0.17 to 0.199 at the time of the offense, the minimum and maximum  
14 fines specified under par. (b) 3. for the conviction are doubled.

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

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

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

23 **SECTION 23.** 25.29 (1) (dm) of the statutes is amended to read:

24 25.29 (1) (dm) ~~For fiscal year 1991-92 and for each fiscal year thereafter, an~~  
25 An amount equal to the estimated all-terrain vehicle gas tax payment. The

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1 estimated all-terrain vehicle gas tax payment is calculated by multiplying the sum  
2 of the number of all-terrain vehicles registered for public use under s. 23.33 (2) (c)  
3 or (2g) and the number of reflectorized plates issued under s. 23.33 (2) (dm) on the  
4 last day of February of the previous fiscal year by ~~25~~ 52 gallons and multiplying that  
5 product by the excise tax imposed under s. 78.01 (1) on the last day of February of  
6 the previous fiscal year.

**SECTION 24. Nonstatutory provisions.**

7  
8 (1) From the appropriation under section 20.380 (1) (r) of the statutes, as  
9 created by this act, the department of tourism shall expend not more than \$45,000  
10 to conduct a study concerning the impact the recreational operation of all-terrain  
11 vehicles has on statewide tourism and economic development. No later than June  
12 30, 2005, the department of tourism shall distribute the results of the completed  
13 study to the appropriate standing committees of the legislature in the manner  
14 provided under section 13.172 (3) of the statutes.

**SECTION 25. Appropriation changes.**

15  
16 (1) In the schedule under section 20.005 (3) of the statutes for the appropriation  
17 to the department of natural resources under section 20.370 (3) (as) of the statutes,  
18 as affected by the acts of 2003, the dollar amount is increased by \$100,000 for fiscal  
19 year 2003-04 to purchase equipment to determine whether all-terrain vehicles  
20 comply with applicable noise limitations.

**SECTION 26. Initial applicability.**

21  
22 (1) FEE INCREASE. The treatment of section 23.33 (2) (c) and (d) of the statutes  
23 first applies to all-terrain vehicle registration certificates issued or renewed on the  
24 effective date of this subsection.



