

**SENATE SUBSTITUTE AMENDMENT 2,
TO 2003 SENATE BILL 277**

February 24, 2004 – Offered by JOINT COMMITTEE ON FINANCE.

1 **AN ACT** *to amend* 20.370 (1) (ms), 20.370 (5) (cu), 23.33 (1) (if), 23.33 (2) (a), 23.33
2 (2) (c), 23.33 (2) (d), 23.33 (2) (dm) 2., 23.33 (2) (e), 23.33 (13) (b) (title) and 23.33
3 (13) (b) 2.; **to repeal and recreate** 23.33 (5) (b); and **to create** 23.33 (2j), 23.33
4 (6m), 23.33 (13) (ar), 23.33 (13) (bg) and 23.33 (13) (br) of the statutes; **relating**
5 **to:** intoxicated operation of all-terrain vehicles, registration fees for all-terrain
6 vehicles, nonresident trail passes for all-terrain vehicles, safety training for
7 operating all-terrain vehicles, noise level requirements for all-terrain
8 vehicles, granting rule-making authority, making appropriations, and
9 providing penalties.

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

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

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

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

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

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

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

11 23.33 (1) (if) “Land under the management and control of a the person’s
12 immediate family” means land owned or leased by the person or a member of the
13 person’s immediate family over which the owner or lessee has management and
14 control. This term excludes land owned or leased by an organization of which the
15 person or a member of the person’s immediate family is a member.

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

17 23.33 (2) (a) *Requirement.* No person may operate and no owner may give
18 permission for the operation of an all-terrain vehicle within this state unless the
19 all-terrain vehicle is registered for public use or for private use under this subsection
20 or sub. (2g), is exempt from registration, or is operated with a reflectorized plate
21 attached in the manner specified under par. (dm) 3. No person may operate and no
22 owner may give permission for the operation of an all-terrain vehicle on a public an
23 all-terrain vehicle route or an all-terrain vehicle trail unless the all-terrain vehicle
24 is registered for public use under this subsection or sub. (2g).

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

1 23.33 (2) (c) *Registration; public use; fee.* Any all-terrain vehicle may be
2 registered for public use. The fee for the issuance or renewal of a registration
3 certificate for public use is ~~\$12~~ \$30.

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

5 23.33 (2) (d) *Registration; private use; fee.* An all-terrain vehicle used
6 exclusively for agricultural purposes or used exclusively on private property may be
7 registered for private use. The fee for the issuance of a registration certificate for
8 private use is ~~\$6~~ \$15.

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

10 23.33 (2) (dm) 2. The fee for the issuance or renewal of a commercial all-terrain
11 vehicle certificate is ~~\$36~~ \$90. Upon receipt of the application form required by the
12 department and the fee required under this subdivision, the department shall issue
13 to the applicant a commercial all-terrain vehicle certificate and 3 reflectorized
14 plates. The fee for additional reflectorized plates is ~~\$12~~ \$30 per plate.

15 **SECTION 8.** 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~~ \$5. The fee for the issuance of a duplicate all-terrain
18 vehicle registration certificate, duplicate commercial all-terrain vehicle certificate
19 or duplicate registration decals is ~~\$2~~ \$5. The fee for the issuance of registration
20 decals to a county or municipality is ~~\$2~~ \$5. There is no fee for the issuance of
21 registration decals to the state.

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

23 23.33 (2j) **NONRESIDENT TRAIL PASSES.** (a) In this subsection, “public all-terrain
24 vehicle corridor” means an all-terrain vehicle trail or other established all-terrain

1 vehicle corridor that is open to the public but does not include an all-terrain vehicle
2 route.

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

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

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

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

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

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

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

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

9 23.33 (5) (b) *All-terrain vehicle safety certificate.* 1. No person who is at least
10 12 years of age and who is born on or after January 1, 1988, may operate an
11 all-terrain vehicle unless he or she holds a valid safety certificate.

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

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

18 23.33 (6m) NOISE LIMITS. (a) No person may manufacture, sell, rent or operate
19 an all-terrain vehicle that is constructed in such a manner that noise emitted from
20 the all-terrain vehicle exceeds 96 decibels on the A scale as measured in the manner
21 prescribed under rules promulgated by the department.

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

23 23.33 (13) (ar) *Penalty related to nonresident trail passes.* Any person who
24 violates sub. (2j) shall forfeit not more than \$1,000.

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

1 23.33 (13) (b) (title) *Penalties related to ~~prohibited~~ intoxicated operation of an*
2 *all-terrain vehicle; intoxicants; refusal.*

3 **SECTION 14.** 23.33 (13) (b) 2. of the statutes, as affected by 2003 Wisconsin Act
4 97, is amended to read:

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

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

12 23.33 (13) (bg) *Penalties related to intoxicated operation of an all-terrain*
13 *vehicle; underage passengers.* If there is a passenger under 16 years of age on the
14 all-terrain vehicle at the time of a violation that gives rise to a conviction under sub.
15 (4c) (a) 1. or 2. or (4p) (e), the applicable minimum and maximum forfeitures, fines,
16 and terms of imprisonment under pars. (b) 1., 2., and 3. for the conviction are
17 doubled.

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

19 23.33 (13) (br) *Penalties related to intoxicated operation of an all-terrain*
20 *vehicle; enhancers.* 1. If a person convicted under sub. (4c) (a) 1. or 2. had an alcohol
21 concentration of 0.17 to 0.199 at the time of the offense, the minimum and maximum
22 fines specified under par. (b) 3. for the conviction are doubled.

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

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

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

6 **SECTION 17. Nonstatutory provisions.**

7 (1) Notwithstanding section 16.42 (1) (e) of the statutes, in submitting
8 information under section 16.42 of the statutes for purposes of the 2005–07 budget
9 bill, the department of natural resources shall submit information concerning the
10 appropriation under section 20.370 (3) (as) of the statutes as though the increase in
11 the dollar amount of that appropriation by SECTION 18 (1) of this act had been
12 \$276,000 instead of \$556,000.

13 **SECTION 18. Appropriation changes.**

14 (1) STATE ALL-TERRAIN VEHICLE TRAIL MAINTENANCE. In the schedule under
15 section 20.005 (3) of the statutes for the appropriation to the department of natural
16 resources under section 20.370 (1) (ms) of the statutes, as affected by the acts of 2003,
17 the dollar amount is increased by \$165,000 for fiscal year 2004–05 for maintenance
18 of state all-terrain trails.

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

24 (3) ALL-TERRAIN VEHICLE SAFETY EDUCATION. In the schedule under section
25 20.005 (3) of the statutes for the appropriation to the department of natural

1 resources under section 20.370 (3) (as) of the statutes, as affected by the acts of 2003,
2 the dollar amount is increased by \$154,200 for fiscal year 2004–05 to increase the
3 authorized FTE positions for the department by 1.0 SEG education position and to
4 provide funding for all–terrain vehicle safety education activities.

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

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

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

22 (7) COUNTY LAW ENFORCEMENT. In the schedule under section 20.005 (3) of the
23 statutes for the appropriation to the department of natural resources under section
24 20.370 (5) (er) of the statutes, as affected by the acts of 2003, the dollar amount is

1 increased by \$70,000 for fiscal year 2004–05 to provide aid to counties for all–terrain
2 vehicle law enforcement.

3 **SECTION 19. Initial applicability.**

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

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

12 **SECTION 20. Effective date.**

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

15 (END)