

2007 ASSEMBLY BILL 59

February 13, 2007 – Introduced by Representatives MURSAU, MUSSER, BALLWEG, FRISKE, GUNDERSON, HINES, JESKEWITZ, KAUFERT, KLEEFISCH, A. OTT, OWENS, PETROWSKI, TOWNSEND, VOS and M. WILLIAMS, cosponsored by Senators BRESKE, LASSA, OLSEN and SCHULTZ. Referred to Committee on Rural Affairs.

1 **AN ACT** *to amend* 23.33 (4) (b), 23.33 (5) (a), 23.33 (5) (c) and 23.33 (11) (b); and
2 *to create* 23.33 (1) (im), 23.33 (4) (dm) and 23.33 (11m) of the statutes; **relating**
3 **to:** the operation of all-terrain vehicles on highways for the purpose of certain
4 types of access and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, a person may not operate an all-terrain vehicle (ATV) on the roadway of a highway, street, or road except under certain limited circumstances. This bill specifically authorizes the operation of ATVs on a portion of a roadway and shoulder of a highway, street, or road if the highway, street, or road is within the jurisdiction of a county, town, city, or village (municipality) that has enacted an ordinance that allows the operation of ATVs for the purposes of residential access or access to and from a lodging establishment or a campground. A municipality may not enact an ordinance for access to and from lodging unless it has also enacted an ordinance for residential access.

For a state trunk highway (STH), the portion of the highway that may be open to this access must be the shortest distance between the residence or lodging and the ATV route or trail. For distances on a STH that are more than one-quarter mile, the Department of Transportation (DOT) must approve the access. For distances on a STH that are one-quarter mile or less, a municipality may enact such an ordinance unless the portion of the STH to be affected has been closed to ATVs based on DOT's finding that it is unsafe to operate ATVs on that portion of the STH. For any highway other than a STH, the distance open for ATV access may not be more than five miles.

ASSEMBLY BILL 59

The bill further provides that a municipality may not enact an ordinance allowing ATV access on any highway that is located in a state park or state forest if the operation of ATVs is prohibited in the park or forest.

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.** 23.33 (1) (im) of the statutes is created to read:

2 23.33 (1) (im) “Lodging establishment” means any of the following:

3 1. A bed and breakfast establishment, as defined in s. 254.61 (1).

4 2. A hotel, as defined in s. 254.61 (3).

5 3. A tourist rooming house, as defined in s. 254.61 (6).

6 4. A campground.

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

8 23.33 (4) (b) *Other highways; operation restricted.* No person may operate an
9 all-terrain vehicle on a highway except as authorized under pars. (d) ~~and~~ to (e) or as
10 authorized by rules promulgated by the department and approved by the
11 department of transportation.

12 **SECTION 3.** 23.33 (4) (dm) of the statutes is created to read:

13 23.33 (4) (dm) *Operation for purpose of access.* A person may operate an
14 all-terrain vehicle on a portion of the roadway or shoulder of a highway for the
15 purpose of residential access or for the purpose of access to and from lodging if the
16 operation is in compliance with an ordinance enacted under sub. (11m). An
17 all-terrain vehicle operated on the roadway or shoulder of a highway under this
18 paragraph shall observe roadway speed limits.

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

ASSEMBLY BILL 59

1 23.33 (5) (a) *Age restriction.* No person under 12 years of age may operate an
2 all-terrain vehicle unless he or she is operating the all-terrain vehicle for an
3 agricultural purpose and he or she is under the supervision of a person over 18 years
4 of age or unless he or she is operating a small all-terrain vehicle on an all-terrain
5 vehicle trail designated by the department and he or she is accompanied by his or her
6 parent. No person who is under 12 years of age may operate an all-terrain vehicle
7 which is an implement of husbandry on a roadway under any circumstances. No
8 person who is under 12 years of age may operate an all-terrain vehicle on a roadway
9 under the authorization provided under sub. (4) (d) 6. under any circumstances. No
10 person who is under 12 years of age may operate an all-terrain vehicle on a roadway
11 or shoulder of a highway as authorized under sub. (4) (dm) under any circumstances.
12 No person who is under 12 years of age may rent or lease an all-terrain vehicle. For
13 purposes of this paragraph, supervision does not require that the person under 12
14 years of age be subject to continuous direction or control by the person over 18 years
15 of age.

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

17 23.33 (5) (c) *Exceptions.* Paragraphs (a) and (b) do not apply to a person who
18 operates an all-terrain vehicle exclusively on land under the management and
19 control of the person's immediate family. Paragraphs (a) and (b) do not apply to a
20 person at least 12 years of age ~~but under 16 years of age~~ who holds a valid certificate
21 issued by another state or a province of Canada.

22 **SECTION 6.** 23.33 (11) (b) of the statutes is amended to read:

23 23.33 (11) (b) If a county, town, city, or village adopts an ordinance regulating
24 all-terrain vehicles, its clerk shall immediately send a copy of the ordinance to the
25 department, to the state traffic patrol, and to the office of any law enforcement

ASSEMBLY BILL 59

1 agency of the ~~municipality or county, town, city, or village~~ having jurisdiction over
2 any highway designated as an all-terrain vehicle route of the highways to which the
3 ordinance is applicable.

4 **SECTION 7.** 23.33 (11m) of the statutes is created to read:

5 **23.33 (11m)** ORDINANCES FOR ACCESS TO RESIDENCES AND LODGING. (a) *Definition.*

6 In this subsection, “municipality” means county, town, city, or village.

7 (b) *On state trunk highways.* 1. Subject to subds. 3. and 4. and par. (cm), a
8 municipality may enact an ordinance allowing the operation of all-terrain vehicles
9 on a roadway and shoulder of a state trunk highway for any portion of the highway
10 that is within the jurisdiction of the municipality for the purpose of traveling the
11 shortest distance that is necessary to go between a residence and the all-terrain
12 vehicle route or all-terrain vehicle trail that is closest to that residence.

13 2. Subject to subds. 3. and 4. and par. (cm), a municipality may enact an
14 ordinance allowing the operation of all-terrain vehicles on a roadway and shoulder
15 of a state trunk highway for any portion of the highway that is within the jurisdiction
16 of the municipality for the purpose of traveling the shortest distance that is
17 necessary to go between a lodging establishment and the all-terrain vehicle route
18 or all-terrain vehicle trail that is closest to that lodging establishment if the
19 municipality also enacts or has in effect an ordinance enacted under subd. 1.

20 3. A county or town may not enact an ordinance under subd. 1. or 2. that will
21 allow the operation of all-terrain vehicles on a roadway and shoulder of a portion of
22 a state trunk highway that is more than one-quarter mile in length unless the county
23 or town has first received specific authorization from the department of
24 transportation to allow the operation of all-terrain vehicles on the roadway and
25 shoulder of that portion of the state trunk highway.

ASSEMBLY BILL 59

1 4. A county or town may enact an ordinance under subd. 1. or 2. that will allow
2 the operation of all-terrain vehicles on a roadway and shoulder of a portion of a state
3 trunk highway that is one-quarter mile in length or less if the operation of
4 all-terrain vehicles on the roadway and shoulder has not been prohibited by rule by
5 the department of transportation based on a finding by the department of
6 transportation that such operation is unsafe.

7 (c) *On other highways.* 1. Subject to par. (cm), a municipality may enact an
8 ordinance allowing the operation of all-terrain vehicles on a roadway and shoulder
9 of a highway that is not a state trunk highway for any portion of the highway that
10 is within the jurisdiction of the municipality for the purpose of traveling a distance
11 of not more than 5 miles to go between a residence and the all-terrain vehicle route
12 or all-terrain vehicle trail that is closest to that residence.

13 2. Subject to par. (cm), a municipality may enact an ordinance allowing the
14 operation of all-terrain vehicles on a roadway and shoulder of a highway that is not
15 a state trunk highway for any portion of the highway that is within the jurisdiction
16 of the municipality for the purpose of traveling a distance of not more than 5 miles
17 to go between a lodging establishment and the all-terrain vehicle route or all-terrain
18 vehicle trail that is closest to that lodging establishment if the municipality also
19 enacts or has in effect and ordinance enacted under subd. 1.

20 (cm) *On highways in state parks and forests.* A municipality may not enact an
21 ordinance under par. (b) or (c) that will allow the operation of all-terrain vehicles on
22 roadways or shoulders of highways that are located within a state park or state forest
23 if the operation of all-terrain vehicles is prohibited within the state park or state
24 forest.

