

2007 DRAFTING REQUEST

Bill

Received: 12/06/2006

Received By: mglass

Wanted: As time permits

Identical to LRB:

For: Jeffrey Mursau (608) 266-3780

By/Representing: Jeff

This file may be shown to any legislator: NO

Drafter: mglass

May Contact:

Addl. Drafters:

Subject: Nat. Res. - boats snomos ATVs

Extra Copies:

Submit via email: YES

Requester's email: Rep.Mursau@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

All-terrain vehicle access to highways

Instructions:

Same as 05 AB 375 (LRB -1564) (include both introduced amendments)

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			S&L
/1	mglass 12/06/2006	wjackson 12/07/2006	rschluet 12/07/2006	_____	sbasford 12/07/2006	cduerst 01/12/2007	

FE Sent For:

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[Handwritten signature and initials]
12/7/06
SA

FE Sent For:

<END>

in edit 12/6

WLj

2007

2005 ASSEMBLY BILL 375

April 27, 2005 - Introduced by Representatives MURSAU, GARD, AINSWORTH, ALBERS, GUNDERSON, HINES, KAUFERT, KLEEFISCH, F. LASEE, LOEFFELHOLZ, MCCORMICK, MONTGOMERY, MUSSER, OTT, OWENS, PETROWSKI, PETTIS and TOWNSEND, cosponsored by Senators REYNOLDS, STEPP and GROTHMAN. Referred to Committee on Highway Safety.

LPS: Please PWF

Regen

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, 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. This may exceed more than one-quarter mile only if it is approved by the Department of Transportation. For any other highway, the distance may not be more than five miles. For every highway a municipality may enact an ordinance for access to lodging only if it has also enacted an ordinance for residential access.*

INS ANL

ASSEMBLY BILL 375

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:

20 23.33 (5) (a) *Age restriction.* No person under 12 years of age may operate an
21 all-terrain vehicle unless he or she is operating the all-terrain vehicle for an

ASSEMBLY BILL 375

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

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

15 23.33 (5) (c) *Exceptions.* Paragraphs (a) and (b) do not apply to a person who
16 operates an all-terrain vehicle exclusively on land under the management and
17 control of the person's immediate family. Paragraphs (a) and (b) do not apply to a
18 person at least 12 years of age ~~but under 16 years of age~~ who holds a valid certificate
19 issued by another state or a province of Canada.

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

21 23.33 (11) (b) If a county, town, city or village adopts an ordinance regulating
22 all-terrain vehicles, its clerk shall immediately send a copy of the ordinance to the
23 department ^{to the state traffic patrol} and to the office of any law enforcement agency of the municipality or
24 county, town, city, or village having jurisdiction over ^{plain} any highway designated as an
25 all-terrain vehicle route any of the highways to which the ordinance is applicable.

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SECTION 7

subd 3, 4 and 4 and para (cm)₅

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

2 23.33 (11m) ORDINANCES FOR ACCESS TO RESIDENCES AND LODGING. (a) Definition.
3 In this subsection, "municipality" means county, town, city, or village.

4 (b) On state trunk highways. 1. Subject to ~~subd 3~~² a municipality may enact
5 an ordinance allowing the operation of all-terrain vehicles on a roadway and
6 shoulder of a state trunk highway for any portion of the highway that is within the
7 jurisdiction of the municipality for the purpose of traveling the shortest distance that
8 is necessary to go between a residence and the all-terrain vehicle route or all-terrain
9 vehicle trail that is closest to that residence.

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

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

23 (c) On other highways. 1. A municipality may enact an ordinance allowing the
24 operation of all-terrain vehicles on a roadway and shoulder of a highway that is not
25 a state trunk highway for any portion of the highway that is within the jurisdiction

Subject to para (cm)₅

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ASSEMBLY BILL 375

1 of the municipality for the purpose of traveling a distance of not more than 5 miles
2 to go between a residence and the all-terrain vehicle route or all-terrain vehicle trail
3 that is closest to that residence.

4 ^{Subject to pars (cm), @}
2. A municipality may enact an ordinance allowing the operation of all-terrain
5 vehicles on a roadway and shoulder of a highway that is not a state trunk highway

6 for any portion of the highway that is within the jurisdiction of the municipality for
7 the purpose of traveling a distance of not more than 5 miles to go between a lodging
8 establishment and the all-terrain vehicle route or all-terrain vehicle trail that is
9 closest to that lodging establishment if the municipality also enacts or has in effect
10 and ordinance enacted under subd. 1.

11 (d) *Model ordinances.* The department and the off-the-road vehicle council
12 shall jointly prepare model ordinances as examples of ordinances that a municipality
13 may enact under pars. (b) and (c).

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5-10

(END)

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1042/ins
MGG:.....

INS
ANL

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 STHs that are more than one-quarter mile, the access must be approved by the Department of Transportation (DOT). For distances on STHs 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.

approve
the access

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.

**ASSEMBLY AMENDMENT 1,
TO 2005 ASSEMBLY BILL 375**

June 7, 2005 – Offered by Representative MURSAU.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1, line 4: after “access” insert “and granting rule-making authority”.

3 **2.** Page 3, line 23: after “department” insert “, to the state traffic patrol.”

4 **3.** Page 4, line 4: substitute “subds. 3. and 4. and par. (cm)” for “subd. 3.”.

5 **4.** Page 4, line 10: substitute “subds. 3. and 4. and par. (cm)” for “subd. 3.”.

6 **5.** Page 4, line 22: after that line insert:

7 **4.** A county or town may ~~not~~ enact an ordinance under subd. 1. or 2. that will

8 allow the operation of all-terrain vehicles on a roadway and shoulder of a portion of

9 a state trunk highway that is one-quarter mile in length or less if the operation of

10 all-terrain vehicles on the roadway and shoulder has ^{not} been prohibited ^{by} rule by the

11 department of transportation based on a finding by the department of transportation

12 that such operation is unsafe.”

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1 **6.** Page 4, line 23: substitute "Subject to par. (cm), a municipality" for "A
2 municipality."

3 **7.** Page 5, line 4: substitute "Subject to par. (cm), a municipality" for "A
4 municipality."

5 **8.** Page 5, line 10: after that line insert:

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

INS
5-10

11

(END)

Duerst, Christina

From: Potts, Andrew
Sent: Friday, January 12, 2007 3:25 PM
To: LRB.Legal
Subject: Draft Review: LRB 07-1042/1 Topic: All-terrain vehicle access to highways

Please Jacket LRB 07-1042/1 for the ASSEMBLY.