

2007 SENATE BILL 158

April 19, 2007 – Introduced by Senators JAUCH, GROTHMAN, KREITLOW, VINEHOUT and SCHULTZ, cosponsored by Representatives HUBLER, MUSSER, GRONEMUS, TOWNSEND, A. OTT, GUNDERSON, ZIEGELBAUER, BERCEAU, HAHN, WOOD, BOYLE, BALLWEG, LOTHIAN, OWENS and A. WILLIAMS. Referred to Committee on Transportation, Tourism and Insurance.

1 **AN ACT** *to amend* 23.33 (4) (a), (b), (c) 1. and 1m., (d) (intro.) and 1. to 7. and (e)
2 (intro.) , 23.33 (4c) (a) 1., 2., 2m. and 3. and (b) 1., 2. and 2m., 23.33 (4g) (a), 23.33
3 (4g) (b), 23.33 (4j), (4L) and (4p) (a) 1. and 3., (b) 4., (c) 1. and 2., (d) and (e) 1.
4 and 2., 23.33 (4t), 23.33 (4x) (title), 23.33 (6), 340.01 (4) (a), 340.01 (35), 345.11
5 (1r), 347.24 (1) (c), 347.415 (1g) and 347.415 (1m); and **to create** 23.33 (1) (ij),
6 340.01 (19d), 340.01 (25r), 340.01 (27m) and 346.02 (11m) of the statutes;
7 **relating to:** lightweight utility vehicles, granting rule-making authority, and
8 providing a penalty.

Analysis by the Legislative Reference Bureau

This bill creates a new classification of vehicles called “lightweight utility vehicle.” A lightweight utility vehicle is an engine-driven device that has a gross weight of more than 700 pounds but not more than 1,999 pounds that is designed to travel on four or more low-pressure tires, is equipped with a cargo area, and is used primarily off a highway. The bill applies many of the same rules of the road to operators of lightweight utility vehicles that are applicable to the operators of other motor vehicles, including obedience to traffic signs and signals, rules regarding making turns, parking, and approaching other vehicles, and the prohibition against operating a vehicle while intoxicated or with a prohibited alcohol or other drug concentration.

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The bill places restrictions on the operation of a lightweight utility vehicle that are similar to the restrictions placed on operating an all-terrain vehicle. Under the bill, no person may operate a lightweight utility vehicle on any part of a freeway, unless the freeway is not part of the federal system of interstate highways, and the Department of Transportation (DOT) specifically authorizes the use of a lightweight utility vehicle on that freeway.

Further, no one may operate a lightweight utility vehicle on any highway, unless authorized by DOT, except under the following circumstances:

1. The lightweight utility vehicle is owned by a municipality, state agency, or public utility and the operator is performing emergency or official functions in a manner that does not jeopardize safety.

2. The operator is performing a land surveying operation in a manner that does not jeopardize safety.

3. The operator is at least 16 years old, and he or she is crossing a roadway, bridge, culvert, or railway.

4. The operator is at least 16 years old, and he or she is operating the lightweight utility vehicle on a roadway that is seasonally not maintained for motor vehicle traffic, or he or she is operating on a roadway that is designated as a route for all-terrain vehicles or lightweight utility vehicles.

This bill requires lightweight utility vehicles during hours of darkness or on a highway right-of-way during daylight hours to have a white headlamp able to illuminate up to 200 feet ahead and a tail lamp visible from at least 500 feet behind the vehicle. Lightweight utility vehicles must also have at least one hand or foot break, a noise-suppressing muffler and a spark arrester.

The bill distinguishes lightweight utility vehicles from golf carts or low speed vehicles. It establishes the definition for “golf cart” as a vehicle that will not exceed 20 miles per hour and is designed to carry one or more persons and their equipment on a golf course. It establishes the definition for “low-speed vehicle” as the definition for a “low-speed vehicle” under federal law.

The bill prohibits odometer tampering with lightweight utility vehicles.

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.

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

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

2 23.33 (1) (ij) “Lightweight utility vehicle” has the meaning specified under s.

3 340.01 (25r).

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1 **SECTION 2.** 23.33 (4) (a), (b), (c) 1. and 1m., (d) (intro.) and 1. to 7. and (e) (intro.)
2 of the statutes are amended to read:

3 23.33 **(4)** (a) *Freeways.* No person may operate an all-terrain vehicle or a
4 lightweight utility vehicle upon any part of any freeway which that is a part of the
5 federal system of interstate and defense highways. No person may operate an
6 all-terrain vehicle or a lightweight utility vehicle upon any part of any other freeway
7 unless the department of transportation authorizes all-terrain vehicle or
8 lightweight utility vehicle use on that freeway.

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

13 (c) 1. Paragraphs (a) and (b) do not apply to the operator of an all-terrain
14 vehicle or a lightweight utility vehicle owned by a municipality, state agency or
15 public utility while the operator is engaged in an emergency or in the operation of
16 an all-terrain vehicle or a lightweight utility vehicle directly related to the functions
17 of the municipality, state agency or public utility if safety does not require strict
18 adherence to these restrictions.

19 1m. Paragraphs (a) and (b) do not apply to the operator of an all-terrain vehicle
20 or a lightweight utility vehicle who is engaged in land surveying operations, if safety
21 does not require strict adherence to the restrictions under pars. (a) and (b).

22 (d) *Operation on roadway.* (intro.) A person may operate an all-terrain vehicle
23 or, if the person is at least 16 years of age, a lightweight utility vehicle on the roadway
24 portion of any highway only in the following situations:

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1 1. To cross a roadway. The crossing of a roadway is authorized only if the
2 crossing is done in the most direct manner practicable, if the crossing is made at a
3 place where no obstruction prevents a quick and safe crossing, and if the operator
4 stops the all-terrain vehicle or the lightweight utility vehicle prior to the crossing
5 and yields the right-of-way to other vehicles, pedestrians, and electric personal
6 assistive mobility devices using the roadway.

7 2. On any roadway ~~which~~ that is seasonally not maintained for motor vehicle
8 traffic. Operation of an all-terrain vehicle or a lightweight utility vehicle on this type
9 of roadway is authorized only during the seasons when no maintenance occurs and
10 only if the roadway is not officially closed to all-terrain vehicle or lightweight utility
11 vehicle traffic.

12 3. To cross a bridge, culvert, or railroad right-of-way. The crossing of a bridge,
13 culvert, or railroad right-of-way is not authorized if the roadway is officially closed
14 to all-terrain vehicle or lightweight utility vehicle traffic. The crossing is authorized
15 only if the crossing is done in the most direct manner practicable, if the crossing is
16 made at a place where no obstruction prevents a quick and safe crossing, and if the
17 operator stops the all-terrain vehicle or the lightweight utility vehicle prior to the
18 crossing and yields the right-of-way to other vehicles, pedestrians, and electric
19 personal assistive mobility devices using the roadway.

20 4. On roadways ~~which~~ that are designated as all-terrain vehicle or lightweight
21 utility vehicle routes. Operation of all-terrain vehicles or lightweight utility vehicles
22 on a roadway which is an all-terrain vehicle or a lightweight utility vehicle route is
23 authorized only for the extreme right side of the roadway except that left turns may
24 be made from any part of the roadway which is safe given prevailing conditions.

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1 5. On roadways if the vehicle is an all-terrain vehicle and is an implement of
2 husbandry, if the all-terrain vehicle is used exclusively for agricultural purposes and
3 if the all-terrain vehicle is registered for private use under sub. (2) (d) or (2g).
4 Operation of an all-terrain vehicle which is an implement of husbandry on a
5 roadway is authorized only for the extreme right side of the roadway except that left
6 turns may be made from any part of the roadway which is safe given prevailing
7 conditions.

8 6. On roadways if the vehicle is an all-terrain vehicle and if the operator of the
9 ~~all-terrain vehicle~~ is a person who holds a Class A permit or a Class B permit under
10 s. 29.193 (2) and who is traveling for the purposes of hunting or is otherwise engaging
11 in an activity authorized by the permit.

12 7. On If the vehicle is an all-terrain vehicle, on roadways of highways that are
13 all-terrain vehicle trails.

14 (e) *Operation adjacent to roadway.* (intro.) A person may operate an all-terrain
15 vehicle adjacent to a roadway on an all-terrain vehicle route or trail or operate an
16 all-terrain vehicle or a lightweight utility vehicle adjacent to a roadway on an
17 all-terrain vehicle route if the person operates the all-terrain vehicle in the
18 following manner:

19 **SECTION 3.** 23.33 (4c) (a) 1., 2., 2m. and 3. and (b) 1., 2. and 2m. of the statutes
20 are amended to read:

21 **23.33 (4c)** INTOXICATED OPERATION OF AN ALL-TERRAIN VEHICLE OR A LIGHTWEIGHT
22 UTILITY VEHICLE. (a) *Operation.* 1. ‘Operating while under the influence of an
23 intoxicant.’ No person may operate an all-terrain vehicle or a lightweight utility
24 vehicle while under the influence of an intoxicant to a degree which renders him or
25 her incapable of safe operation of an all-terrain vehicle or lightweight utility vehicle.

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1 2. ‘Operating with alcohol concentrations at or above specified levels.’ No
2 person may engage in the operation of an all-terrain vehicle or a lightweight utility
3 vehicle while the person has an alcohol concentration of 0.08 or more.

4 2m. ‘Operating with a restricted controlled substance.’ No person may engage
5 in the operation of an all-terrain vehicle or a lightweight utility vehicle while the
6 person has a detectable amount of a restricted controlled substance in his or her
7 blood.

8 3. ‘Operating with alcohol concentrations at specified levels; below age 19.’ If
9 a person has not attained the age of 19, the person may not engage in the operation
10 of an all-terrain vehicle or a lightweight utility vehicle while he or she has an alcohol
11 concentration of more than 0.0 but not more than 0.08.

12 (b) *Causing injury.* 1. ‘Causing injury while under the influence of an
13 intoxicant.’ No person while under the influence of an intoxicant to a degree which
14 renders him or her incapable of safe operation of an all-terrain vehicle or a
15 lightweight utility vehicle may cause injury to another person by the operation of an
16 all-terrain vehicle or a lightweight utility vehicle.

17 2. ‘Causing injury with alcohol concentrations at or above specified levels.’ No
18 person who has an alcohol concentration of 0.08 or more may cause injury to another
19 person by the operation of an all-terrain vehicle or a lightweight utility vehicle.

20 2m. ‘Causing injury while operating with a restricted controlled substance.’ No
21 person who has a detectable amount of a restricted controlled substance in his or her
22 blood may cause injury to another person by the operation of an all-terrain vehicle
23 or a lightweight utility vehicle.

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

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1 23.33 (4g) (a) *Requirement.* A person shall provide a sample of his or her breath
2 for a preliminary breath screening test if a law enforcement officer has probable
3 cause to believe that the person is violating or has violated the intoxicated operation
4 of an all-terrain vehicle or a lightweight utility vehicle law and if, prior to an arrest,
5 the law enforcement officer requested the person to provide this sample.

6 **SECTION 5.** 23.33 (4g) (b) of the statutes is amended to read:

7 23.33 (4g) (b) *Use of test results.* A law enforcement officer may use the results
8 of a preliminary breath screening test for the purpose of deciding whether or not to
9 arrest a person for a violation of the intoxicated operation of an all-terrain vehicle
10 or a lightweight utility vehicle law or for the purpose of deciding whether or not to
11 request a chemical test under sub. (4p). Following the preliminary breath screening
12 test, chemical tests may be required of the person under sub. (4p).

13 **SECTION 6.** 23.33 (4j), (4L) and (4p) (a) 1. and 3., (b) 4., (c) 1. and 2., (d) and (e)
14 1. and 2. of the statutes are amended to read:

15 23.33 (4j) APPLICABILITY OF THE INTOXICATED OPERATION OF AN ALL-TERRAIN
16 VEHICLE OR A LIGHTWEIGHT UTILITY VEHICLE LAW. In addition to being applicable upon
17 highways, the intoxicated operation of an all-terrain vehicle or a lightweight utility
18 vehicle law is applicable upon all premises held out to the public for use of their
19 all-terrain or lightweight utility vehicles, whether such premises are publicly or
20 privately owned and whether or not a fee is charged for the use thereof.

21 (4L) IMPLIED CONSENT. Any person who engages in the operation of an
22 all-terrain vehicle or a lightweight utility vehicle upon the public highways of this
23 state, or in those areas enumerated in sub. (4j), is deemed to have given consent to
24 provide one or more samples of his or her breath, blood or urine for the purpose of
25 authorized analysis as required under sub. (4p). Any person who engages in the

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1 operation of an all-terrain vehicle or a lightweight utility vehicle within this state
2 is deemed to have given consent to submit to one or more chemical tests of his or her
3 breath, blood or urine for the purpose of authorized analysis as required under sub.
4 (4p).

5 **(4p)** (a) 1. ‘Samples; submission to tests.’ A person shall provide one or more
6 samples of his or her breath, blood or urine for the purpose of authorized analysis if
7 he or she is arrested for a violation of the intoxicated operation of an all-terrain
8 vehicle or a lightweight utility vehicle law and if he or she is requested to provide the
9 sample by a law enforcement officer. A person shall submit to one or more chemical
10 tests of his or her breath, blood or urine for the purpose of authorized analysis if he
11 or she is arrested for a violation of the intoxicated operation of an all-terrain vehicle
12 or a lightweight utility vehicle law and if he or she is requested to submit to the test
13 by a law enforcement officer.

14 3. ‘Unconscious person.’ A person who is unconscious or otherwise not capable
15 of withdrawing consent is presumed not to have withdrawn consent under this
16 paragraph, and if a law enforcement officer has probable cause to believe that the
17 person violated the intoxicated operation of an all-terrain vehicle or a lightweight
18 utility vehicle law, one or more chemical tests may be administered to the person
19 without a request under subd. 1. and without providing information under subd. 2.

20 (b) 4. ‘Validity; procedure.’ A chemical test of blood or urine conducted for the
21 purpose of authorized analysis is valid as provided under s. 343.305 (6). The duties
22 and responsibilities of the laboratory of hygiene, department of health and family
23 services and department of transportation under s. 343.305 (6) apply to a chemical
24 test of blood or urine conducted for the purpose of authorized analysis under this
25 subsection. Blood may be withdrawn from a person arrested for a violation of the

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1 intoxicated operation of an all-terrain vehicle or a lightweight utility vehicle law
2 only by a physician, registered nurse, medical technologist, physician assistant or
3 person acting under the direction of a physician and the person who withdraws the
4 blood, the employer of that person and any hospital where blood is withdrawn have
5 immunity from civil or criminal liability as provided under s. 895.53

6 (c) 1. ‘Additional chemical test.’ If a person is arrested for a violation of the
7 intoxicated operation of an all-terrain vehicle or a lightweight utility vehicle law or
8 is the operator of an all-terrain vehicle involved in an accident resulting in great
9 bodily harm to or the death of someone and if the person is requested to provide a
10 sample or to submit to a test under par. (a) 1., the person may request the test facility
11 to administer the additional chemical test specified under par. (b) 3. or, at his or her
12 own expense, reasonable opportunity to have any qualified person administer a
13 chemical test of his or her breath, blood or urine for the purpose of authorized
14 analysis.

15 2. ‘Optional test.’ If a person is arrested for a violation of the intoxicated
16 operation of an all-terrain vehicle or a lightweight utility vehicle law and if the
17 person is not requested to provide a sample or to submit to a test under par. (a) 1.,
18 the person may request the test facility to administer a chemical test of his or her
19 breath or, at his or her own expense, reasonable opportunity to have any qualified
20 person administer a chemical test of his or her breath, blood or urine for the purpose
21 of authorized analysis. If a test facility is unable to perform a chemical test of breath,
22 the person may request the test facility to administer the designated chemical test
23 under par. (b) 2. or the additional chemical test under par. (b) 3.

24 (d) *Admissibility; effect of test results; other evidence.* The results of a chemical
25 test required or administered under par. (a), (b) or (c) are admissible in any civil or

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1 criminal action or proceeding arising out of the acts committed by a person alleged
2 to have violated the intoxicated operation of an all-terrain vehicle or a lightweight
3 utility vehicle law on the issue of whether the person was under the influence of an
4 intoxicant or the issue of whether the person had alcohol concentrations at or above
5 specified levels or a detectable amount of a restricted controlled substance in his or
6 her blood. Results of these chemical tests shall be given the effect required under s.
7 885.235. This subsection does not limit the right of a law enforcement officer to
8 obtain evidence by any other lawful means.

9 (e) 1. Whether the law enforcement officer had probable cause to believe the
10 person was violating or had violated the intoxicated operation of an all-terrain
11 vehicle or a lightweight utility vehicle law.

12 2. Whether the person was lawfully placed under arrest for violating the
13 intoxicated operation of an all-terrain vehicle or a lightweight utility vehicle law.

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

15 23.33 (4t) REPORT ARREST TO DEPARTMENT. If a law enforcement officer arrests
16 a person for a violation of the intoxicated operation of an all-terrain vehicle or a
17 lightweight utility vehicle law or the refusal law, the law enforcement officer shall
18 notify the department of the arrest as soon as practicable.

19 **SECTION 8.** 23.33 (4x) (title) of the statutes is amended to read:

20 23.33 (4x) (title) OFFICER'S ACTION AFTER ARREST FOR OPERATING AN ALL-TERRAIN
21 VEHICLE OR A LIGHTWEIGHT UTILITY VEHICLE WHILE UNDER INFLUENCE OF INTOXICANT.

22 **SECTION 9.** 23.33 (6) of the statutes is amended to read:

23 23.33 (6) EQUIPMENT REQUIREMENTS. (a) A person who operates an all-terrain
24 vehicle or a lightweight utility vehicle during hours of darkness or during daylight

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1 hours on any highway right-of-way is required to display a lighted headlamp and
2 tail lamp on the all-terrain vehicle or the lightweight utility vehicle.

3 (b) The headlamp on an all-terrain vehicle or a lightweight utility vehicle is
4 required to display a white light of sufficient illuminating power to reveal any
5 person, vehicle or substantial object at a distance of at least 200 feet ahead of the
6 all-terrain vehicle or the lightweight utility vehicle.

7 (c) The tail lamp on an all-terrain vehicle or a lightweight utility vehicle is
8 required to display a red light plainly visible during hours of darkness from a
9 distance of 500 feet to the rear.

10 (d) Every all-terrain vehicle and lightweight utility vehicle is required to be
11 equipped with at least one brake operated either by hand or by foot.

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

15 **SECTION 10.** 340.01 (4) (a) of the statutes is amended to read:

16 340.01 (4) (a) Type 1 is a motor vehicle designed and used primarily for carrying
17 persons but which does not come within the definition of a motor bus, motorcycle,
18 moped ~~or~~, motor bicycle, or low-speed vehicle.

19 **SECTION 11.** 340.01 (19d) of the statutes is created to read:

20 340.01 (19d) “Golf cart” means a vehicle whose speed attainable in one mile
21 does not exceed 20 miles per hour on a paved, level surface, and is designed and
22 intended to convey one or more persons and equipment to play the game of golf in an
23 area designated as a golf course.

24 **SECTION 12.** 340.01 (25r) of the statutes is created to read:

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1 340.01 **(25r)** “Lightweight utility vehicle” means an engine-driven device
2 having a gross weight of more than 700 pounds but not more than 1,999 pounds that
3 is designed to travel on four or more low-pressure tires, is equipped with a cargo
4 area, and is used primarily off a highway. For the purposes of this subsection, a “low
5 pressure tire” is a tire that is designed to be mounted on a rim with a maximum
6 diameter of 13 inches and to be inflated with an operating pressure not to exceed 8
7 pounds per square inch as recommended by the manufacturer. The definition of
8 “lightweight utility vehicle” does not include golf carts, low-speed vehicles, or
9 off-road utility vehicles.

10 **SECTION 13.** 340.01 (27m) of the statutes is created to read:

11 340.01 **(27m)** “Low-speed vehicle” means a low-speed vehicle, as defined in 49
12 CFR 571.3, that satisfies the equipment standards under 49 CFR 571.500 and that
13 was originally manufactured to meet the applicable equipment standards under 49
14 CFR 571.500. “Low-speed vehicle” does not include a golf cart.

15 **SECTION 14.** 340.01 (35) of the statutes is amended to read:

16 340.01 **(35)** “Motor vehicle” means a vehicle, including a combination of 2 or
17 more vehicles or an articulated vehicle, which is self-propelled, except a vehicle
18 operated exclusively on a rail. “Motor vehicle” includes, without limitation, a
19 commercial motor vehicle or a vehicle which is propelled by electric power obtained
20 from overhead trolley wires but not operated on rails. A snowmobile, a lightweight
21 utility vehicle, and an all-terrain vehicle shall only be considered motor vehicles for
22 purposes made specifically applicable by statute.

23 **SECTION 15.** 345.11 (1r) of the statutes is amended to read:

24 345.11 **(1r)** The uniform traffic citation or the citation form under s. 23.54 shall
25 be used for violations of s. 23.33 relating to highway use or ordinances in conformity

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1 with that section if the violation is committed on a highway, but no points may be
2 assessed against the driving record of the operator of an all-terrain vehicle or a
3 lightweight utility vehicle. When the uniform traffic citation is used, the report of
4 conviction shall be forwarded to the department. When the citation form under s.
5 23.54 is used, the procedure in ss. 23.50 to 23.85 applies.

6 **SECTION 16.** 346.02 (11m) of the statutes is created to read:

7 **346.02 (11m) APPLICABILITY TO LIGHTWEIGHT UTILITY VEHICLES.** The operator of
8 a lightweight utility vehicle on a roadway is subject to ss. 346.04, 346.06, 346.11,
9 346.14 (1), 346.18, 346.19, 346.20, 346.21, 346.26, 346.27, 346.33, 346.35, 346.37,
10 346.39, 346.40, 346.44, 346.46, 346.47, 346.48, 346.50 (1) (b), 346.51, 346.52, 346.53,
11 346.54, 346.55, 346.87, 346.88, 346.89, 346.90, 346.91, 346.92 (1), and 346.94 (1) and
12 (9) but is not subject to any other provision of this chapter.

13 **SECTION 17.** 347.24 (1) (c) of the statutes is amended to read:

14 **347.24 (1) (c)** An implement of husbandry which is an all-terrain vehicle or a
15 lightweight utility vehicle need only comply with the lamp requirements established
16 under s. 23.33 (6).

17 **SECTION 18.** 347.415 (1g) of the statutes is amended to read:

18 **347.415 (1g)** In this section, “odometer” means an instrument for measuring
19 and recording the actual distance that a motor vehicle, snowmobile, ~~or~~ all-terrain
20 vehicle, or lightweight utility vehicle has traveled while in operation, but does not
21 include any auxiliary instrument designed to be reset to zero to measure and record
22 the actual distance that a motor vehicle, snowmobile, ~~or~~ all-terrain vehicle, or
23 lightweight utility vehicle has traveled on trips.

24 **SECTION 19.** 347.415 (1m) of the statutes is amended to read:

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1 347.415 **(1m)** No person may, either personally or through an agent, remove,
2 replace, disconnect, reset, tamper with, alter, or fail to connect the odometer of any
3 motor vehicle, snowmobile, ~~or all-terrain vehicle,~~ or lightweight utility vehicle with
4 the intent to change or affect the number of miles indicated thereon.

5

(END)