



## 2009 ASSEMBLY BILL 869

March 19, 2010 – Introduced by Representatives DAVIS, GUNDERSON, KNODL and SUDER. Referred to Committee on Tourism, Recreation and State Properties.

1     **AN ACT** *to repeal* 23.33 (1) (a); *to renumber and amend* 23.33 (5) (a) and 23.33  
2           (11) (am); *to amend* 23.50 (1), 23.50 (3), 23.53 (1), 23.56 (1), 23.57 (1) (intro.),  
3           23.58, 23.62 (1) (intro.) and 800.02 (2) (b); and *to create* 23.33 (1) (ad), 23.33  
4           (5) (a) 3. and 23.33 (11) (ar) of the statutes; **relating to:** operation of all-terrain  
5           vehicles by persons who are under 12 years of age.

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### ***Analysis by the Legislative Reference Bureau***

Under current law, a minor under the age of 12 may operate an all-terrain vehicle (ATV) only if the minor either is operating the ATV under adult supervision for an agricultural purpose or is operating a small ATV on a Department of Natural Resources-designated ATV trail and is subject to continuous verbal direction or control by a parent. Under the bill, a minor under the age of 12 may also operate a small ATV on an ATV route that is directly connected to an ATV trail or on the frozen surface of bodies of water that are open to the public under the continuous verbal direction or control by a parent. An ATV route is a sidewalk or part of a highway designated for use by ATVs while an ATV trail is a corridor designated for ATV use that is away from a highway.

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

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1           **SECTION 1.** 23.33 (1) (a) of the statutes is repealed.

2           **SECTION 2.** 23.33 (1) (ad) of the statutes is created to read:

3           23.33 (1) (ad) “Adult-sized all-terrain vehicle” means an all-terrain vehicle  
4 that has either an engine certified by the manufacturer as having at least 91 cubic  
5 centimeters or an equivalent power unit.

6           **SECTION 3.** 23.33 (5) (a) of the statutes is renumbered 23.33 (5) (a) 1. (intro.)  
7 and amended to read:

8           23.33 (5) (a) 1. (intro.) No person under 12 years of age may operate an  
9 all-terrain vehicle unless he or she one of the following applies:

10           a. He or she is operating the all-terrain vehicle for an agricultural purpose and  
11 he or she is under the supervision of a person over 18 years of age ~~or unless he,~~

12           b. He or she is operating a small all-terrain vehicle on frozen public waters, on  
13 an all-terrain vehicle trail designated by the department, or on an all-terrain  
14 vehicle route directly connected to such an all-terrain vehicle trail, and he or she is  
15 accompanied by subject to continuous verbal direction or control of his or her parent.  
16 ~~No person who is under 12 years of age may operate an all-terrain vehicle which is~~  
17 ~~an implement of husbandry on a roadway under any circumstances. No person who~~  
18 ~~is under 12 years of age may operate an all-terrain vehicle on a roadway under the~~  
19 ~~authorization provided under sub. (4) (d) 6. under any circumstances. No person who~~  
20 ~~is under 12 years of age may rent or lease an all-terrain vehicle or guardian.~~

21           2. For purposes of this paragraph subd. 1. a., supervision does not require that  
22 the person under 12 years of age be subject to continuous direction or control by the  
23 person over 18 years of age.

24           **SECTION 4.** 23.33 (5) (a) 3. of the statutes is created to read:

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1           23.33 (5) (a) 3. In addition to the restrictions in subd. 1., all of the following  
2 apply:

3           a. No person who is under 12 years of age may operate an all-terrain vehicle  
4 which is an implement of husbandry on a roadway under any circumstances.

5           b. No person who is under 12 years of age may operate an all-terrain vehicle  
6 on a roadway under the authorization provided under sub. (4) (d) 6. under any  
7 circumstances.

8           c. No person who is under 12 years of age may rent or lease an all-terrain  
9 vehicle.

10           **SECTION 5.** 23.33 (11) (am) of the statutes is renumbered 23.33 (11) (am) (intro.)  
11 and amended to read:

12           23.33 (11) (am) (intro.) Any county, town, city or village may enact an ordinance  
13 which if all of the following apply:

14           1. The ordinance is in strict conformity with this section and rules promulgated  
15 by the department under this section, if the except as provided in par. (ar).

16           2. The ordinance encompasses all aspects encompassed by this section.

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

18           23.33 (11) (ar) If a county, town, city, or village enacts an ordinance under par.  
19 (am), the county, town, city, or village may include in the ordinance a provision  
20 authorizing the operation of a small all-terrain vehicle by a person under 12 years  
21 of age on some or all of the all-terrain vehicle routes located in the county, town, city,  
22 or village if the ordinance contains all of the following requirements:

23           1. A requirement that the small all-terrain vehicle may not be operated at a  
24 speed exceeding 10 miles an hour.

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1           2. A requirement that the person operating the small all-terrain vehicle be  
2 immediately followed by a parent or guardian who is operating an adult-sized  
3 all-terrain vehicle.

4           **SECTION 7.** 23.50 (1) of the statutes is amended to read:

5           **23.50 (1)** The procedure in ss. 23.50 to 23.85 applies to all actions in circuit  
6 court to recover forfeitures, plus costs, fees, and surcharges imposed under ch. 814,  
7 for violations of ss. 77.09, 90.21, 134.60, 167.10 (3), 167.31 (2), 281.48 (2) to (5),  
8 283.33, 285.57 (2), 285.59 (2), (3) (c) and (4), 287.07, 287.08, 287.81 and 299.64 (2),  
9 subch. VI of ch. 77, this chapter, and chs. 26 to 31, ch. 169, and ch. 350, and any  
10 administrative rules promulgated thereunder, violations specified under s. 280.98  
11 (2) or 285.86, violations of ch. 951 if the animal involved is a captive wild animal,  
12 violations of rules of the Kickapoo reserve management board under s. 41.41 (7) (k),  
13 violations to which s. 299.85 (7) (a) 2. or 4. applies, or violations of local ordinances  
14 enacted by any local authority in accordance with s. 23.33 (11) (am) or (ar) or 30.77.

15           **SECTION 8.** 23.50 (3) of the statutes is amended to read:

16           **23.50 (3)** All actions in municipal court to recover forfeitures, plus costs, fees,  
17 and surcharges imposed under ch. 814, for violations of local ordinances enacted by  
18 any local authority in accordance with s. 23.33 (11) (am) or (ar) or 30.77 shall utilize  
19 the procedure in ch. 800. The actions shall be brought before the municipal court  
20 having jurisdiction. Provisions relating to citations, arrests, questioning, releases,  
21 searches, deposits, and stipulations of no contest in ss. 23.51 (1m), (3), and (8), 23.53,  
22 23.54, 23.56 to 23.64, 23.66, and 23.67 shall apply to violations of such ordinances.

23           **SECTION 9.** 23.53 (1) of the statutes is amended to read:

24           **23.53 (1)** The citation created under this section shall, in all actions to recover  
25 forfeitures, plus costs, fees, and surcharges imposed under ch. 814, for violations of

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1 those statutes enumerated in s. 23.50 (1), any administrative rules promulgated  
2 thereunder, and any rule of the Kickapoo reserve management board under s. 41.41  
3 (7) (k) be used by any law enforcement officer with authority to enforce those laws,  
4 except that the uniform traffic citation created under s. 345.11 may be used by a  
5 traffic officer employed under s. 110.07 in enforcing s. 167.31 or by an officer of a law  
6 enforcement agency of a municipality or county or a traffic officer employed under  
7 s. 110.07 in enforcing s. 287.81. In accordance with s. 345.11 (1m), the citation shall  
8 not be used for violations of ch. 350 relating to highway use. The citation may be used  
9 for violations of local ordinances enacted by any local authority in accordance with  
10 s. 23.33 (11) (am) or (ar) or 30.77.

11 **SECTION 10.** 23.56 (1) of the statutes is amended to read:

12 23.56 (1) A person may be arrested for a violation of those statutes enumerated  
13 in s. 23.50 (1), any administrative rules promulgated thereunder, any rule of the  
14 Kickapoo reserve management board under s. 41.41 (7) (k), or any local ordinances  
15 enacted by any local authority in accordance with s. 23.33 (11) (am) or (ar) or 30.77,  
16 after a warrant that substantially complies with s. 968.04 has been issued. Except  
17 as provided in sub. (2), the person arrested shall be brought without unreasonable  
18 delay before a court having jurisdiction to try the action.

19 **SECTION 11.** 23.57 (1) (intro.) of the statutes is amended to read:

20 23.57 (1) (intro.) A person may be arrested without a warrant when the  
21 arresting officer has probable cause to believe that the person is committing or has  
22 committed a violation of those statutes enumerated in s. 23.50 (1), any  
23 administrative rules promulgated thereunder, any rule of the Kickapoo reserve  
24 management board under s. 41.41 (7) (k), or any local ordinances enacted by any local  
25 authority in accordance with s. 23.33 (11) (am) or (ar) or 30.77; and:

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1           **SECTION 12.** 23.58 of the statutes is amended to read:

2           **23.58 Temporary questioning without arrest.** After having identified  
3 himself or herself as an enforcing officer, an enforcing officer may stop a person in  
4 a public place for a reasonable period of time when the officer reasonably suspects  
5 that such person is committing, is about to commit or has committed a violation of  
6 those statutes enumerated in s. 23.50 (1), any administrative rules promulgated  
7 thereunder, any rule of the Kickapoo reserve management board under s. 41.41 (7)  
8 (k), or any local ordinances enacted by any local authority in accordance with s. 23.33  
9 (11) (am) or (ar) or 30.77. Such a stop may be made only where the enforcing officer  
10 has proper authority to make an arrest for such a violation. The officer may demand  
11 the name and address of the person and an explanation of the person's conduct. Such  
12 detention and temporary questioning shall be conducted in the vicinity where the  
13 person was stopped.

14           **SECTION 13.** 23.62 (1) (intro.) of the statutes is amended to read:

15           **23.62 (1)** (intro.) Whenever an enforcing officer has probable cause to believe  
16 that a person subject to his or her authority is committing or has committed a  
17 violation of those statutes enumerated in s. 23.50 (1), any administrative rules  
18 promulgated thereunder, any rule of the Kickapoo reserve management board under  
19 s. 41.41 (7) (k), or any local ordinances enacted by any local authority in accordance  
20 with s. 23.33 (11) (am) or (ar) or 30.77, the officer may proceed in the following  
21 manner:

22           **SECTION 14.** 800.02 (2) (b) of the statutes is amended to read:

23           **800.02 (2) (b)** Except for parking violations, in traffic regulation actions in  
24 municipal court, the uniform traffic citation specified in s. 345.11 shall be used in lieu  
25 of the citation form specified in par. (a). In actions for violations of local ordinances

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1 enacted in accordance with s. 23.33 (11) (am) or (ar) or 30.77, the citation form  
2 specified in s. 23.54 shall be used in lieu of the citation form specified in par. (a).

3 **SECTION 15. Effective date.**

4 (1) This act takes effect on the first day of the 7th month beginning after  
5 publication.

6 (END)