

**2009 DRAFTING REQUEST**

**Bill**

Received: **01/22/2009**

Received By: **rkite**

Wanted: **As time permits**

Identical to LRB:

For: **Brett Davis (608) 266-1192**

By/Representing: **Kate Stewart**

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.Davis@legis.wisconsin.gov**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

ATV exceptions for persons younger than 12

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**Instructions:**

See attached

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**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>
/?	rkite 01/30/2009			_____			
/P1	mglass 02/02/2009	kfollett 02/20/2009	jfrantze 02/20/2009	_____	cduerst 02/20/2009		
/1	mglass 01/07/2010	kfollett 01/07/2010	mduchek 01/08/2010	_____	sbasford 01/08/2010		
/2	mglass	kfollett	rschluet	_____	sbasford	cduerst	

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	02/25/2010	02/25/2010	02/25/2010	_____	02/25/2010	03/03/2010	

FE Sent For:

*None*

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2/25  
2250

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/P1	mglass 02/02/2009	kfollett 02/20/2009 11/5f	jfrantze 02/20/2009 11/7	_____	cduerst 02/20/2009		
FE Sent For:				_____			

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/?	rkite	1/16/09 2/20	rkite 2/20	_____			

FE Sent For:

<END>



**Kite, Robin**

---

**From:** Stewart, Kate  
**Sent:** Thursday, January 22, 2009 2:18 PM  
**To:** Kite, Robin  
**Subject:** Draft Request

Robin,

I am not sure if you are the correct person to contact concerning drafting legislation about this area of Natural Resources. If not, could you let me know the right person to contact?

Rep. Davis would like to have a bill drafted regarding youths under 12 and ATVs. This is at the request of a constituent. Here are the points that we would like to have the bill address:

"#1. Allow youths under 12 years of age to ride their own youth atv 90cc or less on frozen waters in WI as long as that youth under 12 is with their parents or legal guardian and [within eyesight or hearing distance] with their parents riding an adult atv.

#2. Allow youths under 12 years of age to ride their own youth atv 90cc or less on ATV routes that connect to ATV trails as long as that youth under 12 is with their parents or legal guardian, immediately following their parent who is riding an adult ATV.

#3. Allow the local city municipalities decide (not the state of WI) whether or not to allow youths under 12 years of age to ride 10 mph or less their own youth atv 90cc or less on city ATV routes as long as that youth under 12 is with their parents or legal guardian, immediately following their parents who is riding an adult ATV."

This is from the correspondence we have had with the constituent.

Please let me know if you need any other information.

Thanks,

**Kate Stewart**  
Legislative Assistant  
Office of Representative Brett Davis  
80th Assembly District  
(608) 266-1192  
Toll Free: 888-534-0080 (WI Only)  
Fax: (608) 282-3680  
<http://www.brettdavis.us>

frozen waters:  
(3)(h)  
30.29

(1)(jp) - small ATV

"accompanied" - (1)(a)  
read (5)(a)  
search supervision

accompanied  
for section  
accompanied  
for section  
same std  
as in current  
law for 12



State of Wisconsin  
2009 - 2010 LEGISLATURE

RMR  
LRB-1725/A 3 P1  
MGG: KJF

w  
edt 2/2

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Gen

1 AN ACT ...; relating to: operation of all-terrain vehicles by persons who are under  
2 12 years of age.

---

*Analysis by the Legislative Reference Bureau*

This is a preliminary draft. An analysis will be provided in a later version.

---

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

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

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

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

8 SECTION 3. 23.33 (5) (a) of the statutes is renumbered 23.33 (5) (a) 1. and  
9 amended to read:

History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1997 a. 436, 448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109; 2003 a. 30, 97, 289, 326; 2005 a. 25, 253, 481; 2007 a. 20 ss. 664m to 666m, 9121 (6) (a); 2007 a. 27, 209.

(intro)

(intro.)

1

23.33 (5) (a) 1. No person under 12 years of age may operate an all-terrain

2

vehicle unless ~~he or she~~ one of the following applies:

3

a. He or she is operating the all-terrain vehicle for an agricultural purpose and

4

~~he or she~~ is under the supervision of a person over 18 years of age ~~or unless he~~.

5

b. He or she is operating a small all-terrain vehicle on an all-terrain vehicle

6

trail designated by the department and he or she is ~~accompanied by~~ subject to

7

continuous verbal direction or control of his or her parent ~~or guardian~~. ~~No person~~

8

~~who is under 12 years of age may operate an all-terrain vehicle which is an~~

9

~~implement of husbandry on a roadway under any circumstances. No person who is~~

10

~~under 12 years of age may operate an all-terrain vehicle on a roadway under the~~

11

~~authorization provided under sub. (4) (d) 6. under any circumstances. No person who~~

12

~~is under 12 years of age may rent or lease an all-terrain vehicle~~ *plain period*

13

2. For purposes of ~~this paragraph~~ subd. 1. a., supervision does not require that

14

the person under 12 years of age be subject to continuous direction or control by the

15

person over 18 years of age.

History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1995 a. 436, 448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109; 2003 a. 30, 97, 251, 326; 2005 a. 25, 253, 481; 2007 a. 20 ss. 664m to 666m, 9121 (6) (a); 2007 a. 27, 209.

16

SECTION 4. 23.33 (5) (a) 1. c. of the statutes is created to read:

17

23.33 (5) (a) 1. c. He or she is operating a small all-terrain vehicle on an

18

all-terrain vehicle route that connects directly to all-terrain vehicle trail designated

19

by the department and is immediately followed by a parent or guardian who is

20

operating an adult-sized all-terrain vehicle.

21

SECTION 5. 23.33 (5) (a) 1. d. of the statutes is created to read:

22

23.33 (5) (a) 1. d. He or she is operating a small all-terrain vehicle on frozen

23

public waters and is within eyesight or hearing distance of his or her parent or

24

guardian.

all of the following apply

1 SECTION 6. 23.33 (5) (a) 3. of the statutes is created to read:

2 23.33 (5) (a) 3. In addition to the restrictions in subd. 1

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.

Change to Component

renumbered 23.33 (11) (am) (intro.) and

10 SECTION 7. 23.33 (11) (am) of the statutes is amended to read:

11 23.33 (11) (am) Any county, town, city or village may enact an ordinance ~~which~~

12 if all of the following apply:

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

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

History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1995 a. 436, 448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109; 2003 a. 30, 97, 257, 326; 2005 a. 25, 253, 481; 2007 a. 20 ss. 664m to 666m, 9121 (6) (a); 2007 a. 27, 209.

16 SECTION 8. 23.33 (11) (ar) of the statutes is created to read:

17 23.33 (11) (ar) If a county, town, city, or village enacts an ordinance under par.

18 (am), the county, town, city, or village may include in the ordinance a provision

19

authorizing the operation of a small all-terrain vehicles by <sup>a</sup> person under 12 years

20 of age on all-terrain vehicle routes located in the county, town, city, or village if the

21 ordinance contains all of the following requirements:

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

1

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

2  
3

4

**SECTION 9.** 23.50 (1) of the statutes is amended to read:

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13

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

14

History: 1975 c. 365; 1977 c. 29, 305; 1977 c. 449 ss. 44, 497; 1979 c. 32 s. 92 (17); 1979 c. 34 ss. 703b, 2102 (39) (f); 1981 c. 390; 1985 a 36; 1987 a. 27; 1987 a. 200 s. 4; 1989 a. 79, 284, 335, 359; 1991 a. 39, 97; 1993 a. 16, 243, 344, 349, 491; 1995 a. 27, 216, 227, 290; 1997 a. 35; 1999 a. 9; 2001 a. 56; 2003 a. 139, 276; 2005 a. 360.

15

**SECTION 10.** 23.50 (3) of the statutes is amended to read:

16  
17  
18  
19  
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21  
22

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

History: 1975 c. 365; 1977 c. 29, 305; 1977 c. 449 ss. 44, 497; 1979 c. 32 s. 92 (17); 1979 c. 34 ss. 703b, 2102 (39) (f); 1981 c. 390; 1985 a 36; 1987 a. 27; 1987 a. 200 s. 4; 1989 a. 79, 284, 335, 359; 1991 a. 39, 97; 1993 a. 16, 243, 344, 349, 491; 1995 a. 27, 216, 227, 290; 1997 a. 35; 1999 a. 9; 2001 a. 56; 2003 a. 139, 276; 2005 a. 360.

23

**SECTION 11.** 23.53 (1) of the statutes is amended to read:

1           23.53 (1) The citation created under this section shall, in all actions to recover  
2 forfeitures, plus costs, fees, and surcharges imposed under ch. 814, for violations of  
3 those statutes enumerated in s. 23.50 (1), any administrative rules promulgated  
4 thereunder, and any rule of the Kickapoo reserve management board under s. 41.41  
5 (7) (k) be used by any law enforcement officer with authority to enforce those laws,  
6 except that the uniform traffic citation created under s. 345.11 may be used by a  
7 traffic officer employed under s. 110.07 in enforcing s. 167.31 or by an officer of a law  
8 enforcement agency of a municipality or county or a traffic officer employed under  
9 s. 110.07 in enforcing s. 287.81. In accordance with s. 345.11 (1m), the citation shall  
10 not be used for violations of ch. 350 relating to highway use. The citation may be used  
11 for violations of local ordinances enacted by any local authority in accordance with  
12 s. 23.33 (11) (am) or <sup>✓</sup>(ar) or 30.77.

13 **History:** 1975 c. 365; 1977 c. 29; 1979 c. 34; 1985 a. 36; 1987 a. 27; 1987 a. 200 s. 4; 1989 a. 335; 1991 a. 39; 1993 a. 349; 1995 a. 27, 216, 227; 1997 a. 35; 2003 a. 139.

**SECTION 12.** 23.56 (1) of the statutes is amended to read:

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

21 **History:** 1975 c. 365; 1977 c. 29; 1979 c. 34; 1985 a. 36; 1987 a. 27; 1987 a. 200 s. 4; 1991 a. 39; 1993 a. 349; 1995 a. 27, 216; 2003 a. 139.

**SECTION 13.** 23.57 (1) (intro.) of the statutes is amended to read:

22           23.57 (1) (intro.) A person may be arrested without a warrant when the  
23 arresting officer has probable cause to believe that the person is committing or has  
24 committed a violation of those statutes enumerated in s. 23.50 (1), any

1 administrative rules promulgated thereunder, any rule of the Kickapoo reserve  
2 management board under s. 41.41 (7) (k), or any local ordinances enacted by any local  
3 authority in accordance with s. 23.33 (11) (am) or (ar) or 30.77; and:

4 History: 1975 c. 365; 1987 a. 200 s. 4; 1993 a. 349; 1995 a. 27, 216.

**SECTION 14.** 23.58 of the statutes is amended to read:

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

17 History: 1975 c. 365; 1987 a. 200 s. 4; 1993 a. 349; 1995 a. 27, 216.

**SECTION 15.** 23.62 (1) (intro.) of the statutes is amended to read:

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

1 with s. 23.33 (11) (am) or <sup>✓</sup>(ar) or 30.77, the officer may proceed in the following  
2 manner:

3 History: 1975 c. 365; 1979 c. 175; 1987 a. 200 s. 4; 1993 a. 156, 349; 1995 a. 27, 216; 2005 a. 282.

**SECTION 16. 800.02 (2) (b) of the statutes is amended to read:**

4 800.02 (2) (b) Except for parking violations, in traffic regulation actions in  
5 municipal court, the uniform traffic citation specified in s. 345.11 shall be used in lieu  
6 of the citation form specified in par. (a). In actions for violations of local ordinances  
7 enacted in accordance with s. 23.33 (11) (am) or <sup>✓</sup>(ar) or 30.77, the citation form  
8 specified in s. 23.54 shall be used in lieu of the citation form specified in par. (a).

History: 1977 c. 305; 1979 c. 22; 1979 c. 32 s. 68; 1979 c. 266; Stats. 1979 s. 800.02; 1981 c. 317; 1983 a. 535; 1987 a. 27; 1987 a. 200 s. 4; 1987 a. 389; 1989 a. 170; 1991 a. 39, 40; 1993 a. 16, 112, 320, 437; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 139.

9 (END)

D-Note



**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1725/7dn

MGG:...

PA  
EJ

Date

x  
x  
I have prepared this draft in preliminary form because I think that further thought needs to be given to the fact that, if this bill is enacted, there will be four different ways a parent or guardian would be required to supervise a child under the age of 12. See s. 23.33 (5) (a) 1. a., b., c., and d. Note, for example, that for going along an ATV route that connects to an ATV trail where 12-year-olds may ride, the child must be immediately followed by the parent, and then, once on the trail, the child needs to be "subject to continuous verbal direction or control." This phrase comes from the definition for "accompanied" found in current law under s. 23.33 (1) (a). Since "accompanied" is used in this sense only once in s. 23.33, I have repealed the definition and put the phrase directly into s. 23.33 (5)(a) 1. b. Please review and let me know if you want any changes.

Mary Gibson-Glass  
Senior Legislative Attorney  
Phone: (608) 267-3215

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1725/P1dn  
MGG:kjf:jf

February 20, 2009

I have prepared this draft in preliminary form because I think that further thought needs to be given to the fact that, if this bill is enacted, there will be four different ways a parent or guardian would be required to supervise a child under the age of 12. See s. 23.33 (5) (a) 1. a., b., c., and d. Note, for example, that for going along an ATV route that connects to an ATV trail where 12-year-olds may ride, the child must be immediately followed by the parent, and then, once on the trail, the child needs to be "subject to continuous verbal direction or control." This phrase comes from the definition for "accompanied" found in current law under s. 23.33 (1) (a). Since "accompanied" is used in this sense only once in s. 23.33, I have repealed the definition and put the phrase directly into s. 23.33 (5) (a) 1. b. Please review and let me know if you want any changes.

Mary Gibson-Glass  
Senior Legislative Attorney  
Phone: (608) 267-3215

**Gibson-Glass, Mary**

**From:** Stewart, Kate  
**Sent:** Friday, December 18, 2009 2:33 PM  
**To:** Gibson-Glass, Mary  
**Subject:** LRB 1725

Mary,

Our office requested the draft of this bill in the beginning of the year, regarding ATV use for children under 12. We're now looking at introducing it and I had a few follow up questions to better understand the bill.

First of all, the legislation is being done by the request of a constituent, and to warn you, I'm not very familiar with ATV laws to begin with.

From what I understand from the constituent's request, the intent is to add a few locations to where children under 12 are currently allowed to ride ATVs, those places being frozen waters and road routes connecting between ATV trails.

In the drafter's note you indicate that further thought may need to be given to the fact that with this bill there would be four different ways to supervise a child under 12. Is this going to significantly change current laws regarding supervision of children on ATVs, or is it a fairly simple change to add these areas to already existing approved trails.

I'm generally in Rep. Davis' office in the mornings from 8:00-12:30, but will be gone Monday of next week.

Thanks,

Kate Stewart  
Office of Rep. Brett Davis  
608-266-1192

*see redraft instructions  
on earlier e-mail*



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-1725/Pr 1  
MGG:kjfjf  
RMR

in 1/8/07 (SOON)

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Regen

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) 1. c., 23.33 (5) (a) 1. d., 23.33 (5) (a) 3. and 23.33 (11) (ar) of the statutes;  
5 **relating to:** operation of all-terrain vehicles by persons who are under 12  
6 years of age.

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INSERT ANALYSIS

*Analysis by the Legislative Reference Bureau*

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~~This is a preliminary draft. An analysis will be provided in a later version.~~

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

7 SECTION 1. 23.33 (1) (a) of the statutes is repealed. ✓  
8 SECTION 2. 23.33 (1) (ad) of the statutes is created to read: ✓  
9 23.33 (1) (ad) "Adult-sized all-terrain vehicle" means an all-terrain vehicle  
10 that has either an engine certified by the manufacturer as having at least 91 cubic  
11 centimeters or an equivalent power unit.

*an all-terrain vehicle*  
*or on an all-terrain vehicle route directly connected to such trail*  
*frozen public waters, on*

1 SECTION 3. 23.33 (5) (a) of the statutes is renumbered 23.33 (5) (a) 1. (intro.)

2 and amended to read:

3 23.33 (5) (a) 1. (intro.) No person under 12 years of age may operate an  
4 all-terrain vehicle unless ~~he or she~~ one of the following applies:

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

7 b. He or she is operating a small all-terrain vehicle on an all-terrain vehicle  
8 trail designated by the department and he or she is ~~accompanied by~~ subject to  
9 continuous verbal direction or control of his or her parent. ~~No person who is under~~

10 ~~12 years of age may operate an all-terrain vehicle which is an implement of~~  
11 ~~husbandry on a roadway under any circumstances. No person who is under 12 years~~  
12 ~~of age may operate an all-terrain vehicle on a roadway under the authorization~~  
13 ~~provided under sub. (4) (d) 6. under any circumstances. No person who is under 12~~  
14 ~~years of age may rent or lease an all-terrain vehicle or guardian.~~

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

18 SECTION 4. 23.33 (5) (a) 1. c. of the statutes is created to read:

19 23.33 (5) (a) 1. c. He or she is operating a small all-terrain vehicle on an  
20 all-terrain vehicle route that connects directly to all-terrain vehicle trail designated  
21 by the department and is immediately followed by a parent or guardian who is  
22 operating an adult-sized all-terrain vehicle.

23 SECTION 5. 23.33 (5) (a) 1. d. of the statutes is created to read:

1 ~~23.33 (5) (a) 1. d. He or she is operating a small all-terrain vehicle on frozen~~  
 2 ~~public waters and is within eyesight or hearing distance of his or her parent or~~  
 3 ~~guardian.~~

4 **SECTION 6.** 23.33 (5) (a) 3. of the statutes is created to read:

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

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

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

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

14 **SECTION 7.** 23.33 (11) (am) of the statutes is renumbered 23.33 (11) (am) (intro.)  
 15 and amended to read:

16 23.33 (11) (am) (intro.) Any county, town, city or village may enact an ordinance  
 17 which if all of the following apply:

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

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

21 **SECTION 8.** 23.33 (11) (ar) of the statutes is created to read:

22 23.33 (11) (ar) If a county, town, city, or village enacts an ordinance under par.  
 23 (am), the county, town, city, or village may include in the ordinance a provision  
 24 authorizing the operation of a small all-terrain vehicle by a person under 12 years

1

*some or all of the*

of age on all-terrain vehicle routes located in the county, town, city, or village if the ordinance contains all of the following requirements:

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

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

**SECTION 9.** 23.50 (1) of the statutes is amended to read:

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

**SECTION 10.** 23.50 (3) of the statutes is amended to read:

23.50 (3) All actions in municipal court to recover forfeitures, plus costs, fees, and surcharges imposed under ch. 814, for violations of local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am) or (ar) or 30.77 shall utilize the procedure in ch. 800. The actions shall be brought before the municipal court having jurisdiction. Provisions relating to citations, arrests, questioning, releases,

1 searches, deposits, and stipulations of no contest in ss. 23.51 (1m), (3), and (8), 23.53,  
2 23.54, 23.56 to 23.64, 23.66, and 23.67 shall apply to violations of such ordinances.

3 **SECTION 11.** 23.53 (1) of the statutes is amended to read:

4 23.53 (1) The citation created under this section shall, in all actions to recover  
5 forfeitures, plus costs, fees, and surcharges imposed under ch. 814, for violations of  
6 those statutes enumerated in s. 23.50 (1), any administrative rules promulgated  
7 thereunder, and any rule of the Kickapoo reserve management board under s. 41.41  
8 (7) (k) be used by any law enforcement officer with authority to enforce those laws,  
9 except that the uniform traffic citation created under s. 345.11 may be used by a  
10 traffic officer employed under s. 110.07 in enforcing s. 167.31 or by an officer of a law  
11 enforcement agency of a municipality or county or a traffic officer employed under  
12 s. 110.07 in enforcing s. 287.81. In accordance with s. 345.11 (1m), the citation shall  
13 not be used for violations of ch. 350 relating to highway use. The citation may be used  
14 for violations of local ordinances enacted by any local authority in accordance with  
15 s. 23.33 (11) (am) or (ar) or 30.77.

16 **SECTION 12.** 23.56 (1) of the statutes is amended to read:

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

24 **SECTION 13.** 23.57 (1) (intro.) of the statutes is amended to read:



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

7           **SECTION 14.** 23.58 of the statutes<sup>✓</sup> is amended to read:

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

20          **SECTION 15.** 23.62 (1) (intro.)<sup>✓</sup> of the statutes is amended to read:

21          **23.62 (1) (intro.)** Whenever an enforcing officer has probable cause to believe  
22          that a person subject to his or her authority is committing or has committed a  
23          violation of those statutes enumerated in s. 23.50 (1), any administrative rules  
24          promulgated thereunder, any rule of the Kickapoo reserve management board under  
25          s. 41.41 (7) (k), or any local ordinances enacted by any local authority in accordance

1 with s. 23.33 (11) (am) or (ar) or 30.77, the officer may proceed in the following  
2 manner:

3 **SECTION 16.** 800.02 (2) (b) of the statutes is amended to read:

4 800.02 (2) (b) Except for parking violations, in traffic regulation actions in  
5 municipal court, the uniform traffic citation specified in s. 345.11 shall be used in lieu  
6 of the citation form specified in par. (a). In actions for violations of local ordinances  
7 enacted in accordance with s. 23.33 (11) (am) or (ar) or 30.77, the citation form  
8 specified in s. 23.54 shall be used in lieu of the citation form specified in par. (a).

9

(END)

————— INSERT 7-6

2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1725/lins  
MGG:.....

Department  
of Natural  
Resources

1 **Insert ANL**

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 DNR-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 route 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.

2 **Insert 7-6**  
3 **SECTION 1. Effective date.**

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

## **Gibson-Glass, Mary**

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**From:** Stewart, Kate  
**Sent:** Thursday, February 25, 2010 10:06 AM  
**To:** Gibson-Glass, Mary  
**Subject:** LRB 1725

Mary,

I was looking at this draft and in the analysis it says "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 route..." I believe one of these should be trails instead of route, is that right?

Thanks,

**Kate Stewart**

*Legislative Assistant  
Office of Representative Brett Davis  
80th Assembly District  
(608) 266-1192*



State of Wisconsin  
2009 - 2010 LEGISLATURE

RMR

LRB-1725/m 2  
MGG:kjf.md

Now

2009 BILL

Regen

trail  
trail

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.

***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 ~~route~~ 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.

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

## BILL

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:

**BILL**

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.

**BILL****SECTION 6**

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<sup>✓</sup> 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<sup>✓</sup> 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



**BILL**

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:

**BILL**

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

**BILL**

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)

**Duerst, Christina**

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**From:** Stewart, Kate  
**Sent:** Wednesday, March 03, 2010 9:26 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 09-1725/2 Topic: ATV exceptions for persons younger than 12

Please Jacket LRB 09-1725/2 for the ASSEMBLY.