



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2009 Senate Bill 264

**Senate Substitute
Amendment 1 and Senate
Amendment 1 to the Substitute
Amendment**

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Current Law

Under current law, no person may operate an all-terrain vehicle (ATV) on the *private property* of another without the consent of the owner or lessee (failure to post private property does not imply consent for ATV use). There is a similar provision relating to operating a snowmobile or an off-road vehicle on private land. [ss. 23.33 (3) (c) and 350.10 (1) (f), Stats.]

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The bill expands the current statutes that prohibit trespass with an ATV, snowmobile, or off-road vehicle to **apply to all property, rather than just private property**. This change will allow wardens and other law enforcement officers to enforce these trespass provisions on all lands. Wardens do not have authority other than those specified in the laws. Wardens are specifically included in the current law provisions but, as noted above, these provisions do not cover trespass on private property.

Senate Substitute Amendment 1 to the Bill

Senate Substitute Amendment 1 to the bill retains the current provision relating to trespass on private land by ATVs, snowmobiles, and off-road vehicles and creates two new prohibitions. Under the Substitute Amendment:

1. No person may operate an *ATV* on public property that is posted as closed to ATV operation or on which the operation of an ATV is prohibited by law [creates s. 23.33 (3) (cm)].
2. No person may operate a *snowmobile* on public property that is posted as closed to snowmobile operation or on which the operation of a snowmobile is prohibited by law [creates s. 350.10 (1) (fm)].

As with current law and the bill, wardens and other law enforcement officers would be authorized to enforce these provisions.

Senate Amendment 1 to Substitute Amendment 1

Senate Amendment 1 to the Substitute Amendment (offered by Senator Sullivan) would revise the Substitute to include comparable provisions for an “*off-highway vehicle*” (defined in the amendment as “a motor-driven craft or vehicle principally manufactured for off-highway use but does not include a snowmobile or ATV).

The amendment creates a new section of the conservation chapter, s. 23.119, Consent to Use Certain Off-Highway Vehicles, which provides that:

1. No person may operate an off-highway vehicle on private property without the consent of the owner of the property. Similar language to this is currently found in s. 350.10 (1) (f), Stats. The amendment deletes that language in s. 350.10 (1) (f), Stats., and inserts the above language in new s. 23.119.
2. No person may operate an off-highway vehicle on public property that is posted as closed to the operation of off-highway vehicles or on which the operation of an off-highway vehicle is prohibited by law. This language parallels the language in the Substitute Amendment relating to ATVs and snowmobiles.

Legislative History

In executive session on September 30, 2009, the Senate Committee on Transportation, Tourism, Forestry, and Natural Resources voted to introduce and adopt Senate Substitute Amendment to the bill, and to recommend passage of the bill, as amended, both on votes of Ayes, 7; Noes, 0. Subsequently, Senate Amendment 1 to the Substitute Amendment was offered by Senator Sullivan.

DLS:jal