



2011 SENATE BILL 552

March 6, 2012 – Introduced by Senator OLSEN, cosponsored by Representatives VRUWINK, RADCLIFFE, JORGENSEN, KNILANS, DOYLE, PRIDEMORE, POPE-ROBERTS, SPANBAUER, THIESFELDT, TURNER and MARKLEIN. Referred to Committee on Transportation and Elections.

1 **AN ACT** *to repeal* 23.33 (2) (d) and 23.33 (2) (g); *to amend* 23.33 (2) (a), 23.33 (2)
2 (ir) 1., 23.33 (2) (ir) 2., 23.33 (2g) (a), 23.33 (2g) (b) 1., 23.33 (2g) (b) 3., 23.33 (4)
3 (d) 5., 78.01 (2) (e), 78.01 (2m) (f), 78.40 (1), 78.75 (1m) (a) 2m. and 78.75 (1m)
4 (a) 3.; and *to create* 23.33 (2) (b) 3g. of the statutes; **relating to:** eliminating
5 registration requirements for all-terrain vehicles used exclusively for
6 agricultural purposes or used exclusively on private property.

Analysis by the Legislative Reference Bureau

Current law prohibits any person from operating an all-terrain vehicle (ATV) unless the ATV is registered by the Department of Natural Resources (DNR) or is exempt from registration. Among the ATVs that are exempt from registration are those that are covered by a valid registration in another state and that are located in this state for a specified limited period of time.

Generally, a person may not operate an ATV on an ATV trail or other established ATV corridor that is open to the public unless the ATV is registered for public use or unless the ATV is exempt from registration. A person who uses an ATV exclusively for agricultural purposes or exclusively on private property is not required to register the ATV for public use but must register the ATV for private use. This bill eliminates the requirement that an ATV that is used exclusively for agricultural purposes or used exclusively on private property be registered by DNR.

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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 (2) (a) of the statutes is amended to read:

2 23.33 (2) (a) *Requirement.* No person may operate and no owner may give
3 permission for the operation of an all-terrain vehicle within this state unless the
4 all-terrain vehicle is registered for public use ~~or for private use~~ under this subsection
5 or sub. (2g), is exempt from registration, or is operated with a reflectorized plate
6 attached in the manner specified under par. (dm) 3. No person may operate and no
7 owner may give permission for the operation of an all-terrain vehicle on an
8 all-terrain vehicle route or an all-terrain vehicle trail unless the all-terrain vehicle
9 is registered for public use under this subsection or sub. (2g).

10 **SECTION 2.** 23.33 (2) (b) 3g. of the statutes is created to read:

11 23.33 (2) (b) 3g. Used exclusively for agricultural purposes or used exclusively
12 on private property.

13 **SECTION 3.** 23.33 (2) (d) of the statutes is repealed.

14 **SECTION 4.** 23.33 (2) (g) of the statutes is repealed.

15 **SECTION 5.** 23.33 (2) (ir) 1. of the statutes is amended to read:

16 23.33 (2) (ir) 1. In addition to the applicable fee under par. (c), ~~(d)~~, or (e), each
17 agent appointed under par. (i) 3. shall collect a service fee of \$3 each time the agent
18 issues a validated registration receipt under par. (ig) 1. a. The agent shall retain the
19 entire amount of each service fee the agent collects.

20 **SECTION 6.** 23.33 (2) (ir) 2. of the statutes is amended to read:

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1 23.33 (2) (ir) 2. In addition to the applicable fee under par. (c), ~~(d)~~, or (e), the
2 department or the agent appointed under par. (i) 3. shall collect a service fee of \$5
3 each time the service under par. (ig) 1. b. is provided. The agent shall remit to the
4 department \$1 of each service fee the agent collects.

5 **SECTION 7.** 23.33 (2g) (a) of the statutes is amended to read:

6 23.33 (2g) (a) *Authorization for issuance.* The Lac du Flambeau band may
7 issue registration certificates for public use ~~or private use~~ for all-terrain vehicles
8 that are equivalent to the registration certificates for public use or private use that
9 are issued by the department. The Lac du Flambeau band may renew and transfer
10 a registration certificate that it or the department has issued. The Lac du Flambeau
11 band may issue duplicates of only those registration certificates that it issues under
12 this subsection.

13 **SECTION 8.** 23.33 (2g) (b) 1. of the statutes is amended to read:

14 23.33 (2g) (b) 1. For issuing or renewing a registration certificate under this
15 subsection, the Lac du Flambeau band shall collect the same fee that would be
16 collected for the equivalent registration certificate under sub. (2) (c) ~~and (d)~~. For
17 transferring a registration certificate or issuing a duplicate registration certificate
18 under this subsection, the Lac du Flambeau band shall collect the same fee that
19 would be collected for the equivalent service under sub. (2) (e).

20 **SECTION 9.** 23.33 (2g) (b) 3. of the statutes is amended to read:

21 23.33 (2g) (b) 3. For a registration certificate issued, transferred or renewed
22 under this subsection, the effective period shall be the same as it would be for the
23 equivalent registration certificate under sub. (2) (f) 1. ~~or (g)~~ or under a rule
24 promulgated under sub. (2) (f) 2.

25 **SECTION 10.** 23.33 (4) (d) 5. of the statutes is amended to read:

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1 23.33 **(4)** (d) 5. On roadways if the all-terrain vehicle is an implement of
2 husbandry, ~~if and the all-terrain vehicle is used exclusively for agricultural purposes~~
3 ~~and 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 **SECTION 11.** 78.01 (2) (e) of the statutes is amended to read:

9 78.01 **(2)** (e) Gasoline sold for nonhighway use in mobile machinery and
10 equipment; other than use in a snowmobile, an all-terrain vehicle that is not
11 ~~registered for private use~~ exempt from registration under s. 23.33 (2) ~~(d)~~ (b) 3g. or a
12 recreational motorboat; and delivered directly into the consumer's storage tank in
13 an amount of not less than 100 gallons.

14 **SECTION 12.** 78.01 (2m) (f) of the statutes is amended to read:

15 78.01 **(2m)** (f) It is dyed diesel fuel and is sold for off-highway use other than
16 use in a snowmobile, an all-terrain vehicle that is not ~~registered for private use~~
17 exempt from registration under s. 23.33 (2) ~~(d)~~ (b) 3g. or in a recreational
18 motorboat or if no claim for a refund for the tax on the diesel fuel may be made under
19 s. 78.75 (1m) (a) 3.

20 **SECTION 13.** 78.40 (1) of the statutes is amended to read:

21 78.40 **(1)** IMPOSITION OF TAX AND BY WHOM PAID. An excise tax at the rate
22 determined under ss. 78.405 and 78.407 is imposed on the use of alternate fuels. The
23 tax, with respect to all alternate fuel delivered by an alternate fuel dealer into supply
24 tanks of motor vehicles in this state, attaches at the time of delivery and shall be
25 collected by the dealer from the alternate fuels user and shall be paid to the

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1 department. The tax, with respect to alternate fuels acquired by any alternate fuels
2 user other than by delivery by an alternate fuel dealer into a fuel supply tank of a
3 motor vehicle, or of a snowmobile, an all-terrain vehicle that is not registered for
4 private use exempt from registration under s. 23.33 (2) (d) or (2g) (b) 3g. or a
5 recreational motorboat, attaches at the time of the use of the fuel and shall be paid
6 to the department by the user. The department may permit any supplier of alternate
7 fuels to report and pay to the department the tax on alternate fuels delivered into the
8 storage facility of an alternate fuels user or retailer which will be consumed for
9 alternate fuels tax purposes or sold at retail.

10 **SECTION 14.** 78.75 (1m) (a) 2m. of the statutes is amended to read:

11 78.75 (1m) (a) 2m. A person who uses motor vehicle fuel or an alternate fuel
12 upon which has been paid the tax required under this chapter for the purpose of
13 operating an all-terrain vehicle, as defined under s. 340.01 (2g), may not be
14 reimbursed or repaid the amount of tax paid unless the all-terrain vehicle is
15 registered for private use exempt from registration under s. 23.33 (2) (d) or (2g) (b)
16 3g.

17 **SECTION 15.** 78.75 (1m) (a) 3. of the statutes is amended to read:

18 78.75 (1m) (a) 3. Claims under subd. 1. shall be made and filed. The forms shall
19 indicate that refunds are not available for motor vehicle fuel or alternate fuels used
20 for motorboats, except motorboats exempt from registration as motor vehicles under
21 s. 341.05 (20) and motorboats that are not recreational motorboats, or motor vehicle
22 fuel or alternate fuels used for snowmobiles and that the estimated snowmobile
23 motor vehicle fuel or alternate fuels tax payments are used for snowmobile trails and
24 areas. The forms shall indicate that refunds are not available for motor vehicle fuel
25 or alternate fuels used for all-terrain vehicles unless the all-terrain vehicle is

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1 registered for private use exempt from registration under s. 23.33 (2) ~~(d) or (2g)~~ (b)
2 3g. and shall indicate that estimated all-terrain vehicle motor vehicle fuel or
3 alternate fuels tax payments are used for all-terrain vehicle trails and areas. The
4 forms shall also indicate that refunds are not available for the tax on less than 100
5 gallons. The department shall distribute forms in sufficient quantities to each
6 county clerk.

7 (END)