

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2489/P1dn
RNK:wlj:rs

August 16, 2011

This draft is in preliminary form. Because the instructions for this draft were made in the form of draft language, I had to make certain assumptions about the intent of the request where that intent was not clear from the language provided. Consequently, please review the draft very closely to ensure that it is consistent with your intent. Also, please note the following questions and comments:

1. The draft language provided to me included a request to add a definition of “utility terrain vehicle club” that is similar to the definition of “all-terrain vehicle club” in current law. The term “all-terrain vehicle club” is no longer used at all in s. 23.33 in current law, so instead of creating a parallel definition, I repealed the definition of “all-terrain vehicle club.”
2. The draft does not include UTVs in the registration exemptions under s. 23.33 (2) (b), stats. Should there be similar exemptions for UTVs under that provision?
3. Under current law, there are certain additional fees imposed under s. 23.33 (3) (e), stats. Do you want to include UTVs in that provision?
4. Current law authorizes DNR to enter into an agreement with an Indian tribe or band with regard to certain laws concerning ATVs (see s. 23.35, stats.). Do you want to include UTVs under s. 23.35, stats.? Should the draft include UTVs in the Lac du Flambeau registration program under s. 23.33 (2g), stats.?
5. The use of the term “all-terrain vehicle” throughout the statutes, other than in s. 23.33, stats., creates some problems. For example, current law defines “motor vehicle” under s. 29.001, stats., to mean “a self-propelled vehicle, including a combination of 2 or more vehicles or an articulated vehicle.” The definition also specifically includes an all-terrain vehicle although, because an ATV is a “self-propelled vehicle” (see the definition of vehicle under s. 29.001 (87), stats.), I think that an ATV would be a “motor vehicle” under this definition even if it was not specifically included by the additional language. But the fact that ATVs are specifically included in the definition, even though the inclusion seems unnecessary, raises the question of whether this provision should also specifically mention UTVs. The problem is further complicated by the fact that the term “all-terrain vehicle” is used in other statutes in which there is no definition of an ATV at all. These definitions, or lack thereof, raise the question of whether a reference to UTVs should be included in those statutes that specifically refer to ATVs. Please review all of the following statutes which you may want amended to

specifically refer to UTVs: ss. 30.29 (1), 77.51 (13) (am), 77.54 (7) (b), 77.61 (1) (a) and (c), 77.78, 78.40 (1), 323.20, 340.01 (32) and (35), 341.057, 344.61 (1), 345.11 (1r), 346.02 (11), 346.66 (1) (c), 346.71 (1) and (2), 347.24 (1) (c), 347.415 (1g) and (1m), and 895.043 (6).

6. Section 30.26 (4), stats., provides that DNR may not prohibit the crossing of a bridge over a wild river by an ATV traveling on an ATV trail that is constructed in certain locations. Do you want to amend this provision to include UTVs?

7. Section 70.11 (45), stats., provides a property tax exemption for trail groomers owned by an ATV club that is exempt from taxation. Do you want to amend this provision to include trail groomers owned by a UTV club that is exempt from taxation, if any?

8. Section 100.48, stats., prohibits tampering with an hour meter on an ATV. Should this provision include UTVs?

9. Revenue for the ATV program under current law comes from a variety of sources including registration fees, trail pass fees, and a transfer of gas tax revenues. These revenues are used to fund grants to local governments for various ATV projects, to fund the landowner incentive program, to fund state trail projects, and for other ATV-related programs. Because this draft allows UTVs to be used only on certain ATV trails, the funding for the UTV program under this draft does not mirror the method for funding the ATV program. I made certain assumptions when drafting this part of the draft and, consequently, expect that additional changes will be needed before the draft is finalized.

Please feel free to contact me if you would like to discuss any of these issues or if you have any questions about the draft.

Robin N. Kite
Senior Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.wisconsin.gov