

**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vehicle club" is no longer used at all in s. 23.33 in current law, so instead of creating a parallel definition, I repealed the definition of "all-terrain vehicle club."

*see
23.33
(5m)(b)6*

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?

*yes
add this
identical to
ATV*

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? *yes*

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.?

*wants
tribe
language
just as
for UTVs*

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

ADD

add
UTVs -2-
in all

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 (1), 346.66 (1) (c), 346.71 (1) and (2), 347.24 (1) (c), 347.415 (1g) and (1m), and 895.043 (6).

add
UTV

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?

add
UTV
club

7. Section 70.11 (45)^m, 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?

add
UTV

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

(2)
(3)(a)
(4)(c)

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.

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23.33(4)(e)3 (ATV)

3. During hours of darkness in the same direction as motor vehicle traffic in the nearest lane unless ~~the trail and the road are separated by a head lamp barrier and the trail is located at least 40 feet from the roadway.~~ C: The use of the ATV trail is approved by the department of transportation with respect to ATV trails located near or crossing state trunk highways or by the officer in charge of maintenance with respect to ATV trails located near or crossing other highways, although during daylight hours travel may be in either direction regardless of the flow of motor vehicle traffic.

350.02(2)(b)4.a. (Snowmobile)

4. At night travel shall conform to the direction of vehicular traffic in the nearest lane unless:

- a. The snowmobile trail is located at least 40 feet from the roadway, or is separated from the roadway by a head lamp barrier; and
- c. The use of the snowmobile trail is approved by the department of transportation with respect to snowmobile trails located near or crossing state trunk highways or by the officer in charge of maintenance with respect to snowmobile trails located near or crossing other highways.

Section 127 - Create and Amend – (Gas Tax Formula)- check dates?

25.29(1)(dm)



(dm) For fiscal year ~~1991-92~~ ~~2012-13~~ ~~2013-14~~ and for each fiscal year thereafter, an amount equal to the estimated ~~all-terrain~~ terrain vehicle gas tax payment. The estimated ~~all-terrain~~ terrain vehicle gas tax payment is **the sum of the following amounts:** **1. The amount** calculated by multiplying the sum of the number of ~~all-terrain~~ terrain vehicles registered for public use under s. 23.33 (2) (c) or (2g) and the number of reflectorized plates issued under s. 23.33 (2) (dm) on the last day of February of the previous fiscal year by **25 50** gallons and multiplying that product by the excise tax imposed under s. 78.01 (1) on the last day of February of the previous fiscal year.

2. An amount equal to 40% of the amount calculated under subd. 1.

8/23/2011

don't include this yet -

*wants
as same
snowmobile
statute
(see 25.29
(1)(dm))*

held off for
now -
will combine w/
gas tax draft -

8/24/2011

Create Governors Off-Road Vehicle Council

The Governors ORV Council is to be created within statute 23.33

The primary function of the Governors ORV Council is to supervise the ORV program, review of grant requests and involved in the development of policy associated with the grant program. In addition to the grant program the Council will provide advice and consultation to the Department of Natural Resources (DNR) on the planning, acquisition, development, and management of ORV trails in Wisconsin.

The Governors ORV Council is composed of 7 voting members appointed by the governor with the advice and consent of the senate to staggered three-year terms who engage in one or more of the ATV, ~~and~~ UTV recreational uses of trails.

and OTHER OFF HIGHWAY VEHICLES

Commencing on July 1, 2012, 3 members shall be appointed to serve for 2 years and 4 members for 3 years. Thereafter all terms shall be for 3 years.

All council members must be knowledgeable in various recreational uses of trails and serve as an advocate for trails.

Wisconsin Department of Natural Resources (DNR) staff members are assigned to the council to assist with full record keeping of council meetings, meeting arrangements, and to provide other logistical support.

Responsibilities

The ~~ATV/ORV~~ Council member will be responsible for attending not less than three meetings during the year.

Voting members will remain on the council for three-year terms, or as appointed by the Governor.

Duties and responsibilities include working with other council members to identify and discuss ORV trail issues important to Wisconsin's diverse trail users.

Some travel is required to meeting locations in various parts of Wisconsin.

Members must be trail users and a resident of the State of Wisconsin.

Members will represent a specific trail user group in which they participate.

Members must be enthusiastic and interested in Council activities, willing to attend scheduled meetings and willing to participate actively in the discussions and deliberations of the council.

Members should have an understanding of outdoor recreation issues in Wisconsin and the ability to communicate clearly and professionally with trail users of varying interest.

Compensation

Council members volunteer their time on the council but are eligible for reimbursement for travel related expenses to and from Council meetings (within state guidelines).

Drafter's Note

I don't see any problem at this point with specifically referring to UTVs or using the term "Terrain Vehicles" for this question.

#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(89), 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:

30.29(1)(b)



(b) "Motor vehicle" includes an all-terrain vehicle, as defined in s. 340.01 (2g).

77.51(13)(am)



(am) Any person making any retail sale of a motor vehicle, aircraft, snowmobile, recreational vehicle, as defined in s. 340.01 (48r), trailer, semitrailer, all-terrain vehicle or boat registered or titled, or required to be registered or titled, under the laws of this state or of the United States.

77.54(7)(b)



(b) If the item transferred is a motor vehicle, snowmobile, recreational vehicle, as defined in s. 340.01 (48r), trailer, semitrailer, all-terrain vehicle or aircraft and the item is registered or titled, or required to be registered or titled, in this state or if the item is a boat that is registered or titled, or required to be registered or titled, in this state or under the laws of the United States, the exemption under par. (a) applies only if all of the following conditions are fulfilled:


77.61(1)(a)



(a) No motor vehicle, boat, snowmobile, recreational vehicle, as defined in s. 340.01 (48r), trailer, semitrailer, all-terrain vehicle or aircraft shall be registered or titled in this state unless the registrant presents proof that the sales or use taxes imposed by this subchapter have been paid.

77.61(1)(c) 


(c) In the case of motor vehicles, boats, snowmobiles, recreational vehicles, as defined in s. 340.01 (48r), trailers, semitrailers, all-terrain vehicles, or aircraft registered or titled, or required to be registered or titled, in this state purchased from persons who are not retailers, the purchaser shall file a sales tax return and pay the tax prior to registering or titling the motor vehicle, boat, snowmobile, recreational vehicle, as defined in s. 340.01 (48r), semitrailer, all-terrain vehicle, or aircraft in this state.

78.40(1) 


(1) Imposition of tax and by whom paid. An excise tax at the rate determined under ss. 78.405 and 78.407 is imposed on the use of alternate fuels. The tax, with respect to all alternate fuel delivered by an alternate fuel dealer into supply tanks of motor vehicles in this state, attaches at the time of delivery and shall be collected by the dealer from the alternate fuels user and shall be paid to the department. The tax, with respect to alternate fuels acquired by any alternate fuels user other than by delivery by an alternate fuel dealer into a fuel supply tank of a motor vehicle, or of a snowmobile, an all-terrain vehicle that is not registered for private use under s. 23.33 (2) (d) or (2g) or a recreational motorboat, attaches at the time of the use of the fuel and shall be paid to the department by the user. The department may permit any supplier of alternate fuels to report and pay to the department the tax on alternate fuels delivered into the storage facility of an alternate fuels user or retailer which will be consumed for alternate fuels tax purposes or sold at retail.

323.20 


323.20 Emergency use of vehicles. In responding to an official request for help during any declared state of emergency, any person may operate a boat or any motor vehicle, including a snowmobile or all-terrain vehicle, that is not registered in this state.

340.01(32) 


(32) "Motorcycle" means a motor vehicle, excluding a tractor or an all-terrain vehicle, which is capable of speeds in excess of 30 miles per hour with a 150-pound rider on a dry, level, hard surface with no wind, with a power source as an integral part of the vehicle, and which meets the conditions under par. (a) or (b):

340.01(35) 


(35) "Motor vehicle" means a vehicle, including a combination of 2 or more vehicles or an articulated vehicle, which is self-propelled, except a vehicle operated exclusively on a rail. "Motor vehicle" includes, without limitation, a commercial motor vehicle or a vehicle which is propelled by electric power obtained from overhead trolley wires but not operated on rails. A snowmobile and an all-terrain vehicle shall only be considered motor vehicles for purposes made specifically applicable by statute.

341.057 


341.057 All-terrain vehicles. All-terrain vehicles are not required to be registered under this chapter but shall be registered under s. 23.33 (2) or (2g).

344.61(1) 

(1) Notwithstanding s. 344.01 (2) (b), "motor vehicle" does not include trailers, semitrailers, and all-terrain vehicles.

345.11(1r) 


(1r) The uniform traffic citation or the citation form under s. 23.54 shall be used for violations of s. 23.33 relating to highway use or ordinances enacted in accordance with that section if the violation is committed on a highway, but no points may be assessed against the driving record of the operator of an all-terrain vehicle. When the uniform traffic citation is used, the report of conviction shall be forwarded to the department. When the citation form under s. 23.54 is used, the procedure in ss. 23.50 to 23.85 applies.

346.02(11) 


(11) **Applicability to all-terrain vehicles.** The operator of an all-terrain vehicle on a roadway is subject to ss. 346.04, 346.06, 346.11, 346.14 (1), 346.18, 346.19, 346.20, 346.21, 346.215 (3), 346.26, 346.27, 346.33, 346.35, 346.37, 346.39, 346.40, 346.44, 346.46, 346.47, 346.48, 346.50 (1) (b), 346.51, 346.52, 346.53, 346.54, 346.55, 346.71, 346.87, 346.88, 346.89, 346.90, 346.91, 346.92 (1) and 346.94 (1) and (9) but is not subject to any other provision of this chapter.

346.66(1)(c) 

(c) Sections 346.67 to 346.70 do not apply to accidents involving only snowmobiles, all-terrain vehicles, or vehicles propelled by human power or drawn by animals.

346.71(1) 

(1) Every coroner or medical examiner shall, on or before the 10th day of each month, report in writing any accident involving a motor vehicle occurring within the coroner's or medical examiner's jurisdiction resulting in the death of any person during the preceding calendar month. If the accident involved an all-terrain vehicle, the report shall be made to the department of natural resources and shall include the information specified by that department. If the accident involved any other motor vehicle, the report shall be made to the department and shall include the information specified by the department. The coroner or medical examiner of the county where the death occurs, if the accident occurred in another jurisdiction, shall, immediately upon learning of the death, report it to the coroner or medical examiner of the county where the accident occurred, as provided in s. 979.01 (1).


346.71(2) 

(2) In cases of death involving a motor vehicle in which the decedent was the operator of a motor vehicle, a pedestrian 14 years of age or older or a bicycle or electric personal assistive mobility device operator 14 years of age or older and who died within 6 hours of the time of the accident, the coroner or medical examiner of the county where the death occurred shall require that a blood specimen of at least 10 cc. be withdrawn from the body of the decedent within 12 hours after his or her death, by the coroner or medical


examiner or by a physician so designated by the coroner or medical examiner or by a qualified person at the direction of the physician. All funeral directors shall obtain a release from the coroner or medical examiner of the county where the accident occurred as provided in s. 979.01 (4) prior to proceeding with embalming any body coming under the scope of this section. The blood so drawn shall be forwarded to a laboratory approved by the department of health services for analysis of the alcoholic content of the blood specimen. The coroner or medical examiner causing the blood to be withdrawn shall be notified of the results of each analysis made and shall forward the results of each such analysis to the department of health services. If the death involved a motor vehicle, the department shall keep a record of all such examinations to be used for statistical purposes only and the department shall disseminate and make public the cumulative results of the examinations without identifying the individuals involved. If the death involved an all-terrain vehicle, the department of natural resources shall keep a record of all such examinations to be used for statistical purposes only and the department of natural resources shall disseminate and make public the cumulative results of the examinations without identifying the individuals involved.

347.24(1)(c) 


(c) An implement of husbandry which is an all-terrain vehicle need only comply with the lamp requirements established under s. 23.33 (6).

347.415(1g) 

(1g) In this section, "odometer" means an instrument for measuring and recording the actual distance that a motor vehicle, snowmobile, or all-terrain vehicle has traveled while in operation, but does not include any auxiliary instrument designed to be reset to zero to measure and record the actual distance that a motor vehicle, snowmobile, or all-terrain vehicle has traveled on trips.

347.415(1m) 

(1m) No person may, either personally or through an agent, remove, replace, disconnect, reset, tamper with, alter, or fail to connect the odometer of any motor vehicle, snowmobile, or all-terrain vehicle with the intent to change or affect the number of miles indicated thereon.

895.043(6) 

(6) **Limitation on damages.** Punitive damages received by the plaintiff may not exceed twice the amount of any compensatory damages recovered by the plaintiff or \$200,000, whichever is greater. This subsection does not apply to a plaintiff seeking punitive damages from a defendant whose actions under sub. (3) included the operation of a vehicle, including a motor vehicle as defined under s. 340.01 (35), a snowmobile as defined under s. 340.01 (58a), an all-terrain vehicle as defined under s. 340.01 (2g), and a boat as defined under 30.50 (2), while under the influence of an intoxicant to a degree that rendered the defendant incapable of safe operation of the vehicle. In this subsection, "intoxicant" has the meaning given in s. 30.50 (4e).

Add to
2489

8/24/2011

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Thanks, below are the suggested changes. Please note that the registration period is not contained in Statute, rather it is located in the administrative code.

Proposed Revisions to Ch. 23.33, Wisconsin Statutes

23.33 All-terrain Vehicles

Revise

23.33 (1) DEFINITIONS – (Need to Add)

✓ (o) "Validated registration receipt" means a receipt issued by the department or an agent under sub. (2) (ig) 1. a. that shows that an application and the required fees for a registration certificate has been submitted to the department or to an appointed agent.

Create

23.33(2) REGISTRATION – (Robin amended 23.33(2)(c) in LRB-2489/P1 but need to add wording in red to the statute.)

✓ (ca) Late fee: A late fee of \$5.00 will be charged if the public use registration is not renewed prior to the expiration date of the registration unless the renewal is included with an application to transfer the registration.

Revise

23.33(2) REGISTRATION – (This provision to take affect 3/01/14)

✓ (ir) *Registration; supplemental fees.* 1. In addition to the applicable fee under par. (c), (d), or (e), each agent appointed under par. (i) 3. who accepts an application in person and issues a validated registration receipt under par. (ig) 1. a. shall collect a service fee of \$3 each time the agent issues a validated registration receipt under par. (ig) 1. a. The agent shall retain the entire amount of each service fee the agent collects.

delayed date

Revise

23.33 (2j) NONRESIDENT TRAIL PASSES – (Change was made in LRB-2489/P1 but we need to make it Terrain Vehicle)

(c) The fee for a nonresident trail pass issued for an all-terrain vehicle that is exempt from registration under sub. (2) (b) 2. is \$34.25. A nonresident trail pass issued for such an all-terrain vehicle may be issued only by the department and persons appointed by the department and expires on ~~June 30~~ March 31 of each year.

Proposed Revision to Chapter NR 64, Wisconsin Administrative Code

NR 64.03 Registration. (3) EXPIRATION. (a) All-terrain vehicle public use registration shall be valid for 2 years beginning ~~July 1~~ April 1 or the date of issuance or renewal and ending ~~June 30~~ March 31 of the second year following the date of issuance or renewal.

Revise

Chapter 23.33(2)(dm) – (I have added this to the LRB-2490/P1 additions and change list)

(dm) Registration; commercial owner; fee.

1. Every person who is an all-terrain or utility terrain vehicle manufacturer, all-terrain or utility terrain vehicle dealer, all-terrain vehicle distributor or all-terrain or utility terrain vehicle renter or any combination thereof engaged in business in this state shall register with the department and obtain from the department a commercial all-terrain or utility terrain vehicle certificate of number.
2. The fee for the issuance or renewal of a commercial all-terrain or utility terrain vehicle certificate of number is \$90. Upon receipt of the application form required by the department and the fee required under this subdivision, the department shall issue to the applicant a commercial all-terrain or utility terrain vehicle certificate of number and ~~3 reflectorized plates~~. The fee for ~~additional~~ certificate of number ~~reflectorized plates~~ is \$30 per plate certificate of number.

7
D-N

why number?

copy ready

Create

3. A person who is required to obtain a commercial all-terrain or utility terrain vehicle certificate of number under subd. 1. shall attach or affix the certification decals to removable signs that are temporarily but firmly mounted upon or attached to any all-terrain or utility terrain vehicle that the person leases, rents, offers for sale or otherwise allows to be used whenever the all-terrain or utility terrain vehicle is being operated.

once plates are gone - dealer has own sign

Repeal

~~3. A person who is required to obtain a commercial all-terrain vehicle certificate under subd. 1. shall attach in a clearly visible place a reflectorized plate to any all-terrain vehicle that the person leases, rents, offers for sale or otherwise allows to be used whenever the all-terrain vehicle is being operated.~~

Draft 4

LRB-2489/P1dn Additions and Changes 8/24/2011

Section 2. Create and Amend

20.370(gq)

Utility terrain vehicle aids.

All moneys received as utility terrain vehicle fees under 23.33(2)(c), ~~(2)(d)~~ and (2j)(c) to provide aid to towns, villages, cities, counties, and federal agencies for local law enforcement on, and for maintenance or improvements of all-terrain vehicle trails on which the operation of a utility terrain vehicle is permitted.

Create ?

20.370(5)(et)



(et) *Recreation aids* — *Utility terrain vehicle project aids; gas tax payment.* As a continuing appropriation, an amount equal to the estimated Utility terrain vehicle gas tax payment to provide aid to towns, villages, cities, counties and federal agencies for nonstate Utility terrain vehicle projects.

Section 8 & Drafter's notes Retain – used in 23.33(5m)(b)6

23.33(1)(bc)



(bc) "All-terrain vehicle club" means a club consisting of individuals that promotes the recreational use of all-terrain vehicles.

Drafter's notes - Create under 23.33(1) Definitions

"Utility terrain vehicle club" means a club consisting of individuals that promotes the recreational use of utility terrain vehicles.

Drafter's notes - Create under 23.33(1) Definitions

"Terrain vehicle club" means a club consisting of individual that promotes the recreational use of all-terrain vehicles and / or utility terrain vehicles.

Create under 23.33(1) Definitions ?

"Terrain Vehicle Route" means a highway or sidewalk designated for use by terrain vehicle operators by the governmental agency having jurisdiction as authorized under this section.."

Create under 23.33(1) Definitions ?

"Terrain Vehicle Trail" means a marked corridor on public property or on private lands subject to public easement or lease, designated for use by terrain vehicle operators by the governmental agency having jurisdiction, but excluding roadways of highways except those roadways that are seasonally not maintained for motor vehicle traffic.

amended
add 20

OK

don't need

don't need

don't need


Create under 23.33 (1) Definitions

"Utility Terrain Vehicle Route" means a highway or sidewalk designated for use by utility terrain vehicle operators by the governmental agency having jurisdiction as authorized under this section.

Create under 23.33 (1) Definitions

"Utility Terrain Vehicle Trail" means a marked corridor on public property or on private lands subject to public easement or lease, designated for use by utility terrain vehicle operators by the governmental agency having jurisdiction, but excluding roadways of highways except those roadways that are seasonally not maintained for motor vehicle traffic.

Amend

23.33(2)(a) 

add UTV

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

Section 22 - Create and Amend

23.33(2)(am)

Display. A person who is required to register a terrain vehicle for public use shall attach a ~~front and rear plates~~ user-furnished plate to the rear of the terrain vehicle in addition to the registration decals that must be prominently visible on both sides of the ATV and in a position which is forward of the operator. ~~Each~~ The plate shall be a minimum of 4 inches in height and 7 1/2 inches in width, shall be clearly visible, and shall be at least 12 inches from the ground. The plates plate shall display the registration number for the terrain vehicle and a registration decal issued by the department. The person required to register the terrain vehicle shall maintain the plates and decal plate so that they it are is in legible condition. The registration letters and numbers must be 1 1/2 inches in height, with a 3/16 inch stroke, in English and placed from left to right with black letters and numbers on a contrasting white plate.

OK change

a minimum of 4 inches

Amend

23.33(2)(b)

(b) Exemptions. ~~An all-terrain~~ A terrain vehicle is exempt from registration if it is:

throughout -
ATVs + UTVs

Amend

23.33(2)(b)1

1. Owned by the United States, another state or a political subdivision thereof, but the exterior of the ~~all-terrain~~ terrain vehicle shall display in a visible manner the name of the owner.

Repeal

23.33(2)(b)2.

2. Covered by a valid registration in another state, province or country if there is some identification of registration displayed on the ~~all-terrain~~ terrain vehicle and it has not been in this state for more than 15 consecutive days.

20 clean up

Amend

23.33(2)(b)2m.b.



b. The ~~all-terrain~~ terrain vehicle displays the registration decal required by the tribe or band.

Amend

23.33(2)(b)2m.c.



c. The ~~all-terrain~~ terrain vehicle has not been, for more than 15 consecutive days, in that portion of this state that is outside the boundaries of the reservation where it is registered.

Amend

23.33(2)(b)3m.



3m. Present in this state, for a period not to exceed 15 days, and if it is used exclusively as part of an advertisement being made for the manufacturer of the ~~all-terrain~~ terrain vehicle.

Section 23 - Create and Amend

23.33(2)(c)



(c) *Registration; public use; fee.* Any ~~all-terrain~~ terrain vehicle may be registered for public use. The fee for the issuance or renewal of a registration certificate for public use for an ~~all-terrain~~ terrain vehicle is \$30. ~~The fee for the issuance or renewal of a registration certificate for public use for a utility terrain vehicle is \$60.~~ The department shall impose an additional late fee of \$5 for the renewal of a registration certificate under this paragraph that is filed after the expiration date of the registration certificate

back
ATV +
UTV
fee is
\$30

Amend

23.33(2)(d)



(d) ~~Registration; private use; fee. An all-terrain~~ A terrain vehicle used exclusively for agricultural purposes or used exclusively on private property may be registered for private use. The fee for the issuance of a registration certificate for private use is \$15.

Amend – Penny – Effective March, 2014

23.33(2)(dm)1.



1. Every person who is an all-terrain or utility terrain vehicle manufacturer, all-terrain or utility terrain vehicle dealer, all-terrain vehicle or utility terrain distributor or all-terrain or utility terrain vehicle renter or any combination thereof engaged in business in this state shall register with the department and obtain from the department a commercial all-terrain or utility terrain vehicle certificate of number Effective March of 2014

DN

Amend – Penny – Effective March, 2014

23.33(2)(dm)2.



2. The fee for the issuance or renewal of a commercial all-terrain or utility terrain vehicle certificate of number is \$90. Upon receipt of the application form required by the department and the fee required under this subdivision, the department shall issue to the applicant a commercial all-terrain or utility terrain vehicle certificate of number and 3 reflectorized plates. The fee for additional certificate of number reflectorized plates is \$30 per-plate certificate of number.

DN

Amend – Penny – Effective March, 2014

23.33(2)(dm)3.



3. A person who is required to obtain a commercial all-terrain or utility terrain vehicle certificate of number under subd. 1. shall attach or affix the certification decals to removable signs that are temporarily but firmly mounted upon or attached to any all-terrain or utility terrain vehicle in a clearly visible place a reflectorized plate to any all-terrain vehicle that the person leases, rents, offers for sale or otherwise allows to be used, whenever the all-terrain or utility terrain vehicle is being operated.

Section 27 – Delete Drafted statute if Penny’s proposals are used

23.33(2) (dm) 3m.

For the renewal of a commercial ~~terrain vehicle~~ certificate issued to a utility terrain vehicle manufacturer, utility terrain vehicle dealer, utility terrain vehicle distributor, or utility terrain vehicle renter, the department may issue renewal stickers to be attached to reflectorized plates issued upon original registration of the utility terrain vehicle.

These are additional technical ATV changes to go in effect in March 2014 (these will apply to UTVs also)

Amend

23.33(2)(g)



(g) *Effective period; private use.* An ~~all-terrain~~ A terrain vehicle private-use registration certificate is valid from the date of issuance until ownership of the ~~all-terrain~~ terrain vehicle is transferred.

Drafter's notes - Amend

23.33(2g)(a)



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

Drafter's notes - Amend

23.33(2g)(c)2.



2. The Lac du Flambeau band shall use registration decals and a plate that are substantially similar to those under sub. (2) with regard to color, size, legibility, information content and placement on the ~~all-terrain~~ terrain vehicle.

Drafter's notes - Amend

23.33(2g)(e)4.



4. The Lac du Flambeau band shall collect the sales and use taxes due under s. 77.61 (1) on any ~~all-terrain~~ terrain vehicle registered under this subsection and make the report in respect to those taxes. On or before the 15th day of each month, the Lac du Flambeau band shall pay to the department of revenue all taxes that the Lac du Flambeau band collected in the previous month.

Drafter's notes - Amend

23.33(2g)(f)2.



2. A requirement that the fees collected by the Lac du Flambeau band under par. (b) be used only for a program for registering ~~all-terrain~~ terrain vehicles, for regulating ~~all-terrain-terrain~~ terrain vehicles and their operation and for providing ~~all-terrain~~ terrain vehicle trails and ~~all-terrain~~ terrain vehicle facilities.

Amend


23.33(2j)(a)



(a) In this subsection, "public ~~all-terrain~~ terrain vehicle corridor" means an ~~all-terrain~~ terrain vehicle trail or other established ~~all-terrain~~ terrain vehicle corridor that is open to the public but does not include an ~~all-terrain~~ a terrain vehicle route.


*to want to
sure
UTVs
are allowed*

Section 38 - Amend

23.33(2j)(b) 


(b) Except as provided in par. (e), no person may operate ~~an all-terrain~~ a terrain vehicle on a public ~~all-terrain~~ terrain vehicle corridor in this state unless a nonresident trail pass issued under this subsection is ~~displayed~~ permanently affixed in a highly visible location on the forward half of the all-terrain terrain vehicle.

Section 39 – Amend (also on Penny’s list)

23.33(2j)(c) 


(c) The fee for a nonresident trail pass issued for ~~an all-terrain~~ a terrain vehicle that is exempt from registration under sub. (2) (b) 2. is \$34.25. A nonresident trail pass issued for such ~~an all-terrain~~ a terrain vehicle may be issued only by the department and persons appointed by the department and expires on ~~June 30~~ March 31 of each year.

Drafter’s notes - Amend

23.33(2j)(d) 

(d) There is no fee for a nonresident trail pass issued for ~~an all-terrain~~ a terrain vehicle that is registered under sub. (2g) or s. 23.35. The department or Indian tribe or band shall issue a nonresident trail pass for such ~~an all-terrain~~ a terrain vehicle when it issues the registration certificate for the ~~all-terrain~~ terrain vehicle. The department shall provide Indian tribes or bands that register ~~all-terrain~~ terrain vehicles under sub. (2g) or s. 23.35 with a supply of trail passes.

Section 40 – Amend

23.33(2j)(e) 

(e) ~~An all-terrain~~ A terrain vehicle that is registered under sub. (2) (a) or ~~an all-terrain~~ a terrain vehicle that is exempt from registration under sub. (2) (b) 1., 3., 3m., or 4. is exempt from having a nonresident trail pass displayed as required under par. (b). The department may promulgate a rule to exempt ~~all-terrain~~ terrain vehicles that are exempt from registration under sub. (2) (b) 5. from having nonresident trail passes displayed as required under par. (b) or may promulgate a rule to exempt owners of such ~~all-terrain~~ terrain vehicles from having to pay any applicable nonresident trail pass fee.


Section 51 – Amend

23.33 (3) (em) 1. With a passenger in the cargo box ~~or dump box~~ or upon any portion of a utility terrain vehicle not designed or intended for the use of passengers.

2. No person shall ride upon any portion of a utility terrain vehicle not designed or intended for the use of passengers.

clean up language

Amend


23.33(4)(e)3. 

3. During hours of darkness in the same direction as motor vehicle traffic in the nearest lane unless

a. the trail and the road are separated by a head lamp barrier and the trail is located at least 40 feet from the roadway; and


c. the use of the terrain vehicle trail is approved by the department of transportation with respect to terrain vehicle trails located near or crossing state trunk highways or by the officer in charge of maintenance with respect to terrain vehicle trails located near or crossing other highways, although during daylight hours travel may be in either direction regardless of the flow of motor vehicle traffic.

Section 73 - Amend

23.33(4c)(a)3. 


3. *Operating with alcohol concentrations at specified levels; below age 19-21.* If a person has not attained the age of ~~19-21~~, the person may not engage in the operation of an all-terrain vehicle while he or she has an alcohol concentration of more than 0.0 but not more than 0.08.

Amend

23.33(4t) 


(4t) **Report arrest to department.** If a law enforcement officer arrests a person for a violation of the intoxicated operation of an all-terrain vehicle law or the refusal law, the law enforcement officer shall notify the department of the arrest as soon as practicable.

Amend

23.33(5r)(a) 


(a) In this subsection "public all-terrain vehicle corridor" has the meaning given in s. 23.33 (2i) (a).

Amend

23.33(5r)(b) 

(b) The department shall establish a program to make incentive payments to private landowners who permit public all-terrain vehicle corridors on their lands, that may be used by operators of all-terrain and utility terrain vehicles and who apply for the payments.

Amend

23.33(5r)(c) 


(c) ~~An application is not considered complete until the forester or another employee of each county in which the public all-terrain vehicle corridor is located measures the length of the corridor in that county for the purpose of calculating the payment.~~

motorized snowmobile law
350.02
(2)(b)4.a.

not needed


(5r)

Amend

23.33(5r)(d)1. 


1. For a public all ~~terrain~~ vehicle corridor that was open to the public for 60 days or more but for less than 180 days in the previous fiscal year, the incentive payment shall be \$25 per mile.

Amend

23.33(5r)(d)2. 


2. For a public all ~~terrain~~ vehicle corridor that was open to the public for 180 days or more but for less than 270 days in the previous fiscal year, the incentive payment shall be \$75 per mile.

Amend

23.33(5r)(d)3. 


3. For a public all ~~terrain~~ vehicle corridor that was open to the public for 270 days or more in the previous fiscal year, the incentive payment shall be \$100 per mile.

Amend

23.33(5r)(e) 

(e) If a private landowner enters into an agreement with a county to allow a public all ~~terrain~~ vehicle corridor on the landowner's land for a period of at least 5 years, the landowner shall receive a supplemental payment, in addition to the payment as calculated under par. (c) [~~par. (d)~~], that equals 10 percent of the payment calculated under par. (c) [~~par. (d)~~] for each full or partial fiscal year that is included in the 5-year period.

Section 98 - Amend

23.33(6)(e) 


(e) Every all-~~terrain~~ ~~terrain~~ vehicle with the exception of electric terrain vehicles is required to be equipped with a functioning muffler to prevent excessive or unusual noise and with a functioning spark arrester of a type approved by the U.S. forest service.

Section 99 - Create and Amend

23.33 (6)(i)

(i) No person may operate a utility terrain vehicle unless each passenger is wearing a manufacturer installed safety belt ~~approved by the department~~ and fastened in a manner prescribed by the manufacturer of the safety belt which permits the safety belt to act as a body restraint.

Amend

23.33(8)(a) 

(a) *Department authority.* The department shall encourage and supervise a system of all-~~terrain~~ ~~terrain~~ vehicle routes and trails. The department may establish standards and procedures for certifying the designation of all-~~terrain~~ ~~terrain~~ vehicle routes and trails.

not needed

Amend

23.33(8)(b)



no (b) *Routes*. A town, village, city or county may designate highways as ~~all-terrain~~ terrain vehicle routes. No state trunk highway or connecting highway may be designated as an ~~all-terrain~~ terrain vehicle route unless the department of transportation approves the designation.

Amend

23.33(8)(c)



no (c) *Trails*. A town, village, city, county or the department may designate corridors through land which it owns or controls, or for which it obtains leases, easements or permission, for use as ~~all-terrain~~ terrain vehicle trails.

Amend

23.33(8)(e)



(e) *Signs*. The department, in cooperation with the department of transportation, shall establish uniform ~~all-terrain~~ terrain vehicle route and trail signs and standards. The standards may not require that any additional signs be placed on ~~all-terrain~~ terrain vehicle routes concerning the operation of ~~all-terrain~~ terrain vehicles with snow removal devices attached.

Section 103 - Amend

23.33(8)(f)1.



e 1. No person may intentionally remove, damage, deface, move or, obstruct or interfere with the effective operation of any uniform ~~all-terrain~~ terrain vehicle route or trail sign or standard or ~~intentionally interfere with the effective operation of any uniform ~~all-terrain~~ terrain vehicle route or trail sign or standards~~ if the sign or standard is legally placed by the state, any municipality or any authorized individual.

Amend


23.33(8)(f)2.



e 2. No person may possess any uniform ~~all-terrain~~ terrain vehicle route or trail sign or standard of the type established by the department for the warning, instruction or information of the public, unless he or she obtained the uniform ~~all-terrain~~ terrain vehicle route or trail sign or standard in a lawful manner. Possession of a uniform ~~all-terrain~~ terrain vehicle route or trail sign or standard creates a rebuttable presumption of illegal possession.


Section 113 – How will the UTV “low pressure tire” definition affect the ATV “low pressure tire”? How do we eliminate confusion?

This is the definition that was used in the UTV pilot program for UTV's


23.33(11p)(a)3. 

3. "Low pressure tire" means a tire that has a minimum width of 6 inches and that is designed to be inflated with an operating pressure not to exceed **20** pounds per square inch as recommended by the manufacturer.

This is the definition that is used for ATV's:


340.01(27g) 

(27g) "Low-pressure tire" means a tire that has a minimum width of 6 inches and that is designed to be inflated with an operating pressure not to exceed **10** pounds per square inch as recommended by the manufacturer.

340.01(2g) 

(2g) "All-terrain vehicle" means an engine-driven device which has a net weight of 900 pounds or less, which is originally manufactured with a width of 50 inches or less, which is equipped with a seat designed to be straddled by the operator and which is designed by the manufacturer to travel on 3 or more low-pressure tires.


Section 116 - Amend and Renumber

23.33(11p)(a)6. 

23.33(1)(ng)


6. "Utility terrain vehicle" means a motor driven device, other than a golf cart, or low-speed vehicle, dune buggy, rock crawler, sand car, sand rail, off-road go kart, trophy kart, mini-truck, tracked vehicle, neighborhood electric vehicle and any vehicle that comply with Federal Motor Vehicle Safety Standards, that is designed to be used primarily off of a highway and that has, and was originally manufactured with, all of the following:

Amend

23.33(11p)(a)6.a. 

a. A gross weight of ~~more than 900 pounds~~ but not more than 1,999 pounds. A UTV may also be an ATV that meets the ATV definition except it weights more than 900 lbs and less than 1,999 lbs.

Amend

23.33(11p)(a)6.c. 

c. A manufacturer installed cargo box or ~~dump box~~.


"low pressure tire" - need 2 defs.

Road Standards

does not meet 341.10(b)


heavy ATVs can be UTVs

Amend

23.33(13)(b)4. 


4. A person who violates sub. (4c) (a) 3. or (4p) (e) and who has not attained the age of 19 21 shall forfeit not more than \$50.

Amend

23.33(13)(f) 

~~(f)~~ Restoration or replacement of signs and standards. In addition to any other penalty, the court may order the defendant to restore or replace any uniform ~~all-terrain~~ terrain vehicle route or trail sign or standard that the defendant removed, damaged, defaced, moved or obstructed.


Section 127 - Create and Amend – (Gas Tax Formula)- check dates?

25.29(1)(dm) 


(dm) For fiscal year ~~1991-92 2012-13~~ 2013-14 and for each fiscal year thereafter, an amount equal to the estimated ~~all-terrain~~ terrain vehicle gas tax payment. The estimated ~~all-terrain~~ terrain vehicle gas tax payment is the sum of the following amounts: 1. The amount calculated by multiplying the sum of the number of ~~all-terrain~~ terrain vehicles registered for public use under s. 23.33 (2) (c) or (2g) and the number of reflectorized plates issued under s. 23.33 (2) (dm) on the last day of February of the previous fiscal year by ~~25~~ 50 gallons and multiplying that product by the excise tax imposed under s. 78.01 (1) on the last day of February of the previous fiscal year.
2. An amount equal to 40% of the amount calculated under subd.1.

hold off for new draft


Create into Statute 23.33 ?

NR 64.14(2) 

~~(2)~~ Utility terrain trail maintenance. The department may provide state aid for trail maintenance costs equal to the approved eligible project costs which may not exceed:

NR 64.14(2)(a) 

~~(a)~~ \$100 per mile for winter maintenance. Utility terrain trails eligible for winter maintenance shall be maintained and groomed for a total of not less than 2 months nor more than 6 months per year including the months of January and February.

NR 64.14(2)(b) 

~~(b)~~ \$450 \$100 per mile for ~~winter~~ maintenance. Trails eligible for ~~winter~~ maintenance shall be maintained for a total of not less than 3 months nor more than 8 months per year including the months of June, July and August.

\$100 per mile for summer or year round maintenance

Create into Statute 23.33?

NR 64.14(4)



(4) PRORATION. Should Utility Terrain funds not be sufficient to satisfy the total request for a priority ranked purpose, i.e., either maintenance ~~insurance~~, or ~~land acquisition~~, improvement of all-terrain vehicle trails on which the operation of a utility terrain vehicle is permitted, the utility terrain vehicle funds shall be distributed to sponsors on a proportional basis for that purpose.

add to 2489

Draft 2
LRB-1420/2 adjustments for inclusion into UTV bill LRB-2489/P2
(Trail Pass Bill)
8/24/2011

Section 3. - Amend - (On Penny's list) - (Section 39 in UTV bill)

23.33(2j)(c)



(c) The fee for a nonresident trail pass issued for ~~an all-terrain~~ a terrain vehicle that is exempt from registration under sub. (2) (b) 2. is \$34.25. A nonresident trail pass issued for such ~~an all-terrain~~ a terrain vehicle may be issued only by the department and persons appointed by the department and expires on ~~June 30~~ March 31 of each year.

Section 2. - Amend

23.33(2j)(b)



(b) Except as provided in ~~par. pars.~~ par. (e) and (em). no person may operate ~~an all-terrain~~ a terrain vehicle on a public ~~all-terrain~~ terrain vehicle corridor in this state unless a nonresident trail pass issued under this subsection is displayed on the ~~all-terrain~~ terrain vehicle.

Section 4. - Amend

23.33 (2j) (em)

The department may not require a person operating ~~an all-terrain~~ terrain vehicle on a public ~~all-terrain~~ terrain vehicle corridor in this state on the first Saturday and consecutive Sunday in June of each year to be issued or to display a nonresident trail pass as required under par. (b)

Create

Effective April 1, 2013, the fee for a 5-day nonresident trail pass issued for a terrain vehicle that is exempt from registration under sub (2)(b)2. is \$19.25. A 5-day nonresident trail pass issued for such a terrain vehicle may be issued only by the department and persons appointed by the department

Handwritten initials "d-n" and a large left-facing curly bracket.

Create into Statute 23.33 ?
8/24/2011

NR 64.14(2)



(2) Utility terrain trail maintenance. The department may provide state aid for trail maintenance costs equal to the approved eligible project costs which may not exceed:

NR 64.14(2)(a)



(a) \$100 per mile for winter maintenance. Utility terrain trails eligible for winter maintenance shall be maintained and groomed for a total of not less than 2 months nor more than 6 months per year including the months of January and February.

NR 64.14(2)(b)



(b) ~~\$450~~ \$100 per mile for summer maintenance. Trails eligible for summer maintenance shall be maintained for a total of not less than 3 months nor more than 8 months per year including the months of June, July and August.

NR 64.14(4)



(4) PRORATION. Should Utility Terrain funds not be sufficient to satisfy the total request for a priority ranked purpose, i.e., either maintenance ~~insurance~~, or ~~land acquisition~~, improvement of all-terrain vehicle trails on which the operation of a utility terrain vehicle is permitted, the utility terrain vehicle funds shall be distributed to sponsors on a proportional basis for that purpose.

Create ?

20.370(5)(et)



(--) Recreation aids — Utility terrain vehicle project aids; gas tax payment. As a continuing appropriation, an amount equal to the estimated Utility terrain vehicle gas tax payment to provide aid to towns, villages, cities, counties and federal agencies for nonstate Utility terrain vehicle projects.

Amend

Section 22 - Create and Amend

23.33(2)(am)

Display. A person who is required to register a terrain vehicle for public use shall attach a ~~front and rear plates~~ user-furnished plate to the rear of the terrain vehicle **in addition to the registration decals that must be prominently visible on both sides of the ATV and in a position which is forward of the operator.** ~~Each~~The plate shall be a minimum of 4 inches in height and 7 ½ inches in width, shall be clearly visible, and shall be at least 12 inches from the ground. The ~~plates~~ plate shall display the registration number for the terrain vehicle ~~and a registration decal~~ issued by the department. The person required to register the terrain vehicle shall maintain the ~~plates and decal~~ plate so that ~~they it are~~ is in legible condition. The registration letters and numbers must be 1 ½ inches in height, with a 3/16 inch stroke, in English and placed from left to right with black letters and numbers on a contrasting white plate.

Section 51 – Amend

23.33 (3) (em) 1. With a passenger in the cargo box ~~or dump box~~ or upon any portion of a utility terrain vehicle not designed or intended for the use of passengers.

2. No person shall ride upon any portion of a utility terrain vehicle not designed or intended for the use of passengers.