

1991 Senate Bill 238

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1991 WISCONSIN ACT 303

AN ACT to repeal 23.33 (1) (k); to renumber and amend 23.33 (1) (m); to amend 23.33 (1) (ir), 23.33 (5) (a) and 23.33 (5) (b); and to create 23.33 (1) (ag), 23.33 (1) (it), 23.33 (1) (jp), 23.33 (2m) and 23.33 (3g) of the statutes, relating to: restrictions and safety requirements for the operation of all-terrain vehicles and granting rule-making authority.

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

SECTION 1. 23.33 (1) (ag) of the statutes is created to read:

23.33 (1) (ag) "Agricultural purpose" means a purpose related to beekeeping, operating commercial feed-lots, dairying, egg production, floriculture, fish or fur farming, forest and game management, grazing, live-stock raising, operating orchards, plant greenhouses or nurseries, poultry raising, raising grain, grass, mint or seed crops, sod farming or raising fruits, nuts, berries or vegetables.

SECTION 2. 23.33 (1) (ir) of the statutes, as affected by 1991 Wisconsin Act 39, is amended to read:

23.33 (1) (ir) "Operate" means the to exercise of physical control over the speed or direction of an all-terrain vehicle or the physical manipulation or activation of to physically manipulate or activate any of the controls of an all-terrain vehicle necessary to put it in motion. "Operate" ~~includes the operation of an all-terrain vehicle.~~

SECTION 3. 23.33 (1) (it) of the statutes is created to read:

23.33 (1) (it) "Operation" means the exercise of physical control over the speed or direction of an all-terrain vehicle or the physical manipulation or activation of any of the controls of an all-terrain vehicle necessary to put it in motion.

SECTION 3m. 23.33 (1) (jp) of the statutes is created to read:

23.33 (1) (jp) "Small all-terrain vehicle" means an all-terrain vehicle that has 4 wheels and that has either an engine certified by the manufacturer at not more than 90 cubic centimeters or an equivalent power unit.

SECTION 4. 23.33 (1) (k) of the statutes is repealed.

SECTION 5. 23.33 (1) (m) of the statutes is renumbered 23.33 (1) (if) and amended to read:

23.33 (1) (if) ~~"Used exclusively on land~~ "Land under the management and control of a person's immediate family" means ~~use of an all-terrain vehicle only on~~ land owned or leased by the person or a member of the person's immediate family over which the owner or lessee has management and control. This term excludes ~~use of an all-terrain vehicle on~~ land owned or leased by an organization of which the person or a member of the person's immediate family is a member.

SECTION 6. 23.33 (2m) of the statutes is created to read:

23.33 (2m) RENTAL OF ALL-TERRAIN VEHICLES. (a) No person who is engaged in the rental or leasing of all-terrain vehicles to the public may do any of the following:

1. Rent or lease an all-terrain vehicle for operation by a person who will be operating an all-terrain vehicle for the first time unless the person engaged in the rental or leasing gives the person instruction on how to operate an all-terrain vehicle.

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2. Rent or lease an all-terrain vehicle to a person under 16 years of age.

3. Rent or lease an all-terrain vehicle without first ascertaining that any person under the age of 18 who will be on the all-terrain vehicle has protective headgear of the type required under s. 347.485 (1) (a).

(b) A person who is engaged in the rental or leasing of all-terrain vehicles to the public shall have clean, usable protective headgear available for rent in sufficient quantity to provide headgear to all persons under the age of 18 who will be on all-terrain vehicles that the person rents or leases.

(c) The department may promulgate rules to establish minimum standards for the instruction given under par. (a) 1.

SECTION 7. 23.33 (3g) of the statutes is created to read:

23.33 (3g) **USE OF HEADGEAR.** No person may operate or be a passenger on an all-terrain vehicle without wearing protective headgear of the type required under s. 347.485 (1) (a) and with the chin strap properly fastened, unless one of the following applies:

(a) The person is at least 18 years of age.

(b) The person is traveling for the purposes of hunting or fishing and is at least 12 years of age.

(c) The all-terrain vehicle is being operated for an agricultural purpose.

(d) The all-terrain vehicle is being operated by a person on land under the management and control of the person's immediate family.

SECTION 8m. 23.33 (5) (a) of the statutes is amended to read:

23.33 (5) (a) *Age restriction.* No person under 12 years of age may operate an all-terrain vehicle unless he or she is operating the all-terrain vehicle for an agricultural purpose and he or she is under the supervision of a person over 18 years of age or unless he or she is operating a small all-terrain vehicle on an all-terrain vehicle trail designated by the department and he or she is accompanied by a his or her parent, guardian or person over 18 years of age. No person who is under 12 years of age may operate an all-terrain vehicle which is an implement of

husbandry on a roadway under ~~the authorization provided under sub. (4) (d) 5. regardless of whether he or she is accompanied by a parent, guardian or person over 18 years of age~~ any circumstances. No person who is under 12 years of age may operate an all-terrain vehicle on a roadway under the authorization provided under sub. (4) (d) 6. ~~regardless of whether he or she is accompanied by a parent, guardian or person over 18 years of age~~ under any circumstances. No person who is under 12 years of age may rent or lease an all-terrain vehicle. For purposes of this paragraph, supervision does not require that the person under 12 years of age be subject to continuous direction or control by the person over 18 years of age.

SECTION 9. 23.33 (5) (b) of the statutes, as affected by 1991 Wisconsin Act 39, is amended to read:

23.33 (5) (b) *All-terrain vehicle safety certificate.* A person who is at least 12 years of age but under 16 years of age may not operate an all-terrain vehicle unless he or she holds a valid all-terrain vehicle safety certificate or is accompanied by a person over 18 years of age. A person who is at least 12 years of age but under 16 years of age may not operate an all-terrain vehicle on a roadway under the authorization provided under sub. (4) (d) 6. unless he or she holds a valid all-terrain vehicle safety certificate regardless if he or she is accompanied by a person over 18 years of age. A person who is at least 12 years of age but under 16 years of age may not operate an all-terrain vehicle which is an implement of husbandry on a roadway under the authorization provided under sub. (4) (d) 5. unless he or she holds a valid all-terrain vehicle safety certificate regardless if he or she is accompanied by a person over 18 years of age. A person who is at least 12 years of age but under 16 years of age may not rent or lease an all-terrain vehicle. A person who is at least 12 years of age but under 16 years of age who holds an all-terrain vehicle safety certificate shall carry it while he or she operates an all-terrain vehicle and shall display it to a law enforcement officer on request. Persons enrolled in a safety certification program approved by the department may operate an all-terrain vehicle in an area designated by the instructor.