

State of Wisconsin



2009 Senate Bill 400

Date of enactment: **May 18, 2010**
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2009 WISCONSIN ACT 367

AN ACT *to renumber and amend* 23.33 (11) (am); *to amend* 23.33 (4) (a), 23.33 (4) (b), 23.33 (5) (a), 23.33 (8) (e), 23.33 (12) (a), 345.11 (1r), 346.94 (1) and 938.343 (9); and *to create* 23.33 (1) (jq), 23.33 (3) (hg), 23.33 (3) (hr), 23.33 (4) (f), 23.33 (6) (h) and 23.33 (11) (am) 2. of the statutes; **relating to:** operation of all-terrain vehicles to remove snow.

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

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

23.33 (1) (jq) "Snow removal device" means an attachment designed and installed for the purpose of removing snow. An attachment under this paragraph may be a plow blade, blower, bucket, or brush.

SECTION 2. 23.33 (3) (hg) of the statutes is created to read:

23.33 (3) (hg) At a speed exceeding 15 miles per hour when it is being operated on a roadway or adjacent to a roadway with a snow removal device attached, if it is more than 150 feet from a dwelling.

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

23.33 (3) (hr) At a speed exceeding 5 miles per hour when it is being operated on a sidewalk or driveway with a snow removal device attached, regardless of its proximity to a dwelling.

SECTION 4. 23.33 (4) (a) of the statutes is amended to read:

23.33 (4) (a) *Freeways.* No person may operate an all-terrain vehicle upon any part of any freeway which is a part of the federal system of interstate and defense high-

ways. No person may operate an all-terrain vehicle upon any part of any other freeway unless the department of transportation authorizes all-terrain vehicle use on that freeway. No person may operate an all-terrain vehicle with a snow removal device attached upon any part of any freeway under any circumstances.

SECTION 5. 23.33 (4) (b) of the statutes is amended to read:

23.33 (4) (b) *Other highways; operation restricted.* No person may operate an all-terrain vehicle on a highway except as authorized under pars. (d) ~~and~~ (e), and (f) and sub. (11) (am) 2. or as authorized by rules promulgated by the department and approved by the department of transportation.

SECTION 6. 23.33 (4) (f) of the statutes is created to read:

23.33 (4) (f) *Operation with snow removal device attached.* Except as prohibited under par. (a), and subject to ordinances enacted under sub. (11) (am) 2., a person may operate an all-terrain vehicle with a snow removal device attached on a roadway or adjacent to a roadway or on a public sidewalk during the period beginning on October 1 and ending on April 30 of each year for the purpose of removing snow if such operation is necessary to travel to or from a site where the snow removal device will be used. The travel necessary to or from the site may

* Section 991.11, WISCONSIN STATUTES 2007-08 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

not exceed 2 miles. Operation of such an all-terrain vehicle on a roadway or adjacent to a roadway is authorized only if the applicable roadway speed limit is 45 miles per hour or less. Operation on a roadway of such an all-terrain vehicle is authorized only for the extreme right side of the roadway except that left turns may be made from any part of the roadway where it is safe to do so given prevailing conditions. Operation adjacent to a roadway of such an all-terrain vehicle shall comply with the applicable speed limit and with par. (e) 1., 2., 3., and 5.

SECTION 7. 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 his or her parent. 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 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. under any circumstances. No person who is under 16 years of age may operate an all-terrain vehicle under the authorization provided under sub. (4) (f) 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 8. 23.33 (6) (h) of the statutes is created to read:

23.33 (6) (h) A person who operates an all-terrain vehicle with a snow removal device attached as authorized under s. 23.33 (4) (f) is required to display at least one or more flashing or rotating amber or yellow lights, and at least one of these lights shall be visible from every direction.

SECTION 9. 23.33 (8) (e) of the statutes is amended to read:

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

SECTION 10. 23.33 (11) (am) of the statutes is renumbered 23.33 (11) (am) 1. and amended to read:

23.33 (11) (am) 1. Any county, town, city or village may enact an ordinance which is in strict conformity with this section and rules promulgated by the department under this section, if the ordinance encompasses all aspects encompassed by this section, except as provided in subd. 2.

SECTION 11. 23.33 (11) (am) 2. of the statutes is created to read:

23.33 (11) (am) 2. For a roadway, or for a portion of a roadway, that is located within the territorial boundaries of a city, village, or town, the city, village, or town may enact an ordinance to authorize the operation of all-terrain vehicles with snow removal devices attached on the roadway, or adjacent to the roadway, if the applicable roadway speed limit is greater than 45 miles per hour, and regardless of whether the city, village, or town has jurisdiction over the roadway.

SECTION 15. 23.33 (12) (a) of the statutes is amended to read:

23.33 (12) (a) An officer of the state traffic patrol under s. 110.07 (1), inspector under s. 110.07 (3), conservation warden appointed by the department under s. 23.10, county sheriff or municipal peace officer has authority and jurisdiction to enforce this section and ordinances enacted in conformity accordance with this section.

SECTION 16. 345.11 (1r) of the statutes is amended to read:

345.11 (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 conformity 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.

SECTION 17. 346.94 (1) of the statutes is amended to read:

346.94 (1) **DRIVING ON SIDEWALK.** The Except as authorized in s. 23.33 (4) (f) or when the sidewalk is an all-terrain vehicle route, as defined in s. 23.33 (1) (c), the operator of a vehicle shall not drive upon any sidewalk area except at a permanent or temporarily established driveway unless permitted to do so by the local authorities.

SECTION 18. 938.343 (9) of the statutes is amended to read:

938.343 (9) **ALL-TERRAIN VEHICLE SAFETY COURSE.** If the violation is one under s. 23.33 or under an ordinance enacted in conformity accordance with s. 23.33 concerning the use of all-terrain vehicles, order the juvenile to attend an all-terrain vehicle safety course.