



ATV Passenger Restrictions

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In Wisconsin, operation of an all-terrain vehicle (ATV) or utility terrain vehicle (UTV) is primarily regulated by state law.¹ The state ATV/UTV law is enforced by Department of Natural Resources (DNR) conservation wardens and other state and local law enforcement officers.² The general penalty for violating the statute or related DNR rules is a forfeiture of no more than \$250.³

2019 WISCONSIN ACT 183

2019 Wisconsin Act 183, which took effect on March 5, 2020, made various changes to the state ATV/UTV statute, in addition to the new passenger restriction discussed below.⁴ Changes made by the act responded, in part, to modern trends in manufacturing and use of ATVs and UTVs. For example, the act modified the definitions of “UTV” and “ATV” to no longer require low-pressure tires and increased a maximum width requirement for three-wheeled UTVs. The act also made changes relating to safety, including clarifying that ATV and UTV operators must comply with posted speed limits, stop signs, and other signs on designated routes and trails. Additionally, the act provided state funding for winter trail maintenance and made funding available to nonprofit groups for producing certain information, including ATV/UTV maps and signs.

NEW PASSENGER RESTRICTIONS

Act 183 created a new passenger restriction applicable to ATVs. The restriction has generated some concern from ATV owners who previously may have operated ATVs with children or other passengers on ATVs originally manufactured with a single seat. In some cases, such operation may have occurred only at relatively slow speeds on private property or on frozen lakes.⁵ Others have noted safety concerns with allowing passengers to ride on single-seat ATVs.⁶

Prior Law

Prior to the enactment of 2019 Wisconsin Act 183, the Wisconsin Statutes restricted UTV passengers throughout the state, but restricted ATV passengers only on roadways. Specifically, prior law prohibited **operating** a UTV with a passenger riding in or on any part of the UTV not designed or intended to be used by passengers. Prior law also prohibited **riding** in or on any part of a UTV not designed or intended to be used for passengers. In addition, general motor vehicle laws, unaffected by Act 183, prohibit operating an ATV or UTV on a roadway “when any person other than an employee engaged in the necessary discharge of the employee’s duty is upon any portion thereof not designed or intended for the use of passengers.”⁷

New Application to ATVs

Act 183 expanded to ATVs the passenger restrictions that had previously applied only to UTVs. Specifically, as affected by the act, current law prohibits both: (1) **operating** an ATV or UTV with a passenger riding in or on any part of the UTV or ATV not designed or intended to be used by passengers; and (2) **riding** in or on any part of an ATV or UTV not designed or intended to be used by passengers. However, the act created a new exception to those restrictions that applies if the ATV or UTV is a government-owned or -leased vehicle being operated in an emergency. [s. 23.33 (3) (em) and (6r), Stats.]

Those passenger restrictions were affected by a partial veto. As passed by the Legislature, the prohibitions applied only on designated ATV routes, trails, roadways, and, with respect to the prohibition on riders, frozen water.⁸ The Governor’s partial veto had the effect of applying the prohibitions throughout the state, including on private property, as was the case for the UTV prohibition

under prior law. In a veto message, the Governor explained the reason for the partial veto by emphasizing the need for public safety. The message stated, in part, that “[t]he safe transportation of passengers, regardless of location, is essential to the prevention of injuries and fatalities associated with” ATV and UTV use.⁹

APPLICATION TO AFTERMARKET SEATS

Aftermarket ATV seats, sometimes referred to as “box seats,” are generally not manufactured by ATV vehicle manufacturers, but are manufactured by manufacturers of accessory ATV products. Some owners may also construct added seats using their own materials. Such aftermarket seats are sometimes attached to a cargo storage box and affixed to the rear of an ATV.

As described above, as affected by Act 183, the ATV/UTV statute generally prohibits operating an ATV or UTV with a passenger (or riding as a passenger) in a part of an ATV or UTV that is not “designed or intended” to be used by passengers. Because the phrase “designed or intended” is not defined for purposes of the statute, its meaning is subject to some interpretation.

However, for a few reasons, it appears that operating an ATV with a passenger in part of an ATV not designed or intended for passengers by the original vehicle manufacturer, or riding in such a seat, would likely be found to violate the state ATV/UTV statute. DNR’s [handbook](#) on ATV/UTV regulations adopts that interpretation, stating: “It is not legal to operate with passengers in any after-market seating placed in the cargo area of an ATV or UTV.”

The statutory language supports that interpretation. In the relevant provisions, the phrase “designed and intended” modifies the term “vehicle,” suggesting a legislative intent to limit passenger uses to those that conform with an original vehicle manufacturer’s design specifications.¹⁰ In addition, in other contexts, such as the motor vehicle statutes and motor vehicle insurance case law, the phrase “designed or intended” has been interpreted to refer to the original manufacturer’s intention and design for a given vehicle’s use.¹¹

¹ See s. 23.33, Stats., and ch. NR 64, Wis. Adm. Code. Cities, villages, towns, and counties also have a role in the regulation of ATV and UTV operation, primarily through the designation of ATV and UTV routes, trails, and roadways. With some exceptions, other local ordinances regulating ATV and UTVs must “strictly conform” with state regulations. [s. 23.33 (11) (am), Stats.]

² Section 23.33 (12) (a), Stats.

³ Section 23.33 (13) (a), Stats. Enhanced penalties apply in certain situations, including with respect to violations of prohibitions against intoxicated operation and operating without a nonresident trail pass.

⁴ See the Legislative Council [act memo](#) for a more complete list of changes made by the act.

⁵ ATV and UTV operation on navigable waters is generally subject to speed limits.

⁶ DNR [reports](#) state-level data regarding ATV and UTV crashes. The U.S. Consumer Products Safety Commission (CPSC) also collects statistics regarding incidences of deaths and injuries resulting from ATV operation, including [data](#) specific to incidents involving ATV passengers. The CPSC [recommends](#) against riding with a passenger on an ATV manufactured for a single rider.

⁷ Sections 346.02 (11) and 346.92 (1), Stats.

⁸ More specifically, the enrolled version of the bill applied the prohibition on **operating** an ATV or UTV with a passenger only on ATV routes, trails, and roadways. The enrolled version of the bill applied the prohibition on **riding** in a part of an ATV or UTV not designed for passengers to ATV routes, trails, frozen water, and highways, except that it specified that the prohibition does not apply on private property. The discrepancy regarding the application to frozen water suggests that, in practice, the passenger restrictions under the enrolled version of the bill could have been enforced against riders but not operators of ATVs and UTVs on frozen water. The specific exclusion of private property for riders but not operators may also have prompted interpretational questions regarding enforcement on routes and trails located on private property.

⁹ See pages 13-14 of [this Legislative Reference Bureau report](#).

¹⁰ Such design specifications may account for factors, such as overall weight distribution on an ATV, for which an accessory manufacturer might not account. Legal disclaimers on commercially available aftermarket seats typically reflect that distinction.

¹¹ See, for example, 60 Op. Att’y Gen. 360 (1972).