

1 **AN ACT** *to create* 20.370 (5) (cz) and 23.33 (8m) of the statutes; **relating to:** creating
 2 an all-terrain vehicle damage claim program, and making an appropriation.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill draft was prepared for the Joint Legislative Council’s Special Committee on State Trails Policy.

3 **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the
 4 following amounts for the purposes indicated:

	2007–08	2008–09
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6 **20.370 Natural Resources, Department of**

7 (5) CONSERVATION AIDS

8 (cz) Recreation aids -- all-terrain

vehicle damage claims	SEG A	[\$]	[\$]
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10 **SECTION 2.** 20.370 (5) (cz) of the statutes is created to read:

11 20.370 (5) (cz) *Recreation aids -- all-terrain vehicle damage claims.* The amounts in
 12 the schedule to fund the all-terrain vehicle damage claim program under s. 23.33 (8m).

13 **SECTION 3.** 23.33 (8m) of the statutes is created to read:

14 23.33 (8m) **ALL-TERRAIN VEHICLE DAMAGE CLAIM PROGRAM.** (a) The department shall
 15 establish an all-terrain vehicle damage program to pay claims for the cost of restoring property
 16 that is damaged by the operation of all-terrain vehicles. Any person may submit a claim under
 17 this subsection. The department may pay a claim under this subsection only if the damage to
 18 the property was caused by the operation of all-terrain vehicles in an area not designated as

1 an all-terrain vehicle route or all-terrain vehicle trail, the applicant has made reasonable
2 efforts to identify the responsible individual and obtain payment from the individual, and the
3 applicant has made reasonable efforts to prevent reoccurrence.

4 (b) The department shall promulgate rules for eligibility and funding requirements for
5 the all-terrain vehicle damage claim program in order to maximize the cost-effectiveness of
6 the program. The department shall promulgate rules to establish all of the following:

- 7 1. Forms and procedures for processing and payment of claims.
- 8 2. Procedures and standards for determining the cost to restore all-terrain vehicle
9 damage.
- 10 3. A methodology for proration of all-terrain vehicle damage claim payments if funds
11 are not sufficient to pay all claims.
- 12 4. Procedures for record keeping, audits, and inspections.

NOTE: There is no all-terrain vehicle (ATV) damage claim program under current law. If a person's property is damaged by the operation of an ATV in an area not designated for ATV use, the only remedy would be through court-ordered restitution as the judgment in a lawsuit.

This bill draft establishes an ATV damage claim program under which an applicant may receive a grant for the repair or restoration of property damaged by the operation of ATVs in any area not designated as an ATV route or ATV trail. The provision requires the department of natural resources to promulgate rules for implementation of the program. The provision requires the department to verify that certain minimum standards are met regarding the awarding of the grants. These standards include:

1. That the damage to the property was caused by the operation of ATVs in an area not designated as an ATV route or ATV trail.
2. That the applicant has made reasonable efforts to identify the responsible individual and obtain payment from the individual.
3. That the applicant has made reasonable efforts to prevent reoccurrence.

13 **SECTION 4. Nonstatutory provisions.**

1 (1) EMERGENCY RULES ON ALL-TERRAIN VEHICLE CLAIMS. Using the procedure under
2 section 227.24 of the statutes, the department of natural resources shall promulgate the rules
3 required under section 23.33 (8m) of the statutes, as created by this act, for the period before
4 the effective date of the permanent rule promulgated under section 23.33 (8m) of the statutes,
5 as created by this act, but not to exceed the period authorized under section 227.24 (1) (c) and
6 (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the
7 department of natural resources is not required to provide evidence that promulgating a rule
8 under this subsection as an emergency rule is necessary for the preservation of the public
9 peace, health, safety, or welfare and is not required to provide a finding of emergency for a
10 rule promulgated under this subsection.

11 **SECTION 5. Initial applicability.**

12 (1) The treatment of sections 23.33 (8m) of the statutes first applies to claims filed on
13 the effective date of this subsection.

14 **SECTION 6. Effective date.**

15 (1) This act takes effect on the first day of the 12th month beginning after publication.

COMMENT: The appropriation change in this draft is intended to establish an appropriation to the department of natural resources for an all-terrain vehicle damage program.

The draft shows the appropriation increases as blanks to be filled in following committee discussion.

Generally, appropriation bills are not passed by the legislature except as part of the budget bill. Therefore, the recommendation of the special committee for the following appropriation increases will ultimately be submitted to the joint committee on finance for that committee's consideration in its preparation of the state's budget bill for the 2007-09 fiscal years.

The appropriation increases shown in this draft are intended as the special committee's recommendation for additional funding for each program, over the base appropriation noted in the comments in this draft.

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(END)