



## 2005 ASSEMBLY BILL 375

April 27, 2005 - Introduced by Representatives MURSAU, GARD, AINSWORTH, ALBERS, GUNDERSON, HINES, KAUFERT, KLEEFISCH, F. LASEE, LOEFFELHOLZ, MCCORMICK, MONTGOMERY, MUSSER, OTT, OWENS, PETROWSKI, PETTIS and TOWNSEND, cosponsored by Senators REYNOLDS, STEPP and GROTHMAN. Referred to Committee on Highway Safety.

1     **AN ACT to amend** 23.33 (4) (b), 23.33 (5) (a), 23.33 (5) (c) and 23.33 (11) (b); and  
2             **to create** 23.33 (1) (im), 23.33 (4) (dm) and 23.33 (11m) of the statutes; **relating**  
3             **to:** the operation of all-terrain vehicles on highways for the purpose of certain  
4             types of access.

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### *Analysis by the Legislative Reference Bureau*

Under current law, a person may not operate an all-terrain vehicle (ATV) on the roadway of a highway, street, or road except under certain limited circumstances. This bill specifically authorizes the operation of ATVs on a portion of a roadway and shoulder of a highway, street, or road if the highway, street, or road is within the jurisdiction of a county, town, city, or village (municipality) that has enacted an ordinance that allows the operation of ATVs for the purposes of residential access or access to and from a lodging establishment or a campground. A municipality may not enact an ordinance for access to and from lodging unless it has also enacted an ordinance for residential access. For a state trunk highway, the portion of the highway that may be open to this access must be the shortest distance between the residence or lodging and the ATV route or trail. This may exceed more than one-quarter mile only if it is approved by the Department of Transportation. For any other highway, the distance may not be more than five miles. For every highway a municipality may enact an ordinance for access to lodging only if it has also enacted an ordinance for residential access.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

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

2           23.33 (1) (im) "Lodging establishment" means any of the following:

3           1. A bed and breakfast establishment, as defined in s. 254.61 (1).

4           2. A hotel, as defined in s. 254.61 (3).

5           3. A tourist rooming house, as defined in s. 254.61 (6).

6           4. A campground.

7           **SECTION 2.** 23.33 (4) (b) of the statutes is amended to read:

8           23.33 (4) (b) *Other highways; operation restricted.* No person may operate an  
9 all-terrain vehicle on a highway except as authorized under pars. (d) ~~and~~ to (e) or as  
10 authorized by rules promulgated by the department and approved by the  
11 department of transportation.

12           **SECTION 3.** 23.33 (4) (dm) of the statutes is created to read:

13           23.33 (4) (dm) *Operation for purpose of access.* A person may operate an  
14 all-terrain vehicle on a portion of the roadway or shoulder of a highway for the  
15 purpose of residential access or for the purpose of access to and from lodging if the  
16 operation is in compliance with an ordinance enacted under sub. (11m). An  
17 all-terrain vehicle operated on the roadway or shoulder of a highway under this  
18 paragraph shall observe roadway speed limits.

19           **SECTION 4.** 23.33 (5) (a) of the statutes is amended to read:

20           23.33 (5) (a) *Age restriction.* No person under 12 years of age may operate an  
21 all-terrain vehicle unless he or she is operating the all-terrain vehicle for an

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1 agricultural purpose and he or she is under the supervision of a person over 18 years  
2 of age or unless he or she is operating a small all-terrain vehicle on an all-terrain  
3 vehicle trail designated by the department and he or she is accompanied by his or her  
4 parent. No person who is under 12 years of age may operate an all-terrain vehicle  
5 which is an implement of husbandry on a roadway under any circumstances. No  
6 person who is under 12 years of age may operate an all-terrain vehicle on a roadway  
7 under the authorization provided under sub. (4) (d) 6. under any circumstances. No  
8 person who is under 12 years of age may operate an all-terrain vehicle on a roadway  
9 or shoulder of a highway as authorized under sub. (4) (dm) under any circumstances.  
10 No person who is under 12 years of age may rent or lease an all-terrain vehicle. For  
11 purposes of this paragraph, supervision does not require that the person under 12  
12 years of age be subject to continuous direction or control by the person over 18 years  
13 of age.

14 **SECTION 5.** 23.33 (5) (c) of the statutes is amended to read:

15 23.33 (5) (c) *Exceptions.* Paragraphs (a) and (b) do not apply to a person who  
16 operates an all-terrain vehicle exclusively on land under the management and  
17 control of the person's immediate family. Paragraphs (a) and (b) do not apply to a  
18 person at least 12 years of age but under 16 years of age who holds a valid certificate  
19 issued by another state or a province of Canada.

20 **SECTION 6.** 23.33 (11) (b) of the statutes is amended to read:

21 23.33 (11) (b) If a county, town, city or village adopts an ordinance regulating  
22 all-terrain vehicles, its clerk shall immediately send a copy of the ordinance to the  
23 department and to the office of any law enforcement agency of the ~~municipality or~~  
24 ~~county, town, city, or village~~ having jurisdiction over ~~any highway designated as an~~  
25 ~~all-terrain vehicle route~~ any of the highways to which the ordinance is applicable.

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1           **SECTION 7.** 23.33 (11m) of the statutes is created to read:

2           **23.33 (11m) ORDINANCES FOR ACCESS TO RESIDENCES AND LODGING.** (a) *Definition.*

3           In this subsection, “municipality” means county, town, city, or village.

4           (b) *On state trunk highways.* 1. Subject to subd. 3., a municipality may enact  
5           an ordinance allowing the operation of all-terrain vehicles on a roadway and  
6           shoulder of a state trunk highway for any portion of the highway that is within the  
7           jurisdiction of the municipality for the purpose of traveling the shortest distance that  
8           is necessary to go between a residence and the all-terrain vehicle route or all-terrain  
9           vehicle trail that is closest to that residence.

10           2. Subject to subd. 3., a municipality may enact an ordinance allowing the  
11           operation of all-terrain vehicles on a roadway and shoulder of a state trunk highway  
12           for any portion of the highway that is within the jurisdiction of the municipality for  
13           the purpose of traveling the shortest distance that is necessary to go between a  
14           lodging establishment and the all-terrain vehicle route or all-terrain vehicle trail  
15           that is closest to that lodging establishment if the municipality also enacts or has in  
16           effect an ordinance enacted under subd. 1.

17           3. A county or town may not enact an ordinance under subd. 1. or 2. that will  
18           allow the operation of all-terrain vehicles on a roadway and shoulder of a portion of  
19           a state trunk highway that is more than one-quarter mile in length unless the county  
20           or town has first received authorization from the department of transportation to  
21           allow the operation of all-terrain vehicles on the roadway and shoulder of that  
22           portion of the state trunk highway.

23           (c) *On other highways.* 1. A municipality may enact an ordinance allowing the  
24           operation of all-terrain vehicles on a roadway and shoulder of a highway that is not  
25           a state trunk highway for any portion of the highway that is within the jurisdiction

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1 of the municipality for the purpose of traveling a distance of not more than 5 miles  
2 to go between a residence and the all-terrain vehicle route or all-terrain vehicle trail  
3 that is closest to that residence.

4 2. A municipality may enact an ordinance allowing the operation of all-terrain  
5 vehicles on a roadway and shoulder of a highway that is not a state trunk highway  
6 for any portion of the highway that is within the jurisdiction of the municipality for  
7 the purpose of traveling a distance of not more than 5 miles to go between a lodging  
8 establishment and the all-terrain vehicle route or all-terrain vehicle trail that is  
9 closest to that lodging establishment if the municipality also enacts or has in effect  
10 and ordinance enacted under subd. 1.

11 (d) *Model ordinances.* The department and the off-the-road vehicle council  
12 shall jointly prepare model ordinances as examples of ordinances that a municipality  
13 may enact under pars. (b) and (c).

14 (END)