



## 2009 SENATE BILL 606

March 10, 2010 – Introduced by Senators PLALE, HOLPERIN, HANSEN, TAYLOR and GROTHMAN, cosponsored by Representatives VRUWINK and SUDER. Referred to Committee on Transportation, Tourism, Forestry, and Natural Resources.

1     **AN ACT to repeal** 23.33 (3g) (b); **to renumber and amend** 23.33 (5) (a) and 23.33  
2           (5) (c); **to amend** 23.33 (5) (b) 2.; and **to create** 23.33 (5) (a) 3. and 23.33 (5) (c)  
3           2. of the statutes; **relating to:** age restrictions, headgear requirements, and  
4           safety certificate requirements regarding the operation of an all-terrain  
5           vehicle.

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### *Analysis by the Legislative Reference Bureau*

Under current law, no person under the age of 12 may operate an all-terrain vehicle (ATV) unless he or she is operating the ATV for an agricultural purpose and he or she is under the supervision of a person over 18 years of age (agricultural purpose exception), or unless he or she is operating a small ATV on an ATV trail designated by the Department of Natural Resources (DNR) and he or she is accompanied by his or her parent. Current law defines “accompanied” to mean subject to continuous verbal direction or control. Under current law, supervision is a lesser standard because it does not require a person to be subject to continuous direction and control. Under an exception to the age restrictions in current law, a person who is under the age of 12 may operate any ATV if the person operates the ATV exclusively on land under the management and control of the person’s immediate family (family property exception).

This bill allows a person under the age of 12 to operate an ATV any place that any other person may operate an ATV provided that the person under the age of 12 is operating a small ATV and he or she is accompanied, and not just supervised, by

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his or her parent or guardian or a person who is at least 18 years old who is designated by the parent or guardian (accompanied by a parent or designee).

This bill maintains the agricultural purpose exception in current law so that a person under the age of 12 may still operate an ATV of any size for an agricultural purpose if he or she is under the supervision of a person over 18 years of age. The bill also maintains the family property exception so that a person under the age of 12 need not operate a small ATV or be accompanied by a parent, guardian, or other person in order to operate an ATV on land under the management and control of his or her immediate family.

Current law imposes certain restrictions on the operation of an ATV on a roadway. One of those restrictions prohibits a person under the age of 12 from operating an ATV on a roadway unless the agricultural purpose exception applies and the ATV is not an implement of husbandry. This bill allows a person who is under the age of 12 to operate an ATV on a roadway, regardless of the purpose, provided that the ATV is a small ATV and the person is accompanied by a parent or designee.

Under current law, no person who is at least 12 years of age and who was born on or after January 1, 1988 may operate an ATV unless he or she holds a valid safety certificate issued by DNR that indicates that the person successfully completed a program of instruction on ATV laws and safety. A person who operates an ATV exclusively on land under the management and control of the person's immediate family is exempt from this requirement. This bill creates an additional exemption. The bill provides that a person is exempt from the safety certificate requirement if the person operates an ATV at a sponsored ATV demonstration event, the sponsor of the event requires the person to wear protective headgear, and the person operates the ATV in a closed-course area at a speed not exceeding 15 miles per hour. If the person is under 18 years of age, the person must be accompanied by a parent or designee.

Under current law, with certain exceptions, a person who is under 18 years of age must wear protective headgear if the person operates or is a passenger of an ATV. Among the exceptions to this requirement is an exception for a person who is traveling for the purposes of hunting or fishing and who is at least 12 years old. This bill eliminates this exception to the headgear requirement.

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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 (3g) (b) of the statutes is repealed.

2           **SECTION 2.** 23.33 (5) (a) of the statutes is renumbered 23.33 (5) (a) 1. (intro.)  
3 and amended to read:

4           23.33 **(5)** (a) 1. (intro.) No person under 12 years of age may operate an  
5 all-terrain vehicle unless he any of the following apply:

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1           a. ~~He~~ or she is operating ~~the~~ an all-terrain vehicle for an agricultural purpose  
2 and he or she is under the supervision of a person over 18 years of age ~~or unless he,~~

3           b. ~~He~~ or she is operating an all-terrain vehicle that is a small all-terrain  
4 vehicle ~~on an all-terrain vehicle trail designated by the department~~ and he or she  
5 is accompanied by his or her parent. ~~No person who is under 12 years of age may~~  
6 ~~operate an all-terrain vehicle which is an implement of husbandry on a roadway~~  
7 ~~under any circumstances. No person who is under 12 years of age may operate an~~  
8 ~~all-terrain vehicle on a roadway under the authorization provided under sub. (4) (d)~~  
9 ~~6. under any circumstances. No person who is under 12 years of age may rent or lease~~  
10 ~~an all-terrain vehicle~~ or guardian or by a person at least 18 years of age who is  
11 designated by the parent or guardian.

12           2. For purposes of ~~this paragraph~~ subd. 1. a., supervision does not require that  
13 the person under 12 years of age be subject to continuous direction or control by the  
14 person over 18 years of age.

15           **SECTION 3.** 23.33 (5) (a) 3. of the statutes is created to read:

16           23.33 **(5)** (a) 3. In addition to the restrictions in subd. 1., no person who is under  
17 12 years of age may operate an all-terrain vehicle that is an implement of husbandry  
18 on a roadway unless the person is operating a small all-terrain vehicle and the  
19 person is accompanied by his or her parent or guardian or by a person at least 18  
20 years of age who is designated by the parent or guardian.

21           **SECTION 4.** 23.33 (5) (b) 2. of the statutes is amended to read:

22           23.33 **(5)** (b) 2. Any person who is required to hold an all-terrain vehicle safety  
23 certificate while operating an all-terrain vehicle shall carry the certificate on the  
24 all-terrain vehicle and shall display the certificate to a law enforcement officer on  
25 request. Persons enrolled in a safety certification program approved by the

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1 department or a safety education program approved by the department may operate  
2 an all-terrain vehicle in an area designated by the instructor.

3 **SECTION 5.** 23.33 (5) (c) of the statutes is renumbered 23.33 (5) (c) 1. and  
4 amended to read:

5 23.33 (5) (c) 1. Paragraphs (a) and (b) do not apply to a person who operates an  
6 all-terrain vehicle exclusively on land under the management and control of the  
7 person's immediate family. ~~Paragraphs (a) and Paragraph (b) do~~ does not apply to  
8 a person at least 12 years of age but under 16 years of age who holds a valid certificate  
9 issued by another state or a province of Canada.

10 **SECTION 6.** 23.33 (5) (c) 2. of the statutes is created to read:

11 23.33 (5) (c) 2. Notwithstanding the all-terrain safety certificate requirement  
12 under par. (b), a person is not required to hold a valid safety certificate if all of the  
13 following apply:

14 a. The person operates an all-terrain vehicle at an all-terrain vehicle  
15 demonstration event.

16 b. The event is sponsored by an all-terrain vehicle dealer, an all-terrain vehicle  
17 club, this state, a city, a village, a town, or a county.

18 c. If the person is under 18 years of age, the person is accompanied by his or  
19 her parent or guardian or by a person at least 18 years of age who is designated by  
20 the parent or guardian.

21 d. The sponsor of the event requires the person to wear protective headgear of  
22 the type required under s. 347.485 (1).

23 e. The person operates the all-terrain vehicle in a closed-course area at a speed  
24 not exceeding 15 miles per hour.

25 (END)