



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-1422/2
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2011 SENATE BILL 235

October 14, 2011 - Introduced by Senators LEIBHAM, HOLPERIN and TAYLOR, cosponsored by Representatives RIVARD, SEVERSON, BROOKS, ENDSLEY, KESTELL, MOLEPSKE JR, A. OTT, SPANBAUER, TRANEL and RIPP. Referred to Committee on Labor, Public Safety, and Urban Affairs.

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

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 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).

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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 prohibits a person who is under the age of 12 from operating an ATV on a roadway, regardless of the purpose. The bill prohibits a person who is under 16 years of age from operating an ATV on a roadway for nonagricultural purposes unless the person is at least 12 years of age and 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.

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

1 **SECTION 1.** 23.33 (5) (a) of the statutes is renumbered 23.33 (5) (a) 1. (intro.)

2 and amended to read:

3 23.33 **(5)** (a) 1. (intro.) No person under 12 years of age may operate an
4 all-terrain vehicle unless he any of the following applies:

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

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1 **b.** He or she is operating an all-terrain vehicle that is a small all-terrain
2 vehicle ~~on an all-terrain vehicle trail designated by the department and he or she~~
3 is accompanied by his or her parent. ~~No person who is under 12 years of age may~~
4 operate an all-terrain vehicle which is an implement of husbandry on a roadway
5 under any circumstances. ~~No person who is under 12 years of age may operate an~~
6 all-terrain vehicle on a roadway under the authorization provided under sub. (4) (d)
7 6. under any circumstances. ~~No person who is under 16 years of age may operate an~~
8 all-terrain vehicle under the authorization provided under sub. (4) (f) under any
9 circumstances. ~~No person who is under 12 years of age may rent or lease an~~
10 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 2.** 23.33 (5) (am) of the statutes is created to read:

16 23.33 (5) (am) *Roadway restrictions.* 1. In addition to the restrictions under
17 par. (a) 1., no person under 12 years of age may operate an all-terrain vehicle on a
18 roadway under any circumstances.

19 2. No person under 16 years of age may operate an all-terrain vehicle on a
20 roadway for a nonagricultural purpose unless the person is at least 12 years of age
21 and is accompanied by his or her parent or guardian or by a person at least 18 years
22 of age who is designated by the parent or guardian.

23 **SECTION 3.** 23.33 (5) (b) 2. of the statutes is amended to read:

24 23.33 (5) (b) 2. Any person who is required to hold an all-terrain vehicle safety
25 certificate while operating an all-terrain vehicle shall carry the certificate on the

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1 all-terrain vehicle and shall display the certificate to a law enforcement officer on
2 request. Persons enrolled in a safety certification program approved by the
3 department or a safety education program approved by the department may operate
4 an all-terrain vehicle in an area designated by the instructor.

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

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

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

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

16 a. The person operates an all-terrain vehicle at an all-terrain vehicle
17 demonstration event.

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

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

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

