

WISCONSIN STATUTES
CHAPTER 23
Public Lands and Conservation

(Unofficial text from Wis Stats. database. See printed Statutes and Wis. Acts for official text under s.35.18(2) stats.)

23.33 All-terrain vehicles.

23.33(1)

(1) Definitions. As used in this section:

23.33(1)(a)

(a) "Accompanied" means being subject to continuous verbal direction or control.

23.33(1)(ag)

(ag) "Agricultural purpose" means a purpose related to beekeeping, operating commercial feedlots, dairying, egg production, floriculture, fish or fur farming, forest and game management, grazing, livestock raising, operating orchards, plant greenhouses or nurseries, poultry raising, raising grain, grass, mint or seed crops, sod farming or raising fruits, nuts, berries or vegetables.

23.33(1)(am)

(am) "Alcohol beverages" has the meaning specified under s. 125.02 (1).

23.33(1)(ar)

(ar) "Alcohol concentration" has the meaning given in s. 340.01 (1v).

23.33(1)(b)

(b) "All-terrain vehicle" has the meaning specified under s. 340.01 (2g).

23.33(1)(bc)

(bc) "All-terrain vehicle club" means a club consisting of individuals that promotes the recreational use of all-terrain vehicles.

23.33(1)(bd)

(bd) "All-terrain vehicle dealer" means a person engaged in the sale of all-terrain vehicles for a profit at wholesale or retail.

23.33(1)(bh)

(bh) "All-terrain vehicle distributor" means a person who sells or distributes all-terrain

vehicles to all-terrain vehicle dealers or who maintains distributor representatives.

23.33(1)(bp)

(bp) "All-terrain vehicle manufacturer" means a person engaged in the manufacture of all-terrain vehicles for sale to the public.

23.33(1)(bt)

(bt) "All-terrain vehicle renter" means a person engaged in the rental or leasing of all-terrain vehicles to the public.

23.33(1)(c)

Comment [r1]: State Law As of May 31, 2006

(c) "All-terrain vehicle route" means a highway or sidewalk designated for use by all-terrain vehicle operators by the governmental agency having jurisdiction as authorized under this section.

23.33(1)(d)

(d) "All-terrain vehicle trail" means a marked corridor on public property or on private lands subject to public easement or lease, designated for use by all-terrain vehicle operators by the governmental agency having jurisdiction, but excluding roadways of highways except those roadways that are seasonally not maintained for motor vehicle traffic.

23.33(1)(dm)

(dm) "Approved public treatment facility" has the meaning specified under s. 51.45 (2) (c).

23.33(1)(e)

(e) "Controlled substance" has the meaning specified under s. 961.01 (4). 23.33(1)(f)

(f) "Controlled substance analog" has the meaning given in s. 961.01 (4m). 23.33(1)(h)

(h) "Immediate family" means persons who are related as spouses, as siblings or

as parent and child.

23.33(1)(i)

(i) "Intoxicant" means any alcohol beverage, controlled substance, controlled substance analog or other drug or any combination thereof.

23.33(1)(ic)

(ic) "Intoxicated operation of an all-terrain vehicle law" means sub. (4c) or a local ordinance in conformity therewith or, if the operation of an all-terrain vehicle is involved,

s. 940.09 or 940.25.

23.33(1)(id)

(id) "Lac du Flambeau band" means the Lac du Flambeau band of Lake Superior Chippewa.

23.33(1)(ie)

(ie) "Lac du Flambeau reservation" means the territory within the boundaries of the Lac du Flambeau reservation that were in existence on April 10, 1996.

23.33(1)(if)

(if) "Land under the management and control of the person's immediate family" means land owned or leased by the person or a member of the person's immediate family over which the owner or lessee has management and control. This term excludes land owned

or leased by an organization of which the person or a member of the person's immediate family is a member.

23.33(1)(ig)

(ig) "Law enforcement officer" has the meaning specified under s. 165.85 (2) (c) and includes a person appointed as a conservation warden by the department under s. 23.10 (1).

23.33(1)(ir)

(ir) "Operate" means to exercise physical control over the speed or direction of an all-terrain vehicle or to physically manipulate or activate any of the controls of an all-terrain vehicle necessary to put it in motion.

23.33(1)(it)

(it) "Operation" means the exercise of physical control over the speed or direction of an all-terrain vehicle or the physical manipulation or activation of any of the controls of an all-terrain vehicle necessary to put it in motion.

23.33(1)(iw)

(iw) "Operator" means a person who operates an all-terrain vehicle, who is responsible for the operation of an all-terrain vehicle or who is supervising the operation of an all-terrain vehicle.

23.33(1)(j)

(j) "Owner" means a person who has lawful possession of an all-terrain vehicle by virtue of legal title or equitable interest in the all-terrain vehicle which entitles the person to

possession of the all-terrain vehicle.

23.33(1)(je)

(je) "Purpose of authorized analysis" means for the purpose of determining or obtaining evidence of the presence, quantity or concentration of any intoxicant in a person's blood, breath or urine.

23.33(1)(jm)

(jm) "Refusal law" means sub. (4p) (e) or a local ordinance in conformity therewith.

23.33(1)(jn)

(jn) "Registration documentation" means an all-terrain vehicle registration certificate, a validated registration receipt, or a registration decal.

23.33(1)(jo)

(jo) "Restricted controlled substance" means any of the following:

23.33(1)(jo)1.

1. A controlled substance included in schedule I under ch. 961 other than a tetrahydrocannabinol.

23.33(1)(jo)2.

2. A controlled substance analog, as defined in s. 961.01 (4m), of a controlled substance described in subd. 1.

23.33(1)(jo)3.

1 Cocaine or any of its metabolites.

23.33(1)(jo)4.

2 Methamphetamine.

23.33(1)(jo)5.

Delta-9-tetrahydrocannabinol.

23.33(1)(jp)

(jp) "Small all-terrain vehicle" means an all-terrain vehicle that has 4 wheels and that has either an engine certified by the manufacturer at not more than 90 cubic centimeters or an equivalent power unit.

23.33(1)(js)

(js) "Test facility" means a test facility or agency prepared to administer tests under s.

343.305 (2).

23.33(1)(n)

(n) "Used exclusively on private property" means use of an all-terrain vehicle by the owner of the all-terrain vehicle or a member of his or her immediate family only on land owned or leased by the all-terrain vehicle owner or a member of his or her immediate family.

23.33(1)(o)

(o) "Validated registration receipt" means a receipt issued by the department or an agent under sub. (2) (ig) 1. a. that shows that an application and the required fees for a registration certificate has been submitted to the department.

23.33 - ANNOT. Cross-reference: See also definitions in s. 340.01.

23.33(2)

(2) Registration. 23.33(2)(a)

(a) Requirement. No person may operate and no owner may give permission for the operation of an all-terrain vehicle within this state unless the all-terrain vehicle is registered for public use or for private use under this subsection or sub. (2g), is exempt from registration, or is operated with a reflectorized plate attached in the manner specified under par. (dm) 3. No person may operate and no owner may give permission for the operation of an all-terrain vehicle on an all-terrain vehicle route or an all-terrain

vehicle trail unless the all-terrain vehicle is registered for public use under this subsection or sub. (2g).

23.33(2)(b)

(b) Exemptions. An all-terrain vehicle is exempt from registration if it is: 23.33(2)(b)1.

1. Owned by the United States, another state or a political subdivision thereof, but the exterior of the all-terrain vehicle shall display in a visible manner the name of the owner.

23.33(2)(b)2. 2 Covered by a valid registration in another state, province or country if there is some identification of registration displayed on the all-terrain vehicle and it has not been in this state for more than 15 consecutive days.

23.33(2)(b)2m.

2m. Covered by a valid registration of a federally recognized American Indian tribe or band, if all of the following apply:

23.33(2)(b)2m.a.

a. The registration program of the tribe or band is covered by an agreement under s.

23.35. 23.33(2)(b)2m.b.

b. The all-terrain vehicle displays the registration decal required by the tribe or band.

23.33(2)(b)2m.c.

c. The all-terrain vehicle has not been, for more than 15 consecutive days, in that portion of this state that is outside the boundaries of the reservation where it is registered.

23.33(2)(b)3.

1 Used exclusively for racing on a raceway facility. 23.33(2)(b)4.

4. Owned by a political subdivision of the state and used for enforcement or emergency purposes.

23.33(2)(b)5. 2 Specified as exempt from registration by department rule. 23.33(2)(c)

(c) Registration; public use; fee. Any all-terrain vehicle may be registered for public use. The fee for the issuance or renewal of a registration certificate for public use is \$30.

23.33(2)(d)

□ (d) Registration; private use; fee. An all-terrain vehicle used exclusively for agricultural purposes or used exclusively on private property may be registered for private use. The fee for the issuance of a registration certificate for private use is \$15.

23.33(2)(dm)

(dm) Registration; commercial owner; fee.

23.33(2)(dm)1.

1. Every person who is an all-terrain vehicle manufacturer, all-terrain vehicle dealer, all-terrain vehicle distributor or all-terrain vehicle renter or any combination thereof engaged in business in this state shall register with the department and obtain from the department a commercial all-terrain vehicle certificate.

23.33(2)(dm)2.

2 The fee for the issuance or renewal of a commercial all-terrain vehicle certificate is \$90. Upon receipt of the application form required by the department and

the fee required under this subdivision, the department shall issue to the applicant a commercial all-terrain vehicle certificate and 3 reflectorized plates. The fee for additional reflectorized plates is \$30 per plate.

23.33(2)(dm)3.

3. A person who is required to obtain a commercial all-terrain vehicle certificate under subd. 1. shall attach in a clearly visible place a reflectorized plate to any all-terrain vehicle that the person leases, rents, offers for sale or otherwise allows to be used whenever the all-terrain vehicle is being operated.

23.33(2)(dm)4. 2 Paragraphs (i), (ig), and (ir) do not apply to commercial all-terrain vehicle certificates or reflectorized plates.

23.33(2)(e)

(e) Other fees. The fee for the transfer of an all-terrain vehicle registration certificate is \$5. The fee for the issuance of a duplicate all-terrain vehicle registration certificate, duplicate commercial all-terrain vehicle certificate or duplicate registration decals is \$5. The fee for the issuance of registration decals to a county or municipality is \$5. There is no fee for the issuance of registration decals to the state.

23.33(2)(f)

(f) Effective periods; public use. 23.33(2)(f)1.

1. Except as provided under subd. 2., an all-terrain vehicle public-use registration certificate is valid for a 2-year period.

23.33(2)(f)2. 2 The department may specify by rule an annual expiration date for all-

terrain vehicle registrations and may reduce the effective period of a registration so it expires on that date.

23.33(2)(g)

(g) Effective period; private use. An all-terrain vehicle private-use registration certificate is valid from the date of issuance until ownership of the all-terrain vehicle is transferred.

23.33(2)(gm)

(gm) Effective period; commercial owners.

23.33(2)(gm)1.

1. Except as provided under subd. 2., a commercial all-terrain vehicle certificate is valid for a 2-year period.

23.33(2)(gm)2. 2 The department may specify by rule an annual expiration date for commercial all-terrain vehicle certificates and may reduce the effective period of a commercial all-terrain vehicle certificate so it expires on that date.

23.33(2)(i)

(i) Registration; issuers. For the issuance of original or duplicate registration documentation and for the transfer or renewal of registration documentation, the department may do any of the following: 23.33(2)(i)1.

1. Directly issue, transfer, or renew the registration documentation with or without using the service specified in par. (ig) 1.

23.33(2)(i)3.

3. Appoint persons who are not employees of the department as agents of the department to issue, transfer, or renew the registration documentation using either or both of the services specified in par. (ig) 1.

23.33(2)(ig)

(ig) Registration; methods of issuance.

23.33(2)(ig)1.

1. For the issuance of original or duplicate registration documentation and for the transfer or renewal of registration documentation, the department may implement either or both of the following procedures to be provided by the department and any agents appointed under par. (i) 3.:

23.33(2)(ig)1.a.

a. A procedure under which the department or an agent appointed under par. (i) 3. accepts applications for registration documentation and issue a validated registration receipt at the time the applicant submits the application accompanied by the required fees.

b. A procedure under which the department or agent may accept applications for registration documentation and issue to each applicant all or some of the items of the registration documentation at the time the applicant submits the application accompanied by the required fees.

23.33(2)(ig)1.b.

23.33(2)(ig)2.

2. Under either procedure under subd. 1., the applicant shall receive any remaining items of registration documentation directly from the department at a later date. The items of registration documentation issued at the time of the submittal of the application under either procedure shall be sufficient to allow the all-terrain vehicle for which the application is submitted to be operated in compliance with the registration requirements under this subsection. The items of registration documentation issued under subd. 1. b. shall include at least one registration decal.

23.33(2)(ir)

(ir) Registration; supplemental fees.

23.33(2)(ir)1.

1. In addition to the applicable fee under par. (c), (d), or (e), each agent appointed under par. (i) 3. shall collect a service fee of \$3 each time the agent issues a validated registration receipt under par. (ig) 1. a. The agent shall retain the entire amount of each service fee the agent collects.

23.33(2)(ir)2. In addition to the applicable fee under par.

(c), (d), or (e), the department or the agent appointed

under par. (i) 3. shall collect a service fee of \$5 each time

the service

under par. (ig) 1. b. is provided. The agent shall remit to the department \$1 of each service fee the agent collects.

23.33(2)(o)

(o) Receipt of fees. All fees remitted to or collected by the department under par.

(ir) shall be credited to the appropriation account under s. 20.370 (9) (hu).

23.33(2)(p)

(p) Rules. 23.33(2)(p)1.

1. The department may promulgate rules to establish eligibility and other criteria for the appointment of agents under par. (i) 3. and to regulate the activities of these agents.

23.33(2)(p)2. 2 The department may establish by rule additional procedures and requirements for all-terrain vehicle registration.

23.33(2g)

(2g) Lac du Flambeau band registration program.

23.33(2g)(a)

(a) Authorization for issuance. The Lac du Flambeau band may issue registration certificates for public use or private use for all-terrain vehicles that are equivalent to the registration certificates for public use or private use that are issued by the department. The Lac du Flambeau band may renew and transfer a registration certificate that it or the department has issued. The Lac du Flambeau band may issue duplicates of only those registration certificates that it issues under this subsection.

23.33(2g)(b)

(b) Requirements for issuance; fees; effective periods. 23.33(2g)(b)1.

1. For issuing or renewing a registration certificate under this subsection, the Lac du Flambeau band shall collect the same fee that would be collected for the equivalent registration certificate under sub. (2) (c) and (d). For transferring a registration certificate or issuing a duplicate registration certificate under this subsection, the Lac du Flambeau band shall collect the same fee that would be collected for the equivalent service under sub. (2) (e).

23.33(2g)(b)2.

2. The Lac du Flambeau band may not issue, renew or otherwise process registration certificates under this subsection in conjunction with discount coupons or as part of a promotion or other merchandising offer.

23.33(2g)(b)3.

2 For a registration certificate issued, transferred or renewed under this subsection, the effective period shall be the same as it would be for the equivalent registration certificate under sub. (2) (f) 1. or (g) or under a rule promulgated under sub.

(2) (f) 2. 23.33(2g)(b)4.

2 The Lac du Flambeau band may issue, renew or otherwise process registration certificates under this subsection only to applicants who appear in person on the Lac du Flambeau reservation.

23.33(2g)(c)

(c) Requirements for registration applications and decals. 23.33(2g)(c)1.

1. The Lac du Flambeau band shall use registration applications and registration certificates that are substantially similar to those under sub. (2) with regard to length, legibility and information content.

23.33(2g)(c)2. 2 The Lac du Flambeau band shall use registration decals that are substantially similar to those under sub. (2) with regard to color, size, legibility, information content and placement on the all-terrain vehicle. 3 The Lac du Flambeau band shall use a sequential numbering system that includes a series of letters or initials that identify the Lac du Flambeau band as the issuing authority.

23.33(2g)(c)3.

23.33(2g)(d)

(d) Registration information. The Lac du Flambeau band shall provide registration information to the state in one of the following ways:

23.33(2g)(d)1.

1. By transmitting all additions, changes or deletions of registration information to persons identified in the agreement described in par. (f), for incorporation into the registration records of this state, within one working day after the addition, change or deletion.

23.33(2g)(d)2. 2 By establishing a 24-hour per day data retrieval system, consisting of either a law enforcement agency with 24-hour per day staffing or a computerized data retrieval system to which law enforcement officials of this state have access at all times.

23.33(2g)(e)

(e) Reports; records; tax collection. 23.33(2g)(e)1.

1. Before June 1 annually, the Lac du Flambeau band shall submit a report to the department notifying it of the number of each type of registration certificate that the Lac du Flambeau band issued, transferred or renewed for the period beginning on April 1 of the previous year and ending on March 31 of the year in which the report is submitted.

23.33(2g)(e)2.

2. For law enforcement purposes, the Lac du Flambeau band shall make available for inspection by the department during normal business hours the Lac du Flambeau band's records of all registration certificates issued, renewed or otherwise processed under this subsection, including copies of all applications made for certificates.

23.33(2g)(e)3.

2 The Lac du Flambeau band shall ensure that the record of each registration certificate issued, renewed or otherwise processed under this subsection, including a copy

of each application made, is retained for at least 2 years after the date of expiration of the certificate. 23.33(2g)(e)4. 2 The Lac du Flambeau band shall collect the sales and use taxes due under s. 77.61

(1) on any all-terrain vehicle registered under this subsection and make the report in respect to those taxes. On or before the 15th day of each month, the Lac du Flambeau band shall pay to the department of revenue all taxes that the Lac du Flambeau band collected in the previous month.

23.33(2g)(f)

(f) Applicability. This subsection does not apply unless the department and the Lac du Flambeau band have in effect a written agreement under which the Lac du Flambeau band agrees to comply with pars. (a) to (e) and that contains all of the following terms: 23.33(2g)(f)1.

1. The manner in which the Lac du Flambeau band will limit its treaty-based right to fish outside the Lac du Flambeau reservation.

23.33(2g)(f)2. 2 A requirement that the fees collected by the Lac du Flambeau band under par. (b) be used only for a program for registering all-terrain vehicles, for regulating all-terrain vehicles and their operation and for providing all-terrain vehicle trails and all-terrain vehicle facilities.

23.33(2j)

(2j) Nonresident trail passes.

23.33(2j)(a)

(a) In this subsection, "public all-terrain vehicle corridor" means an all-terrain vehicle trail or other established all-terrain vehicle corridor that is open to the public but does not include an all-terrain vehicle route.

23.33(2j)(b)

(b) Except as provided in par. (e), no person may operate an all-terrain vehicle on a public all-terrain vehicle corridor in this state unless a nonresident trail pass issued under this subsection is displayed on the all-terrain vehicle.

23.33(2j)(c)

(c) The fee for a nonresident trail pass issued for an all-terrain vehicle that is exempt from registration under sub. (2) (b) 2. is \$17.25. A nonresident trail pass issued for such an all-terrain vehicle may be issued only by the department and persons appointed by the department and expires on June 30 of each year.

23.33(2j)(d)

(d) There is no fee for a nonresident trail pass issued for an all-terrain vehicle that is registered under sub. (2g) or s. 23.35. The department or Indian tribe or band shall issue a nonresident trail pass for such an all-terrain vehicle when it issues the registration certificate for the all-terrain vehicle. The department shall provide Indian tribes or bands that register all-terrain vehicles under sub. (2g) or s. 23.35 with a supply of trail passes.

23.33(2j)(e)

(e) An all-terrain vehicle that is registered under sub. (2) (a) or that is exempt from registration under sub. (2) (b) 1., 3., or 4. is exempt from having a nonresident trail pass displayed as required under par. (b). The department may promulgate a rule to exempt all-terrain vehicles that are exempt from registration under sub. (2) (b) 5. from having nonresident trail passes displayed as required under par. (b) or may promulgate a rule to

exempt owners of such all-terrain vehicles from having to pay any applicable nonresident trail pass fee.

23.33(2j)(f)

(f) 23.33(2j)(f)1.

1. The department may appoint any person who is not an employee of the department as the department's agent to issue nonresident trail passes and collect the fees for these passes.

23.33(2j)(f)2.

2 Any person, including the department, who issues a nonresident trail pass shall collect in addition to the fee under par. (c) an issuing fee of 75 cents. An agent appointed under subd. 1. may retain 50 cents of the issuing fee to compensate the agent for the agent's services in issuing the pass.

23.33(2j)(f)3. 2 The department shall establish, by rule, procedures for issuing nonresident trail passes, and the department may promulgate rules regulating the activities of persons who are appointed to be agents under this paragraph.

23.33(2m)

(2m) Rental of all-terrain vehicles.

23.33(2m)(a)

(a) No person who is engaged in the rental or leasing of all-terrain vehicles to the public may do any of the following:

23.33(2m)(a)1.

1 Rent or lease an all-terrain vehicle for operation by a person who will be operating an all-terrain vehicle for the first time unless the person engaged in the rental or leasing gives the person instruction on how to operate an all-terrain vehicle.

2. Rent or lease an all-terrain vehicle to a person under 16 years of age.

23.33(2m)(a)3. 2 Rent or lease an all-terrain vehicle without first ascertaining that any person under the age of 18 who will be on the all-terrain vehicle has protective headgear of the type required under s. 347.485 (1) (a).

23.33(2m)(a)2.

23.33(2m)(b)

(b) A person who is engaged in the rental or leasing of all-terrain vehicles to the public shall have clean, usable protective headgear available for rent in sufficient quantity to provide headgear to all persons under the age of 18 who will be on all-terrain vehicles that the person rents or leases.

23.33(2m)(c)

(c) The department may promulgate rules to establish minimum standards for the instruction given under par. (a) 1.

23.33(3)

- (3) Rules of operation. No person may operate an all-terrain vehicle: 23.33(3)(a)
- (a) In any careless way so as to endanger the person or property of another. 23.33(3)(c)
- (c) On the private property of another without the consent of the owner or lessee.

Failure to post private property does not imply consent for all-terrain vehicle use.

23.33(3)(d)

(d) On Indian lands without the consent of the tribal governing body or Indian owner. Failure to post Indian lands does not imply consent for all-terrain vehicle use.

23.33(3)(e)

(e) With any firearm in his or her possession unless it is unloaded and enclosed in a carrying case, or any bow unless it is unstrung or enclosed in a carrying case.

23.33(3)(f)

(f) To drive or pursue any animal except as a part of normal farming operations involving the driving of livestock.

23.33(3)(g)

(g) When within 150 feet of a dwelling at a speed exceeding 10 miles per hour.

23.33(3)(h)

(h) On the frozen surface of public waters within 100 feet of a person not in or on an all-terrain vehicle or motor vehicle or within 100 feet of a fishing shanty at a speed exceeding 10 miles per hour.

23.33(3)(i)

(i) In a manner which violates rules promulgated by the department.

23.33(3g)

(3g) Use of headgear. No person may operate or be a passenger on an all-terrain vehicle without wearing protective headgear of the type required under s. 347.485 (1) (a) and with the chin strap properly fastened, unless one of the following applies:

23.33(3g)(a)

- (a) The person is at least 18 years of age.
- (b) The person is traveling for the purposes of hunting or fishing and is at least 12

years of age. 23.33(3g)(c)

- (c) The all-terrain vehicle is being operated for an agricultural purpose. 23.33(3g)(d)
- (d) The all-terrain vehicle is being operated by a person on land under the

management and control of the person's immediate family.

23.33(4)

(4) Operation on or near highways. 23.33(4)(a)

(a) Freeways. No person may operate an all-terrain vehicle upon any part of any freeway which is a part of the federal system of interstate and defense highways. No person may operate an all-terrain vehicle upon any part of any other freeway unless the department of transportation authorizes all-terrain vehicle use on that freeway.

23.33(4)(b)

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

23.33(4)(c)

(c) Exceptions; municipal, state and utility operations; races and derbies; land surveying operations. 23.33(4)(c)1.

23.33(3g)(b)

1. Paragraphs (a) and (b) do not apply to the operator of an all-terrain vehicle owned by a municipality, state agency or public utility while the operator is engaged in an emergency or in the operation of an all-terrain vehicle directly related to the functions of the municipality, state agency or public utility if safety does not require strict adherence to these restrictions.

23.33(4)(c)1m.

1m. Paragraphs (a) and (b) do not apply to the operator of an all-terrain vehicle who is engaged in land surveying operations, if safety does not require strict adherence to the restrictions under pars. (a) and (b).

23.33(4)(c)2.

2. Paragraph (b) does not apply to a highway blocked off for special all-terrain vehicle events. A county, town, city or village may block off highways under its jurisdiction for the purpose of allowing special all-terrain vehicle events. No state trunk highway or connecting highway, or part thereof, may be blocked off by any county, town, city or village for any all-terrain vehicle race or derby. A county, town, city or village shall notify the local police department and the county sheriff's office at least one week in advance of the time and place of any all-terrain vehicle race or derby which may result in any street, or part thereof, of the county, town, city or village being blocked off.

23.33(4)(d)

(d) Operation on roadway. A person may operate an all-terrain vehicle on the roadway portion of any highway only in the following situations:
23.33(4)(d)1.

1. To cross a roadway. The crossing of a roadway is authorized only if the crossing is done in the most direct manner practicable, if the crossing is made at a place where no obstruction prevents a quick and safe crossing, and if the operator stops the all-terrain vehicle prior to the crossing and yields the right-of-way to other vehicles, pedestrians, and electric personal assistive mobility devices using the roadway.

23.33(4)(d)2.

2. On any roadway which is seasonally not maintained for motor vehicle traffic.

Operation of an all-terrain vehicle on this type of roadway is authorized only during the seasons when no maintenance occurs and only if the roadway is not officially closed to all-terrain vehicle traffic.

23.33(4)(d)3.

3. To cross a bridge, culvert, or railroad right-of-way. The crossing of a bridge, culvert, or railroad right-of-way is not authorized if the roadway is officially closed to all-terrain vehicle traffic. The crossing is authorized only if the crossing is done in the most direct manner practicable, if the crossing is made at a place where no obstruction prevents a quick and safe crossing, and if the operator stops the all-terrain vehicle prior to the crossing, pedestrians, and electric personal assistive mobility devices using the roadway.

23.33(4)(d)4.

4. On roadways which are designated as all-terrain vehicle routes. Operation of all-terrain vehicles on a roadway which is an all-terrain vehicle route is authorized only for the extreme right side of the roadway except that left turns may be made from any part of the roadway which is safe given prevailing conditions.

23.33(4)(d)5.

5. On roadways if the all-terrain vehicle is an implement of husbandry, if the all-terrain vehicle is used exclusively for agricultural purposes and if the all-terrain vehicle is registered for private use under sub. (2) (d) or (2g). Operation of an all-terrain vehicle which is an implement of husbandry on a roadway is authorized only for the extreme right side of the roadway except that left turns may be made from any part of the roadway which is safe given prevailing conditions.

23.33(4)(d)6.

2 On roadways if the operator of the all-terrain vehicle is a person who holds a Class A permit or a Class B permit under s. 29.193 (2) and who is traveling for the purposes of hunting or is otherwise engaging in an activity authorized by the permit.

23.33(4)(d)7.

On roadways of highways that are all-terrain vehicle trails.

23.33(4)(e)

(e) Operation adjacent to roadway. A person may operate an all-terrain vehicle adjacent to a roadway on an all-terrain vehicle route or trail if the person operates the all-terrain vehicle in the following manner:

23.33(4)(e)1.

1. At a distance of 10 or more feet from the roadway along U.S. numbered highways and state and county highways. Travel on the median of a divided highway is prohibited except to cross.

23.33(4)(e)2.

2. Outside of the roadway along town highways.

23.33(4)(e)3.

3. During hours of darkness in the same direction as motor vehicle traffic in the nearest lane, although during daylight hours travel may be in either direction regardless of the flow of motor vehicle traffic.

23.33(4)(e)4.

4. Not in excess of the speed limits of the adjacent roadway.

23.33(4)(e)5. 2 With due regard to safety and in compliance with rules promulgated by the department and approved by the department of transportation.

23.33(4c)

(4c) Intoxicated operation of an all-terrain vehicle.

23.33(4c)(a)

(a) Operation. 23.33(4c)(a)1.

1. 'Operating while under the influence of an intoxicant.' No person may operate an all-terrain vehicle while under the influence of an intoxicant to a degree which renders him or her incapable of safe operation of an all-terrain vehicle.

23.33(4c)(a)2. 2 'Operating with alcohol concentrations at or above specified levels.' No person may engage in the operation of an all-terrain vehicle while the person has an alcohol concentration of 0.08 or more.

23.33(4c)(a)2m.

2m. 'Operating with a restricted controlled substance.' No person may engage in the operation of an all-terrain vehicle while the person has a detectable amount of a restricted controlled substance in his or her blood.

23.33(4c)(a)3.

3. 'Operating with alcohol concentrations at specified levels; below age 19.' If a person has not attained the age of 19, the person may not engage in the operation of an all-terrain vehicle while he or she has an alcohol concentration of more than 0.0 but not more than

0.08. 23.33(4c)(a)4.

4. 'Related charges.' A person may be charged with and a prosecutor may proceed upon a complaint based upon a violation of any combination of subd. 1., 2., or 2m. for acts arising out of the same incident or occurrence. If the person is charged with violating any combination of subd. 1., 2., or 2m., the offenses shall be joined. If the person is found guilty of any combination of subd. 1., 2., or 2m. for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing and for purposes of counting convictions under sub. (13) (b) 2. and 3. Subdivisions 1., 2., and 2m. each require proof of a fact for conviction which the others do not require.

23.33(4c)(a)5. 2 `Defenses.' In an action under subd. 2m. that is based on the defendant allegedly having a detectable amount of methamphetamine, gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol in his or her blood, the defendant has a defense if he or she proves by a preponderance of the evidence that at the time of the incident or occurrence he or she had a valid prescription for methamphetamine or one of its metabolic precursors, gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol.

23.33(4c)(b)

(b) Causing injury. 23.33(4c)(b)1.

1. `Causing injury while under the influence of an intoxicant.' No person while under the influence of an intoxicant to a degree which renders him or her incapable of safe operation of an all-terrain vehicle may cause injury to another person by the operation of an all-terrain vehicle.

23.33(4c)(b)2.

`Causing injury with alcohol concentrations at or above specified levels.' No person who has an alcohol concentration of 0.08 or more may cause injury to another person by the operation of an all-terrain vehicle.

23.33(4c)(b)2m.

2m. `Causing injury while operating with a restricted controlled substance.' No person who has a detectable amount of a restricted controlled substance in his or her blood may cause injury to another person by the operation of an all-terrain vehicle.

23.33(4c)(b)3.

3. `Related charges.' A person may be charged with and a prosecutor may proceed upon a complaint based upon a violation of any combination of subd. 1., 2., or 2m. for acts arising out of the same incident or occurrence. If the person is charged with violating any combination of subd. 1., 2., or 2m. in the complaint, the crimes shall be joined under s.

971.12. If the person is found guilty of any combination of subd. 1, 2., or 2m. for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing and for purposes of counting convictions under sub. (13) (b) 2. and 3. Subdivisions 1., 2., and 2m. each require proof of a fact for conviction which the others do not require.

23.33(4c)(b)4.

4. `Defenses.' 23.33(4c)(b)4.a.

a. In an action under this paragraph, the defendant has a defense if he or she proves by a preponderance of the evidence that the injury would have occurred even if he or she had been exercising due care and he or she had not been under the influence of an intoxicant, did not have an alcohol concentration of 0.08 or more, or did not have a detectable amount of a restricted controlled substance in his or her blood.

23.33(4c)(b)4.b.

b. In an action under subd. 2m. that is based on the defendant allegedly having a detectable amount of methamphetamine, gamma-hydroxybutyric acid, or delta 9-tetrahydrocannabinol in his or her blood, the defendant has a defense if he or she proves by a preponderance of the evidence that at the time of the incident or occurrence he or she had a valid prescription for methamphetamine or one of its metabolic precursors, gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol.

23.33(4g)

(4g) Preliminary breath screening test.

23.33(4g)(a)

(a) Requirement. A person shall provide a sample of his or her breath for a preliminary breath screening test if a law enforcement officer has probable cause to believe that the person is violating or has violated the intoxicated operation of an all

terrain vehicle law and if, prior to an arrest, the law enforcement officer requested the person to provide this sample. 23.33(4g)(b)

(b) Use of test results. A law enforcement officer may use the results of a preliminary breath screening test for the purpose of deciding whether or not to arrest a person for a violation of the intoxicated operation of an all-terrain vehicle law or for the purpose of deciding whether or not to request a chemical test under sub. (4p). Following the preliminary breath screening test, chemical tests may be required of the person under sub. (4p).

(c) Admissibility. The result of a preliminary breath screening test is not admissible in any action or proceeding except to show probable cause for an arrest, if the arrest is challenged, or to show that a chemical test was properly required of a person under sub. (4p).

23.33(4g)(d)

(d) Refusal. There is no penalty for a violation of par. (a). Subsection (13) (a) and the general penalty provision under s. 939.61 do not apply to that violation.

23.33(4g)(c)

23.33(4j)

(4j) Applicability of the intoxicated operation of an all-terrain vehicle law. In addition to being applicable upon highways, the intoxicated operation of an all-terrain vehicle law is applicable upon all premises held out to the public for use of their all-terrain vehicles, whether such premises are publicly or privately owned and whether or not a fee is charged for the use thereof.

23.33(4L)

(4L) Implied consent. Any person who engages in the operation of an all-terrain vehicle upon the public highways of this state, or in those areas enumerated in sub. (4j), is deemed to have given consent to provide one or more samples of his or her breath, blood or urine for the purpose of authorized analysis as required under sub. (4p). Any person who engages in the operation of an all-terrain vehicle within this state is deemed to have given consent to submit to one or more chemical tests of his or her breath, blood or urine for the purpose of authorized analysis as required under sub. (4p).

23.33(4p)
(4p) Chemical tests.
23.33(4p)(a)

(a) Requirement. 23.33(4p)(a)1.

1. 'Samples; submission to tests.' A person shall provide one or more samples of his or her breath, blood or urine for the purpose of authorized analysis if he or she is arrested for a violation of the intoxicated operation of an all-terrain vehicle law and if he or she is requested to provide the sample by a law enforcement officer. A person shall submit to one or more chemical tests of his or her breath, blood or urine for the purpose of authorized analysis if he or she is arrested for a violation of the intoxicated operation of an all-terrain vehicle law and if he or she is requested to submit to the test by a law enforcement officer.

23.33(4p)(a)2. 2 'Information.' A law enforcement officer requesting a person to provide a sample or to submit to a chemical test under subd. 1. shall inform the person of all of the following at the time of the request and prior to obtaining the sample or administering the test:

23.33(4p)(a)2.a.

a. That he or she is deemed to have consented to tests under sub. (4L).

23.33(4p)(a)2.b.

b. That a refusal to provide a sample or to submit to a chemical test constitutes a violation under par. (e) and is subject to the same penalties and procedures as a violation of sub.

(4c) (a) 1.

23.33(4p)(a)2.c.

c. That in addition to the designated chemical test under par. (b) 2., he or she may have an additional chemical test under par. (c) 1.

23.33(4p)(a)3.

3. 'Unconscious person.' A person who is unconscious or otherwise not capable of withdrawing consent is presumed not to have withdrawn consent under this paragraph, and if a law enforcement officer has probable cause to believe that the person violated the intoxicated operation of an all-terrain vehicle law, one or more chemical tests may be administered to the person without a request under subd. 1. and without providing information under subd. 2.

23.33(4p)(b)

(b) Chemical tests. 23.33(4p)(b)1.

1. 'Test facility.' Upon the request of a law enforcement officer, a test facility shall administer a chemical test of breath, blood or urine for the purpose of authorized analysis. A test facility shall be prepared to administer 2 of the 3 chemical tests of breath, blood or urine for the purpose of authorized analysis. The department may enter into agreements for the cooperative use of test facilities.

23.33(4p)(b)2.

2. 'Designated chemical test.' A test facility shall designate one chemical test of breath, blood or urine which it is prepared to administer first for the purpose of authorized analysis.

23.33(4p)(b)3.

2 'Additional chemical test.' A test facility shall specify one chemical test of breath, blood or urine, other than the test designated under subd. 2., which it is prepared to administer for the purpose of authorized analysis as an additional chemical test.

23.33(4p)(b)4. 2 'Validity; procedure.' A chemical test of blood or urine conducted for the purpose of authorized analysis is valid as provided under s. 343.305 (6). The duties and responsibilities of the laboratory of hygiene, department of health and family services and department of transportation under s. 343.305 (6) apply to a chemical test of blood or urine conducted for the purpose of authorized analysis under this subsection. Blood may be withdrawn from a person arrested for a violation of the intoxicated operation of an all-terrain vehicle law only by a physician, registered nurse, medical technologist, physician assistant or person acting under the direction of a physician and the person who

withdraws the blood, the employer of that person and any hospital where blood is withdrawn have immunity from civil or criminal liability as provided under s. 895.53 23.33(4p)(b)5.

5. 'Report.' A test facility which administers a chemical test of breath, blood or urine for the purpose of authorized analysis under this subsection shall prepare a written report which shall include the findings of the chemical test, the identification of the law enforcement officer or the person who requested a chemical test and the identification of the person who provided the sample or submitted to the chemical test. The test facility shall transmit a copy of the report to the law enforcement officer and the person who provided the sample or submitted to the chemical test.

23.33(4p)(c)

(c) Additional and optional chemical tests. 23.33(4p)(c)1.

1. 'Additional chemical test.' If a person is arrested for a violation of the intoxicated operation of an all-terrain vehicle law or is the operator of an all-terrain vehicle involved in an accident resulting in great bodily harm to or the death of someone and if the person is requested to provide a sample or to submit to a test under par. (a) 1., the person may request the test facility to administer the additional chemical test specified under par. (b)

3. or, at his or her own expense, reasonable opportunity to have any qualified person administer a chemical test of his or her breath, blood or urine for the purpose of authorized analysis.

23.33(4p)(c)2.

2. 'Optional test.' If a person is arrested for a violation of the intoxicated operation of an all-terrain vehicle law and if the person is not requested to provide a sample or to submit to a test under par. (a) 1., the person may request the test facility to administer a chemical test of his or her breath or, at his or her own expense, reasonable opportunity to have any qualified person administer a chemical test of his or her breath, blood or urine for the purpose of authorized analysis. If a test facility is unable to perform a chemical test of breath, the person may request the test facility to administer the designated chemical test under par. (b) 2. or the additional

chemical test under par. (b) 3.

23.33(4p)(c)3.

2 `Compliance with request.' A test facility shall comply with a request under this paragraph to administer any chemical test it is able to perform.

23.33(4p)(c)4. 2 `Inability to obtain chemical test.' The failure or inability of a person to obtain a chemical test at his or her own expense does not preclude the admission of evidence of the results of a chemical test required and administered under pars. (a) and (b).

23.33(4p)(d)

(d) Admissibility; effect of test results; other evidence. The results of a chemical test required or administered under par. (a), (b) or (c) are admissible in any civil or criminal action or proceeding arising out of the acts committed by a person alleged to have violated the intoxicated operation of an all-terrain vehicle law on the issue of whether the person was under the influence of an intoxicant or the issue of whether the person had

alcohol concentrations at or above specified levels or a detectable amount of a restricted controlled substance in his or her blood. Results of these chemical tests shall be given the effect required under s. 885.235. This subsection does not limit the right of a law enforcement officer to obtain evidence by any other lawful means. 23.33(4p)(e)

□ (e) Refusal. No person may refuse a lawful request to provide one or more samples of his or her breath, blood or urine or to submit to one or more chemical tests under par. (a). A person shall not be deemed to refuse to provide a sample or to submit to a chemical test if it is shown by a preponderance of the evidence that the refusal was due to a physical inability to provide the sample or to submit to the test due to a physical disability or disease unrelated to the use of an intoxicant. Issues in any action concerning violation of par. (a) or this paragraph are limited to: 23.33(4p)(e)1.

1. Whether the law enforcement officer had probable cause to believe the person was violating or had violated the intoxicated operation of an all-terrain vehicle law.

23.33(4p)(e)2.

2. Whether the person was lawfully placed under arrest for violating the intoxicated operation of an all-terrain vehicle law.

23.33(4p)(e)3.

3. Whether the law enforcement officer requested the person to provide a sample or to submit to a chemical test and provided the information required under par. (a) 2. or whether the request and information was unnecessary under par. (a) 3.

23.33(4p)(e)4.

Whether the person refused to provide a sample or to submit to a chemical test.

23.33(4t)

(4t) Report arrest to department. If a law enforcement officer arrests a person for a violation of the intoxicated operation of an all-terrain vehicle law or the refusal law, the law enforcement officer shall notify the department of the arrest as soon as practicable.

23.33(4x)

(4x) Officer's action after arrest for operating an all-terrain vehicle while under influence of intoxicant. A person arrested for a violation of sub. (4c) (a) 1. or 2. or a local ordinance in conformity therewith or sub. (4c) (b) 1. or 2. may not be released until 12 hours have elapsed from the time of his or her arrest or unless a chemical test administered under sub. (4p) (a) 1. shows that the person has an alcohol concentration of

0.05 or less, but the person may be released to his or her attorney, spouse, relative or other responsible adult at any time after arrest.

23.33(4z)

(4z) Public education program.

23.33(4z)(a)

(a) The department shall promulgate rules to provide for a public education program to:

23.33(4z)(a)1.

1. Inform all-terrain vehicle operators of the prohibitions and penalties included in the intoxicated operation of an all-terrain vehicle law.

23.33(4z)(a)2. 2 Provide for the development of signs briefly explaining the intoxicated operation of an all-terrain vehicle law.

23.33(4z)(b)

(b) The department shall develop and issue an educational pamphlet on the intoxicated operation of an all-terrain vehicle law to be distributed, beginning in 1989, to persons issued all-terrain vehicle registration certificates under subs. (2) and (2g).

23.33(5)

(5) Age restrictions; safety certification program. 23.33(5)(a)

(a) Age restriction. No person under 12 years of age may operate an all-terrain vehicle unless he or she is operating the all-terrain vehicle for an agricultural purpose and he or she is under the supervision of a person over 18 years of age or unless he or she is operating a small all-terrain vehicle on an all-terrain vehicle trail designated by the department and he or she is accompanied by his or her parent. No person who is under 12 years of age may operate an all-terrain vehicle which is an implement of husbandry on a roadway under any circumstances. No person who is under 12 years of age may operate an all-terrain vehicle on a roadway under the authorization provided under sub.

(4) (d) 6. under any circumstances. No person who is under 12 years of age may rent or lease an all-terrain vehicle. For purposes of this paragraph, supervision does not require that the person under 12 years of age be subject to continuous direction or control by the person over 18 years of age.

23.33(5)(b)

(b) All-terrain vehicle safety certificate. 23.33(5)(b)1.

1. No person who is at least 12 years of age and who is born on or after January 1, 1988, may operate an all-terrain vehicle unless he or she holds a valid safety certificate.

23.33(5)(b)2. 2 Any person who is required to hold an all-terrain vehicle safety certificate

while operating an all-terrain vehicle shall carry the certificate on the all-terrain vehicle and shall display the certificate to a law enforcement officer on request. Persons enrolled in a

safety certification program approved by the department may operate an all-terrain vehicle in an area designated by the instructor.

23.33(5)(c)

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

23.33(5)(d)

□ (d) Safety certification program established. The department shall establish or supervise the establishment of a program of instruction on all-terrain vehicle laws, including the intoxicated operation of an all-terrain vehicle law, regulations, safety and

related subjects. The department shall establish by rule an instruction fee for this program. An instructor conducting the program of instruction under this paragraph shall collect the fee from each person who receives instruction. The department may determine the portion of this fee, which may not exceed 50%, that the instructor may retain to defray expenses incurred by the instructor in conducting the program. The instructor shall remit the remainder of the fee or, if nothing is retained, the entire fee to the department.

23.33(5m) (5m) Grant program. 23.33(5m)(a)

(a) The department shall establish a program to award grants to organizations that meet the eligibility requirements under par. (b).

23.33(5m)(b)

(b) To be eligible for a grant under this subsection, an organization shall meet all of the following requirements:

23.33(5m)(b)1.

1 The organization is a nonstock corporation organized in this state. 23.33(5m)(b)2.

2 The organization promotes the operation of all-terrain vehicles in a manner that

is safe and responsible and that does not harm the environment.

23.33(5m)(b)3.

3. The organization promotes the operation of all-terrain vehicles in a manner that does not conflict with the laws, rules, and departmental policies that relate to the operation of all-terrain vehicles.

23.33(5m)(b)4.

4. The interest of the organization is limited to the recreational operation of all-terrain vehicles on all-terrain vehicle trails and other areas that are off the highways.

23.33(5m)(b)5.

5. The organization has a board of directors that has a majority of members who are representatives of all-terrain vehicle clubs. 23.33(5m)(b)6. The organization provides support to all-terrain vehicle clubs.

23.33(5m)(c)

(c) An organization receiving a grant under this subsection shall use the grant moneys to promote and provide support to the program established under sub. (5) by conducting activities that include all of the following:

23.33(5m)(c)1.

1. Collecting data on the recreational operation of all-terrain vehicles off the highways. 23.33(5m)(c)2.

2. Providing assistance to the department in locating, recruiting, and training instructors for the program established under sub. (5) (d).

23.33(5m)(c)3.

3. Attempting to increase participation by current and future all-terrain vehicle operators and owners in the program established under sub. (5) (d).

23.33(5m)(c)4.

4. Assisting the department of natural resources and the department of tourism in creating an outreach program to inform local communities of appropriate all-terrain vehicle use in their communities and of the economic benefits that may be gained from promoting tourism to attract all-terrain vehicle operators.

23.33(5m)(c)5.

5. Attempting to improve and maintain its relationship with the department of natural resources, the department of tourism, all-terrain vehicle dealers, all-terrain vehicle manufacturers, snowmobile clubs, as defined in s. 350.138 (1) (e), snowmobile alliances, as defined in s. 350.138 (1) (d), and other organizations that promote the recreational operation of snowmobiles.

23.33(5m)(c)6.

2 Recruiting, assisting in the training of, and providing support to a corps of volunteers that will assist in providing instruction on the safe and responsible operation of all-terrain vehicles that is given in the field to all-terrain vehicle operators.

23.33(5m)(c)7. 2 Publishing a manual in cooperation with the department that shall be used to train volunteers in monitoring the recreational operation of all-terrain vehicles for safety issues and other issues that relate to the responsible operation of all-terrain vehicles.

23.33(5m)(d)

(d) The department shall pay the grants from the appropriation under s. 20.370 (5)

(cx). 23.33(6)

(6) Equipment requirements. 23.33(6)(a)

(a) A person who operates an all-terrain vehicle during hours of darkness or during daylight hours on any highway right-of-way is required to display a lighted headlamp and tail lamp on the all-terrain vehicle.

23.33(6)(b)

(b) The headlamp on an all-terrain vehicle is required to display a white light of sufficient illuminating power to reveal any person, vehicle or substantial object at a distance of at least 200 feet ahead of the all-terrain vehicle.

23.33(6)(c)

(c) The tail lamp on an all-terrain vehicle is required to display a red light plainly visible during hours of darkness from a distance of 500 feet to the rear.

23.33(6)(d)

(d) Every all-terrain vehicle is required to be equipped with at least one brake operated either by hand or by foot.

23.33(6)(e)

(e) Every all-terrain vehicle is required to be equipped with a functioning muffler to prevent excessive or unusual noise and with a functioning spark arrester of a type approved by the U.S. forest service.

23.33(6m) (6m) Noise limits. 23.33(6m)(a)

(a) No person may manufacture, sell, rent or operate an all-terrain vehicle that is constructed in such a manner that noise emitted from the all-terrain vehicle exceeds 96 decibels on the A scale as measured in the manner prescribed under rules promulgated by the department.

23.33(7)

(7) Accidents. 23.33(7)(a)

(a) If an accident results in the death of any person or in the injury of any person which requires the treatment of the person by a physician, the operator of each all-terrain vehicle involved in the accident shall give notice of the accident to a conservation warden or local law enforcement officer as soon as possible and shall file a written report of the accident with the department on the form provided by it within 10 days after the accident.

23.33(7)(b)

(b) If the operator of an all-terrain vehicle is physically incapable of making the report required by this subsection and there was another witness to the accident capable of making the report, the witness may make the report.

23.33(8)

(8) Routes and trails. 23.33(8)(a)

(a) Department authority. The department shall encourage and supervise a system of all-terrain vehicle routes and trails. The department may establish standards and procedures for certifying the designation of all-terrain vehicle routes and trails.

23.33(8)(b)

(b) Routes. A town, village, city or county may designate highways as all-terrain vehicle routes. No state trunk highway or connecting highway may be designated as an all-terrain vehicle route unless the department of transportation approves the designation.

23.33(8)(c)

(c) Trails. A town, village, city, county or the department may designate corridors through land which it owns or controls, or for which it obtains leases, easements or permission, for use as all-terrain vehicle trails.

23.33(8)(d)

(d) Restrictions. The designating authority may specify effective periods for the use of all-terrain vehicle routes and trails and may restrict or prohibit the operation of an all-terrain vehicle during certain periods of the year.

23.33(8)(e)

(e) Signs. The department, in cooperation with the department of transportation, shall establish uniform all-terrain vehicle route and trail signs and standards.

23.33(8)(f)

(f) Interference with signs and standards prohibited. 23.33(8)(f)1.

1. No person may intentionally remove, damage, deface, move or obstruct any uniform all-terrain vehicle route or trail sign or standard or intentionally interfere with the effective operation of any uniform all-terrain vehicle route or trail sign or standards if the sign or standard is legally placed by the state, any municipality or any authorized individual.

23.33(8)(f)2.

No person may possess any uniform all-terrain vehicle route or trail sign or standard of the type established by the department for the warning, instruction or information of the public, unless he or she obtained the uniform all-terrain vehicle route or trail sign or standard in a lawful manner. Possession of a uniform all-terrain vehicle route or trail sign or standard creates a rebuttable presumption of illegal possession.

23.33(9)

(9) Administration; enforcement; aids. 23.33(9)(a)

(a) Enforcement. The department may utilize moneys received under sub. (2) for all-terrain vehicle registration aids administration and for the purposes specified under s.

20.370 (3) (as) and (5) (er) including costs associated with enforcement, safety education, accident reports and analysis, law enforcement aids to counties, and other similar costs in administering and enforcing this section.

23.33(9)(b)

(b) All-terrain vehicle projects. Any of the following all-terrain vehicle projects are eligible for funding as a state all-terrain vehicle project from the appropriation account under s. 20.370 (1) (ms) or for aid as a nonstate all-terrain vehicle project from the appropriation accounts under s. 20.370 (5) (ct) and (cu):

23.33(9)(b)1.

1 Acquisition of an easement or land in fee simple.

23.33(9)(b)2.

2 An all-terrain vehicle facility such as a parking area, riding area, shelter, toilets

or other improvement.

23.33(9)(b)3.

3. Development of all-terrain vehicle routes or all-terrain vehicle trails.

23.33(9)(b)4. 2 Development or maintenance of a snowmobile route or trail or an off-the-road motorcycle trail or facility if the route, trail or facility is open for use by all-terrain vehicles.

3 Maintenance of all-terrain vehicle routes or all-terrain vehicle trails. 4 Purchase of liability insurance.

23.33(9)(b)5.

23.33(9)(b)6.

23.33(9)(c)

(c) Signs. In addition to the projects listed in par. (b), the department may provide aid under this subsection to a town, village, city or county for up to 100% of the cost of placing signs developed under sub. (4z) (a) 2.

(10) Liability of landowners. Section 895.52 applies to this section.

(11) Local ordinances. 23.33(11)(a)

(a) Counties, towns, cities and villages may enact ordinances regulating all-terrain vehicles on all-terrain vehicle trails maintained by or on all-terrain vehicle routes designated by the county, city, town or village.

23.33(10)

23.33(11)

23.33(11)(am)

(am) Any county, town, city or village may enact an ordinance which is in strict conformity with this section and rules promulgated by the department under this section, if the ordinance encompasses all aspects encompassed by this section.

23.33(11)(b)

(b) If a county, town, city or village adopts an ordinance regulating all-terrain vehicles, its clerk shall immediately send a copy of the ordinance to the department and to the office of any law enforcement agency of the municipality or county having jurisdiction over any highway designated as an all-terrain vehicle route.

23.33(12)

(12) Enforcement. 23.33(12)(a)

(a) An officer of the state traffic patrol under s. 110.07 (1), inspector under s.

110.07 (3), conservation warden appointed by the department under s. 23.10, county sheriff or municipal peace officer has authority and jurisdiction to enforce this section and ordinances enacted in conformity with this section.

23.33(12)(b)

(b) No operator of an all-terrain vehicle may refuse to stop after being requested or signaled to do so by a law enforcement officer.

23.33(13)

(13) Penalties. 23.33(13)(a)

(a) Generally. Except as provided in pars. (am) to (e), any person who violates this section shall forfeit not more than \$250.

23.33(13)(am)

(am) Penalty related to interference with signs and standards. Except as provided in par. (cg), a person who violates sub. (8) (f) and who, within the last 2 years prior to the arrest for the current violation, was 2 or more times previously convicted for violating a provision of this chapter shall forfeit not more than \$500.

23.33(13)(ar)

(ar) Penalty related to nonresident trail passes. Any person who violates sub. (2j) shall forfeit not more than \$1,000.

23.33(13)(b)

(b) Penalties related to intoxicated operation of an all-terrain vehicle. 23.33(13)(b)1.

1. Except as provided under subds. 2. and 3., a person who violates sub. (4c) (a) 1., 2., or 2m. or (4p) (e) shall forfeit not less than \$150 nor more than \$300.

23.33(13)(b)2.

2. Except as provided under subd. 3., a person who violates sub. (4c) (a) 1., 2., or 2m. or (4p) (e) and who, within 5 years prior to the arrest for the current violation, was convicted previously under the intoxicated operation of an all-terrain vehicle law or the refusal law shall be fined not less than \$300 nor more than \$1,100 and shall be imprisoned not less than 5 days nor more than 6 months.

23.33(13)(b)3.

2 A person who violates sub. (4c) (a) 1., 2., or 2m. or (4p) (e) and who, within 5 years prior to the arrest for the current violation, was convicted 2 or more times previously under the intoxicated operation of an all-terrain vehicle law or refusal law

shall be fined not less than \$600 nor more than \$2,000 and shall be imprisoned not less than 30 days nor more than one year in the county jail.

23.33(13)(b)4. 2 A person who violates sub. (4c) (a) 3. or (4p) (e) and who has not attained the age of 19 shall forfeit not more than \$50.

23.33(13)(bg)

(bg) Penalties related to intoxicated operation of an all-terrain vehicle; underage passengers. If there is a passenger under 16 years of age on the all-terrain vehicle at the time of a violation that gives rise to a conviction under sub. (4c) (a) 1. or 2. or (4p) (e), the applicable minimum and maximum forfeitures, fines, and terms of imprisonment under pars. (b) 1., 2., and 3. for the conviction are doubled.

23.33(13)(br)

(br) Penalties related to intoxicated operation of an all-terrain vehicle; enhancers.

23.33(13)(br)1.

1. If a person convicted under sub. (4c) (a) 1. or 2. had an alcohol concentration of 0.17 to 0.199 at the time of the offense, the minimum and maximum fines specified under par.

(b) 3. for the conviction are doubled.

23.33(13)(br)2.

2. If a person convicted under sub. (4c) (a) 1. or 2. had an alcohol concentration of 0.20 to 0.249 at the time of the offense, the minimum and maximum fines specified under par.

(b) 3. for the conviction are tripled.

23.33(13)(br)3.

3. If a person convicted under sub. (4c) (a) 1. or 2. had an alcohol concentration of 0.25 or above at the time of the offense, the minimum and maximum fines under par. (b)

3. for the conviction are quadrupled.

23.33(13)(br)4. 2 The increased fines in this paragraph do not apply if the person convicted under sub. (4c) (a) 1. or 2. is subject to par. (bg).

23.33(13)(c)

(c) Penalties related to causing injury; intoxicants. A person who violates sub. (4c) (b) shall be fined not less than \$300 nor more than \$2,000 and may be imprisoned not less than 30 days nor more than one year in the county jail.

23.33(13)(cg)

(cg) Penalties related to causing death or injury; interference with signs and standards. A person who violates sub. (8) (f) 1. is guilty of a Class H felony if the violation causes the death or injury, as defined in s. 30.67 (3) (b), of another person.

23.33(13)(cm)

(cm) Sentence of detention. The legislature intends that courts use the sentencing option under s. 973.03 (4) whenever appropriate for persons subject to par. (b) 2. or 3. or (c). The use of this option can result in significant cost savings for the state and local governments.

23.33(13)(d)

(d) Calculation of previous convictions. In determining the number of previous convictions under par. (b) 2. and 3., convictions arising out of the same incident or occurrence shall be counted as one previous conviction. 23.33(13)(dm) (dm) Reporting convictions to the department. Whenever a person is convicted of a violation of the intoxicated operation of an all-terrain vehicle law, the clerk of the court in which the conviction occurred, or the justice, judge or magistrate of a court not having a clerk, shall forward to the department the record of such conviction. The record of conviction forwarded to the department shall state whether the offender was involved in an accident at the time of the offense. 23.33(13)(e)

(e) Alcohol, controlled substances or controlled substance analogs; assessment. In addition to any other penalty or order, a person who violates sub. (4c) (a) or (b) or (4p)

(e) or who violates s. 940.09 or 940.25 if the violation involves the operation of an all-terrain vehicle, shall be ordered by the court to submit to and comply with an assessment by an approved public treatment facility for an examination of the person's use of alcohol, controlled substances or controlled substance analogs. The assessment order shall comply with s. 343.30 (1q) (c) 1. a. to c. Intentional failure to comply with an assessment ordered under this paragraph constitutes contempt of court, punishable under ch. 785.

(f) Restoration or replacement of signs and standards. In addition to any other penalty, the court may order the defendant to restore or replace any uniform all-terrain vehicle route or trail sign or standard that the defendant removed, damaged, defaced, moved or obstructed.

23.33(13)(f)

23.33 - ANNOT.

History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1995 a. 436, 448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109; 2003 a. 30, 97, 251, 326; 2005

a. 25.

23.33 - ANNOT. Cross Reference: See also ch. NR 64, Wis. adm. code.

23.33 - ANNOT.

County forest roads open to vehicular traffic are highways that can be designated as routes under sub. (8) (b). 77 Atty. Gen. 52.

Chapter 30

30.26 Wild rivers

30.26(4)

- (4) Restriction on department. 30.26(4)(a)
- (a) The department may not prohibit the crossing of a bridge over a wild river by an all-terrain vehicle traveling on an all-terrain vehicle trail, as defined under s. 23.33 (1) (d), or by a snowmobile traveling on a snowmobile trail, as defined under s. 350.01 (17) that is constructed in any of the following locations:

30.26(4)(a)1.

1. Along the Nicolet State Trail where the trail crosses the existing railroad trestle over the Pine River and the Popple River.

30.26(4)(a)3.

3. In Florence County along County Highway N where the trail would cross the Pine River.

30.26(4)(b)

(b) The state shall permit all-terrain vehicles and snowmobiles to travel in a corridor across any state land that separates an all-terrain vehicle trail or a snowmobile trail and the bridges constructed at the locations listed under par. (a).

30.26 - ANNOT.

History: 2003 a. 248.

30.26 - ANNOT.

Cross Reference: See also ch. NR 302 and ss. NR 102.10 and 103.04, Wis. adm. code.

30.29

30.29 Operation of motor vehicles in waters prohibited.

30.29(1)

(1) Definition. In this section, "motor vehicle" includes an all-terrain vehicle, as defined in s. 340.01 (2g).

30.29(2)

(2) Prohibition. Except as provided under sub. (3), no person may operate a motor vehicle in or on any navigable water or the exposed bed of a navigable water.

- (3) Exceptions. This section does not apply to:
- 30.29(3)(a)
- (a) Stream crossing. A person operating a motor vehicle to cross a stream by use of a bridge, culvert, ford or similar structure if the crossing is in the most direct manner practical, if the crossing is from a highway or private road or from an established trail and if the person operates the motor vehicle at the minimum speed required to maintain controlled forward motion of the motor vehicle.
- 30.29(3)(b)
- (b) Agriculture activities. A person operating a motor vehicle while the person is engaged in agricultural use, as defined under s. 91.01 (1).
- 30.29(3)(c)
- (c) Department activities. The department or any agent of the department operating a motor vehicle while the person is engaged in activities authorized by the department.
- 30.29(3)(d)
- (d) Activities for which a permit is issued. A person or agent of a person who is engaged in activities as authorized under a general or individual permit issued under this subchapter or as authorized under a contract entered into under this subchapter.
- 30.29(3)(e)
- (e) Amphibious vehicles. A person operating an amphibious motor vehicle registered as a boat with the department if the amphibious vehicle enters the water at a boat launch or a ford.
- 30.29(3)(f)
- (f) Boat launching. A person operating a motor vehicle to launch or load a boat, canoe or other watercraft.
- 30.29(3)(g)
- (g) On frozen waters. A person operating a motor vehicle on the surface of any navigable waters which are frozen.
- 30.29(3)(h)
- (h) Access to frozen waters. A person operating a motor vehicle to cross the bed or banks of a navigable water in order to reach the surface of any navigable waters which are frozen if the crossing is in the most direct manner practical, if the crossing is from a highway or private road or from an established trail and if the person operates the motor vehicle at the minimum speed required to maintain controlled forward motion of the motor vehicle.
- 30.29(4)
- (4) Penalty. A person who violates this section shall forfeit \$50 for the first offense and shall forfeit not more than \$100 upon conviction of the same offense a 2nd or subsequent time within one year.

30.29(3)

30.29 - ANNOT.

History: 1981 c. 189; 1987 a. 374; 1991 a. 39; 2003 a. 118.

Chapter 78

78.75 Refund; procedure; claim unassignable.

78.75(1)

(1) In this section, "invoice" means the top copy and not a carbon copy.

78.75(1m) (1m) 78.75(1m)(a)

(a) 78.75(1m)(a)1.

1. Except as provided under subds. 2. and 2m., a person who uses motor vehicle fuel or an alternate fuel upon which has been paid the tax required under this chapter, for the purpose of operating a taxicab for the transportation of passengers, for the purpose of operating a motorboat exempt from registration as a motor vehicle under s. 341.05 (20) on privately owned land or for any purpose other than operating a motor vehicle upon the public highways, shall be reimbursed and repaid the amount of the tax paid upon making and filing a claim if the claim is for the tax on 100 gallons or more.

78.75(1m)(a)2.

2 A person who uses motor vehicle fuel or an alternate fuel upon which has been paid the tax required under this chapter for the purpose of operating a snowmobile, as defined under s. 340.01 (58a), an aircraft, as defined under s. 78.55 (2), or a motorboat, as defined under s. 30.50 (6), unless the motorboat is not a recreational motorboat, may not be reimbursed or repaid the amount of tax paid.

78.75(1m)(a)2m. 2m. A person who uses motor vehicle fuel or an alternate fuel upon which has been paid the tax required under this chapter for the purpose of operating an all-terrain vehicle, as defined under s. 340.01 (2g), may not be reimbursed or repaid the amount of tax paid unless the all-terrain vehicle is registered for private use under s. 23.33 (2) (d) or (2g).

78.75(1m)(a)3.

3. Claims under subd. 1. shall be made and filed. The forms shall indicate that refunds are not available for motor vehicle fuel or alternate fuels used for motorboats, except motorboats exempt from registration as motor vehicles under s. 341.05 (20) and motorboats that are not recreational motorboats, or motor vehicle fuel or alternate fuels used for snowmobiles and that the estimated snowmobile motor vehicle fuel or alternate fuels tax payments are used for snowmobile trails and areas. The forms shall indicate that refunds are not available for motor vehicle fuel or alternate fuels used for all-terrain vehicles unless the all-terrain vehicle is registered for private use under s. 23.33 (2) (d) or (2g) and shall indicate that estimated all-terrain vehicle motor vehicle fuel or alternate fuels tax payments are used for all-terrain vehicle trails and areas. The forms shall also indicate that refunds are not available for the tax on less than 100 gallons. The department shall distribute forms in sufficient quantities to each county clerk.

78.75(1m)(b)

(b) Such claim shall be filed not later than 12 months after the date of purchase of the motor vehicle fuel or alternate fuel, or the claim shall not be allowed.

(c) The seller, upon request, shall furnish each purchaser with an invoice prepared at the time of delivery, and the purchaser shall send that invoice or a list of purchases to the department when making a claim for refund. The invoice shall contain the following information: date of sale; name and address of seller; name of purchaser, which name must be the name of the claimant; number of gallons purchased; the type of fuel; the purchase price; and the amount of Wisconsin motor vehicle fuel or alternate fuels tax as a separate item. If the purchaser sends

invoices to the department, the purchaser shall send a separate invoice for each sale and delivery, and the invoice shall be legibly written and shall comply with the foregoing requirements. If the purchaser sends a list of purchases to the department, the purchaser shall retain for 4 years the invoices that are evidence of those purchases and allow the department to inspect them. The claim shall state whether or not the applicant owns an automobile or truck or any other motor-driven machinery or appliance which consumes motor vehicle fuel or an alternate fuel; the total number of gallons of motor vehicle fuel or alternate fuel purchased; the number of gallons of such motor vehicle fuel or alternate fuel purchased on which refund is claimed; a detailed statement of the consumption of such motor vehicle fuel or alternate fuel on which a refund is claimed, describing the machinery, equipment or appliance in which consumed, giving the serial or manufacturer's number of the motor and the approximate number of gallons consumed in each; or if such fuel were not consumed in any such machinery, equipment or appliance, then a description of the purposes for which the fuel was consumed with the approximate number of gallons consumed for each purpose; a statement whether or not deduction has been made for motor vehicle fuel or alternate fuels consumed in applicant's automobile or truck; and such other information as the department deems necessary.

78.75(1m)(e)

(e) On the filing of a claim under par. (a), accompanied by the invoice or list of purchases, the department shall determine the amount of refund due. The department may make such investigation of the correctness of the facts stated in such claim as it deems necessary and may require a claimant to submit records to substantiate the claim. When the department has approved such claim, it shall reimburse the claimant out of the moneys collected under this chapter to be used for carrying out this section. No refund shall be claimed by or allowed to any person on account of any motor vehicle fuel or alternate fuel carried from this state in the ordinary fuel tank of a motor vehicle.

78.75(1m)(f)

(f) The penalty provided in this chapter for presenting a false or fraudulent statement shall be printed in full on the claim form.

78.75(2)

(2) The right of any person to a refund under this section shall not be assignable and the application for a refund shall be made by the same person who purchased the motor vehicle fuel or alternate fuel as shown in the invoice by the person selling the same, and by no other person, and the proceeds or amount of such refund as determined by the department shall be paid to the person whose name appears on the seller's invoice and to no other person.

78.75(1m)(c)

78.75 - ANNOT.

History: 1973 c. 33; 1977 c. 29; 1979 c. 221; 1981 c. 390 s. 252; 1983 a. 189 s. 329 (33); 1985 a. 29; 1987 a. 27; 1989 a. 31; 1993 a. 16, 437; 1995 a. 113, 408; 1997 a. 27,

291.

78.75 - ANNOT.

Cross Reference: See also ss. Tax 4.01, 4.02, 4.03, and 4.05, Wis. adm. code.

100.48

100.48 Hour meter tampering.

100.48(1)

(1) In this section:

100.48(1)(ad)

(ad) "All-terrain vehicle" has the meaning given in s. 340.01 (2g).

100.48(1)(ag)

(ag) "Boat" has the meaning given in s. 30.50 (2).

100.48(1)(am)

(am) "Farm equipment" means a tractor or other machinery used in the business of farming.

100.48(1)(b)

(b) "Hour meter" means an instrument that measures and records the actual hours of operation of the vehicle or device to which the instrument is attached.

100.48(1)(c)

(c) "Snowmobile" has the meaning given in s. 350.01 (12).

100.48(2)

(2) No person may, either personally or through an agent, remove, replace, disconnect, reset, tamper with, alter, or fail to connect, an hour meter attached to farm equipment, a snowmobile, an all-terrain vehicle, or a boat with the intent to defraud by changing or affecting the number of hours of operation indicated on the hour meter.

100.48(3)

(3) 100.48(3)(a)

(a) Nothing in this section shall prevent the service, repair or replacement of an hour meter if the number of hours of operation indicated on the hour meter remains the same as before the service, repair or replacement. If an hour meter attached to farm equipment, a snowmobile, an all-terrain vehicle, or a boat is incapable of registering the same number of hours of operation as before its service, repair or replacement, the hour meter shall be adjusted to read zero, and a sticker shall be affixed by the owner of the vehicle or

device to which the hour meter is attached or an agent, in proximity to the hour meter, specifying the number of hours of operation recorded on the hour meter prior to its service, repair or replacement and the date on which it was serviced, repaired or replaced. No person who services, repairs or replaces an hour meter attached to farm equipment, a snowmobile, an all-terrain vehicle, or a boat that is incapable of registering the same number of hours of operation as before such service, repair or replacement may fail to adjust the hour meter to read zero or fail to

affix the sticker required by this paragraph.

100.48(3)(b)

(b) No person may, with intent to defraud, remove, replace or alter a sticker affixed to an hour meter as required under par. (a).

100.48(4)

(4) 100.48(4)(a)

(a) Any person who violates sub. (2) or (3) (b) with respect to an hour meter attached to farm equipment may be fined not more than \$5,000 or imprisoned for not more than one year in the county jail, or both, for each violation.

100.48(4)(b)

(b) Any person who violates sub. (3) (a) with respect to an hour meter attached to farm equipment may be required to forfeit not more than \$500 for each violation.

100.48(4)(c)

(c) Any person who violates sub. (2) or (3) with respect to an hour meter attached to a snowmobile, an all-terrain vehicle, or a boat may be fined not more than \$5,000 or imprisoned for not more than one year in the county jail, or both, for each violation.

100.48 - ANNOT.

History: 1997 a. 278; 2003 a. 166.

CHAPTER 340

VEHICLES GENERAL PROVISIONS

340.01

340.01 Words and phrases defined. In s. 23.33 and chs. 340 to 349 and 351, the following words and phrases have the designated meanings unless a different meaning is expressly provided or the context clearly indicates a different meaning:

340.01(1m)

(1m) "Adverse weather lamp" means a lamp specially designed to provide road illumination under conditions of rain, snow, dust or fog.

340.01(1q)

(1q) "Alcohol" means any substance containing any form of alcohol including, but not limited to, ethanol, methanol, propanol and isopropanol.

340.01(1v)

(1v) "Alcohol concentration" means any of the following:

340.01(1v)(a)

- (a) The number of grams of alcohol per 100 milliliters of a person's blood.
- 340.01(1v)(b)
- (b) The number of grams of alcohol per 210 liters of a person's breath.
- 340.01(2)
- (2) "Alley" means every highway within the corporate limits of a city, village or town primarily intended to provide access to the rear of property fronting upon another highway and not for the use of through traffic.

340.01(2g)

(2g) "All-terrain vehicle" means an engine-driven device which has a net weight of 900 pounds or less, which has a width of 48 inches or less, which is equipped with a seat designed to be straddled by the operator and which is designed to travel on 3 or more low-pressure tires. A low-pressure tire is a tire which has a minimum width of 6 inches, which is designed to be mounted on a rim with a maximum diameter of 12 inches and which is designed to be inflated with an operating pressure not to exceed 6 pounds per square inch as recommended by the manufacturer.

340.01(2m)

(2m) "Articulated bus" means a bus constructed in 2 sections and supported by 3 or more axles with the sections of the vehicle hinged in the horizontal plane and so designed that passengers may move freely from either section to the other.

340.01(2q)

(2q) "Auction company" means any person who, for compensation, takes possession, whether on consignment or in the form of a bailment or any other arrangement, of a motor vehicle owned by a motor vehicle dealer and offers it for sale at an auction that is open only to motor vehicle dealers or wholesalers.

340.01(3)

- (3) "Authorized emergency vehicle" means any of the following:
- 340.01(3)(a)
- (a) Police vehicles, whether publicly or privately owned, including bicycles being operated by law enforcement officers.
- (b) Conservation wardens' vehicles or foresters' trucks, whether publicly or privately owned.
- 340.01(3)(c)
- (c) Vehicles of a fire department or fire patrol.
- 340.01(3)(d)

(d) Privately owned motor vehicles being used by deputy state fire marshals or by personnel of a full-time or part-time fire department or by members of a volunteer fire department while en route to a fire or on an emergency call pursuant to orders of their chief or other commanding officer.

340.01(3)(b)

340.01(3)(dm)

(dm) Privately owned motor vehicles that are all of the following:

340.01(3)(dm)1.

1. Designated or authorized by an ambulance service or rescue squad chief in writing annually.

340.01(3)(dm)2.

2 Used by an emergency medical technician licensed under s. 146.50 or an ambulance driver or first responder authorized by the chief of an ambulance service or rescue squad.

340.01(3)(e)

(e) Emergency vehicles of municipal or county departments or public service corporations that are designated or authorized by the local authorities to be authorized emergency vehicles.

340.01(3)(f)

(f) Emergency vehicles of state departments that are designated or authorized by the heads of those departments to be authorized emergency vehicles.

340.01(3)(g)

(g) Publicly owned ambulances that are designated or authorized by local authorities to be authorized emergency vehicles.

340.01(3)(h)

(h) An emergency vehicle authorized by the county board of supervisors of any county for use by the county coroners or medical examiners for traveling to the scene of a fatal accident or a death and on any other occasions that are authorized under par. (e).

340.01(3)(i)

(i) Privately owned ambulances that are operated by their owners or by their owners' agents and that are authorized in writing by the sheriff or others designated by the county board as emergency vehicles. The authorization is effective throughout the state until rescinded. The sheriff or others designated by the county board may designate any owner

of ambulances usually kept in the county to operate those ambulances as authorized emergency vehicles. The written authorization shall at all times be carried on each ambulance used for emergency purposes. The sheriff shall keep a file of authorizations made under this paragraph in the sheriff's office for public inspection, and all other persons permitted to issue authorizations under this paragraph shall file a copy of all authorizations issued with the sheriff.

340.01(3)(j)

(j) Vehicles operated by federal, state or local authorities for the purpose of bomb and

explosive or incendiary ordnance disposal.

- 340.01(4)
- (4) "Automobile" means any of the following:
- 340.01(4)(a)
- (a) Type 1 is a motor vehicle designed and used primarily for carrying persons but which does not come within the definition of a motor bus, motorcycle, moped or motor bicycle.
- 340.01(4)(b)
- (b) Type 2 is a motor vehicle capable of speeds in excess of 30 miles per hour on a dry, level, hard surface with no wind, designed and built to have at least 3 wheels in contact with the ground, a power source as an integral part of the vehicle, a curb weight of at least 1,500 pounds, and a passenger and operator area with sides permanently enclosed with rigid construction and a top which may be convertible.

340.01(4e)

(4e) "Automobile haulaway" means a combination of 2 vehicles specially designed, constructed and used to transport operational motor vehicles.

340.01(5)

(5) "Bicycle" means every vehicle propelled by the feet acting upon pedals and having wheels any 2 of which are not less than 14 inches in diameter.

340.01(5e) (5e) "Bicycle lane" means that portion of a roadway set aside by the governing body of any city, town, village, or county for the exclusive use of bicycles, electric personal assistive mobility devices, or other modes of travel where permitted under s. 349.23 (2) (a), and so designated by appropriate signs and markings. Unofficial text from Wis Stats. database. See printed Statutes and Wis. Acts for official text under s. 35.18(2) stats. Report errors to the Revisor of Statutes at (608) 266-2011, FAX 264-6978, send email to the Revisor's Bureau

Chapter 346

346.71

346.71 Coroners or medical examiners to report; require blood specimen.

346.71(1)

(1) Every coroner or medical examiner shall, on or before the 10th day of each month, report in writing any accident involving a motor vehicle occurring within the coroner's or medical examiner's jurisdiction resulting in the death of any person during the preceding calendar month. If the accident involved an all-terrain vehicle, the report shall be made to the department of natural resources and shall include the information specified by that department. If the accident involved any other motor vehicle, the report shall be made to the department and shall include the information specified by the department. The coroner or medical examiner of the county where the death occurs, if the accident occurred in another jurisdiction, shall, immediately upon learning of the death, report it to the coroner or medical examiner of the county where the accident occurred, as provided in s. 979.01 (1).

346.71(2)

(2) In cases of death involving a motor vehicle in which the decedent was the operator of a motor vehicle, a pedestrian 14 years of age or older or a bicycle or electric personal assistive

mobility device operator 14 years of age or older and who died within 6 hours of the time of the accident, the coroner or medical examiner of the county where the death occurred shall require that a blood specimen of at least 10 cc. be withdrawn from the body of the decedent within 12 hours after his or her death, by the coroner or medical examiner or by a physician so designated by the coroner or medical examiner or by a qualified person at the direction of the physician. All funeral directors shall obtain a release from the coroner or medical examiner of the county where the accident occurred as provided in s. 979.01 (4) prior to proceeding with embalming any body coming under the scope of this section. The blood so drawn shall be forwarded to a laboratory approved by the department of health and family services for analysis of the alcoholic content of the blood specimen. The coroner or medical examiner causing the blood to be withdrawn shall be notified of the results of each analysis made and shall forward the results of each such analysis to the department of health and family services. If the death involved a motor vehicle, the department shall keep a record of all such examinations to be used for statistical purposes only and the department shall disseminate and make public the cumulative results of the examinations without identifying the individuals involved. If the death involved an all-terrain vehicle, the department of natural resources shall keep a record of all such examinations to be used for statistical purposes only and the department of natural resources shall disseminate and make public the cumulative results of the examinations without identifying the individuals involved.

346.71(3)

(3) In a case of death involving a motor vehicle in which the accident and the death occur in different counties, the county where the death occurs may charge the county where the accident occurs a reasonable fee for withdrawing the blood specimen from the body of the decedent as required under sub. (2).

346.71 - ANNOT.

History: 1973 c. 272; 1977 c. 29 s. 1654 (7) (a); 1977 c. 273; 1983 a. 485; 1985 a. 29; 1987 a. 302; 1995 a. 27 s. 9126 (19); 2001 a. 90.

346.71 - ANNOT.

Coroners' blood test records under sub. (2) are not confidential. Test results are presumptively accurate. *Staples v. Glienke*, 142 Wis. 2d 19, 416 N.W.2d 920 (Ct. App. 1987).

Chapter 347

347.415

347.415 Odometer tampering.

347.415(1g)

(1g) In this section, "odometer" means an instrument for measuring and recording the actual distance that a motor vehicle, snowmobile, or all-terrain vehicle has traveled while in operation, but does not include any auxiliary instrument designed to be reset to zero to measure and record the actual distance that a motor vehicle, snowmobile, or all-terrain vehicle has traveled on trips.

347.415(1m)

(1m) No person may, either personally or through an agent, remove, replace, disconnect, reset, tamper with, alter, or fail to connect the odometer of any motor vehicle, snowmobile, or all-terrain vehicle with the intent to change or affect the number of miles indicated thereon.

347.415(2)

(2) No person may operate a motor vehicle subject to registration under ch. 341 on any street or highway with knowledge that the odometer is removed, disconnected or nonfunctional. An exemption may be provided if parts are on back order to correct a nonfunctional odometer.

347.415(3)

(3) No person may advertise for sale, sell, use, install, or have installed any device which causes an odometer to register any mileage other than the true mileage driven. For purposes of this subsection, "true mileage driven" means that mileage traveled by the vehicle as measured and recorded by the odometer within the manufacturer's design tolerance.

(4) No person shall conspire with any other person to violate sub. (1m), (2) or (3).

347.415(5)

(5) Nothing in this section shall prevent the service, repair or replacement of an odometer, provided the mileage indicated thereon remains the same as before the service, repair or replacement. Where the odometer is incapable of registering the same mileage as before such service, repair or replacement, the odometer shall be adjusted to read zero, and a written notice shall be attached, by the owner or an agent, to the left door frame of the vehicle, or other location as prescribed by the department, specifying the mileage prior to service, repair or replacement of the odometer and the date on which it was

347.415(4)

serviced, repaired or replaced. No person may, with intent to defraud, remove or alter such a notice so affixed. No person who services, repairs or replaces an odometer that is incapable of registering the same mileage as before such service, repair or replacement may fail to adjust the odometer to read zero or fail to attach the notice required by this subsection.

347.415 - ANNOT.

History: 1975 c. 121, 199; 1977 c. 29 s. 1654 (7) (a); 1993 a. 159; 2003 a. 166.

347.415 - ANNOT.

Cross Reference: See also ch. Trans 154, Wis. adm. code.

Wisconsin Administrative Code

Chapter NR 19 Miscellaneous Fur, Fish, Game and Outdoor Recreation

NR 19.50 All-terrain vehicle and bowhunter, snowmobile and hunter education program fee. The fee for the all-terrain vehicle and bowhunter, snowmobile and hunter education certification programs shall be \$10.00 per student. The department may authorize the instructors to retain up to 50% of the fee to defray authorized expenses incurred locally to operate the program based on the actual cost incurred to the instructor. The remaining funds shall be turned in to the department to defray expenses incurred to operate these programs during the year. The fee for advanced hunter education courses shall only be the amount necessary, but not to exceed \$50 per student. Only instructors certified by the department to teach advanced education courses under this section may charge a fee for the advanced education courses. History: CR 00-110: cr. Register April 2002 No. 556, eff. 5-1-02; CR 05-088: am. Register March 2006 No. 603, eff. 4-1-06.

CHAPTER NR 64 ALL-TERRAIN VEHICLES

NR 64.01 Purpose and applicability. This chapter applies to owners and operators of all-terrain vehicles, dealers who sell all-terrain vehicles, towns, villages, cities, counties, the state and federal agencies. This chapter establishes standards for the implementation of the all-terrain vehicle program under s. 23.33, Stats. History: Cr. Register, July, 1986, No. 367, eff. 8-1-86.

NR 64.02 Definitions. In this chapter:

- (1) "All-terrain vehicle area" means a designated area that contains all-terrain vehicle riding courses and support facilities.
- (2) "All-terrain vehicle route" means a highway or sidewalk designated for use by all-terrain vehicle operators by the governmental agency having jurisdiction.
- (3) "All-terrain vehicle trail" means a marked corridor on public property or on private lands subject to public easement or lease, designated for use by all-terrain vehicle operators by the governmental agency having jurisdiction, but excluding roadways of highways except those roadways which are not seasonally maintained for motor vehicle traffic.
- (4) "Applicant" means the unit of government or agency applying for a grant under this chapter.
- (5) "Approval" means the signing by the secretary or secretary's designee of a project agreement encumbering a specified amount of state aid funds for a specific purpose.
- (6) "Department" means department of natural resources.
- (7) "Enforcement" means the detection and prevention of civil violations.
- (8) "Force account" means the performance of a development or maintenance project with the forces and resources of the sponsor, including personal services, equipment and

materials.

(9) “Fringe benefits” means employers’ contributions or expenses for social security, employee’s life and health insurance plans, unemployment insurance coverage, workers compensation insurance, pension retirement plans, and employee benefits in the form of regular compensation during authorized absences from the job (i.e., annual, sick, court or military leave). These contributions and expenses must be equitably distributed to all employee labor activities.

(10) “Indirect costs” means those costs not directly assignable to a grant, program or project. Such costs are generally administrative in nature, are incurred for a common or joint purpose, or are not readily assignable to a project or program.

(11) “Project agreement” means a contract between the sponsor and department setting forth the obligations with regard to a portion or all of a specific project.

(12) “Project period” means the period of time specified in the project agreement during which all work shall be completed.

(12e) “Raceway facility” means an area, including a marked warmup and testing area, specifically designated by a sponsor for the purpose of conducting a sanctioned race or derby for which any required local permits have been obtained.

(12r) “Sanctioned race or derby” means a competitive all-terrain vehicle event sponsored by a local unit of government, chamber of commerce, an all-terrain vehicle club, promoter, or similar organization.

(13) “Secretary” means the secretary of the department of natural resources.

(14) “Sponsor” means local unit of government, state agency, or federal agency receiving assistance.

History: Cr. Register, July, 1986, No. 367, eff. 8-1-86; cr. (12e) and (12r), Register, November, 1989, No. 407, eff. 12-1-89.

NR 64.03 Registration. (1) APPLICATION. Upon receipt of the required fees under s.

23.33 (2), Stats., payment of any sales and use taxes due under s. 77.61 (1), Stats., and an application on a form provided by the department, the department shall issue to the applicant a registration certificate stating the registration number, the name and address of the owner, and other information the department deems necessary.

(2) ISSUANCE. (a) The department shall issue 2 registration decals with the registration certificate for each all-terrain vehicle owned by an individual owner. The decals shall be no larger than 4 inches in height and 4 inches in width or 4 inches in diameter and shall contain reference to the state, the department, and a machine identification number. Registration decals for all-terrain vehicles registered for public use shall also contain a reference to the expiration date of the registration.

(b) The department may designate authorized distributors of registration decals.

(3) EXPIRATION. (a) All-terrain vehicle public use registration shall be valid for 2 years beginning July 1 or the date of issuance or renewal and ending June 30 of the second year following the date of issuance or renewal.

(b) All-terrain vehicle private use registration shall be valid from the date of issuance until ownership of the all-terrain vehicle is transferred.

(4) DUPLICATE. If a registration certificate or registration decal is lost or destroyed, the

owner may apply for a duplicate on a form provided by the department. Upon receipt of a proper application and the required fee, the department or its authorized agents shall issue a duplicate registration certificate or registration decal to the owner.

(5) TRANSFER. Upon transfer of ownership of an all-terrain vehicle for which a registration certificate has been issued, the seller shall deliver the assigned certificate to the purchaser at the time of sale. The purchaser shall complete an application for transfer on a form provided by the department and mail or deliver it to the department within 10 days after the date of purchase.

(6) RENEWAL. Prior to the end of the registration period, the department shall send the owner of each all-terrain vehicle registered for public use a 2 part renewal application. The owner shall

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complete and sign both portions of the renewal application and return one portion and the proper fee to the department. Upon receipt of the registration certificate and the registration decals, the owner shall destroy the remaining portion of the application. Failure to receive a renewal application does not relieve the owner of the obligation to renew the all-terrain vehicle registration.

(7) If an all-terrain vehicle is junked, the owner shall return the registration certificate to the department marked "junked."

(8) All-terrain vehicles owned and operated by the state or by any county or municipality of this state shall display registration decals.

(9) No municipality may register or license all-terrain vehicles. Municipalities may charge a seasonal or daily all-terrain vehicle area use fee but may not charge a seasonal or daily trail use fee if the municipality receives trail maintenance aids under s. NR

(10) (a) An all-terrain vehicle that is not registered pursuant to s. 23.33 (2) (a), Stats., or is not exempt from registration under

s. 23.33 (2) (b) 1., 3. or 4., Stats., is exempt from displaying out of state registration if the all-terrain vehicle displays a current Wisconsin all-terrain vehicle nonresident trailpass and has not been in Wisconsin for more than 15 consecutive days.

(b) The nonresident trail pass shall be permanently affixed to the forward half of the all-terrain vehicle in a manner that is visible at all times.

64.14.

Note: This exemption will allow nonresidents to operate their ATVs in the state for up to 15 days without obtaining Wisconsin registration even though the ATV is not registered in the nonresident's home state.

History: Cr. Register, July, 1986, No. 367, eff. 8-1-86; am. (4), Register, December, 1999, No. 528, eff. 1-1-00; CR 05-053: cr. (10) Register February 2006 No. 602, eff. 3-1-06.

NR 64.04 Registration decals. (1) Registration decals shall be permanently affixed to the all-terrain vehicle by the decal's own adhesive on both sides of the vehicle in a position forward of the operator that is clearly visible. The owner of an all-terrain vehicle shall maintain the registration decals in a legible condition at all times.

- (2) Except as provided in sub. (3), the decals shall be permanently attached and displayed on the all-terrain vehicle before any person operates the vehicle.
- (3) A person may operate an all-terrain vehicle without having the registration decals displayed as provided in sub. (2) if the owner has a receipt validated by the department or its authorized agents. The operator shall have the validated receipt in his or her possession at all times when operating the all-terrain vehicle and shall exhibit it upon demand for inspection by any person authorized to enforce this section under s. 23.33 (12), Stats. Upon receipt, the registration decals shall be displayed in the manner indicated in sub. (2).

History: Cr. Register, July, 1986, No. 367, eff. 8-1-86; am. (2), cr. (3), Register, May, 1991, No. 425, eff. 6-1-91; am. (3), Register, December, 1999, No. 528, eff. 1-1-00.

NR 64.05 Change of address. If the owner of a registered all-terrain vehicle changes his or her address, the owner shall notify the department in writing of the new address within 15 days after the address change.

History: Cr. Register, July, 1986, No. 367, eff. 8-1-86.

NR 64.06 Completion of application for registration by all-terrain vehicle dealers.

- (1) When an all-terrain vehicle dealer sells an all-terrain vehicle, the dealer shall require the buyer to complete an application for a registration certificate and collect the required fee at the time of sale. The dealer shall mail the application and fee to the department no later than 7 days after the date of sale. The department shall provide combination application and receipt forms and the dealer shall furnish the buyer with a complete receipt showing that application for registration has been made. The operator of the all-terrain vehicle shall have this completed receipt in his or her possession while operating the all-terrain vehicle until the registration decals are received. No dealer may charge an additional fee to the buyer for performing the service required under this section.
- (2) When an all-terrain vehicle dealer sells an all-terrain vehicle to a person from another state who wishes to register that all-terrain vehicle in his or her home state, the dealer shall complete an application that the all-terrain vehicle is to be registered in
 - another state, furnish the buyer with one copy and retain one copy for the dealer's records and shall mail one copy to the department no later than 7 days after the date of sale.
- (3) Every all-terrain vehicle dealer shall maintain, for one year, a record in the form prescribed by the department for each new all-terrain vehicle sold. These records shall be open for inspection by the department.
- (4) Commencing 6 months after August 1, 1986, no dealer may accept an all-terrain vehicle in trade unless it is registered with the department or another state.

History: Cr. Register, July, 1986, No. 367, eff. 8-1-86.

NR 64.07 Operating rules. (1) In addition to the provisions of s. 23.33 (3), Stats., no person may operate an all-terrain vehicle:

- (a) On or across a cemetery, burial ground, campground, park, school property or church property without consent of the owner.
- (b) On the lands of an operating airport or landing facility except for personnel in performance of their duties or with consent.
- (c) At a rate of speed that is unreasonable or improper under the circumstances.
- (2) The operator of an all-terrain vehicle shall slow his or her vehicle to a speed not to exceed 10 miles per hour and yield the right-of-way when traveling within 100 feet of a person

who is not on an all-terrain vehicle, a snowmobile or a motorcycle except as provided under ch. 346, Stats., where applicable.

(3) ALL-TERRAIN VEHICLE NOISE EMISSIONS AND TESTING. No person may manufacture, sell, rent or operate an all-terrain vehicle that is constructed or altered in a manner that noise emitted from the all-terrain vehicle exceeds 96 decibels on the A scale when measured in the manner prescribed in the reaffirmed 1998-07, Society of Automotive Engineers Standard J1287, entitled Measurement of Exhaust Sound Levels of Stationary Motorcycles.

(4) Copies and amendments of the Society of Automotive Engineers Technical Report 1998-07, Society of Automotive Engineers Standard J1287, entitled Measurement of Exhaust Sound Levels of Stationary Motorcycles, is available for inspection in the following offices:

(a) The Department of Natural Resources, 101 S. Webster St., Madison, Wisconsin 53707.

(b) The Office of the Secretary of State, 30 W. Mifflin St., Madison, Wisconsin 53707.

(c) The Revisor of Statutes Bureau, 131 W. Wilson St., Madison, Wisconsin.

(d) The Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Warrendale, Pennsylvania 15096. History: Cr. Register, July, 1986, No. 367, eff. 8-1-86; CR 05-054: cr. (3) and

(4) Register February 2006 No. 602, eff. 3-1-06.

NR 64.075 Sanctioned races and derbies. The sponsor conducting a sanctioned race or derby on a raceway facility shall:

(1) Make provisions to keep spectators at least 100 feet away from race competitors on the frozen surfaces of public waters.

(2) Give notice of the race or derby to the local conservation

warden or law enforcement agency having jurisdiction. History: Cr. Register, November, 1989, No. 407, eff. 12-1-89. **NR 64.08 Owner permitting operation.** An owner or other person having charge or control of an all-terrain vehicle Register, February, 2006, No. 602

may not authorize or permit any person to operate the all-terrain vehicle if the person is:

(1) Prohibited from operating an all-terrain vehicle under s.

23.33 (5), Stats.,

(2) Incapable of operating an all-terrain vehicle because of a physical or mental disability, or

(3) Under the influence of fermented malt beverages, intoxicating liquor or controlled substances. History: Cr. Register, July, 1986, No. 367, eff. 8-1-86. NR 64.085 Refusal to allow testing. No operator or owner of any all-terrain vehicle may deny inspection or may refuse to operate his or her all-terrain in a manner prescribed by the law enforcement officer who reasonably suspects a violation of all-terrain equipment requirements found in s. 23.33, Stats. History: Cr. Register, December, 1999, No. 528, eff. 1-1-00. **NR 64.09 Safety certification program.** The department shall establish a program of instruction on all-terrain vehicle laws, regulations, safety and related subjects. The program shall include the following:

(1) The program may be conducted by instructors certified by the department or the department may establish a correspondence-type course.

(2) The department shall procure liability insurance coverage for certified instructors for work within the scope of their duties under this section.

History: Cr. Register, July, 1986, No. 367, eff. 8-1-86; CR 00-110: r. (3) and (4) Register April 2002 No. 556, eff. 5-1-02. **NR 64.10 Accident report confidential.** No report required under s. 23.33 (7), Stats., to be filed with the department may be used as evidence in any trial, civil or criminal, arising out of an accident, except that the department shall furnish upon demand of any person who has or claims to have made such a report, or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the department. This information will be provided solely to prove a compliance or failure to comply with the requirement that such a report be made. History: Cr. Register, July, 1986, No. 367, eff. 8-1-86. **NR 64.11 Coroners and medical examiners to report: require blood specimen.** (1) Every coroner or medical examiner shall, on or before the 10th day of each month, report in writing to the department the death of any person within his or her jurisdiction during the preceding calendar month as the result of an accident involving an all-terrain vehicle and the circumstances of such accident.

(2) In cases of death involving an all-terrain vehicle in which the decedent died within 6 hours of the time of the accident, a blood specimen of at least 10 cc. shall be withdrawn

from the body of the decedent within 12 hours after death by the coroner or medical examiner or by a physician so designated by the coroner or medical examiner or by a qualified person at the direction of a physician. All morticians shall obtain a release from the coroner or medical examiner prior to proceeding with embalming any body coming under the scope of this section. The blood drawn shall be forwarded to a laboratory approved by the department of health and family services for analysis of the alcoholic and controlled substance content of the blood specimen. The coroner or medical examiner causing the blood to be withdrawn shall be notified of the results of each analysis made and shall forward the results of each analysis to the department of health and family services. The department of health and family services shall keep a record of all such examinations to be used for statistical purposes only. The cumulative results of the examinations, without identifying the individuals involved, shall be disseminated and made public by the department of health and family services. The department shall reimburse coroners and medical examiners for the costs incurred in submitting reports and taking blood specimens and laboratories for the costs incurred in analyzing blood specimens under this section. History: Cr. Register, July, 1986, No. 367, eff. 8-1-86; correction in (2) made under s.

13.93 (2m) (b) 6., Stats., Register, December, 1999, No. 528.

NR 64.12 Routes. (1) An all-terrain vehicle route may be established by a town, city, village or county by adopting an ordinance designating a highway as an all-terrain vehicle route and signing the highway in accord with s. 23.33 (8), Stats., and rules of the department.

(2) A town, city, village or county may adopt an ordinance designating a state trunk highway or connecting highway as an all-terrain vehicle route if the department of transportation approves the designation.

(3) A town, city, village or county may adopt an ordinance designating a sidewalk of a state trunk highway bridge as an all-terrain vehicle route with the approval of the department of

transportation.

(4) A town, city, village or county may designate a route as an all-terrain vehicle route during certain periods of the year and prohibit the operation of all-terrain vehicles on that route during other periods of the year.

(5) All-terrain vehicle operation is not permitted on state trunk highways or connecting highways except as provided for under s. 23.33 (4), Stats., or sub. (2) or (3).

(6) No person may operate an all-terrain vehicle on a restricted all-terrain vehicle route during any period of the year when the operation of all-terrain vehicles is prohibited.

(7) Signs for all-terrain vehicle routes on highways and sidewalks designated for use by the governmental unit having jurisdiction as authorized under s. 23.33 (8), Stats., shall meet the following requirements:

(a) The all-terrain vehicle route sign shall have a reflectorized white symbol, border and message on a reflectorized green background. The standard and minimum size

of this sign shall be 24" x 18". The sign, including the stylized all-terrain vehicle symbol and the word message "ATV ROUTE", shall conform to the standard design on file in the department of transportation.

(b) The directional arrow marker (M7 series) shall have a reflectorized white arrow and border on a reflectorized green background. The standard and minimum size of

a directional arrow shall be 12" x 9".

(c) An all-terrain vehicle route sign with directional arrow, where appropriate, shall be placed at the beginning of an all-terrain vehicle route and at such locations and intervals as necessary to enable all-terrain vehicle operators to follow the route.

ALL TERRAIN VEHICLE ROUTE SIGN AND ARROWS (M-7 SERIES) GREEN REFLECTORIZED BACKGROUND WITH WHITE REFLECTORIZED LETTERS, SYMBOLS, AND BORDER

(d) All-terrain vehicle route signing shall be done by or under the direction of and is the responsibility of the unit of government which designates the all-terrain vehicle route.

History: Cr. Register, July, 1986, No. 367, eff. 8-1-86.

NR 64.13 General aids provisions. The following provisions are applicable to the all-terrain vehicle aids program and law enforcement aids to counties.

(1) Acquisition of real property shall be in accord with state guidelines for preparation of appraisals and relocation assistance.

(2) Before development of certain public facilities begins, formal approval may be required from state agencies concerning health, safety or sanitation requirements.

(3) Assistance may be given to develop leased real property provided control and tenure of such property is commensurate with the proposed development.

(4) Donated labor, materials, land or other activities which do not result in an actual expenditure by the sponsor and indirect costs are not allowable in the claim.

(5) Direct costs which are supported by time sheets, vouchers or similar documentation reflecting specific assignment to a project are eligible project costs.

(6) Actual costs of force account labor and equipment is allowable. Equipment rental rates may not exceed the county machinery rates established annually by the department of transportation.

(7) Where a machinery rate schedule is established by the department for both equipment and operator, the total of force account labor and equipment may not exceed the rate specified in

the schedule.

- (8) Actual fringe benefits paid as part of the direct labor costs claimed are eligible project costs.
- (9) Claims for payment shall be submitted within 6 months of the project termination date.
- (10) (a) Except as provided in pars. (b) and (c), project expenditures shall be within the project period, project scope and project amount as shown on the project agreement.
- (b) Expenditures for land acquisition made prior to entering into a project agreement may be reimbursed upon prior written approval of the department. To receive approval, the sponsor shall submit a written statement demonstrating a need to acquire land prior to the approval of a project agreement.
- (c) Expenditures for necessary engineering or planning costs made prior to entering a project agreement may be reimbursed by the department.
- (11) A request for a project extension shall be submitted prior to the project termination date.
- (12) All payments are contingent upon final audit. Financial records including all documentation to support entries in the accounting records to substantiate charges for each project shall be kept available for review by state officials for a period of 3 years after final payment.
- (13) Reasonable entrance or user fees may be charged to offset operation and maintenance costs of all-terrain vehicle use areas. Fees are subject to department review.
- (14) (a) The department may approve a variance from nonstatutory requirements of this chapter upon the request of a sponsor if:
 - 1 The department determines that the variance is essential to effect necessary grant actions or program objectives; and
 - 2 Special circumstances indicate that the variance is in the best interest of the program.
- (b) In determining whether to grant a variance under par. (a), the department shall take into account such factors as good cause and circumstances beyond the control of the sponsor. History: Cr. Register, July, 1986, No. 367, eff. 8-1-86; renum. (10) to be (10) (a) and am., cr. (10) (b) and (c) and (14), Register, May, 1991, No. 425, eff. 6-1-91; am. (8), Register, December, 1999, No. 528, eff. 1-1-00. **NR 64.14 All-terrain vehicle trail aid.** (1) DISTRIBUTION. The department shall distribute all-terrain vehicle project aids on the basis of a priority system according to the following priority ranked purposes;
 - (a) Maintenance of existing approved all-terrain vehicle areas and trails, including routes;
 - (b) Purchase of liability insurance;
 - (c) Acquisition of land by easement, lease or other agreements for the use of land;
 - (d) Major rehabilitation of bridge structures or trail segments;
 - (e) Acquisition of land in fee and development of new all-terrain vehicle areas and trails, including routes.
- (2) TRAIL MAINTENANCE. The department may provide state aid for trail maintenance costs equal to the approved eligible project costs which may not exceed:
 - (a) \$100 per mile for winter maintenance. Trails eligible for winter maintenance shall be maintained and groomed for a total of not less than 2 months nor more than 6 months per year including the months of January and February.
 - (b) \$450 per mile for summer maintenance. Trails eligible for summer maintenance shall be maintained for a total of not less than 3 months nor more than 8 months per year

including the months of June, July and August.

(2m) MAINTENANCE OF ROUTES. The department may provide state aid up to 100% of the cost of the purchase of all-terrain vehicle route signs and arrows, trail crossing warning signs, and signs briefly explaining the intoxicated all-terrain vehicle operator law. All-terrain vehicle routes, whether a part of an approved all-terrain vehicle trail or not, are not eligible for per mile maintenance payments under sub. (2).

(3) AREA MAINTENANCE. The department may provide state aid for maintenance of an all-terrain vehicle area equal to 50% of the approved eligible project costs to maintain the all-terrain vehicle area. Sponsors receiving maintenance aid for all-terrain vehicle areas from the motorcycle recreation program are not eligible for maintenance aid under the all-terrain vehicle aids program.

(4) PRORATION. Should funds not be sufficient to satisfy the total request for a priority ranked purpose, i.e., either maintenance, insurance, or land acquisition, the funds shall be distributed to sponsors on a proportional basis for that purpose.

(5) ACQUISITION. (a) Eligibility. Any town, village, city, county, or state or federal agency may receive aids to purchase lands or secure easements, leases, permits or other appropriate agreements, written or oral, permitting use of private property for public all-terrain vehicle trails, facilities and areas.

(b) Fee simple. The cost of purchasing land in fee simple for all-terrain vehicles shall be based on the appraised value of the land.

(c) Easement or lease. For trail purposes, the width of the all-terrain vehicle right-of-way may not exceed one rod. The easement or lease shall contain, at a minimum, the right to sign, right of limited construction, right to maintain, right of use by all-terrain vehicles and necessary trail grooming equipment. Cost sharing is limited to the minimum land area necessary for the all-terrain vehicle trail. 1 All local units of government, state and federal agencies shall certify to the department that easements, leases, permits, or other appropriate agreements secured grant public access and use of the land for all-terrain vehicles. The local units, state or federal agencies shall maintain a current file of all easements, leases or permits which include the name of the property owner, description of the property, duration of the lease, easement or permit, and amount to be paid for the lease, easement or permit. 2 The department may provide aid to pay \$.10 cents per rod for easements or leases for an all-terrain vehicle trail. 3 The cost of leasing land for all-terrain vehicles other than trail right-of-ways shall be based on the appraised value of the easement.

(6) DEVELOPMENT. (a) Development shall begin within one year of the date land is acquired.

(b) All-terrain vehicle trail shall meet the following design requirements and specifications:

1 The minimum cleared width for one way trails is 6 feet and the maximum is 8 feet.

2 The minimum cleared width for two way trails is 10 feet and the maximum is 12 feet.

3. A height of 8 feet above the trail shall be cleared. 1 All-terrain vehicle trails may not be routed over bodies of water. If stream crossings make bridging necessary, bridges shall be at least 8 feet wide clear of obstruction. If the bridge is located on an abandoned railroad grade, the

bridge width

shall be at least 10 feet clear of obstruction. The department shall determine the need for bridging or if fords or ice crossings may be used.

2 Trails shall not be routed through or by areas of anticipated conflict that may include, but are not limited to, wilderness areas, game preserves, winter browse areas, experimental stations, nurseries, plantations and residences.

(c) Signs for use on all-terrain vehicle trails shall have the same specifications as those under s. NR 50.09 (4) (c) 3. b. with the following additions:

TRAIL MARKER

1. Purpose: To delineate that the trail is available for all-terrain vehicle use. Size:

6" x 6" Color: Reflective brown background and reflective white border and symbol 2 The all-terrain vehicle symbol for permissive and restrictive signs shall be the same as under subd. 1.

INTOXICATED OPERATION SIGN

3. Purpose: To inform all-terrain vehicle operators that operating while intoxicated is illegal. Size: 24 inch by 24 inch. Color: Reflective black letters and border on reflectorized white background.

(d) The department shall distribute aids for all-terrain vehicle area and trail development projects, including routes, considering the following criteria:

1 All-terrain vehicle routes, areas and trails in counties where routes, areas, and trails are in short supply in comparison to demand.

2 All-terrain vehicle routes and trails that provide connecting loops or origin-destination segments over dead end segments.

3 All-terrain vehicle routes or trails that provide connections from one jurisdiction to another.

4 All-terrain vehicle routes and trails that have potential for year round use.

5 All-terrain vehicle routes, areas and trails to be developed on publicly owned land or land under easements or other agreements for 3 years or greater.

(7) MAINTENANCE. Local units of government and state or federal agencies shall be required to maintain all-terrain vehicle areas and trails developed on land receiving aids for acquisition or development.

(8) MAJOR REHABILITATION. (a) Any town, village, city, county, or state or federal agency may receive aids for up to 100% of eligible costs for the major rehabilitation of bridge structures or trail segments requiring significant improvements or repair.

(b) For bridge rehabilitation projects that involve total deck replacement, the deck shall be reconstructed to be at least 8 feet wide and free from obstruction.

(c) When a bridge rehabilitation project is located on an abandoned railroad grade and involves total deck replacement, the deck shall be reconstructed to be at least 10 feet wide and

free from obstruction.

(d) Sponsors of projects for major rehabilitation of a trail segment shall explain to the satisfaction of the department why the rehabilitation activities cannot be accomplished through the use of trail maintenance funds under sub. (2).

(9) ALLOWABLE COSTS, BILLINGS AND AUDITS. (a) 1. Reimbursement of costs of development of all-terrain vehicle areas and trails shall be up to 100% of approved eligible project costs. Sponsors may request an advance payment of up to 75% of the signed contract amount for development.

2. Development project costs may not be incurred until a project agreement has been approved by the department and the sponsor.

(am) 1. Reimbursement of costs of major rehabilitation of all-terrain vehicle bridges or trail segments shall be for not more than 100% of approved eligible project costs.

Sponsors may request an advance payment of up to 75% of the signed contract amount for major rehabilitation.

2. Major rehabilitation project costs may not be incurred until a project agreement has been approved by the department and the sponsor.

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(b) Payment of liability insurance costs for liability insurance purchased by a local unit of government for approved trails shall be 100% of eligible costs.

(c) Sponsors may request advance payments of up to 50% of the project amount for maintenance. To be eligible for maintenance advance payments a sponsor shall have settled all maintenance claims from previous years.

(d) Claims will be on a reimbursement basis except for development and maintenance project advances.

(e) Sponsors shall be required to keep a separate account for all-terrain vehicle project costs.

(f) Winter trail grooming rates shall be established annually by the department.

(g) Equipment rates for other maintenance activities and trail development performed by force account or all-terrain vehicle clubs or organizations may not exceed the county machinery agreement established annually by the department of transportation.

(h) Labor rates for other maintenance activities and trail development performed by all-terrain vehicle clubs or organizations shall be established annually by the department.

(i) Labor rates for other maintenance activities and trail development by municipal employees or others included in a labor contract shall be as established by the contract.

(j) Reductions in grant payments for failure to comply with the requirements of maintenance or development project agreements may be made on a case-by-case basis. A

partial or total reduction in funds shall be preceded by specific written notification of conditions which were not met and include a timetable for improvement in performance. Continued failure to comply with the grant agreement within the prescribed timetable may result in a reduction of grant funds. The reduction shall be calculated based on a percentage of poor performance in relation to the total trail system included in the grant agreement.

(k) The cost of producing trail maps is an eligible expense under a maintenance or development project.

(10) USEFUL LIFE. (a) A table of maximum useful life for project elements is established for the purpose of project record management. The listing of the maximum useful life figures for all-terrain vehicle maintenance, development, insurance, and acquisition projects is as follows:

Maximum Use-Activity Description ful Life in Years

Maintenance Includes brushing, sign 0 ing, grooming, minor structural repairs

Acquisition Annual easements and 0 leases

Insurance Purchase of liability cov 0 erage by governmental sponsor

Development General trail construction 0 Bridge structures 10 Culverts 3 Gates 3

Multi-purpose buildings 20 Trail shelters 5

(11) APPLICATION FOR AID. A local unit of government or a federal agency which seeks to receive aids for all-terrain vehicle projects for the following year shall contact the appropriate department regional office for prescribed application forms and instructions and submit a completed application by April 15.

History: Cr. Register, July, 1986, No. 367, eff. 8-1-86; am. (2), (6) (b) 1., 2. and 4., renum. (9) to be (10), cr. (2m), (6) (c) 3., (8) (j) and (k) and (9), Register, November, 1989, No. 407, eff. 12-1-89; am. (1) (c) and (5) (a), r. and recr. (1) (d) and (2), renum.

(8) to (10) to be (9) to (11), cr. (1) (e) and (8), Register, May, 1991, No. 425, eff. 6-1-91; am. (2) (a), (b) and (11), r. (2) (c), r. and recr. (9) (a) 1., cr. (9) (am), Register, December, 1999, No. 528, eff. 1-1-00; CR 03-044: am. (2) (a) and (b) Register December 2003 No. 576, eff. 1-1-2004.

NR 64.15 Law enforcement aids to counties.

(1) Counties may receive up to 100% reimbursement of monies spent on the enforcement of s. 23.33, Stats. Officers involved in the enforcement of s. 23.33, Stats., must have authority pursuant to s. 23.33 (12), Stats.

(2) Claim forms shall be filed with the department's appropriate law enforcement safety specialist on or before June 1 of the year following the 12-month period for which the claim is made. Claims shall be made for the May 1 to April 30 period immediately proceeding the filing date.

(3) The following forms shall be used in the all-terrain vehicle enforcement aid program:

(a) Form 8700-59 — Notice of intent to patrol. In order to be eligible for the state aids, an all-terrain vehicle patrol shall function as an enforcement unit and file an intent to patrol form with the department of natural resources listing the authority under which the all-terrain vehicle patrol will operate. On or before June 1 of each year a county shall file an intent to

patrol form with the department, sent to the attention of the Bureau of Law Enforcement, P.O. Box 7921, Madison, Wisconsin 53707.

(b) Form 8700-89 — Daily log. This form is to be used in compiling a summary of the all-terrain vehicle patrol's daily activities and expenses. It is not to be filed with the department, but is to be used for assembling information necessary to complete form 8700-90. This form shall be kept on file by the all-terrain vehicle patrol to augment its records and shall be available in chronological order for periodic checks by representatives of the department during normal business hours and at the time of the annual audit.

(c) Form 8700-90 — Monthly report. This form is to be completed and filed with the department no later than the tenth day following the month covered. The information shown on this form will be a computation of the information taken from the daily logs (form 8700-89).

(d) On or about April 1 of each year, one set of the following forms shall be sent by the department to each county which has an intent to patrol form on file. The appropriate official shall fill out the forms, retain one set for the county's records, and file 2 sets with the department's appropriate law enforcement safety specialist on or before June 1, covering the patrol expense for the preceding 12-month period of May 1 to April

30. Claims which are received by the department after June 1 may not be processed for payment.

1 'Form 8700-60 — Application for state aid.' This form shall be completed by the appropriate county official, who shall list the total net cost of the all-terrain vehicle patrol claimed by the county. 2 'Form 8700-61 — Salary schedule.' This form shall be completed by the appropriate county official who shall list the names and salaries of persons engaged in the enforcement of s. 23.33, Stats. Salary rate shall be restricted to no more than the regular straight time rate which the certified law enforcement officer normally receives. Fringe benefit rates are actual costs up to a maximum of 29% of the reimbursable straight time salary rate.

3 'Form 8700-62 — Travel, materials and supplies schedule.' This form shall be completed by the appropriate county official, who shall list all reimbursable expenditures other than salaries and depreciable items. 4 'Form 8700-63 — Depreciation schedule — straight line method.' This form shall be completed by the appropriate county official, who shall list all capital outlay equipment and the resulting depreciation. Depreciation shall be calculated at the rate of 12 1/2% annually of all equipment (over \$1000.00) except all-terrain vehicles which shall be figured at the rate of 20% annually.

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5. 'Form 8700-64 — Record of court cases for violations of s. 23.33, Stats.' This form is to be completed by the appropriate county official, who shall list all violations and court actions for the calendar year.

(e) Each claim shall be audited by the department as soon as possible after the claim has been received. Payment of claims shall be made no later than October 1. Reimbursement of the actual cost and maintenance of all-terrain vehicle enforcement patrols is authorized. Travel expenses and salaries for training purposes are authorized only for attendance of all-terrain vehicle enforcement training sessions conducted by the department. The person in charge of the

patrol or designee is required to attend all designated department all-terrain vehicle enforcement patrol training sessions as a condition of receiving aids under this section and s. 23.33, Stats.

(f) Should funds not be sufficient to satisfy the total request of eligible audited costs, funds shall be distributed on a proportional basis.

(g) In order to help achieve uniformity, accountability and cost controls, the following standards are established:

1. For the purpose of patrol reimbursement, each patrol is eligible for reimbursement for only those hours up to 3 times the state average of arrests per hour for participating sheriff patrols for the past 3 years computed from the statewide all-terrain vehicle sheriff patrol records. Two documented written warnings will be given the same weight as an arrest. No more than 50% of the credits to reach the standard may be for written warnings. 1 For the purpose of reimbursement of leased capital equipment, the amount may not be more than 50% above the average depreciation cost of the prior year for all all-terrain vehicle patrols claiming depreciation. 2 When more than 50% of the eligible patrols are submitting claims, no one patrol may receive more than 20% of funds available. 3 A minimum of 20 patrol hours is required in order to be eligible for reimbursement. 4 For the purpose of administering reimbursement, search and rescue enforcement costs are eligible only for officers actively looking for all-terrain vehicle operators who are, or who are reasonably believed to be, alive, in distress or are in a life threatening situation.

For the purpose of reimbursement of capital equipment under s. 23.33 (9), Stats., for law enforcement aid to counties, the amount is limited to depreciation for all-terrain vehicles and all-terrain vehicle trailers.

Note: Forms may be obtained from department district offices and the department's Bureau of Law Enforcement, Box 7921, Madison, WI 53707. History: Cr. Register, July, 1986, No. 367, eff. 8-1-86; am. (2), (3) (d) (intro.) and 2., cr. (3) (g), Register, December, 1999, No. 528, eff. 1-1-00; CR 02-098: am (2), (3) (a), (d) (intro.) and 4., (e) and (g) 3., Register May 2003 No. 569, eff. June 1, 2003.