

Village of Colfax
Public Safety Committee Meeting Agenda
Tuesday, June 30th, 2019
7:00 p.m.
Village Hall
613 Main Street, Colfax, WI

1. Call to Order
2. Roll Call
3. ATV/UTV Regulations
 - a. Documentation Included:
 - i. Current laws
 1. DOT regulations
 2. State Statute
 3. DNR Regulations
 - ii. Other Municipal Ordinances
 - iii. Ordinance Template
 - b. List of items that Potential Club has researched
 - c. Dunn County Municipalities – open trails dates and times
 - d. Trail Maps from several counties
4. Determine possible road exclusions – Possible recommendation to the Board
5. Ordinance selection – Possible recommendation to the Board
6. Any other topics for consideration related to ATV/UTV trails in the Village of Colfax
7. Adjournment

Any person who has a qualifying disability as defined by the American With Disabilities Act that requires the meeting or materials at the meeting to be in an accessible location or format must contact: Lynn M. Niggemann, Administrator-Clerk-Treasurer's Office, 613 Main Street, Colfax, (715) 962-3311 by 2:00 p.m. the day prior to the meeting so that any necessary arrangements can be made to accommodate each request.

It is possible that members of and possibly a quorum of members of the governmental bodies of the municipality may be in attendance at the above-stated meeting to gather information - no action will be taken by any governmental body at the above-stated meeting other than the governmental body specifically referred to above in this notice.



State of Wisconsin
Department of Transportation

All-Terrain Vehicles and Utility Terrain Vehicles

State ROW permits

Highway maintenance

State ROW permits

ATVs/UTVs

Utility permits

Utility accommodation
policy

Utility coordination

STH connection permits

Work on highway ROW
permits

Utility permits on
WisDOT railroad
property

STH detour permits

Environmental
coordination

[Route definition](#) | [Routes on state highways](#) | [Trails](#) | [Route and trail crossings](#) | [Registration](#) | [Ordinances](#)
[Sign permitting](#) | [Special signing](#) | [Signing FAQs](#) | [Safety](#)

Introduction



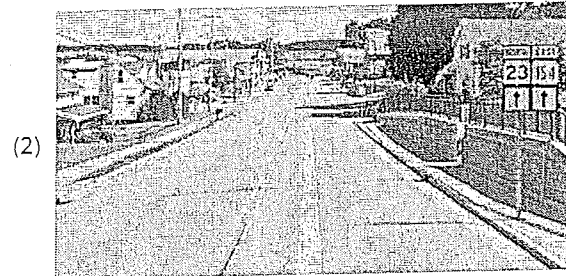
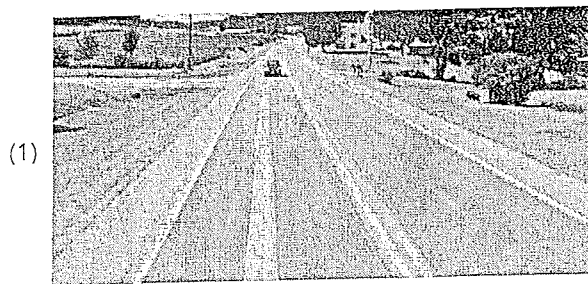
Photo courtesy of the Wisconsin ATV Association

Wis. Stat. s. 23.33 allows all-terrain vehicles (ATVs) and utility terrain vehicles (UTVs) to operate on a state highway in certain cases, which are detailed in sections A - C below. An ATV ordinance must be enacted by a municipality and/or county before operation may occur. For the remainder of this webpage, ATVs and UTVs will be labeled collectively as

ATVs. Since ATVs are not allowed to operate on interstate highways, none of the information on this webpage applies to interstates.

ATV routes — definition

ATV routes by statute are on the roadway portion of a highway and not the shoulder or other parts of the right-of-way (ROW). A roadway is defined in Wis. Stat. s. 340.01(54) as the, "portion of a highway between the regularly established curb lines or that portion which is improved, designed or ordinarily used for vehicular travel, excluding the berm or shoulder." On a 2-lane rural highway, the "roadway" is the area between the fog lines (white lines) as shown in picture (1). In an urban area, it is the area between the curbs in picture (2).



► It is important to understand that a roadway is not an ATV route until there is a signed ordinance and the roadway is signed/posted according to law.

ATV routes on state highways

The following information is divided into three sections based on current Wisconsin statutes.

A - ATV route designation on state highways

A town, village, city or county may enact an ordinance under Wis. Stat. s. 23.33(8)(b)1. to designate a highway not under its jurisdiction as an ATV route. In this case, ATV operation on a state highway or connecting highway is allowed only if WisDOT approves the route. WisDOT's approval consists of an ATV route order that is issued for the designated segment of state or connecting highway. WisDOT will review an ATV ordinance to verify that the termini of the designated route is what WisDOT and the municipality or county agreed upon prior to issuing the route order.

B - ATV operation on state highways with speed limits of 35 mph or less within municipal boundaries

A town, village or city may enact an ordinance under Wis. Stat. s. 23.33(11)(am)4. to authorize the operation of ATVs on a highway that has a speed limit of 35 mph or less and is located within the territorial boundaries of the town, village or city regardless of who has jurisdiction over the highway. In this case, ATV operation on a state highway is not subject to WisDOT approval. WisDOT will review an ATV ordinance to verify that the statute language "authorize the operation" has been correctly used instead of "designated."

Much of the state highway system operates with speed limits above 35 mph, and these higher speed highways remain off-limits to ATV use without approval from WisDOT. Speed limits on any highway are set after careful consideration to enhance safety and facilitate traffic flow for the traveling public and are typically not based on a specific type of vehicle. Anyone interested in how speed limits are established is encouraged to view WisDOT's [pamphlet](#) on the topic.

C - ATV operation over state highway bridges 1,000' in length or less

Under Wis. Stat. ss. 23.33(4)(d)3.b. and 11(am)3., ATVs may be authorized to operate on the roadway or shoulder of a highway to cross a bridge 1,000 feet or less in length that is located within the territorial boundaries of a county, city, village or town, regardless of who has jurisdiction over the highway, and only if a county and a city, village or town both enact ordinances that apply to the bridge. In this case, ATV operation on a state highway bridge is not subject to WisDOT approval.


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Bridge

Under the law, ATVs must exit the highway as quickly and safely as practicable after crossing the bridge. WisDOT defines this as the first available road designated as an ATV route on either side of the bridge that is not a dead end, or an ATV trail on WisDOT right-of-way that is established after crossing the bridge in which ATVs may use. A bridge is any structure (bridge, box culvert, etc.) over a navigable waterway, highway or railroad.


WisDOT reviews both municipal and county ATV ordinances developed under the two bridge statutes to verify that:

- The ATV route has the appropriate termini on each side of the bridge (the first available road or ATV trail as described above) and that both ordinances mention the same roads or trails.
- All five items listed in s. 23.33(11)(am)3.(a)-(e) are also included, which is required by the statute.
- The statute language "authorize the operation" has been correctly used instead of "designated."

The term "jurisdiction" in sections A - C above refers to maintenance jurisdiction instead of the right-of-way (fee title) owner or highway easement owner.

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ATV trails on state highway ROW

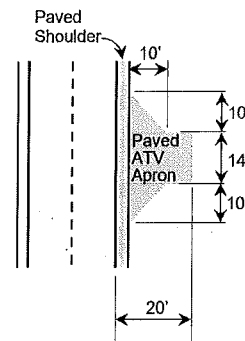
WisDOT may authorize an ATV trail within the ROW of a state highway if sufficient space is available, and the proposed trail does not affect the safety, maintenance and operation of the highway. ATV trails on state highways require a  [DT1504](#) permit from WisDOT, and a municipality or county must be the applicant. For more information on the permitting process, go to the [STH connection permits](#) webpage.

ATV route or trail crossings of state highways

Under Wis. Stat. [s. 23.33\(4\)\(d\)1](#), ATVs are allowed to cross roadways when traveling on an existing roadway. Also, most existing driveways have been issued a permit. Therefore, WisDOT permits are not required in the following situations because vehicular crossings already exist:

- At town, village, city or county road crossings. For example, ATV routes and trails crossing state highways.
- From a driveway on one side to a local road on the other side (or vice-versa).

ATV Paved Apron Detail



- From a driveway on one side to a driveway on the other side.

WisDOT permits are required in the following situations:

- Where no current vehicular crossing currently exists. For example, a new trail crossing from public/private property to public/private property.
- At a T-intersection where a new trail on public/private property would cross a state highway to a local road.

When ATV trails connect to the roadway of a state highway, construct a paved apron to prevent maintenance issues such as gravel or mud deposits on the roadway surface and damages to wing blades when plowing snow. WisDOT may waive or temporarily suspend this requirement if appropriate. See detail for apron dimensions. Consult with WisDOT for apron requirements in urban areas that have curb and gutter.

ATV registration

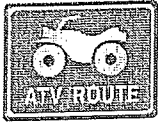
All ATV registration is handled by DNR not WisDOT. See DNR's [website](#) for more information.

ATV ordinances

WisDOT does not have approval authority of local government ordinances, nor can WisDOT offer legal advice on how ordinances should be written. WisDOT only reviews ATV ordinances prior to processing traffic signing permit applications for ATV routes to verify that a town, village, city or county has referenced the appropriate sections(s) in s. 23.33 as described in sections A - C above.

The Wisconsin DNR does have sample ordinance language in Appendix A of its publication ATV Route Guideline and Suggestions (A Community Official's Handbook). If necessary, consult your local government's corporation counsel or legal representative for advice.

ATV route sign permitting



ATV route signs are required on state highways in order for ATVs to legally operate on them. A traffic

signing permit is also required from WisDOT. The application W form may be filled out by a local government elected official or employee, or a county highway department may fill it out for the local government. Send the completed permit application to the transportation region office along with a copy of the approved ATV ordinance(s).
Kan Clark

The permit application must include a map or sketch showing the general location of the signs. Once approved, the permittee orders the signs and related materials. County highway departments typically install signs on state highways since they have expertise with the Wisconsin Manual of Uniform Traffic Control Devices (WMUTCD) and install many WisDOT signs. A municipality may install the signs or hire a licensed contractor with WMUTCD expertise upon prior WisDOT approval. All signs erected must comply with the WMUTCD.

Special ATV route signing



Under Wis. Stat. s. 23.33(8)(e)3., a town, village, city or county may erect a sign on any highway that

crosses its territorial boundary to alert motorists that all highways under its jurisdiction have been designated as ATV routes. On state highways, WisDOT approval is not needed, but a traffic signing permit is still required. The D11-10A sign — similar to the one shown on the left — may be used. The sign size on state highways is 36" x 36." WisDOT will review a town, village, city or county ATV ordinance to verify that it has designated all of its roads as ATV routes prior to granting permit approval to erect the sign on a state highway.



Smaller sign sizes may be used on local highways. A white sign with black letters (regulatory sign) may also

be used as shown on the right. Consult the person in charge of road maintenance or a county highway department for more information on local road signing.

It is important to understand that these signs only apply to town, village, city or county roads under its jurisdiction — not all roads within a municipality or county. For example, a sign with the message, "ALL ADAMS COUNTY ROADS ARE ATV ROUTES EXCEPT AS POSTED," only applies to county-maintained roads — not all town, village or city roads located

*Hwy 40
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within Adams County. ATV routes within those jurisdictions would require separate signing at their boundaries.



If the D11-10A sign is used, a "NO ATV TRAFFIC" sign (R5-51) may be displayed on any highway where ATVs are prohibited. Since it is a regulatory function, a white sign with black letters must be used. An example is shown on the right. The size on state highways is 24" x 24."



Note: At this time, the ATV symbol is not approved for use on regulatory signs in the Federal MUTCD. WisDOT is working with the Federal Highway Administration to combine the ATV symbol, the red "No" circle, and the words "No ATV" as shown at the left for use on Wisconsin highways.


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ATV route signing - Frequently asked questions (NEW)

WisDOT has received many questions regarding ATV route signing both on state and local highways. To guide local units of government and ATV clubs on appropriate ATV route signing, this "frequently asked questions" webpage has been established. As more questions are asked of WisDOT, the questions and answers will be posted.

1. Do local units of government have to follow the WMUTCD for ATV route signing?

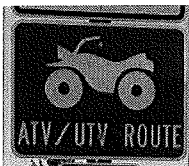
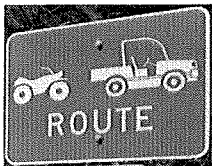
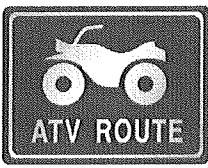
A> Yes, the WMUTCD must be followed on all state and local highways. Per Wis. Stat. [s. 349.065](#), local authorities shall place and maintain traffic control devices upon highways under their jurisdiction to regulate, warn, guide or inform traffic. The design, installation and operation or use of new traffic control devices placed and maintained by local authorities after the adoption of the uniform traffic control devices manual under Wis. Stat. [s. 84.02\(4\)\(e\)](#) shall conform to the manual. After January 1, 1977, all traffic control devices placed and maintained by local authorities shall conform to the manual.

2.  Why is it important to only use signs that are recognized in the WMUTCD?

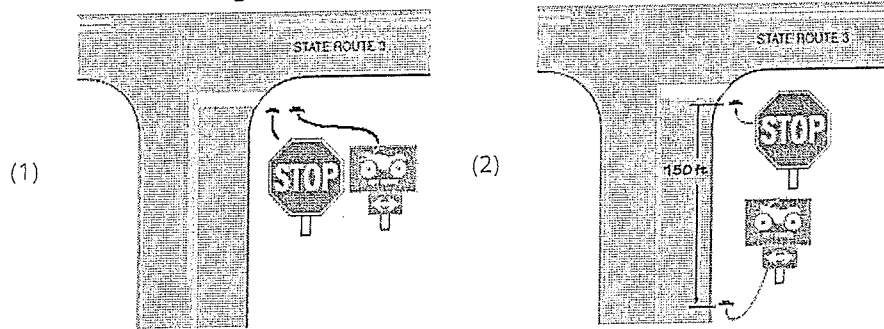
A> It provides consistency for all motorists that travel on all highways throughout the United States. Homemade signs may be hard to read or confuse some motorists. Most importantly, these signs may not be deemed as official if their validity was challenged in court.

3. May the ATV/UTV word signs or ATV/UTV symbol signs shown in pictures (1) or (2) be used on state or local highways?

A> No. Neither one of these signs is recognized in the WMUTCD. Only the D11-10 sign in picture (3) may be used. It is also applicable to UTVs.

(1)  (2)  (3) 

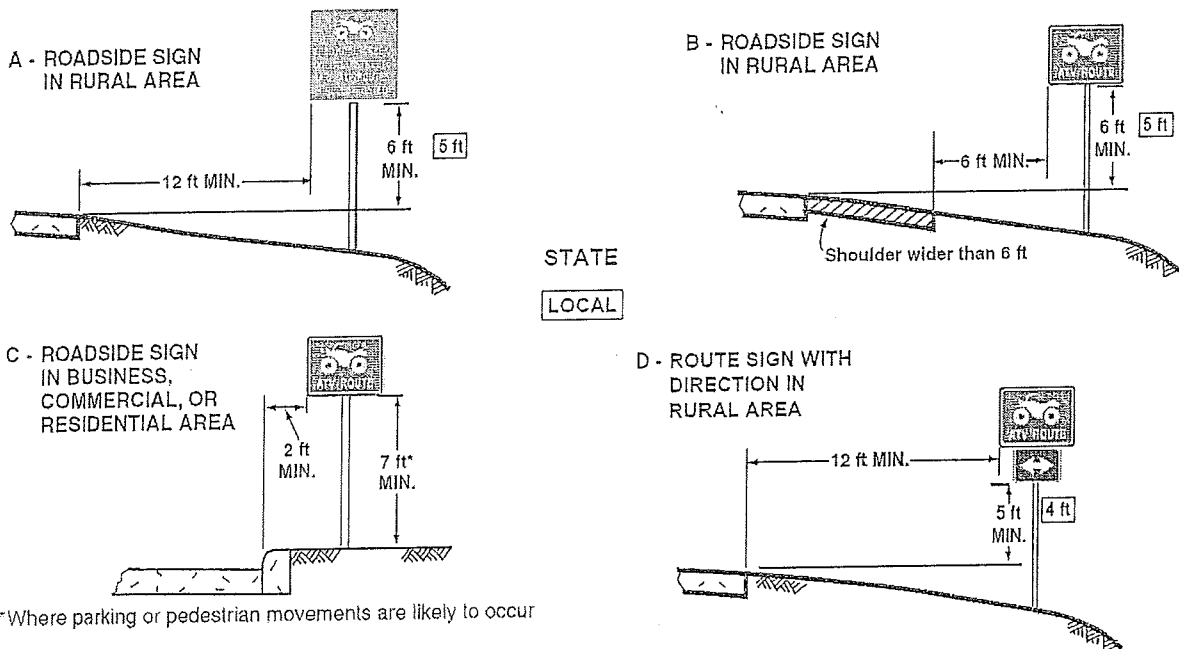
4. May an ATV route sign be erected on the same post as a STOP sign?
A> No. It must be on a separate post. No other sign should interfere with the regulatory importance of a STOP sign. Mount ATV route signs on their own post — not on an existing sign post, utility pole, fence post, etc.
5. May an ATV route sign be placed next to a STOP sign?
A> Yes. See diagram (1) below.
6. How far in advance of a STOP sign should an ATV route sign be placed?
A> 150 feet. See diagram (2) below.



7. What is the offset from the edge of pavement that an ATV route sign should be placed?
8. What height should an ATV route sign be placed?
9. What height should a ATV route sign with an arrow assembly be placed?
A> For questions 7-9, see the diagrams in Figure 2A-2 below (amended from the Federal MUTCD).

Figure 2A-2. Examples of Heights and Lateral Locations of Sign Installations

Note: Height and offset tolerance is $\pm 6.0"$

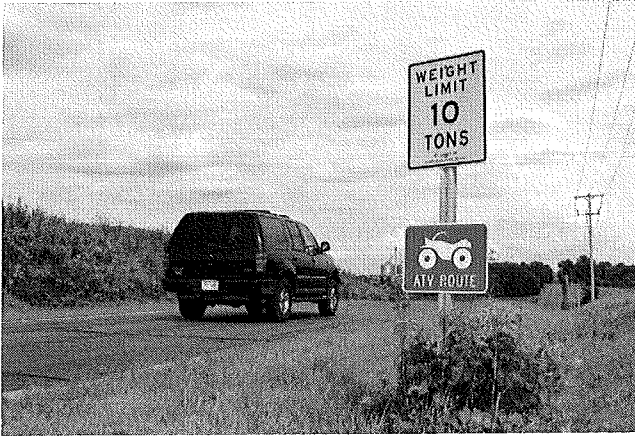


Exception: On conventional roads in areas where it is impractical to locate a sign with the lateral offset prescribed by Section 2A-19 of the 2009 MUTCD, a lateral offset of at least 2 feet may be used. Minimum of 3 feet is preferred on rural roads due to snow plowing.

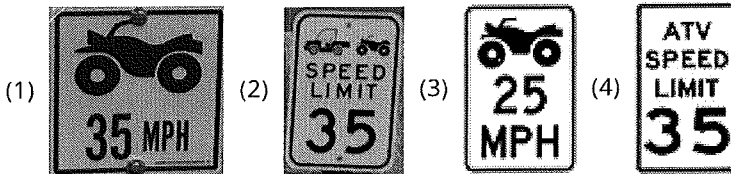
Signs are to be mounted so as to project 1" to 1-1/2" above the top of the post.

In the picture below, the ATV route sign is placed too low and may pose a hazard if struck by an errant vehicle or

motorcycle. The sign must be on its own post too.



10. May the ATV symbol be used on an ATV speed limit sign?
11. May an ATV speed limit sign have green letters on a white background?



A> No for questions 10 and 11. The ATV symbol is only recognized in the WMUTCD for guide signs (white lettering on a green background). A speed limit sign is a regulatory sign. It must have black lettering on a white background. The correct design for an ATV limit sign is (4) above.

12. Where does the D11-10A sign need to be placed, i.e., at a municipal or county border, or at the beginning of the ATV route?

A> Near the border. Under Wis. Stat. s. 23.33(8)(e)3., "[a] town, village, city, or county may erect a sign on each highway that crosses its territorial boundary in a position to be viewed by motorists as they enter the town, village, city, or county."

13. May a town, village or city install ATV route signs on a county road?

A> Maybe. The maintaining authority of the highway decides who erects ATV route signs on its roads.

14. Do I need a permit to put up ATV route signs?

A> On state highways, yes. The WisDOT region office will issue the permit. On municipal and county highways, contact the maintaining authority of the highway.



15. If a route on a local road continues straight at an intersection with a state highway, can you just erect

the up arrow, or do you need an ATV route sign and the arrow?

A> While an ATV route sign in addition to the up arrow is preferred, on local highways the up arrow by itself would be adequate. On a state highway, the arrow cannot be by itself.

16. Do you have examples of ATV route signing diagrams?

A> Yes. Click on any of the examples below.

[Example 1](#) - Bridge crossing

[Example 2](#) - 35 mph speed limit or less and D11-10A signing

[Example 3](#) - Bridge crossing, 35 mph speed limit or less, and D11-10A signing

[Example 4](#) - Close-up of Example 3

17.  When should the PREFERRED sign be used with an ATV route sign?

A> Wis. Stat. s. 23.33(8)(e)5. allows a municipality or county to designate a preferred route and erect signs marking the route over highways under their jurisdiction that have been designated as ATV routes.


18. Are U-channel posts okay to use to mount ATV route signs?

A> Yes, if installed in accordance with the MUTCD. The WMUTCD did not change the language from the Federal MUTCD. From Section 2A.19, Paragraph 2: "Post-mounted sign and object marker supports shall be crashworthy (breakaway, yielding, or shielded with a longitudinal barrier or crash cushion) if within the clear zone."

Section 1A.13 of the MUTCD defines crashworthy: "Crashworthy—a characteristic of a roadside appurtenance that has been successfully crash tested in accordance with a national standard such as the National Cooperative Highway Research Program Report 350, "Recommended Procedures for the Safety Performance Evaluation of Highway Features."

FHWA has issued eligibility letters for sign supports that have passed National Cooperative Highway Research Program Report 350 (NCHRP 350). These letters may be found at this [link](#).

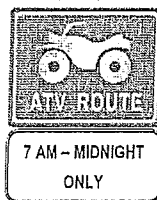
Starting January 1, 2020, NCHRP 350 will be superseded by the Manual for Assessing Roadside Hardware (MASH). FHWA is issuing eligibility letters for sign supports that pass MASH. These letters may be found at this [link](#). There are only two letters currently published there. WisDOT's understanding is that both perforated square steel tube post and U-channel posts have passed MASH, and that FHWA just needs to get the letters written and published.

19.  Our municipality is developing an ATV ordinance that prohibits ATV operation during the hours of

12AM to 7AM, and proposes ATV speed limits on highways. Understanding the route signing requirements under Wis. Stat. s. 23.33, may signs be erected that would also include these hour restrictions and speed limits as part of the signs?

A> No. A municipality or county has the authority to impose hours of operation and speed restrictions in their ordinance. However, those restriction messages, if used, should be posted on supplemental signs using the correct regulatory color scheme - black letters on a white background. They cannot be included as part of a D11-

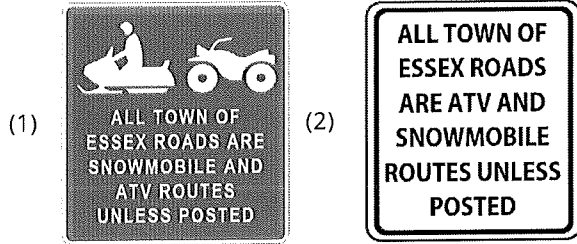
10 (top right) or D11-10A sign.



Generally, guide signs and regulatory signs should be on separate posts. In this case, it may be better to place the hours' restrictions underneath the D11-10 sign as a plaque, but still black-on-white so it is regulatory like the example (bottom right). The ATV speed limit sign shown in question 11 (4), may be on a separate post to the right of these signs.

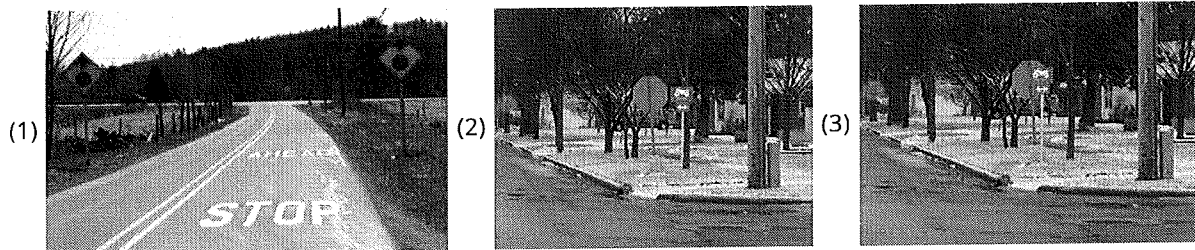
20. Our municipality has an ordinance that designated all of our highways as ATV and snowmobile routes. Can the D11-10A sign be modified to include this message as shown in picture (1)?

A> No. That particular sign is not allowed in the WMUTCD. However, a white sign with black letters (regulatory sign) could be made without the symbols as shown in picture (2).



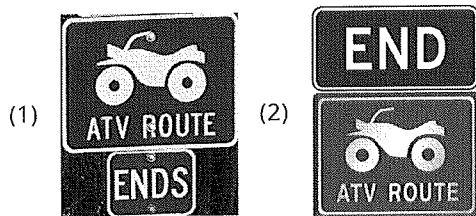
21. We have several roads with double STOP signs, e.g., signs on both sides of the road as shown in picture (1). Is it okay to place ATV route signs as shown in pictures (2) and (3) below?

A> Yes to both situations. This is similar to question 5 only the ATV sign is facing the opposite direction.



22. Should the END sign go on top of or underneath the ATV route sign?

A> On top as in picture (2). Also, the MK4-6 sign is "END" not "ENDS."



23. Our town has designated all of its roads as ATV routes and wants to use the D11-10A sign on all town roads. If we erect a D11-10A sign near the boundary, what signs would we need to install on the other side of the town road if the neighboring town does not allow ATVs on its roads?

A> You would need to erect the MK4-6 sign and the D11-10 sign as shown in question 22, picture (2).

24. Are NO ATV TRAFFIC (R5-51) signs required on a highway that is not designated as an ATV route if it intersects a road that is designated as an ATV route?

A> No. However, if ATVs are operating on the non-designated highway, NO ATV TRAFFIC signs should be erected. This is referenced in Wis. Stat. s. 23.33(8)(e)4.

25. A county highway department is requiring the use of the NO ATV TRAFFIC sign in combination with placing a D11-10A sign on every county highway at the mutual county/town boundary since ATVs are not allowed on county roads. Is this permitted? Doesn't Wis. Stat. s. 23.33(8)(e)6. state that, "If a town, village, city, or county erects and maintains signs under subd. 3., the department may not require the town, village, city, or county to erect any additional signs marking the all-terrain vehicle routes within the town, village, city, or county."

A> Under s. 23.33(8)(e), subd. 3. was developed to allow a municipality or county to erect a sign on each highway that crosses its territorial boundary to alert motorists that all highways in the municipality or county have been designated as ATV routes. If D11-10 signs are erected, then a municipality or county does not have to erect signs on all ATV routes as required in subd. 2. Subd. 6., however, does not refer to the R5-51, which is a regulatory sign prohibiting ATV operation. In addition, "the department" refers to the Department of Natural Resources, not a county highway department (CHD). Since the CHD has jurisdiction over the county highways it maintains, it may require R5-51 signs on those highways.



Wisconsin law enables city, village or town officials to authorize ATWUTV use on any road posted 35 mph or less within their territorial boundaries.

Stay safe on the road




Watch for riders, and please always drive carefully.




Visit Wisconsin.dot.gov for more information.

Whether driving a car or operating an ATV, it's important to always eliminate distractions, be patient and stay focused.

- Motorists who encounter ATVs on the road should slow down and wait for a safe opportunity to pass.
- ATV riders should always be aware of their surroundings, stick to authorized areas and always use helmets and protective gear.

The [Wisconsin DNR](#) publishes additional resources on ATV safety and registration. Additionally, interested parties can help spread the word by displaying the  "Share the Road" flyer (pictured right).

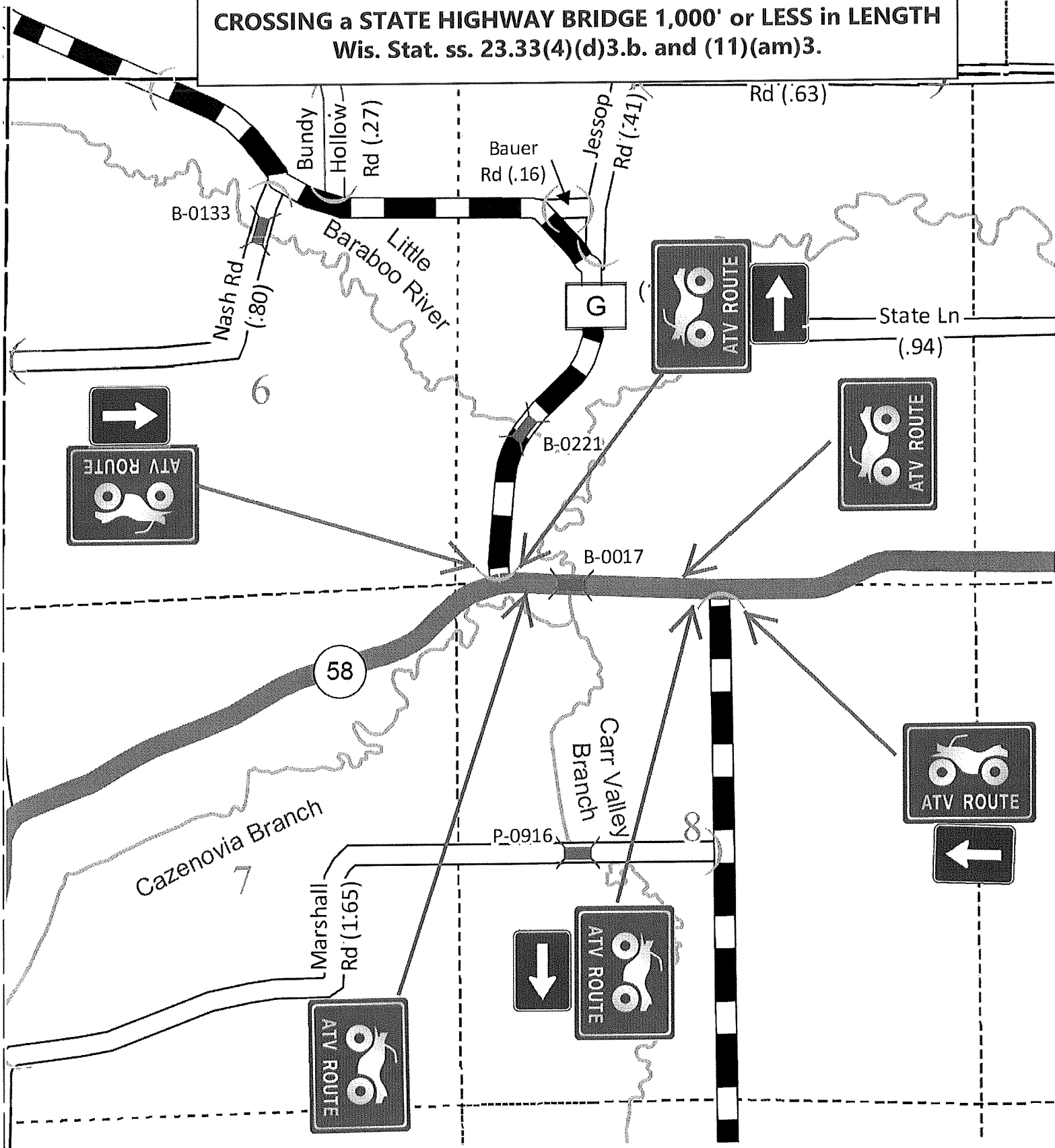
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Questions

For questions regarding this webpage, contact:

Bob Fasick
Wisconsin DOT
Bureau of Highway Maintenance
4822 Madison Yards Way, 5th Floor South
Madison, WI 53705
(608) 266-3438
robert.fasick@dot.wi.gov

ATV ROUTE SIGNING LAYOUT: EXAMPLE 1
 for
CROSSING a STATE HIGHWAY BRIDGE 1,000' or LESS in LENGTH
 Wis. Stat. ss. 23.33(4)(d)3.b. and (11)(am)3.



ATV ROUTE SIGNING LAYOUT: EXAMPLE 2

for

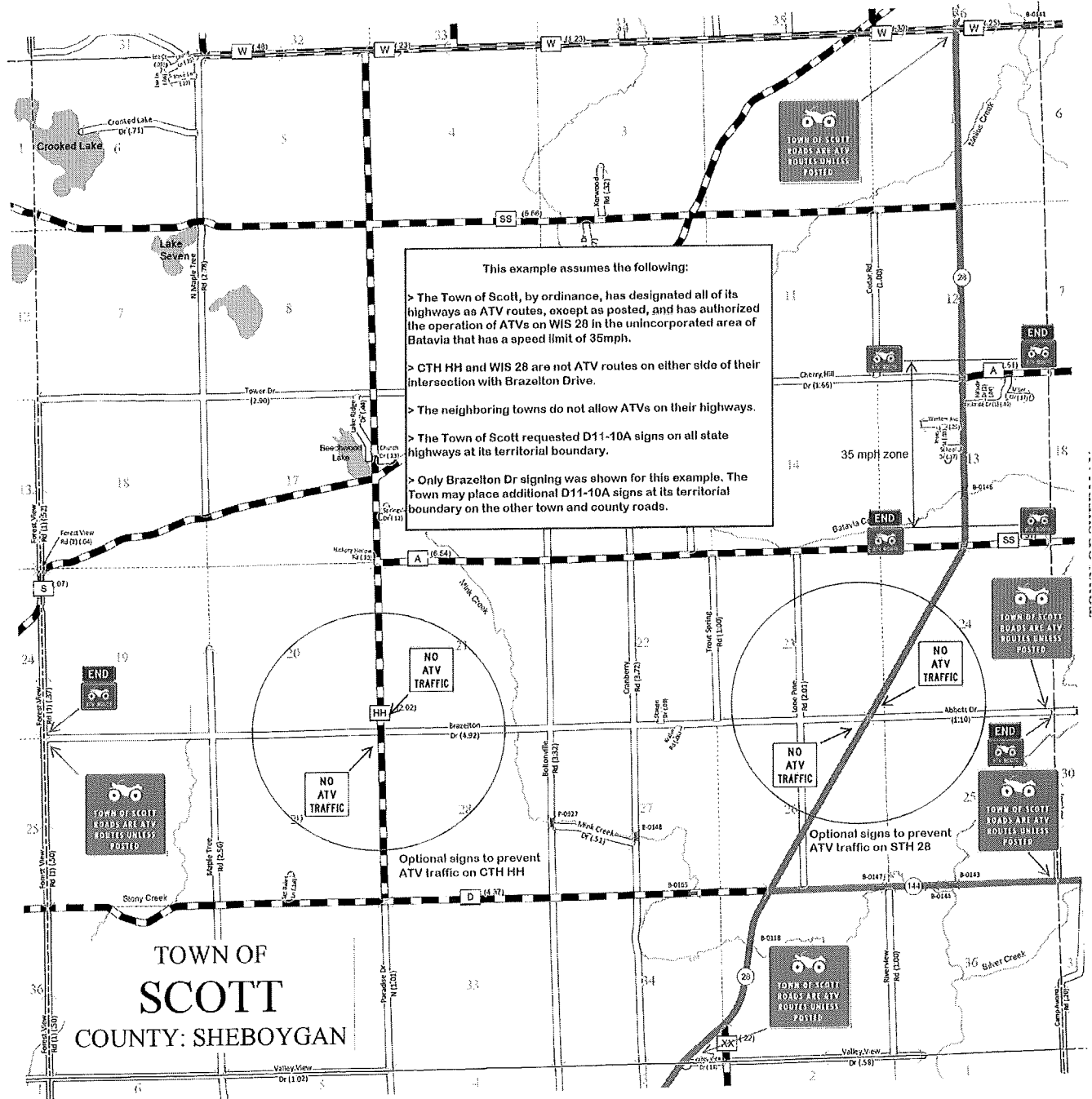
ATV OPERATION on a STATE HIGHWAY with a SPEED LIMIT of 35 MPH or LESS

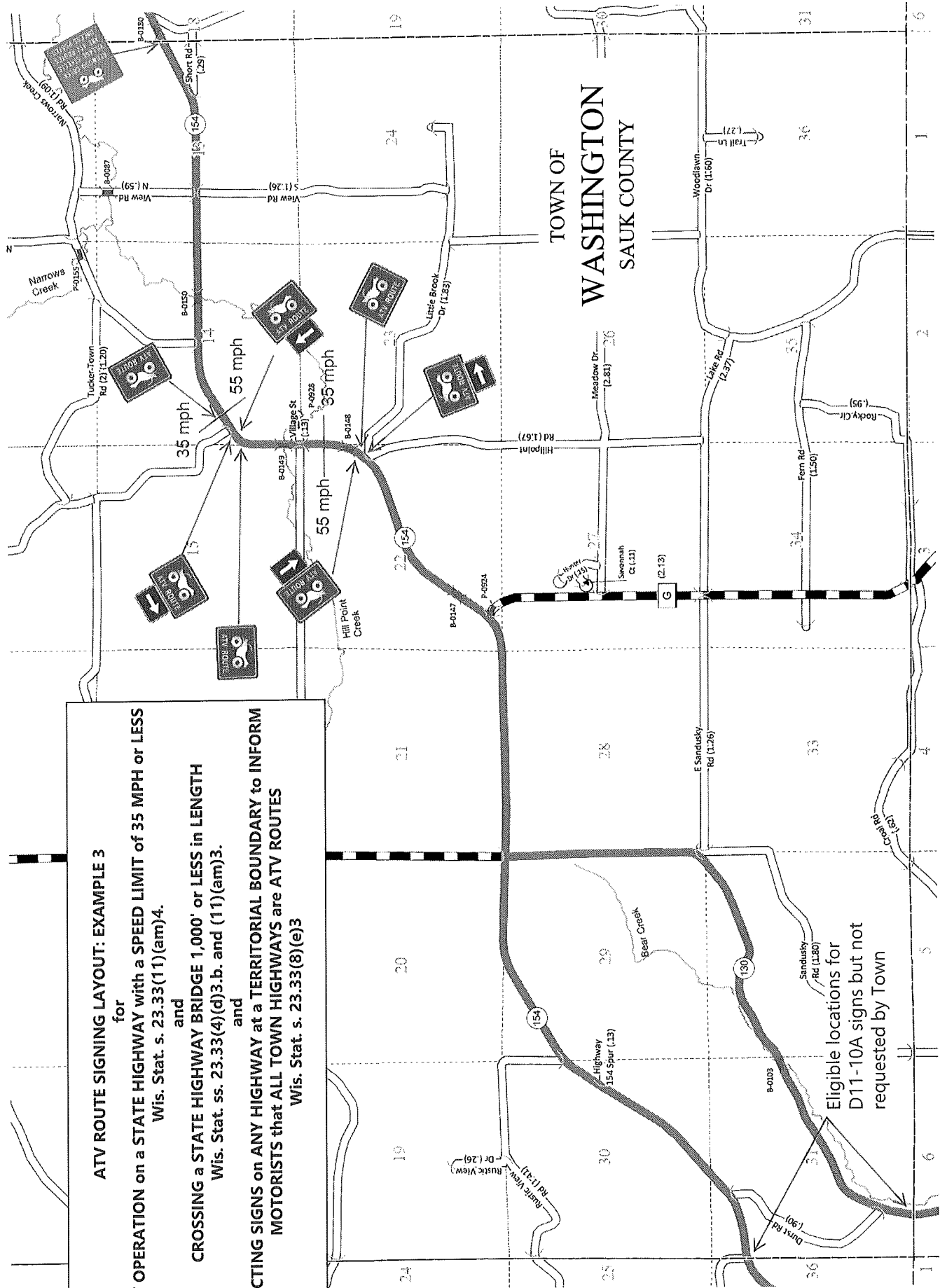
Wis. Stat. s. 23.33(1)(am)4.

and

**ERECTING SIGNS on ANY HIGHWAY at a TERRITORIAL BOUNDARY to
INFORM MOTORISTS that ALL TOWN HIGHWAYS are ATV ROUTES**

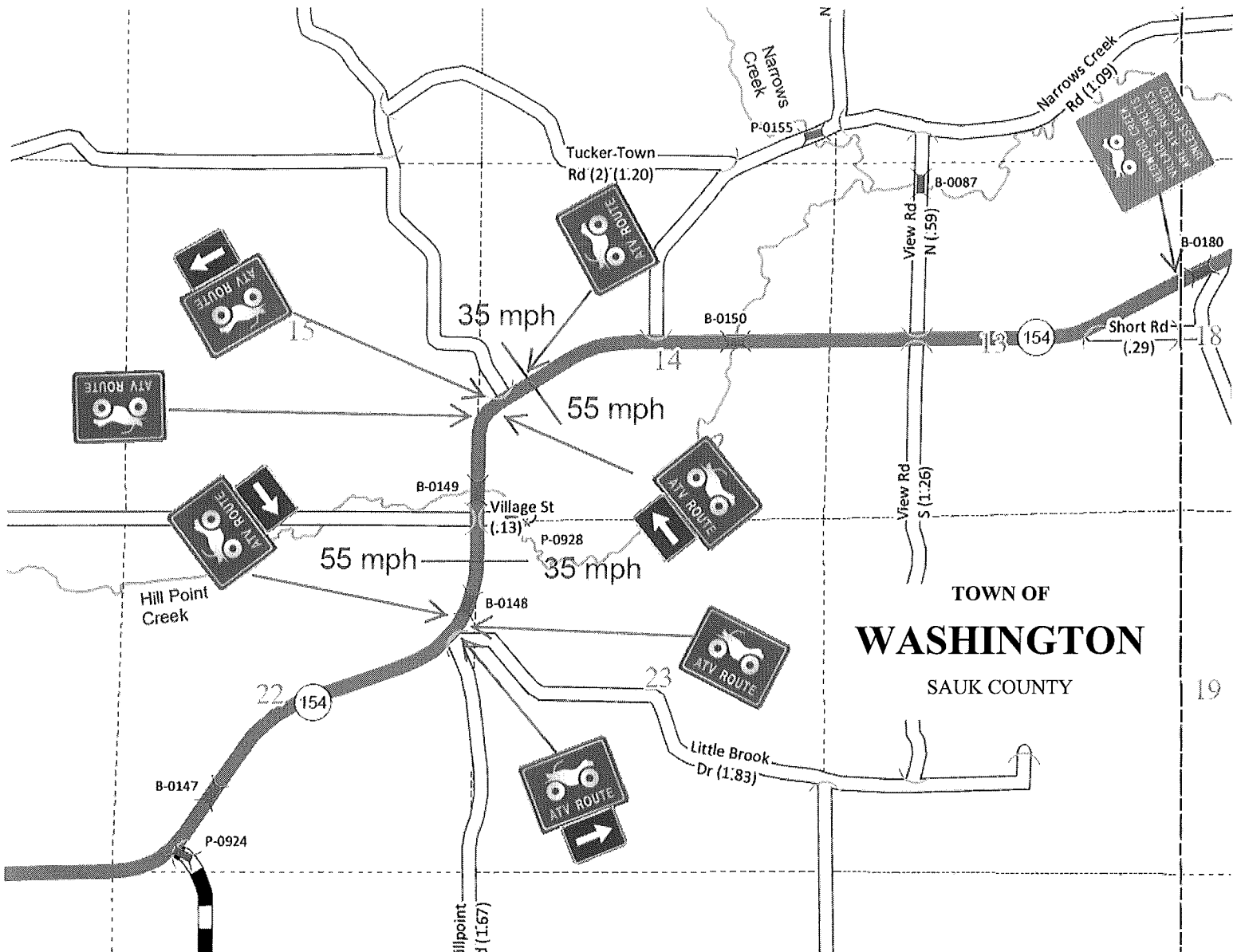
Wis. Stat. s. 23.33(8)(e)3.



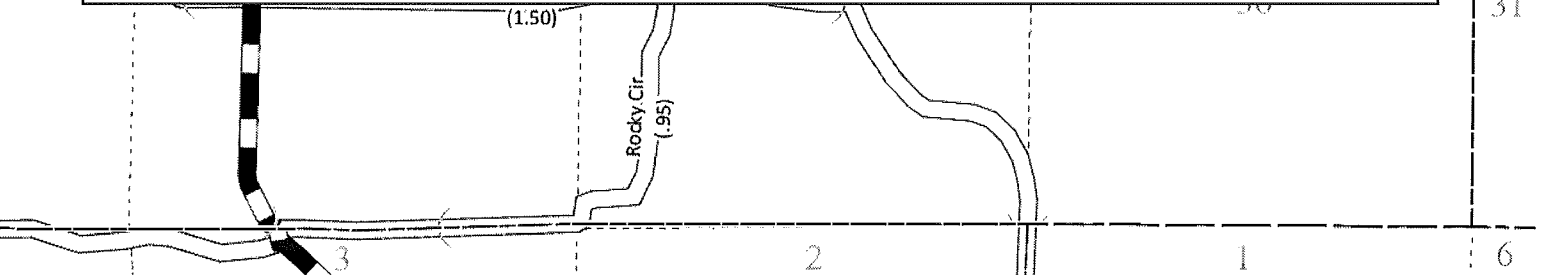


ATV ROUTE SIGNING LAYOUT: EXAMPLE 3
 for
ATV OPERATION on a STATE HIGHWAY with a SPEED LIMIT of 35 MPH or LESS
 Wis. Stat. s. 23.33(1)(am)4.
 and
CROSSING a STATE HIGHWAY BRIDGE 1,000' or LESS in LENGTH
 Wis. Stat. ss. 23.33(4)(d)3.b. and (11)(am)3.
 and
ERECTING SIGNS on ANY HIGHWAY at a TERRITORIAL BOUNDARY to INFORM
MOTORISTS that ALL TOWN HIGHWAYS are ATV ROUTES
 Wis. Stat. s. 23.33(8)(e)3

Eligible locations for
 D11-10A signs but not
 requested by Town



ATV ROUTE SIGNING LAYOUT: EXAMPLE 4
 for
ATV OPERATION on a STATE HIGHWAY with a SPEED LIMIT of 35 MPH or LESS
 Wis. Stat. s. 23.33(11)(am)4.
 and
CROSSING a STATE HIGHWAY BRIDGE 1,000' or LESS in LENGTH
 Wis. Stat. ss. 23.33(4)(d)3.b. and (11)(am)3.
 and
ERECTING SIGNS on ANY HIGHWAY at a TERRITORIAL BOUNDARY to INFORM
MOTORISTS that ALL TOWN HIGHWAYS are ATV ROUTES
 Wis. Stat. s. 23.33(8)(e)3



(4) TIME LIMITS.

- (a) Except as provided under par. (b), the department shall do all of the following:
2. Provide a wetland identification not later than 60 days after a person files a request, in the manner and form required by the department, for a wetland identification.
 3. Provide a wetland confirmation not later than 60 days after a person files a request, in the manner and form required by the department, for a wetland confirmation under sub. (2) (c).
 4. Provide a wetland confirmation not later than 15 days after a person files a request, in the manner and form required by the department, for a wetland confirmation under sub. (2) (d).
- (b) If adverse weather conditions, or other conditions at the site, prevent the department from conducting an accurate on-site inspection under sub. (2) (b) or (c) in sufficient time to comply with the deadline under par. (a), the department shall provide a wetland identification under sub. (2) (b) or a wetland confirmation under sub. (2) (c) as soon as possible after weather conditions, or other conditions at the site, allow the department to conduct an accurate on-site inspection. Within 30 days after determining that adverse weather conditions, or other conditions at the site, will prevent the department from complying with the deadline under par. (a), the department shall give notice to the person requesting the wetland identification or wetland confirmation that adverse weather conditions, or other conditions at the site, will prevent the department from complying with the deadline and giving notice to the person that the department will provide the wetland identification or wetland confirmation as soon as possible after weather conditions, or other conditions at the site, allow the department to conduct an accurate on-site inspection.

(5) LENGTH OF VALIDITY.

- (a) Except as provided in par. (b), a wetland identification provided by the department under sub. (2) (b) and a wetland confirmation provided by the department under sub. (2) (c) remain effective for 5 years from the date provided by the department.
- (b)
1. A wetland identification provided by the department under sub. (2) (b) and a wetland confirmation provided by the department under sub. (2) (c) or (d) remain effective for 15 years from the date provided by the department if all of the following conditions are met:
 - a. The wetland is a nonfederal wetland.
 - b. The parcel of land is subject to a storm water management zoning ordinance enacted under s. 59.693, 60.627, 61.354, or 62.234 or a storm water discharge permit issued under s. 283.33.
 2. The department may not invalidate or amend an existing wetland delineation, or require a new wetland delineation, for a parcel to which subd. 1. applies until the wetland identification or confirmation expires.
- (6) **INCLUDED ON MAPS.** If the department determines under this section that a parcel of land is likely to or does contain a wetland, or that it concurs with the boundaries of a wetland as delineated by a 3rd person, the department shall include this information on wetland maps prepared under s. 23.32.

History: 2009 a. 373; 2011 a. 118; 2013 a. 1; 2015 a. 196; 2017 a. 183.

23.322 Fees for computer accessible water resource management information. The department may charge a fee for providing any information that it maintains in a format that may be accessed by computer concerning the waters of this state, including maps and other water resource management information.

History: 1999 a. 9; 2001 a. 104.

23.323 Wetlands informational brochure. The department shall furnish an informational brochure to cities, villages, towns, and counties for distribution to the public that describes the laws that apply to wetlands.

History: 2009 a. 373.

23.325 Aerial photographic survey.

- (1) The department shall make, on a periodic basis, an aerial photographic survey of the state to provide the basis for state planning and resource and forestry management. In performing this duty, the department:
- (a) Shall consult with the department of administration, the department of transportation, and the state cartographer, and may consult with other potential users of the photographic products resulting from the survey, to determine the scope and character of the survey.
 - (b) May contract with other state agencies or nongovernmental entities to carry out the photographic imagery acquisition phases of the survey and to prepare specific photographic products for use by federal, state and local agencies and the general public.
- (2)
- (a) After consultation with the department of transportation and the state cartographer, the department of natural resources shall select the photographic products to be sold.
 - (b) The department of administration shall establish sale prices for the photographic products. The department of administration shall establish sale prices annually at a level that at least equals the amount necessary to cover the costs of photographic imagery acquisition and the production of photographic products and the costs of selling and reproducing the productions.
- (3) The department of natural resources may sell and may enter into contracts to sell the photographic products.

- (4) All income received by the department of natural resources and the department of transportation from the sale of the photographic products, less the amount retained by the department of transportation under s. 85.10, shall be deposited in the conservation fund.

History: 1991 a. 39; 1997 a. 27 ss. 775am, 9456 (3m); 2003 a. 33 s. 2811; 2003 a. 48 ss. 10, 11; 2003 a. 206 s. 23; 2005 a. 25 ss. 498, 2493.

23.33

23.33 All-terrain vehicles and utility terrain vehicles.

(1) DEFINITIONS. As used in this section:

- (a) "Accompanied" means being subject to continuous verbal direction or control.
- (ag) "Agricultural purpose" includes a purpose related to the transportation of farm implements, equipment, supplies, or products on a farm or between farms.
- (am) "Alcohol beverages" has the meaning specified under s. 125.02 (1).
- (ar) "Alcohol concentration" has the meaning given in s. 340.01 (1v).
- (b) "All-terrain vehicle" has the meaning specified under s. 340.01 (2g).
- (bc) "All-terrain vehicle club" means a club consisting of individuals that promotes the recreational use of all-terrain vehicles.
- (bd) "All-terrain vehicle dealer" means a person engaged in the sale of all-terrain vehicles for a profit at wholesale or retail.
- (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.
- (bp) "All-terrain vehicle manufacturer" means a person engaged in the manufacture of all-terrain vehicles for sale to the public.
- (bt) "All-terrain vehicle renter" means a person engaged in the rental or leasing of all-terrain vehicles to the public.
- (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.
- (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.
- (dm) "Approved public treatment facility" has the meaning specified under s. 51.45 (2) (c).
- (e) "Controlled substance" has the meaning specified under s. 961.01 (4).
- (f) "Controlled substance analog" has the meaning given in s. 961.01 (4m).
- (fe) "Federal agency" means the United States, any department of the United States, or any corporation, agency, or instrumentality that is created, designated, or established by the United States.
- (fm) "Golf cart" means a vehicle whose speed attainable in one mile does not exceed 20 miles per hour on a paved, level surface, and that is designed and intended to convey one or more persons and equipment to play the game of golf in an area designated as a golf course.
- (gb) "Hazardous inhalant" means a substance that is ingested, inhaled, or otherwise introduced into the human body in a manner that does not comply with any cautionary labeling that is required for the substance under s. 100.37 or under federal law, or in a manner that is not intended by the manufacturer of the substance, and that is intended to induce intoxication or elation, to stupefy the central nervous system, or to change the human audio, visual, or mental processes.
- (h) "Immediate family" means persons who are related as spouses, as siblings or as parent and child.
- (i) "Intoxicant" means any alcohol beverage, hazardous inhalant, controlled substance, controlled substance analog or other drug, or any combination thereof.
- (ic) "Intoxicated operation of an all-terrain or utility terrain vehicle law" means sub. (4c) or a local ordinance in conformity therewith or, if the operation of an all-terrain or utility terrain vehicle is involved, s. 940.09 or 940.25.
- (id) "Lac du Flambeau band" means the Lac du Flambeau band of Lake Superior Chippewa.
- (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.
- (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.
- (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).
- (ik) "Low pressure tire" has the meaning given in s. 340.01 (27g).
- (im) "Low-speed vehicle" has the meaning given in s. 340.01 (27h).
- (ip) "Mini-truck" means a motor truck, as defined in s. 340.01 (34), having a top speed of not more than 60 miles per hour, and that is all of the following:
1. Powered by an internal combustion engine with a piston or rotor displacement of not less than 660 cubic centimeters.
 2. Not more than 60 inches wide.
 3. Not more than 1,600 pounds in dry, unloaded weight.
 4. Manufactured with a locking enclosed cab and a heated interior.
- (ir) "Operate" means to exercise physical control over the speed or direction of an all-terrain vehicle or utility terrain vehicle or to physically manipulate or activate any of the controls of the vehicle necessary to put it in motion.
- (it) "Operation" means the exercise of physical control over the speed or direction of an all-terrain vehicle or utility terrain vehicle or the physical manipulation or activation of any of the controls of the vehicle necessary to put it in motion.

- (iw) "Operator" means a person who operates an all-terrain vehicle or utility terrain vehicle, who is responsible for the operation of an all-terrain vehicle or utility terrain vehicle or who is supervising the operation of an all-terrain vehicle or utility terrain vehicle.
- (j) "Owner" means a person who has lawful possession of an all-terrain vehicle or utility terrain vehicle by virtue of legal title or equitable interest in the vehicle which entitles the person to possession of the vehicle.
- (ja) "Preferred route" means an all-terrain vehicle route marked with signs to assist all-terrain vehicle operators in navigating to needed services such as fueling stations, restaurants, lodging, or other business establishments.
- (jc) "Proof," when used in reference to evidence of a registration document, safety certificate, trail pass, or temporary trail use receipt, means the original registration document, safety certificate, trail pass, or temporary trail use receipt issued by the department or an agent appointed under sub. (2) (i) 3. or (2j) (f) 1. or any alternative form of proof designated by rule under s. 23.47 (1).
- (jd) "Public utility" has the meaning given in s. 196.01 (5).
- (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.
- (jm) "Refusal law" means sub. (4p) (e) or a local ordinance in conformity therewith.
- (jn) "Registration document" means an all-terrain vehicle or utility terrain vehicle registration certificate, a temporary operating receipt, or a registration decal.
- (jo) "Restricted controlled substance" means any of the following:
1. A controlled substance included in schedule I under ch. 961 other than a tetrahydrocannabinol.
 2. A controlled substance analog, as defined in s. 961.01 (4m), of a controlled substance described in subd. 1.
 3. Cocaine or any of its metabolites.
 4. Methamphetamine.
 5. Delta-9-tetrahydrocannabinol, excluding its precursors or metabolites, at a concentration of one or more nanograms per milliliter of a person's blood.
- (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 130 cubic centimeters or an equivalent power unit.
- (jpm) "Small utility terrain vehicle" means a utility terrain vehicle that has 4 wheels and that has either an engine certified by the manufacturer at not more than 200 cubic centimeters or an equivalent power unit.
- (jq) "Snow removal device" means an attachment designed and installed for the purpose of removing snow. An attachment under this paragraph may be a plow blade, blower, bucket, or brush.
- (jqm) "State agency" means any office, department, or independent agency in the executive branch of state government.
- (jr) "Temporary operating 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 have been submitted to the department or an agent appointed under sub. (2) (i) 3.
- (js) "Test facility" means a test facility or agency prepared to administer tests under s. 343.305 (2).
- (n) "Used exclusively on private property" means use of an all-terrain vehicle or utility terrain vehicle by the owner of the vehicle or a member of his or her immediate family only on land owned or leased by the vehicle owner or a member of his or her immediate family.
- (ng) "Utility terrain vehicle" means any of the following:
1. A commercially designed and manufactured motor driven device that does not meet federal motor vehicle safety standards in effect on July 1, 2012, that is not a golf cart, low-speed vehicle, dune buggy, mini-truck, or tracked vehicle, that is designed to be used primarily off of a highway, and that has, and was originally manufactured with, all of the following:
 - a. A weight, without fluids, of 2,000 pounds or less.
 - b. Four or more tires.
 - d. A steering wheel.
 - e. A tail light.
 - f. A brake light.
 - g. Two headlights.
 - h. A width of not more than 65 inches as measured laterally between the outermost wheel rim on each side of the vehicle, exclusive of tires, mirrors, and accessories that are not essential to the vehicle's basic operation.
 - j. A system of seat belts, or a similar system, for restraining each occupant of the device in the event of an accident.
 - k. A system of structural members designed to reduce the likelihood that an occupant would be crushed as the result of a rollover of the device.
 2. A commercially designed and manufactured motor driven device to which all of the following applies:
 - a. It does not meet federal motor vehicle safety standards in effect on July 1, 2012; is not a golf cart, low-speed vehicle, dune buggy, mini-truck, or tracked vehicle; is designed to be used primarily off of a highway; and has, and was originally manufactured with, a weight, without fluids, of not more than 2000 pounds.
 - b. It has a width of 65 inches or less as measured laterally between the outermost wheel rim on each side of the vehicle, exclusive of tires, mirrors, and accessories that are not essential to the vehicle's basic operation.
 - c. It is equipped with a seat designed to be straddled by the operator.
 - d. It travels on 3 or more tires.
 - e. It is not an all-terrain vehicle, as defined in s. 340.01 (2g).

- (mi) "Utility terrain vehicle dealer" means a person engaged in the sale of utility terrain vehicles for a profit at wholesale or retail.
- (nk) "Utility terrain vehicle distributor" means a person who sells or distributes utility terrain vehicles to utility terrain vehicle dealers or who maintains distributor representatives.
- (nm) "Utility terrain vehicle manufacturer" means a person engaged in the manufacture of utility terrain vehicles for sale to the public.
- (np) "Utility terrain vehicle renter" means a person engaged in the rental or leasing of utility terrain vehicles to the public.

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

(1m) UTILITY TERRAIN VEHICLE PROGRAM.

(a) In this subsection:

1. "Municipality" means a city, village, or town.
2. "Public all-terrain vehicle corridor" has the meaning given in sub. (2j) (a) 1.

(b) The department or a federal agency, county, or municipality may designate any of the following located within their respective jurisdictions:

1. All-terrain vehicle routes, all-terrain vehicle trails, and public all-terrain vehicle corridors that may be used by operators of utility terrain vehicles.
2. All-terrain vehicle routes, all-terrain vehicle trails, and public all-terrain vehicle corridors upon which utility terrain vehicle use is prohibited.

(c) No person may operate a utility terrain vehicle on an all-terrain vehicle route, all-terrain vehicle trail, or public all-terrain vehicle corridor unless it is designated as an all-terrain vehicle route, all-terrain vehicle trail, or public all-terrain vehicle corridor that may be used by operators of utility terrain vehicles as provided under this subsection.

(2) REGISTRATION.

(a) Requirement. Except as provided in sub. (2k), no person may operate and no owner may give permission for the operation of an all-terrain vehicle or utility terrain vehicle within this state unless the all-terrain vehicle or utility 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 plate or a sign to which a registration decal is attached in the manner specified under par. (dm) 3. Except as provided in sub. (2k), no person may operate and no owner may give permission for the operation of an all-terrain vehicle or utility terrain vehicle on an all-terrain vehicle route or an all-terrain vehicle trail unless the all-terrain vehicle or utility terrain vehicle is registered for public use under this subsection or sub. (2g).

(b) Exemptions. An all-terrain vehicle or utility terrain vehicle is exempt from registration if it is:

1. Owned or leased by a federal agency, state agency, political subdivision of the state, or another state or a political subdivision thereof, if the exterior of the all-terrain vehicle or utility terrain vehicle displays the name of the government entity in a visible manner, except as provided in subd. 1m.
- 1m. Owned or leased by a federal agency, state agency, political subdivision of the state, or another state or a political subdivision thereof and used for enforcement purposes.
- 2m. Covered by a valid registration of a federally recognized American Indian tribe or band, if all of the following apply:
 - a. The registration program of the tribe or band is covered by an agreement under s. 23.35.
 - b. The all-terrain vehicle or utility terrain vehicle displays the registration decal required by the tribe or band.
3. Used exclusively for racing on a raceway facility.
- 3m. Present in this state, for a period not to exceed 15 days, and if it is used exclusively as part of an advertisement being made for the manufacturer of the all-terrain vehicle or utility terrain vehicle.
5. Specified as exempt from registration by department rule.

(c) Registration; public use; fee.

1. Any all-terrain vehicle or utility terrain vehicle may be registered for public use. The fee for the issuance or renewal of a registration certificate for public use for an all-terrain vehicle or utility terrain vehicle is \$30. The department shall impose an additional late fee of \$5 for the renewal of a registration certificate under this subdivision that is filed after the expiration date of the registration certificate unless the renewal is included with an application to transfer the registration certificate.
2. A person who is required to register an all-terrain vehicle or utility terrain vehicle for public use shall attach his or her own plate to the rear of the vehicle and shall affix a registration decal, furnished by the department, to each side of the vehicle in a place that is forward of the operator of the vehicle and that is in a place that is clearly visible. The plate shall be a minimum of 4 inches in height and a minimum of 7 1/2 inches in width. The plate shall be white and shall display, in black lettering, the registration number for the all-terrain vehicle or utility terrain vehicle issued by the department. The registration number shall be displayed so that it is a minimum of 1 1/2 inches in height, with a minimum of a 3/16 inch stroke. The person required to register the all-terrain vehicle or utility terrain vehicle shall maintain the plate so that it is in legible condition.

(d) Registration; private use; fee. An all-terrain vehicle or utility 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. A person who registers an all-terrain vehicle or utility terrain vehicle for private use shall affix a registration decal, furnished by the department, to each side of the vehicle in a place that is forward of the operator of the vehicle and that is in a place that is clearly visible.

(dg) Display of registration.

1. The operator of an all-terrain vehicle or utility terrain vehicle shall have in his or her possession at all times while operating the vehicle proof of the registration certificate or, for an all-terrain vehicle or utility terrain vehicle the owner of which has received a temporary operating receipt but has not yet received the registration certificate, proof of the temporary operating

receipt. The operator of an all-terrain vehicle or utility terrain vehicle shall display this proof upon demand for inspection by a law enforcement officer.

2. A person may operate an all-terrain vehicle or a utility terrain vehicle without having the plate or sign attached as required under par. (c) 2. if the owner or operator has proof of a temporary operating receipt and if the operator of the all-terrain vehicle or utility terrain vehicle complies with subd. 1.
3. This paragraph does not apply to any all-terrain vehicle or utility terrain vehicle to which a plate or sign is attached as required under sub. (2) (dm) 3.

(dm) Registration; commercial owner; fee.

1. Every person who is an all-terrain vehicle or utility terrain vehicle manufacturer, all-terrain vehicle or utility terrain vehicle dealer, all-terrain vehicle or utility terrain vehicle distributor, or all-terrain vehicle or utility 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 and utility terrain vehicle certificate.
 2. The fee for the issuance or renewal of a commercial all-terrain vehicle and utility 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 and utility terrain vehicle certificate and 3 registration decals. The fee for additional registration decals is \$30 per decal.
 3. A person who is required to obtain a commercial all-terrain vehicle and utility terrain vehicle certificate under subd. 1. shall attach in a clearly visible place a plate or sign that is removable and temporarily but firmly mounted to any all-terrain vehicle or utility terrain vehicle that the person leases, rents, offers for sale, or otherwise allows to be used whenever the all-terrain vehicle or utility terrain vehicle is being operated. A registration decal issued under subd. 2. shall be attached to the plate or sign.
 4. Paragraphs (i), (ig), and (ir) do not apply to commercial all-terrain vehicle and utility terrain vehicle certificates or registration decals issued under subd. 2.
 5. Any all-terrain vehicle or utility terrain vehicle dealer or creditor may offer or sell guaranteed asset protection waivers in connection with the retail sale or lease of all-terrain vehicles or utility terrain vehicles in this state if the dealer or creditor complies with the same requirements applicable with respect to motor vehicles under s. 218.0148. Any guaranteed asset protection waiver offered or sold under this subdivision shall be treated the same as one offered or sold under s. 218.0148, including that the guaranteed asset protection waiver is not insurance.
- (e) Other fees.** The fee for the transfer of an all-terrain vehicle and utility terrain vehicle registration certificate is \$5. The fee for the issuance of a duplicate all-terrain vehicle or utility terrain vehicle registration certificate, duplicate commercial all-terrain vehicle and utility 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.
- (f) Effective periods; public use.** A public-use registration certificate for an all-terrain vehicle or utility terrain vehicle is valid beginning on April 1 or the date of issuance or renewal and ending March 31 of the 2nd year following the date of issuance or renewal.
- (g) Effective period; private use.** An all-terrain vehicle or utility terrain vehicle private-use registration certificate is valid from the date of issuance until ownership of the all-terrain vehicle or utility terrain vehicle is transferred.
- (gm) Effective period; commercial owners.** A commercial all-terrain vehicle and utility terrain vehicle certificate is valid beginning on April 1 or the date of issuance or renewal and ending March 31 of the 2nd year following the date of issuance or renewal.
- (i) Registration and reprints; issuers.** For the issuance of original or duplicate registration documents, for the issuance of reprints under s. 23.47 (3), and for the transfer or renewal of registration documents, the department may do any of the following:
1. Directly issue, transfer, or renew registration documents with or without using the service specified in par. (ig) 1. and directly issue reprints.
 3. Appoint persons who are not employees of the department as agents of the department to issue, transfer, or renew registration documents using either or both of the services specified in par. (ig) 1. and to issue reprints.
- (ig) Registration; methods of issuance.**
1. For the issuance of original or duplicate registration documents and for the transfer or renewal of registration documents, the department shall implement either or both of the following procedures to be provided by the department and any agents appointed under par. (i) 3.:
 - a. A procedure under which the department or an agent appointed under par. (i) 3. accepts applications for registration documents and issues temporary operating receipts at the time applicants submit applications accompanied by the required fees.
 - b. A procedure under which the department or agent appointed under par. (i) 3. accepts applications for registration documents and issues to each applicant all or some of the registration documents at the time the applicant submits the application accompanied by the required fees.
 2. Under either procedure under subd. 1., the department or agent shall issue to the applicant any remaining registration documents directly from the department at a later date. Any registration document issued under subd. 1. b. is sufficient to allow the vehicle for which the application is submitted to be operated in compliance with the registration requirements under this subsection.
- (im) Registration; duplicates.** If an all-terrain vehicle or utility terrain vehicle registration certificate or a registration decal is lost or destroyed, the person to whom it was issued may apply to the department for, and the department may issue to the person, a duplicate.
- (ir) Registration; supplemental fee.** In addition to the applicable fee under par. (c), (d), or (e), each agent appointed under par. (i) 3. who accepts an application to renew registration documents in person shall collect an issuing fee of 50 cents and a

transaction fee of 50 cents each time the agent issues renewal registration documents under par. (ig) 1. a. or b. The agent shall retain the entire amount of each issuing fee and transaction fee the agent collects.

- (o) *Receipt of all-terrain vehicle fees.* All fees remitted to or collected by the department under par. (ir) for services provided regarding all-terrain vehicles shall be credited to the appropriation account under s. 20.370 (9) (hu).
- (om) *Receipt of utility terrain vehicle fees.* All fees remitted to or collected by the department under par. (ir) for services provided regarding utility terrain vehicles shall be credited to the appropriation account under s. 20.370 (9) (hw).
- (p) *Rules.*
 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.
 2. The department may establish by rule additional procedures and requirements for all-terrain vehicle or utility terrain vehicle registration.

(2g) LAC DU FLAMBEAU BAND REGISTRATION PROGRAM.

- (a) *Authorization for issuance.* The Lac du Flambeau band may issue registration certificates for public use or private use for all-terrain vehicles or utility 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.
 - (b) *Requirements for issuance; fees; effective periods.*
 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).
 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.
 3. 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) or (g).
 4. 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.
 - (c) *Requirements for registration applications and decals.*
 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.
 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 or utility 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.
 - (d) *Registration information.* The Lac du Flambeau band shall provide registration information to the state in one of the following ways:
 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.
 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.
 - (e) *Reports; records; tax collection.*
 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.
 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.
 3. 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.
 4. The Lac du Flambeau band shall collect the sales and use taxes due under s. 77.61 (1) on any all-terrain vehicle or utility 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.
 - (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:
 1. The manner in which the Lac du Flambeau band will limit its treaty-based right to fish outside the Lac du Flambeau reservation.
 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 or utility terrain vehicles, for regulating all-terrain vehicles or utility terrain vehicles and their operation and for providing all-terrain vehicle trails and all-terrain vehicle and utility terrain vehicle facilities.
- (2h) ALTERATIONS AND FALSIFICATIONS PROHIBITED.**

- (a) No person may intentionally do any of the following:
 1. Make a false statement on an application for a registration issued under sub. (2) or (2g).
 2. Alter, remove, or change any number or other character in an engine serial number.
 3. Alter, remove, or change any number or other character in a vehicle identification number.
- (b) No person may do any of the following:
 1. Manufacture a vehicle identification number tag that the person knows to contain false information to be placed on an all-terrain vehicle or utility terrain vehicle that is manufactured on or after November 13, 2015.
 2. Place a vehicle identification number tag that the person knows to be false on an all-terrain vehicle or utility terrain vehicle.
- (2j) NONRESIDENT TRAIL PASSES.**
 - (a) In this subsection:
 1. "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.
 2. "Temporary trail use receipt" means a receipt issued by the department or an agent under this subsection that shows that an application and the required fees for a nonresident trail pass have been submitted to the department or an agent appointed under sub. (2j) (f) 1.
 - (b) Except as provided in par. (e) and sub. (2k), no person may operate an all-terrain vehicle or a utility terrain vehicle on a public all-terrain vehicle corridor in this state unless a nonresident trail pass issued under this subsection is permanently affixed in a highly visible location on the forward half of the vehicle or the person is carrying proof of a valid temporary trail use receipt.
 - (c)
 1. The fee for an annual nonresident trail pass issued under this section is \$34.25. An annual nonresident trail pass may be issued only by the department and persons appointed by the department and expires on March 31 of each year.
 2. The fee for a 5-day nonresident trail pass issued under this section is \$19.25. A 5-day nonresident trail pass may be issued only by the department and persons appointed by the department.
 - (d) There is no fee for a nonresident trail pass issued for an all-terrain vehicle or utility 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 or utility terrain vehicle when it issues the registration certificate for the vehicle. The department shall provide Indian tribes or bands that register all-terrain vehicles or utility terrain vehicles under sub. (2g) or s. 23.35 with a supply of trail passes.
 - (e) An all-terrain vehicle or a utility terrain vehicle that is registered under sub. (2) (a) or an all-terrain vehicle or utility terrain vehicle that is exempt from registration under sub. (2) (b) 1., 1m., 3., or 3m. is exempt from having a nonresident trail pass or temporary trail use receipt displayed as required under par. (b). The department may promulgate a rule to exempt all-terrain vehicles and utility terrain vehicles that are exempt from registration under sub. (2) (b) 5. from having nonresident trail passes or temporary trail use receipts displayed as required under par. (b) or may promulgate a rule to exempt owners of such vehicles from having to pay any applicable nonresident trail pass fee.
 - (f)
 1. The department may appoint any person who is not an employee of the department as the department's agent to issue temporary trail use receipts and collect the fees for these passes.
 2. Any person, including the department, who issues a nonresident trail pass or a temporary trail use receipt 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 temporary trail use receipt.
 3. The department shall establish, by rule, procedures for issuing nonresident trail passes and temporary trail use receipts, and the department may promulgate rules regulating the activities of persons who are appointed to be agents under this paragraph.
- (2k) WEEKEND EXEMPTION.** A person may operate an all-terrain vehicle or utility terrain vehicle in this state during the first full weekend in June of each year without registering the all-terrain vehicle or utility terrain vehicle under sub. (2) and without having been issued or displaying a nonresident trail pass under sub. (2j).
- (2m) RENTAL OF ALL-TERRAIN VEHICLES AND UTILITY TERRAIN VEHICLES.**
 - (a) No person who is engaged in the rental or leasing of all-terrain vehicles or utility terrain vehicles to the public may do any of the following:
 1. Rent or lease an all-terrain vehicle or utility terrain vehicle for operation by a person who will be operating the vehicle for the first time unless the person engaged in the rental or leasing gives the person instruction on how to operate the vehicle.
 2. Rent or lease an all-terrain vehicle or utility terrain vehicle to a person under 16 years of age.
 3. Rent or lease an all-terrain vehicle or utility terrain vehicle without first ascertaining that any person under the age of 18 who will be on the vehicle has protective headgear of the type required under s. 347.485 (1) (a).
 - (b) A person who is engaged in the rental or leasing of all-terrain vehicles or utility 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 or utility terrain vehicles that the person rents or leases.
 - (c) The department may promulgate rules to establish minimum standards for the instruction given under par. (a) 1.
- (3) RULES OF OPERATION.** No person may operate an all-terrain vehicle or utility terrain vehicle:
 - (a) In any careless way so as to endanger the person or property of another.
 - (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 or utility terrain vehicle use.
 - (cm) On public property that is posted as closed to all-terrain vehicle or utility terrain vehicle operation or on which the operation of an all-terrain vehicle or utility terrain vehicle is prohibited by law.

- (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 or utility terrain vehicle use.
- (em) Except as provided in sub. (11m), with a passenger riding in or on any part of an all-terrain vehicle or utility terrain vehicle that is not designed or intended to be used by passengers.
- (er) With any bow in his or her possession unless the bow does not have an arrow nocked.
- (f) To drive or pursue any animal except as a part of normal farming operations involving the driving of livestock.
- (g) When within 150 feet of a dwelling at a speed exceeding 10 miles per hour. The speed limit specified in this paragraph does not apply to a person operating an all-terrain vehicle or utility terrain vehicle on a roadway that is designated as an all-terrain vehicle route.
- (gm) On the frozen surface of public waters or on an all-terrain vehicle trail, at a speed exceeding 10 miles per hour or without yielding the right-of-way when within 100 feet of another person who is not operating a motor vehicle, all-terrain vehicle, utility terrain vehicle, or snowmobile. This paragraph does not apply to a person operating an all-terrain vehicle or utility terrain vehicle while competing in a sanctioned race or derby.
- (h) On the frozen surface of public waters within 100 feet of a fishing shanty at a speed exceeding 10 miles per hour.
- (hg) At a speed exceeding 15 miles per hour when it is being operated on a roadway or adjacent to a roadway with a snow removal device attached, if it is more than 150 feet from a dwelling.
- (hr) At a speed exceeding 5 miles per hour when it is being operated on a sidewalk or driveway with a snow removal device attached, regardless of its proximity to a dwelling.
- (ht) On all-terrain vehicles routes, all-terrain vehicles trails, public lands, or roadways unless the person complies with all stop signs, yield signs, and other regulatory signs established by rule under sub. (8) (e).
- (i) In a manner which violates rules promulgated by the department. This paragraph does not authorize the department to promulgate or enforce a rule that imposes a speed restriction that is more stringent than a speed restriction specified under this subsection.

(3c) OPERATION WITH FIREARMS OR CROSSBOWS.

- (a) No person may operate an all-terrain vehicle or utility terrain vehicle with any firearm in his or her possession unless the firearm is unloaded or is a handgun, as defined in s. 175.60 (1) (bm).
- (am) No person may operate an all-terrain vehicle or utility terrain vehicle with any crossbow in his or her possession unless the crossbow is not cocked or is unloaded.
- (b) Paragraphs (a) and (am) do not apply to a firearm or crossbow that is placed or possessed on an all-terrain vehicle or utility terrain vehicle that is stationary, as defined in s. 167.31 (1) (fg).

(3e) ORIGINAL SEATING. No person may operate a utility terrain vehicle unless he or she, and every occupant of the utility terrain vehicle, is seated on a seat that is original to the utility terrain vehicle as manufactured.

(3g) USE OF HEADGEAR. No person may operate or be a passenger on an all-terrain vehicle or utility 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:

- (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.
- (c) The all-terrain vehicle or utility terrain vehicle is being operated for an agricultural purpose.
- (d) The all-terrain vehicle or utility terrain vehicle is being operated by a person on land under the management and control of the person's immediate family.
- (e) The person is being transported for medical reasons while under the care of emergency personnel.
- (f) The person is an emergency responder who is responding to an emergency that is directly related to the function of a city, town, village, county, state agency, federal agency, federally recognized American Indian tribe, or public safety corporation.

(4) OPERATION ON OR NEAR HIGHWAYS.

- (a) *Freeways.* No person may operate an all-terrain vehicle or utility 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 or utility terrain vehicle upon any part of any other freeway unless the department of transportation authorizes the use of that vehicle on that freeway. No person may operate an all-terrain vehicle or utility terrain vehicle with a snow removal device attached upon any part of any freeway under any circumstances.
- (b) *Other highways; operation restricted.* No person may operate an all-terrain vehicle or utility terrain vehicle on a highway except as authorized under pars. (d), (e), and (f) and sub. (11) (am) 2., 3., or 4. or as authorized by rules promulgated by the department and approved by the department of transportation.
- (c) *Exceptions; municipal, state and utility operations; races and derbies; land surveying operations.*

1. Paragraphs (a) and (b) do not apply to the operator of an all-terrain vehicle or utility terrain vehicle owned by a municipality, state agency, or public utility, or by the Great Lakes Indian Fish and Wildlife Commission, while the operator is engaged in an emergency or in the operation of an all-terrain vehicle or utility terrain vehicle directly related to the functions of the municipality, state agency, or public utility, or of the Great Lakes Indian Fish and Wildlife Commission, if safety does not require strict adherence to these restrictions.
- 1m. Paragraphs (a) and (b) do not apply to the operator of an all-terrain vehicle or utility terrain vehicle who is engaged in land surveying operations, if safety does not require strict adherence to the restrictions under pars. (a) and (b).
2. Paragraph (b) does not apply to a highway blocked off for special all-terrain vehicle or utility 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 or utility 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 or utility 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 or utility terrain vehicle race or derby which may result in any street, or part thereof, of the county, town, city or village being blocked off.

- (d) *Operation on roadway.* A person may operate an all-terrain vehicle or utility terrain vehicle on the roadway portion of any highway if the person complies with the applicable speed limit and only in the following situations:
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 or utility terrain vehicle prior to the crossing and yields the right-of-way to other vehicles, pedestrians, electric scooters, and electric personal assistive mobility devices using the roadway.
 2. On any roadway which is seasonally not maintained for motor vehicle traffic. Operation of an all-terrain vehicle or utility 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 or utility terrain vehicle traffic.
 3.
 - a. 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 or utility terrain vehicle traffic, except as provided in subd. 3. b. 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 vehicle prior to the crossing and yields the right-of-way to other vehicles, pedestrians, electric scooters, and electric personal assistive mobility devices using the roadway.
 - b. A person may operate an all-terrain vehicle or utility terrain vehicle on the roadway or shoulder of any highway to cross a bridge that is 1,000 feet in length or less if the operation is in compliance with a county ordinance adopted under sub. (11) (am) 3. that applies to that bridge and a city, village, or town ordinance adopted under sub. (11) (am) 3. that applies to that bridge.
 4. On roadways which are designated as all-terrain vehicle routes. Operation of all-terrain vehicles and utility 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.
 5. On roadways if the all-terrain vehicle or utility terrain vehicle is an implement of husbandry, if the all-terrain vehicle or utility terrain vehicle is used exclusively for agricultural purposes and if the all-terrain vehicle or utility terrain vehicle is registered for private use under sub. (2) (d) or (2g). Operation of an all-terrain vehicle or utility 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.
 6. On roadways if the operator of the all-terrain vehicle or utility 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.
 7. On roadways of highways that are all-terrain vehicle trails.
- (e) *Operation adjacent to roadway.* A person may operate an all-terrain vehicle or utility terrain vehicle adjacent to a roadway on an all-terrain vehicle route or trail if the person operates the all-terrain vehicle or utility terrain vehicle in the following manner:
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.
 2. Outside of the roadway along town highways.
 3. During hours of darkness in the same direction as motor vehicle traffic in the nearest lane unless all of the following apply:
 - a. The all-terrain vehicle route or trail is located at least 40 feet from the roadway or is separated from the roadway by a head lamp barrier.
 - b. The use of the all-terrain vehicle route or trail is approved by the department of transportation with respect to all-terrain vehicle routes or trails located near or crossing state trunk highways or by the officer in charge of maintenance with respect to all-terrain vehicle routes or trails located near or crossing other highways.
 - 3m. During daylight hours, travel may be in either direction regardless of the flow of motor vehicle traffic.
 4. Not in excess of the speed limits of the adjacent roadway.
 5. With due regard to safety and in compliance with rules promulgated by the department and approved by the department of transportation.
- (f) *Operation with snow removal device attached.* Except as prohibited under par. (a), and subject to ordinances enacted under sub. (11) (am) 2., a person may operate an all-terrain vehicle or utility terrain vehicle with a snow removal device attached on a roadway or adjacent to a roadway or on a public sidewalk during the period beginning on October 1 and ending on April 30 of each year for the purpose of removing snow if such operation is necessary to travel to or from a site where the snow removal device will be used. The travel necessary to or from the site may not exceed 2 miles. Operation of such an all-terrain vehicle or utility terrain vehicle on a roadway or adjacent to a roadway is authorized only if the applicable roadway speed limit is 45 miles per hour or less. Operation on a roadway of such an all-terrain vehicle or utility terrain vehicle is authorized only for the extreme right side of the roadway except that left turns may be made from any part of the roadway where it is safe to do so given prevailing conditions. Operation adjacent to a roadway of such an all-terrain vehicle or utility terrain vehicle shall comply with the applicable speed limit and with par. (e) 1., 2., 3., 3m., and 5.

(4c) INTOXICATED OPERATION OF AN ALL-TERRAIN VEHICLE OR UTILITY TERRAIN VEHICLE.

(a) Operation.

1. 'Operating while under the influence of an intoxicant.' No person may operate an all-terrain vehicle or utility 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 or utility terrain vehicle.

2. 'Operating with alcohol concentrations at or above specified levels.' No person may engage in the operation of an all-terrain vehicle or utility terrain vehicle while the person has an alcohol concentration of 0.08 or more.
- 2m. 'Operating with a restricted controlled substance.' No person may engage in the operation of an all-terrain vehicle or utility terrain vehicle while the person has a detectable amount of a restricted controlled substance in his or her blood.
3. 'Operating with alcohol concentrations at specified levels; below age 21.' If a person has not attained the age of 21, the person may not engage in the operation of an all-terrain vehicle or utility terrain vehicle while he or she has an alcohol concentration of more than 0.0 but not more than 0.08.
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.
5. '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.

(b) Causing injury.

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 or utility terrain vehicle may cause injury to another person by the operation of an all-terrain vehicle or utility terrain vehicle.
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 or utility terrain vehicle.
- 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 or utility terrain vehicle.
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.
4. 'Defenses.'
 - 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.
 - 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.

(4g) PRELIMINARY BREATH SCREENING TEST.

- (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 or utility terrain vehicle law and if, prior to an arrest, the law enforcement officer requested the person to provide this sample.
- (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 or utility 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).
- (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.

(4j) APPLICABILITY OF THE INTOXICATED OPERATION OF AN ALL-TERRAIN VEHICLE OR UTILITY TERRAIN VEHICLE LAW. In addition to being applicable upon highways, the intoxicated operation of an all-terrain vehicle or utility terrain vehicle law is applicable upon all premises held out to the public for use of their all-terrain vehicles or utility terrain vehicles, whether such premises are publicly or privately owned and whether or not a fee is charged for the use thereof.

(4L) IMPLIED CONSENT. Any person who engages in the operation of an all-terrain vehicle or utility 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 or utility 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).

(4p) CHEMICAL TESTS.

(a) *Requirement.*

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 or utility 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 or utility terrain vehicle law and if he or she is requested to submit to the test by a law enforcement officer.
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:
 - a. That he or she is deemed to have consented to tests under sub. (4L).
 - 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.
 - 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.
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 or utility 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.

(b) *Chemical tests.*

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.
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.
3. '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.
4. '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 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 or utility terrain vehicle law only by a physician, registered nurse, medical technologist, physician assistant, phlebotomist, or other medical professional who is authorized to draw blood, 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.
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.

(c) *Additional and optional chemical tests.*

1. 'Additional chemical test.' If a person is arrested for a violation of the intoxicated operation of an all-terrain vehicle or utility terrain vehicle law or is the operator of an all-terrain vehicle or utility 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.
2. 'Optional test.' If a person is arrested for a violation of the intoxicated operation of an all-terrain vehicle or utility 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.
3. 'Compliance with request.' A test facility shall comply with a request under this paragraph to administer any chemical test it is able to perform.
4. '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).

- (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 or utility 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.

- (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:
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 or utility terrain vehicle law.
 2. Whether the person was lawfully placed under arrest for violating the intoxicated operation of an all-terrain vehicle or utility terrain vehicle law.
 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.
 4. Whether the person refused to provide a sample or to submit to a chemical test.
- (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 or utility terrain vehicle law or the refusal law, the law enforcement officer shall notify the department of the arrest as soon as practicable.
- (4x) **OFFICER'S ACTION AFTER ARREST FOR OPERATING AN ALL-TERRAIN VEHICLE OR UTILITY 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.
- (4z) **PUBLIC EDUCATION PROGRAM**.
- (a) The department shall promulgate rules to provide for a public education program to:
1. Inform all-terrain vehicle and utility terrain vehicle operators of the prohibitions and penalties included in the intoxicated operation of an all-terrain vehicle or utility terrain vehicle law.
 2. Provide for the development of signs briefly explaining the intoxicated operation of an all-terrain vehicle or utility terrain vehicle law.
 3. Provide for the development of safety information signs.
- (b) The department shall develop and issue an educational pamphlet on the intoxicated operation of an all-terrain vehicle or utility terrain vehicle law to be distributed, beginning in 1989, to persons issued all-terrain vehicle or utility terrain vehicle registration certificates under subs. (2) and (2g).
- (5) **AGE RESTRICTIONS; SAFETY CERTIFICATION PROGRAM**.
- (a) *All-terrain vehicles; age restriction*.
1. Subject to subs. 2. to 5., no person under 12 years of age may operate an all-terrain vehicle unless any of the following applies:
 - a. 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. For purposes of this subd. 1. a., 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.
 - b. 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 or guardian or by a person who is at least 18 years of age who is designated by the parent or guardian.
 2. No person who is under 12 years of age may operate an all-terrain vehicle that is an implement of husbandry on a roadway under any circumstances.
 3. 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.
 4. No person who is under 16 years of age may operate an all-terrain vehicle under the authority provided under sub. (4) (d) 4. or 7. unless the person is accompanied by his or her parent or guardian or by a person who is at least 18 years of age who is designated by the parent or guardian.
 5. No person who is under 16 years of age may operate an all-terrain vehicle under the authorization provided under sub. (4) (f) under any circumstances.
 6. No person who is under 12 years of age may rent or lease an all-terrain vehicle.
- (am) *Utility terrain vehicles; age restriction*.
1. No person under 16 years of age may operate, rent, or lease a utility terrain vehicle unless any of the following apply:
 - a. He or she is operating the utility terrain vehicle for an agricultural purpose and he or she is under the supervision of a person over 18 years of age. For purposes of this subd. 1. a., supervision does not require that the person under 16 years of age be subject to continuous direction or control by the person over 18 years of age.
 - b. He or she is at least 12 years of age, is operating a small utility terrain vehicle on an all-terrain vehicle trail designated by the department and he or she is accompanied by his or her parent or guardian or by a person who is at least 18 years of age who is designated by the parent or guardian.
 3. Except as provided in par. (4) (d) 1., 2., and 3. a., no person who is under 16 years of age may operate a utility terrain vehicle on a roadway.
- (b) *Safety certificate*.
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 issued by the department, another state, or a province of Canada.

- 1m. No person who is at least 12 years of age and who is born on or after January 1, 1988, may operate a utility terrain vehicle unless he or she holds a valid safety certificate issued by the department, another state, or a province of Canada.
2. Any person who is required to hold an all-terrain vehicle or utility terrain vehicle safety certificate while operating an all-terrain vehicle or utility terrain vehicle shall carry proof that the person holds a valid safety certificate and shall display this proof to a law enforcement officer on request.
3. Persons enrolled in a safety certification program approved by the department may operate an all-terrain vehicle or utility terrain vehicle in an area designated by the instructor.

(c) *Exceptions.*

1. In this paragraph, "land on which operation is authorized" means land under the management and control of a person who consents to the operation of an all-terrain vehicle or utility terrain vehicle on the land.
2. Paragraphs (a), (am), and (b) do not apply to a person who operates an all-terrain vehicle or utility terrain vehicle exclusively on land that is either of the following:
 - a. Land under the management and control of the person's immediate family.
 - b. Land, other than land described under subd. 2. a., on which operation is authorized.
3. A person who operates an all-terrain vehicle or utility terrain vehicle on land on which operation is authorized qualifies for the exception under subd. 2. b. only if the person is under 12 years of age and operates the all-terrain vehicle or utility terrain vehicle when accompanied by his or her parent or guardian or by a person who is at least 18 years of age who is designated by the parent or guardian.
4. Notwithstanding the safety certificate requirements under par. (b), a person is not required to hold a safety certificate if all of the following apply:
 - a. The person operates an all-terrain vehicle or utility terrain vehicle at an all-terrain vehicle or utility terrain vehicle demonstration event.
 - b. The event under subd. 4. a. is sponsored by an all-terrain vehicle dealer, a utility terrain vehicle dealer, an all-terrain vehicle club, a utility terrain vehicle club, this state, a city, a village, a town, or a county.
 - c. If the person is under 18 years of age, the person is accompanied by his or her parent or guardian or is accompanied by a person over 18 years of age who is designated by the parent or guardian.
 - d. Notwithstanding sub. (3g) (a), the person wears protective headgear of the type required under s. 347.485 (1).
 - e. The person operates the all-terrain vehicle or utility terrain vehicle in a closed-course area in the manner prescribed by the event sponsor.

(d) *Safety certification program established.* The department shall establish or supervise the establishment of a program of instruction on all-terrain vehicle and utility terrain vehicle laws, including the intoxicated operation of an all-terrain vehicle or utility terrain vehicle law, regulations, safety and related subjects. The department shall establish by rule an instruction fee for this program. The department shall issue certificates to persons successfully completing the 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 percent, 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. The department shall issue a duplicate certificate of accomplishment to a person who is entitled to a duplicate certificate of accomplishment and who pays a fee of \$2.75.

(5m) SAFETY ENHANCEMENT PROGRAM.

- (a) The department shall establish a program to provide funding to organizations that meet the eligibility requirements under par. (b).
- (b) To be eligible for funding under this subsection, an organization shall meet all of the following requirements:
 1. The organization is a nonstock corporation organized in this state.
 2. The organization promotes the operation of all-terrain vehicles and utility terrain vehicles in a manner that is safe and responsible and that does not harm the environment.
 3. The organization promotes the operation of all-terrain vehicles and utility 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 or utility terrain vehicles.
 4. The interest of the organization is the recreational operation of all-terrain vehicles and utility terrain vehicles on all-terrain vehicle trails and other interconnected areas.
 5. The organization has a board of directors that has a majority of members who are representatives of all-terrain vehicle or utility terrain vehicle clubs.
 6. The organization provides support to all-terrain vehicle and utility terrain vehicle clubs.
- (c) An organization receiving funding under this subsection shall use the moneys to promote and provide support to the program established under sub. (5) by conducting activities that include all of the following:
 1. Collecting data on the recreational operation of all-terrain vehicles and utility terrain vehicles.
 2. Providing assistance to the department in locating, recruiting, and training instructors for the program established under sub. (5) (d).
 3. Attempting to increase participation by current and future all-terrain vehicle and utility terrain vehicle operators and owners in the program established under sub. (5) (d).
 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 and utility terrain vehicle use in their communities and of the economic benefits that may be gained from promoting tourism to attract all-terrain vehicle and utility terrain vehicle operators.
 5. Attempting to improve and maintain its relationship with the department of natural resources, the department of tourism, all-terrain vehicle and utility terrain vehicle dealers, all-terrain vehicle and utility terrain vehicle manufacturers, off-highway

motorcycle clubs, as defined in s. 23.335 (1) (r), off-highway motorcycle alliances, other organizations that promote the recreational operation of off-highway motorcycles, 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.

6. 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 and utility terrain vehicles that is given in the field to all-terrain vehicle and utility terrain vehicle operators.
7. Cooperating with the department to recruit, train, and manage volunteer trail patrol ambassadors in monitoring the recreational operation of all-terrain vehicles and utility terrain vehicles for safety issues and other issues that relate to the responsible operation of all-terrain vehicles and utility terrain vehicles.

(d) The department shall provide funding under this subsection from the appropriation under s. 20.370 (5) (cx).

(e) The department shall annually determine the amount necessary to provide funding under this subsection. The amount shall be the greater of \$297,000 or the amount calculated by multiplying 80 cents by the number of all-terrain vehicles and utility terrain vehicles registered as of the last day of February of the previous fiscal year.

(6) EQUIPMENT REQUIREMENTS.

(a) A person who operates an all-terrain vehicle or utility terrain vehicle is required to display a lighted headlamp and tail lamp on the all-terrain vehicle or utility terrain vehicle.

(b) The headlamp on an all-terrain vehicle or utility 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 or utility terrain vehicle.

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

(cd) Except as provided in sub. (11m), no person may operate an all-terrain vehicle or utility terrain vehicle that is equipped with any of the following:

1. A lamp that emits any color of light other than white or amber and that is visible from directly in front of the all-terrain vehicle or utility terrain vehicle.
2. A lamp that emits any color of light other than red, yellow, amber, or white and that is visible from directly behind the all-terrain vehicle or utility terrain vehicle.
3. A flashing, oscillating, or rotating lamp that emits any color other than yellow or amber.

(ch) Except as provided in sub. (11m), if an all-terrain vehicle or utility terrain vehicle with headlamps is equipped with additional adverse weather lamps, spot lamps, auxiliary lamps, or any other lamp on the front of the all-terrain vehicle or utility terrain vehicle that is capable of projecting a beam of intensity of more than 300 candlepower, the operator of the all-terrain vehicle or utility terrain vehicle may not light more than 4 lamps on the front of the all-terrain vehicle or utility terrain vehicle simultaneously, not including flashing amber or yellow lights, within 500 feet of an oncoming all-terrain vehicle, utility terrain vehicle, or other vehicle upon a roadway, all-terrain vehicle route, all-terrain vehicle trail, or public area.

(cp) Except as provided in sub. (11m), when the operator of an all-terrain vehicle or utility terrain vehicle equipped with multiple-beam headlamps, adverse weather lamps, spot lamps, auxiliary lamps, high-beam lamps, or any other lamps other than those required by this subsection approaches an oncoming all-terrain vehicle, utility terrain vehicle, or other vehicle within 500 feet or approaches or follows an all-terrain vehicle, utility terrain vehicle, or other vehicle within 500 feet to the rear of that vehicle, the operator shall dim, depress, or tilt the multiple-beam headlamps, adverse weather lamps, spot lamps, auxiliary lamps, high-beam lamps, or any other lamps of the all-terrain vehicle or utility terrain vehicle so that the glaring rays are not directed or reflected into the eyes of the operator of the other vehicle, all-terrain vehicle, or utility terrain vehicle. This paragraph does not prohibit an operator from intermittently flashing the high-beam headlamps of the all-terrain vehicle or utility terrain vehicle at an oncoming all-terrain vehicle, utility terrain vehicle, or other vehicle whose high-beam headlamps are lit.

(ct)

1. Any all-terrain vehicle or utility terrain vehicle may be equipped with not more than 2 backup lamps that shall be directed to project a white or amber light illuminating the area to the rear of the vehicle for a distance not to exceed 75 feet.
2. No lighted backup lamp or white lamp visible from directly behind may be displayed on any all-terrain vehicle or utility terrain vehicle upon a highway, all-terrain vehicle route, all-terrain vehicle trail, frozen water, or public area where use of all-terrain vehicles or utility terrain vehicles is allowed except when the all-terrain vehicle or utility terrain vehicle is about to be or is being driven backward. Whenever a backup lamp on an all-terrain vehicle or utility terrain vehicle is lighted, the tail lamp or tail lamps on the all-terrain vehicle or utility terrain vehicle shall also be lighted.

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

(e) Every all-terrain vehicle and utility 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. This paragraph does not apply to an all-terrain vehicle or utility terrain vehicle that is operated exclusively by means of an electric motor.

(f) An all-terrain vehicle or utility terrain vehicle may not be modified so that its maximum width exceeds the width allowed for a utility terrain vehicle under sub. (1) (ng) 1. h. or 2. b. or the width allowed for an all-terrain vehicle under s. 340.01 (2g). This paragraph does not apply to the operation of an all-terrain vehicle or utility terrain vehicle on private property.

(g) An all-terrain vehicle or utility terrain vehicle may not be operated with anything other than tires. This paragraph does not apply to the operation of an all-terrain vehicle or utility terrain vehicle on private property or on frozen waters.

(h) A person who operates an all-terrain vehicle or utility terrain vehicle with a snow removal device attached as authorized under sub. (4) (f) is required to display at least one or more flashing or rotating amber or yellow lights, and at least one of these lights shall be visible from every direction.

- (i) No person may operate a utility terrain vehicle unless each passenger is wearing a safety belt installed by the manufacturer and fastened in a manner prescribed by the manufacturer of the safety belt which permits the safety belt to act as a body restraint.
- (6m) NOISE LIMITS. No person may manufacture, sell, rent or operate an all-terrain vehicle or utility terrain vehicle that is constructed in such a manner that noise emitted from the vehicle exceeds 96 decibels on the A scale as measured in the manner prescribed under rules promulgated by the department.
- (6r) PASSENGER RESTRICTIONS. Except as provided in sub. (11m), no person may ride in or on any part of an all-terrain vehicle or utility terrain vehicle that is not designed or intended to be used by passengers.
- (7) ACCIDENTS.
 - (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 and utility 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.
 - (b) If the operator of an all-terrain vehicle or utility 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.
- (8) ROUTES AND TRAILS.
 - (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.
 - (b) *Routes.*
 - 1. Subject to subd. 3., a town, village, city, or county may designate highways as all-terrain vehicle routes.
 - 2. Subject to subd. 3., a town, village, city, or county may designate all highways under its jurisdiction as all-terrain vehicle routes.
 - 3. No state trunk highway or connecting highway may be designated as an all-terrain vehicle route unless the department of transportation approves the designation.
 - (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.
 - (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 or utility terrain vehicle during certain periods of the year.
 - (e) *Signs.*
 - 1. The department, in cooperation with the department of transportation, shall establish uniform all-terrain vehicle route and trail signs and standards and uniform signs and standards for the operation of utility terrain vehicles on all-terrain vehicle routes and trails. The standards may not require that any additional signs be placed on all-terrain vehicle routes concerning the operation of all-terrain vehicles or utility terrain vehicles with snow removal devices attached.
 - 2. Except as provided in subd. 3, if a town, village, city, or county designates specific highways under its jurisdiction as all-terrain vehicle routes under par. (b) 2., the town, village, city, or county shall do one of the following:
 - a. Erect a sign at each point on a highway where the all-terrain vehicle route begins and at each point where the all-terrain vehicle route intersects an all-terrain vehicle trail or a highway that is not designated as an all-terrain vehicle route. The town, village, city, or county is not required to erect a sign under this subdivision at a point that is not more than one-half mile from a sign marking the same all-terrain vehicle route on the same highway.
 - b. Erect a sign on each highway under its jurisdiction that crosses its territorial boundary in a position to be viewed by motorists as they enter the town, village, city, or county. The signs shall alert motorists that all highways within the town, village, city, or county have been designated as all-terrain vehicle routes, except where otherwise indicated. The town, village, city, or county shall erect signs as appropriate to indicate highways that are not designated as an all-terrain vehicle route.
 - 3. If a town, village, city, or county designates all highways under its jurisdiction as all-terrain vehicle routes under par. (b) 2., the town, village, city, or county may erect a sign on each highway that crosses its territorial boundary in a position to be viewed by motorists as they enter the town, village, city, or county. The signs shall alert motorists that all highways under the jurisdiction of the town, village, city, or county have been designated as all-terrain vehicle routes.
 - 4. If a town, village, city, or county designates all highways under its jurisdiction as all-terrain vehicle routes under par. (b) 2., the town, village, city, or county may erect a sign on each highway under its jurisdiction at the point where that highway crosses its territorial boundary and enters another town, village, city, or county that does not designate the highway as an all-terrain vehicle route. The signs shall be in a position to be viewed by motorists and all-terrain vehicle operators as they leave the town, village, city, or county and shall alert motorists and all-terrain vehicle operators that the all-terrain vehicle route designation has ended.
 - 5. If a town, village, city or county designates highways under its jurisdiction as all-terrain vehicle routes under par. (b) 2., the town, village, city, or county may designate a preferred route and erect signs marking the route.
 - 6. If a town, village, city, or county erects and maintains signs under subd. 3., the department may not require the town, village, city, or county to erect any additional signs marking the all-terrain vehicle routes within the town, village, city, or county.
 - (f) *Interference with signs and standards prohibited.*
 - 1. No person may intentionally remove, damage, deface, move, obstruct, or interfere with the effective operation of any uniform all-terrain vehicle route or trail sign or standard or any uniform sign or standard for the operation of a utility terrain vehicle on an all-terrain vehicle route or trail if the sign or standard is legally placed by the state, any municipality or any authorized individual.
 - 2. No person may possess any uniform all-terrain vehicle route or trail sign or standard, or any uniform sign or standard for the operation of a utility terrain vehicle on an all-terrain vehicle route or trail, of the type established by the department for the warning, instruction or information of the public, unless he or she obtained the uniform sign or standard in a lawful manner. Possession of a uniform all-terrain vehicle route or trail sign or standard or uniform sign or standard for the

operation of a utility terrain vehicle on an all-terrain vehicle route or trail creates a rebuttable presumption of illegal possession.

(9) ADMINISTRATION; ENFORCEMENT; AIDS.

- (a) *Enforcement.* The department may utilize moneys received under sub. (2) for all-terrain vehicle and utility 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.
- (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):
1. Acquisition of an easement or land in fee simple.
 2. Development of all-terrain vehicle facilities such as parking areas, riding areas, shelters, toilets or other improvements.
 3. Development of all-terrain vehicle routes or all-terrain vehicle trails.
 4. 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.
 5. Maintenance of all-terrain vehicle routes or all-terrain vehicle trails.
 6. Purchase of liability insurance.
 7. Production of trail maps and a statewide digital information application for providing safety, regulatory, and riding opportunity information.
 8. Acquisition and maintenance of communications equipment for providing support to organizations that meet the eligibility requirements under sub. (5m) (b).
- (bb) *Signs.* In addition to the projects listed in par. (b), the department may provide aid from the appropriation under s. 20.370 (5) (ct) or (cu) to a town, village, city, county, or nonprofit organization for up to 100 percent of the cost of placing signs developed under sub. (4z) (a) 2. and 3.
- (bc) *All-terrain vehicle trail maintenance funding.* The department may provide state aid for trail maintenance costs equal to the approved eligible project costs, which may not exceed the following:
1. For winter maintenance of all-terrain vehicle trails that are shared with snowmobiles and that are eligible for winter maintenance, \$100 per mile.
 2. For winter maintenance of all-terrain vehicle trails that are not shared with snowmobiles and that are eligible for winter maintenance, \$200 per mile.
 3. For summer maintenance of all-terrain vehicle trails, \$600 per mile.
- (bd) *All-terrain and utility terrain vehicle projects; stewardship funding.*
1. The department may obligate from the appropriation account under s. 20.866 (2) (ta) moneys for state projects and for aids to counties, cities, villages, or towns for nonstate projects. The projects may be any of the following:
 - a. Acquisitions of easements and land as specified in par. (b) 1.
 - b. Development of facilities, routes, and trails as specified in par. (b) 2. and 3.
 - c. Development 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.
 - d. Improvement of all-terrain vehicle trails for use by utility terrain vehicles.
 - e. Placement of signs developed under sub. (4z) (a) 2.
 2. Moneys obligated from the appropriation account under s. 20.866 (2) (ta) for a project under subd. 1. shall be limited to no more than 80 percent of the cost of the project. The county, city, village, or town receiving the aid is responsible for the remainder of the project cost.
- (bg) *Funding for utility terrain vehicles.*
1. A project to improve or maintain all-terrain vehicle trails for use by utility terrain vehicles is eligible for summer funding as a state utility terrain vehicle project from the appropriation account under s. 20.370 (1) (mr) or for aid as a nonstate utility terrain vehicle project from the appropriation accounts under s. 20.370 (5) (eu) and (gr). The maximum amount allowed for aid under this subdivision is \$200 per mile for all-terrain vehicle trails that are maintained not less than 3 months per year including the months of June, July, and August.
 2. A project to improve or maintain all-terrain vehicle trails for use by utility terrain vehicles is eligible for winter funding as a state utility terrain vehicle project from the appropriation account under s. 20.370 (1) (mr) or for aid as a nonstate utility terrain vehicle project from the appropriation accounts under s. 20.370 (5) (eu) and (gr). The maximum amount allowed for aid under this subdivision is \$100 per mile for all-terrain vehicle trails that are maintained not less than 2 months nor more than 6 months per year including the months of January and February.
 3. If the requests for aid for projects under this paragraph exceed the funds available, the department shall distribute available funds to qualified applicants on a proportional basis.

(10) LIABILITY OF LANDOWNERS. Section 895.52 applies to this section.

(11) LOCAL ORDINANCES.

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

(am)

1. Any county, town, city, or village may enact an ordinance that 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, except as

provided in subs. 2., 3., and 4.

2. For a roadway, or for a portion of a roadway, that is located within the territorial boundaries of a city, village, or town, the city, village, or town may enact an ordinance to authorize the operation of all-terrain vehicles and utility terrain vehicles with snow removal devices attached on the roadway, or adjacent to the roadway, if the applicable roadway speed limit is greater than 45 miles per hour, and regardless of whether the city, village, or town has jurisdiction over the roadway.
3. A county, city, village, or town may enact an ordinance to authorize the operation of all-terrain vehicles and utility terrain vehicles on a highway bridge that is not part of the national system of interstate and defense highways, that is 1,000 feet in length or less, and that is located within the territorial boundaries of the county, city, village, or town regardless of whether the county, city, village, or town has jurisdiction over the highway. Any such ordinance shall require a person crossing a bridge to do all of the following:
 - a. Cross the bridge in the most direct manner practicable and at a place where no obstruction prevents a quick and safe crossing.
 - b. Stay as far to the right of the roadway or shoulder as practicable.
 - c. Stop the vehicle prior to the crossing.
 - d. Yield the right-of-way to other vehicles, pedestrians, electric scooters, and electric personal assistive mobility devices using the roadway or shoulder.
 - e. Exit the highway as quickly and safely as practicable after crossing the bridge.
4. A city, village, or town may enact an ordinance to authorize the operation of all-terrain vehicles and utility terrain vehicles on a highway that is not part of the national system of interstate and defense highways, that has a speed limit of 35 miles per hour or less, and that is located within the territorial boundaries of the city, village, or town regardless of whether the city, village, or town has jurisdiction over the highway.

(b) If a county, town, city, or village adopts an ordinance regulating all-terrain vehicles, utility terrain vehicles, or both, its clerk shall immediately send a copy of the ordinance to the department, to the state traffic patrol, and to the office of any law enforcement agency of each county, town, city, or village having jurisdiction over any of the highways to which the ordinance applies.

(11m) EXCEPTIONS. Subsections (3) (em), (6) (cd), (ch), (cp), and (i), and (6r) do not apply to the operator of an all-terrain vehicle or utility terrain vehicle owned or leased by a city, village, town, county, state agency, federal agency, federally recognized American Indian tribe, public safety corporation, or public utility while the operator is engaged in an emergency.

(12) ENFORCEMENT.

- (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 accordance with this section.
- (b) No operator of an all-terrain vehicle or utility terrain vehicle may refuse to stop after being requested or signaled to do so by a law enforcement officer or a commission warden, as defined in s. 939.22 (5).

(13) PENALTIES.

- (a) *Generally.* Except as provided in pars. (am) to (e), any person who violates this section shall forfeit not more than \$250.
- (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.
- (ar) *Penalty related to nonresident trail passes.* Any person who violates sub. (2j) shall forfeit not more than \$1,000.
- (b) *Penalties related to intoxicated operation of an all-terrain vehicle or utility terrain vehicle.*
 1. Except as provided under subs. 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.
 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 or utility 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.
 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 2 or more times previously under the intoxicated operation of an all-terrain vehicle or utility 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.
 4. A person who violates sub. (4c) (a) 3. or (4p) (e) and who has not attained the age of 21 shall forfeit not more than \$50.
- (bg) *Penalties related to intoxicated operation of an all-terrain vehicle or utility terrain vehicle; underage passengers.* If there is a passenger under 16 years of age on the all-terrain vehicle or utility 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.
- (br) *Penalties related to intoxicated operation of an all-terrain vehicle or utility terrain vehicle; enhancers.*
 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.
 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.
 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.
 4. 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).

- (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.
- (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.
- (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.
- (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.
- (dm) *Reporting convictions to the department.* Whenever a person is convicted of a violation of the intoxicated operation of an all-terrain vehicle or utility 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.
- (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 or utility 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, or any uniform sign or standard for the operation of a utility terrain vehicle on an all-terrain vehicle route or trail, that the defendant removed, damaged, defaced, moved or obstructed.

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, 253, 481; 2007 a. 20 ss. 664m to 666m, 9121 (6) (a); 2007 a. 27, 209; 2009 a. 85, 175, 252, 367; 2011 a. 35, 51, 208, 258; 2013 a. 15, 20, 67, 83; 2013 a. 165 s. 114; 2013 a. 173, 224, 316; 2015 a. 55, 89, 170, 210; 2017 a. 59, 87, 161, 193, 365; 2019 a. 11, 68, 98, 183; s. 35.17 correction in (6) (h).

Cross-reference: See also ch. NR 64, Wis. adm. code.

The safety certificate requirement under sub. (5) is a creation of the legislature, and the legislature has specified who is required to comply with the requirement. When a person is not required to obtain a safety certificate, that person cannot be negligent for failing to do so. *Hardy v. Hoefferle*, 2007 WI App 264, 306 Wis. 2d 513, 743 N.W.2d 843, 06-2861.

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

Even if the primary purpose of designating short county highway segments as ATV routes is to allow a private organization to enhance its system of trails that benefit club members and their invitees, such designations will not violate the public purpose doctrine if no county resources are expended and no county expenditures occur as a result of those designations. OAG 3-11.

23.335 Off-highway motorcycles.

(1) DEFINITIONS. In this section:

- (a) "Accompanied" has the meaning given in s. 23.33 (1) (a).
- (b) "Agricultural purpose" includes a purpose related to the transportation of farm implements, equipment, supplies, or products on a farm or between farms.
- (c) "Alcohol beverages" has the meaning specified under s. 125.02 (1).
- (d) "Alcohol concentration" has the meaning given in s. 340.01 (1v).
- (dm) "All-terrain vehicle" has the meaning given in s. 340.01 (2g).
- (e) "All-terrain vehicle route" has the meaning given in s. 23.33 (1) (c).
- (f) "All-terrain vehicle trail" has the meaning given in s. 23.33 (1) (d).
- (g) "Approved public treatment facility" has the meaning specified under s. 51.45 (2) (c).
- (gk) "Controlled substance" has the meaning given in s. 961.01 (4).
- (gm) "Controlled substance analog" has the meaning given in s. 961.01 (4m).
- (h) "Electric personal assistive mobility device" has the meaning given in s. 340.01 (15pm).
- (hh) "Electric scooter" has the meaning given in s. 340.01 (15ps).
- (hm) "Hazardous inhalant" means a substance that is ingested, inhaled, or otherwise introduced into the human body in a manner that does not comply with any cautionary labeling that is required for the substance under s. 100.37 or under federal law, or in a manner that is not intended by the manufacturer of the substance, and that is intended to induce intoxication or elation, to stupefy the central nervous system, or to change the human audio, visual, or mental processes.
- (i) "Highway" has the meaning given in s. 340.01 (22).
- (j) "Immediate family" means persons who are related as spouses, who are related as siblings, or who are related as parent and child.
- (k) "Intoxicant" means any alcohol beverage, hazardous inhalant, controlled substance, controlled substance analog, or other drug or any combination thereof.
- (L) "Intoxicated operation of an off-highway motorcycle law" means sub. (12) (a) or (b) or a local ordinance in conformity therewith or, if the operation of an off-highway motorcycle is involved, s. 940.09 or 940.25.
- (m) "Junked" means dismantled for parts or scrapped.
- (n) "Law enforcement officer" has the meaning given in s. 23.33 (1) (ig).

- (o) "Limited use off-highway motorcycle" means an off-highway motorcycle that is not registered by the department of transportation for use on highways.
- (p) "Local governmental unit" means a city, village, town, or county.
- (q) "Off-highway motorcycle" means a 2-wheeled motor vehicle that is straddled by the operator, that is equipped with handlebars, and that is designed for use off a highway, regardless of whether it is also designed for use on a highway. "Off-highway motorcycle" does not include an electric bicycle, as defined under s. 340.01 (15ph).
- (qm) "Off-highway motorcycle association" means a club or other association consisting of individuals that promotes the recreational operation of off-highway motorcycles.
- (r) "Off-highway motorcycle club" means a club consisting of individuals that promotes use of off-highway motorcycles for recreational purposes off the highways within this state.
- (s) "Off-highway motorcycle corridor" means an off-highway motorcycle trail or other established off-highway motorcycle corridor that is open to the public for the operation of off-highway motorcycles for recreational purposes but does not include an off-highway motorcycle route.
- (t) "Off-highway motorcycle dealer" means a person who is engaged in this state in the sale of off-highway motorcycles for a profit at retail.
- (u) "Off-highway motorcycle route" means a highway or sidewalk designated for recreational use by operators of off-highway motorcycles by the governmental agency having jurisdiction.
- (v) "Off-highway motorcycle trail" means a marked corridor on public property or on private lands subject to public easement or lease, designated for recreational use by operators of off-highway motorcycles by the governmental agency having jurisdiction.
- (y) "Off the highways" means off-highway motorcycle corridors, off-highway motorcycle routes, and areas where operation is authorized under sub. (10) or (11).
- (z) "Operate" means to exercise physical control over the speed or direction of an off-highway motorcycle or to physically manipulate or activate any of the controls of an off-highway motorcycle necessary to put it in motion.
- (zb) "Operation" means the exercise of physical control over the speed or direction of an off-highway motorcycle or the physical manipulation or activation of any of the controls of an off-highway motorcycle necessary to put it in motion.
- (zc) "Operator" means a person who operates an off-highway motorcycle, who is responsible for the operation of an off-highway motorcycle, or who is supervising the operation of an off-highway motorcycle.
- (zd) "Owner" means a person who has lawful possession of an off-highway motorcycle by virtue of legal title or an equitable interest in the off-highway motorcycle which entitles the person to possession of the off-highway motorcycle.
- (zdm) "Proof," when used in reference to evidence of a registration document, safety certificate, nonresident trail pass, or temporary trail use receipt, means the original registration document, safety certificate, nonresident trail pass, or temporary trail use receipt issued by the department or an agent appointed under sub. (4) (f) 2. or (6) (e) 1. or any alternative form of proof designated by rule under s. 23.47 (1).
- (ze) "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.
- (zf) "Refusal law" means sub. (12) (h) or a local ordinance in conformity therewith.
- (zg) "Registration document" means an off-highway motorcycle registration certificate, a temporary operating receipt, or a registration decal.
- (zgm) "Restricted controlled substance" means any of the following:
 1. A controlled substance included in schedule I under ch. 961 other than a tetrahydrocannabinol.
 2. A controlled substance analog of a controlled substance described in subd. 1.
 3. Cocaine or any of its metabolites.
 4. Methamphetamine.
 5. Delta-9-tetrahydrocannabinol, excluding its precursors or metabolites, at a concentration of one or more nanograms per milliliter of a person's blood.
- (zi) "Snowmobile" has the meaning given in s. 340.01 (58a).
- (zj) "Snowmobile route" has the meaning given in s. 350.01 (16).
- (zk) "Snowmobile trail" has the meaning given in s. 350.01 (17).
- (zkm) "Temporary operating receipt" means a receipt issued by the department or an agent under sub. (4) (g) 1. a. that shows that an application and the required fees for a registration certificate have been submitted to the department or an agent appointed under sub. (4) (f) 2.
- (zL) "Test facility" means a test facility or agency prepared to administer tests under s. 343.305 (2).
- (zLm) "Utility terrain vehicle" has the meaning given in s. 23.33 (1) (ng).

(2) REGISTRATION.

- (a) *Requirement.* No person may operate an off-highway motorcycle, and no owner may give permission for the operation of an off-highway motorcycle, off the highways unless the off-highway motorcycle is registered with the department under this section or is exempt from registration or the person operating the off-highway motorcycle holds a temporary operating receipt provided by an off-highway motorcycle dealer under sub. (3) (b).
- (b) *Exemptions.* An off-highway motorcycle is exempt from the registration requirement under par. (a) if any of the following applies:
 1. The off-highway motorcycle is covered by a valid registration of a federally recognized American Indian tribe or band, and all of the following apply:

- a. The registration program of the tribe or band is covered by an agreement under s. 23.35.
 - b. The off-highway motorcycle displays the registration decal required by the tribe or band.
 - 2. The off-highway motorcycle displays a plate or sign attached in the manner authorized under sub. (5) (c).
 - 3. The off-highway motorcycle will be operated exclusively in racing on a raceway facility or as part of a special off-highway motorcycle event as authorized under sub. (10) (b).
 - 4. The off-highway motorcycle is present in this state, for a period not to exceed 15 days, and is used exclusively as part of an advertisement being made for the manufacturer of the off-highway motorcycle.
 - 5. The off-highway motorcycle is specified as exempt from registration by department rule.
- (c) *Weekend exemption.* A person may operate an off-highway motorcycle off the highways in this state during the first full weekend in June of each year without registering the off-highway motorcycle as required under par. (a).

(3) REGISTRATION; APPLICATION PROCESS.

- (a) *Public or private use.* Only the department may register off-highway motorcycles for off-highway operation. Any off-highway motorcycle may be registered for public use. An off-highway motorcycle may be registered for private use if the operation is limited to any of the following:
 - 1. Operation for agricultural purposes.
 - 2. Operation by the owner of the motorcycle or a member of his or her immediate family only on land owned or leased by the owner or a member of his or her immediate family.
- (b) *Registration; sales by dealers.* If the seller of an off-highway motorcycle is an off-highway motorcycle dealer, the dealer shall require each buyer to whom he or she sells an off-highway motorcycle to complete an application for registration for public or private use and collect the applicable fee required under sub. (4) (d) at the time of the sale if the off-highway motorcycle will be operated off the highways and is not exempt from registration under sub. (2) (b). The department shall provide application and temporary operating receipt forms to off-highway motorcycle dealers. Each off-highway motorcycle dealer shall provide the buyer a temporary operating receipt showing that the application and accompanying fee have been obtained by the off-highway motorcycle dealer. The off-highway motorcycle dealer shall mail or deliver the application and fee to the department no later than 7 days after the date of sale.
- (c) *Registration; other sales.* If an off-highway motorcycle is sold or otherwise transferred by a person other than an off-highway motorcycle dealer and is not registered with the department, the buyer or transferee shall complete an application for registration for public or private use if the buyer or transferee intends to operate the off-highway motorcycle off the highways and the off-highway motorcycle is not exempt from registration under sub. (2) (b).
- (d) *Registration; action by department.* Upon receipt of an application for registration of an off-highway motorcycle on a form provided by the department, and the payment of any applicable fees under sub. (4) (d) and of any sales or use taxes that may be due, the department shall issue a registration certificate to the applicant.
- (e) *Transfers of registered motorcycles.* Upon transfer of ownership of an off-highway motorcycle that is registered for public or private use, the transferor shall deliver the registration certificate to the transferee at the time of the transfer. The transferee shall complete an application for transfer on a form provided by the department and shall mail or deliver the form to the department within 10 days after the date of the transfer if the transferee intends to operate the off-highway motorcycle off the highways.
- (f) *Transfers; action by department.* Upon receipt of an application for transfer of an off-highway motorcycle registration certificate under par. (e), and the payment of the fee under sub. (4) (d) 3. and of any sales or use taxes that may be due, the department shall transfer the registration certificate to the applicant.
- (g) *Trades; registration required.* An off-highway motorcycle dealer may not accept a limited use off-highway motorcycle in trade unless the off-highway motorcycle is currently registered by the department or is exempt from being registered by the department under sub. (2) (b).

(4) REGISTRATION; CERTIFICATES AND DECALS.

- (a) *Period of validity; expiration.*
 - 1. A registration certificate issued under sub. (3) for public use is valid beginning on April 1 or the date of issuance or renewal and ending March 31 of the 2nd year following the date of issuance or renewal.
 - 1m. A registration certificate issued under sub. (3) for private use is valid from the date of issuance until ownership of the off-highway motorcycle is transferred.
 - 2. For renewals of registration certificates for public use, the department shall notify each owner of the upcoming date of expiration at least 2 weeks before that date.
- (b) *Content of certificate.* Each registration certificate shall contain the registration number, the name and address of the owner, and any other information that the department determines is necessary.
- (bm) *Display of registration.* The operator of an off-highway motorcycle shall have in his or her possession at all times while operating the vehicle proof of the registration certificate or, for an off-highway motorcycle the owner of which has received a temporary operating receipt but has not yet received the registration certificate, proof of the temporary operating receipt. The operator of an off-highway motorcycle shall display this proof upon demand for inspection by a law enforcement officer.
- (c) *Decal required.*
 - 1. Each registration certificate issued under sub. (3) shall be accompanied by a registration decal. No person may operate an off-highway motorcycle for which registration is required without having the decal affixed as described in subd. 3., except as provided in subd. 4.
 - 2. The decal shall contain a reference to the state and to the department, the vehicle identification number, and the expiration date of the registration, if the off-highway motorcycle is being registered for public use.
 - 3. The person required to register an off-highway motorcycle shall affix the registration decal with its own adhesive in a position on the exterior of the motorcycle where it is clearly visible and shall maintain the decal so that it is in legible

condition.

4. A person may operate an off-highway motorcycle without having a registration decal affixed if the owner has been issued a temporary operating receipt that shows that an application and the required fees for a registration certificate have been submitted to the department, and the person operating the off-highway motorcycle has the receipt in his or her possession. The person shall exhibit the receipt, upon demand, to any law enforcement officer.

(d) Fees for certificates and decals.

1. The fee for the issuance or renewal of a registration certificate for public use and the accompanying decal is \$30. The department shall impose an additional late fee of \$5 for the renewal of a registration certificate under this subdivision that is filed after the expiration date of the registration certificate unless the renewal is included with an application for transfer of the registration certificate.
2. The fee for the issuance or renewal of a registration certificate for private use and the accompanying decal is \$15.
3. The fee for transferring a certificate under sub. (3) (e) is \$5.

(e) Duplicate certificates and decals.

1. If a registration certificate issued under sub. (3) or accompanying decal is lost or destroyed, the holder of the certificate or decal may apply for a duplicate on a form provided by the department. Upon receipt of the application and the fee required under subd. 2., the department shall issue a duplicate certificate or decal to the applicant.
2. The fee for the issuance of a duplicate certificate for public or private use is \$5, and the fee for a duplicate decal is \$5.

(f) Registration issuers. For the issuance of original or duplicate registration documents, for the issuance of reprints under s. 23.47 (3), and for the transfer or renewal of registration documents, the department may do any of the following:

1. Directly issue, transfer, or renew the registration documents with or without using the service specified in par. (g) 1. and directly issue the reprints.
2. Appoint persons who are not employees of the department as agents of the department to issue, transfer, or renew the registration documents using either or both of the services specified in par. (g) 1. and to issue the reprints.

(g) Methods of issuance.

1. For the issuance of original or duplicate registration documents and for the transfer or renewal of registration documents, the department may implement either or both of the following procedures to be provided by the department and any agents appointed under par. (f) 2.:
 - a. A procedure under which the department or an agent appointed under par. (f) 2. accepts applications for registration documents and issues temporary operating receipts at the time applicants submit applications accompanied by the required fees.
 - b. A procedure under which the department or an agent appointed under par. (f) 2. accepts applications for registration documents and issues to each applicant all or some of the registration documents at the time the applicant submits the application accompanied by the required fees.
2. Under either procedure under subd. 1., the department or agent shall issue to the applicant any remaining registration documents directly from the department at a later date. Any registration document issued under subd. 1. b. is sufficient to allow the vehicle for which the application is submitted to be operated in compliance with the registration requirements under this subsection.

(h) Registration; supplemental fee. In addition to the applicable fee under par. (d) 1., 2., or 3. or (e) 2., each agent appointed under par. (f) 2. who accepts an application to renew registration documents in person shall collect an issuing fee of 50 cents and a transaction fee of 50 cents each time the agent issues renewal registration documents under par. (g) 1. or 2. The agent shall retain the entire amount of each issuing fee and transaction fee the agent collects.

(i) Junked motorcycles. If an off-highway motorcycle is junked, the owner shall return the certificate of registration to the department marked "junked."

(5) REGISTRATION OF OFF-HIGHWAY MOTORCYCLE DEALERS.

- (a) A person who is an off-highway motorcycle dealer shall register with the department and obtain from the department a commercial off-highway motorcycle certificate. Upon receipt of the required fee under par. (e) and an application form provided by the department, the department shall issue the applicant a commercial off-highway motorcycle certificate and 3 accompanying decals.
- (b) A commercial off-highway motorcycle certificate is valid for 2 years.
- (c) A person who is required to obtain a commercial off-highway motorcycle certificate under par. (a) shall attach in a clearly visible place a plate or sign that is removable and temporarily but firmly mounted to any off-highway motorcycle that the person offers for sale or otherwise allows to be used whenever the off-highway motorcycle is being operated. A decal issued by the department under par. (a) shall be affixed to the plate or sign.
- (d) If a certificate or decal that was issued under par. (a) is lost or destroyed, the holder of the certificate or decal may apply for a duplicate on a form provided by the department. Upon receipt of the application and the required fee under par. (e), the department shall issue a duplicate certificate or decal to the applicant.
- (e) The fee for the issuance or renewal of a commercial off-highway motorcycle certificate with 3 accompanying decals is \$90. The fee for additional decals is \$30 for each decal. The fee for the issuance of a duplicate commercial off-highway motorcycle certificate is \$5. The fee for each duplicate decal is \$2.
- (f) A commercial off-highway motorcycle certificate may not be transferred.
- (g) Any off-highway motorcycle dealer or creditor may offer or sell guaranteed asset protection waivers in connection with the retail sale or lease of off-highway motorcycles in this state if the dealer or creditor complies with the same requirements applicable with respect to motor vehicles under s. 218.0148. Any guaranteed asset protection waiver offered or sold under this paragraph shall be treated the same as one offered or sold under s. 218.0148, including that the guaranteed asset protection waiver is not insurance.

(5m) ALTERATIONS AND FALSIFICATIONS PROHIBITED.

- (a) No person may intentionally do any of the following:
1. Make a false statement on an application for a registration issued under sub. (2).
 2. Alter, remove, or change any number or other character in an engine serial number.
 3. Alter, remove or change any number or other character in a vehicle identification number.
- (b) No person may do any of the following:
1. Manufacture a vehicle identification number tag that the person knows to contain false information to be placed on an off-highway motorcycle that is manufactured on or after October 1, 2016.
 2. Place a vehicle identification number tag that the person knows to be false on an off-highway motorcycle.
- (6) NONRESIDENT TRAIL PASSES.
- (a) In this subsection, "temporary trail use receipt" means a receipt issued by the department or an agent under this subsection that shows that an application and the required fees for a nonresident trail pass for off-highway motorcycle operation have been submitted to the department or an agent appointed under par. (e) 1.
- (am) Except as provided in pars. (b) and (f), no person may operate an off-highway motorcycle on an off-highway motorcycle corridor unless a nonresident trail pass for off-highway motorcycle operation is issued by the department to the person and the pass is permanently affixed on the exterior of the motorcycle where it is clearly visible or the person is carrying proof of a valid temporary trail use receipt.
- (b) An off-highway motorcycle that is registered under sub. (3) or that is exempt from registration under sub. (2) (b) 2., 3., or 4. is exempt from having a nonresident trail pass or temporary trail use receipt. The department may promulgate a rule to provide additional exemptions from the requirement of being issued a nonresident trail pass or from having to pay a fee for the pass. The department may promulgate a rule to exempt off-highway motorcycles that are exempt from registration under sub. (2) (b) 5. from having nonresident trail passes or temporary trail use receipts displayed as required under par. (am) or may promulgate a rule to exempt owners of such vehicles from having to pay any applicable nonresident trail pass fee.
- (c) There is no fee for a nonresident trail pass issued for an off-highway motorcycle that is registered under s. 23.35. The department or Indian tribe or band shall issue a nonresident trail pass for such an off-highway motorcycle when it issues the registration certificate for the motorcycle. The department shall provide Indian tribes or bands that register off-highway motorcycles under s. 23.35 with a supply of trail passes.
- (d) The fee for an annual nonresident trail pass is \$34.25. The fee for a 5-day nonresident trail pass is \$19.25. Annual trail passes expire on March 31 of each year.
- (e)
1. The department may appoint any person who is not an employee of the department as the department's agent to issue temporary trail use receipts and collect the fees for these receipts.
 2. Any person, including the department, who issues a nonresident trail pass or a temporary trail use receipt shall collect in addition to the fee under par. (d) 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 temporary trail use receipt.
 3. The department shall establish, by rule, procedures for issuing nonresident trail passes and temporary trail use receipts, and the department may promulgate rules regulating the activities of persons who are appointed to be agents under this paragraph.
- (f) A person may operate an off-highway motorcycle off the highways in this state during the first full weekend in June of each year without having a nonresident trail pass or temporary trail use receipt as required under par. (am).

(7) RENTAL OF LIMITED USE OFF-HIGHWAY MOTORCYCLES.

- (a) No person who is engaged in the rental or leasing of limited use off-highway motorcycles to the public may do any of the following:
1. Rent or lease a limited use off-highway motorcycle for operation by a person who will be operating the limited use off-highway motorcycle for the first time unless the person engaged in the rental or leasing gives the person instruction on how to operate the limited use off-highway motorcycle.
 2. Rent or lease a limited use off-highway motorcycle to a person under 12 years of age.
 3. Rent or lease a limited use off-highway motorcycle without first ascertaining that any person under the age of 18 who will be on the vehicle has protective headgear of the type required under s. 347.485 (1) (a).
- (b) A person who is engaged in the rental or leasing of limited use off-highway motorcycles 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 the limited use off-highway motorcycles that the person rents or leases.
- (c) The department may promulgate rules to establish minimum standards for the instruction given under par. (a) 1.

(8) USE OF PROTECTIVE HEADGEAR.

- (a) *Off highway*: No person may operate an off-highway motorcycle on an off-highway motorcycle corridor, or be a passenger on an off-highway motorcycle that is being operated on an off-highway motorcycle corridor, without wearing protective headgear of the type required under s. 347.485 (1) (a), with the chin strap properly fastened, unless one of the following applies:
1. The person is at least 18 years of age.
 2. The person is traveling for the purpose of hunting or fishing and is at least 12 years of age.
 3. The off-highway motorcycle is being operated for an agricultural purpose.
- (b) *On highway*: No person may operate a limited use off-highway motorcycle on an off-highway motorcycle route or in an area where operation is authorized under sub. (10) (a) or (11) (a), or be a passenger on an off-highway motorcycle that is being

operated on such a route or in such an area, without wearing protective headgear of the type required under s. 347.485 (1) (a), with the chin strap properly fastened, unless the person is at least 18 years of age.

- (c) *On corridors and routes.* No person may operate or be a passenger on an off-highway motorcycle that is being operated on an off-highway motorcycle corridor or on an off-highway motorcycle route without wearing glasses, wearing goggles, or wearing a protective face shield that is attached to headgear approved by the department.

(9) RULES OF OPERATION.

- (a) No person who is operating an off-highway motorcycle off a highway may do any of the following:

1. Operate the off-highway motorcycle in any careless way so as to endanger another person or the property of another.
2. Operate the off-highway motorcycle at a rate of speed that is unreasonable under the circumstances.
3. Operate the off-highway motorcycle on private property without the consent of the owner or lessee. Failure to post private property does not imply consent for off-highway motorcycle use.
4. Operate the off-highway motorcycle on public property that is posted as closed to off-highway motorcycle operation or on which the operation of an off-highway motorcycle is prohibited by law.
5. Operate the off-highway motorcycle on Indian lands without the consent of the tribal governing body or Indian owner. Failure to post Indian lands does not imply consent for off-highway motorcycle use.
6. Operate the off-highway motorcycle at a speed exceeding 10 miles per hour, if the off-highway motorcycle is within 100 feet of a fishing shanty.
7. Operate the off-highway motorcycle at a speed exceeding 10 miles per hour, if the off-highway motorcycle is within 150 feet of a dwelling. The speed limit specified in this subsection does not apply to a person operating an off-highway motorcycle on a roadway that is designated as an off-highway motorcycle route.
8. Operate the off-highway motorcycle on the frozen surface of public waters or on an off-highway motorcycle trail at a speed exceeding 10 miles per hour or without yielding the right-of-way when within 100 feet of another person who is not operating a motor vehicle, an all-terrain vehicle, a utility terrain vehicle, an off-highway motorcycle, or a snowmobile.
9. Operate the off-highway motorcycle to drive or pursue any animal except as part of normal farming operations involving livestock.
10. Operate the off-highway motorcycle in a manner which violates rules promulgated by the department. This subdivision does not authorize the department to promulgate or enforce a rule that imposes a speed restriction that is more stringent than a speed restriction specified under this paragraph.

- (b) The speed restrictions under par. (a) 6. and 8. do not apply to a race or derby sponsored by a local governmental unit, by an off-highway motorcycle association, or by a similar organization that is approved by a local governmental unit if the sponsor of the race or derby marks the race or derby route or track to warn spectators from entering the route or track.

(c)

1. The distance restriction under par. (a) 8. does not apply to persons who are assisting in directing a race or derby sponsored by a local governmental unit, by an off-highway motorcycle association, or by a similar organization that is approved by a local governmental unit.
2. The distance restriction under par. (a) 8. does not apply if the person who is not operating the motor vehicle, all-terrain vehicle, utility terrain vehicle, off-highway motorcycle, or snowmobile gives his or her consent to have the person operating the off-highway motorcycle at a closer distance.

(10) OPERATION ON HIGHWAYS; LIMITED USE MOTORCYCLES.

- (a) *Generally.* No person may operate a limited use off-highway motorcycle on the roadway portion of any highway unless one of the following applies:

1. Operation on the roadway is necessary to cross the 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 limited use off-highway motorcycle prior to entering the crossing and yields the right-of-way to any other vehicles, pedestrians, electric scooters, or electric personal assistive mobility devices that are using the roadway.
2. Operation on the roadway is necessary 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 off-highway motorcycle 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 limited use off-highway motorcycle prior to entering the crossing and yields the right-of-way to any other vehicles, pedestrians, electric scooters, or electric personal assistive mobility devices that are using the roadway.
- 2m. Operation is on the roadway or shoulder for the purpose of crossing a bridge that is 1,000 feet in length or less if the operation is in compliance with a county ordinance adopted under sub. (21) (am) that applies to that bridge and a city, village, or town ordinance adopted under sub. (21) (am) that applies to that bridge.
3. Operation is on a roadway which is not maintained, or is only minimally maintained, on a seasonal basis for motor vehicle traffic. Such operation is authorized only during the seasons when no maintenance occurs and only if the roadway is not officially closed to off-highway motorcycle traffic.
4. Operation is on a roadway that is an off-highway motorcycle route. Such operation 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.
5. The operator of the limited use off-highway motorcycle 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 purpose of hunting or is otherwise engaging in an activity authorized by the permit.
6. The limited use off-highway motorcycle is registered for private use under sub. (3) and is being used exclusively as an implement of husbandry or for agricultural purposes. Such operation 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.

7. The roadway part of the highway is blocked off for a special off-highway motorcycle event as authorized under par. (b).
- (b) *Off-highway motorcycle events.* A local governmental unit may block off highways under its jurisdiction for the purpose of allowing special off-highway motorcycle events. No state trunk highway or connecting highway, or part thereof, may be blocked off by any local governmental unit for any off-highway motorcycle event. A local governmental unit 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 off-highway motorcycle event that may result in any street, or part thereof, of the local governmental unit being blocked off.
- (c) *Freeways.* No person may operate a limited use off-highway motorcycle on any part of any freeway which is a part of the federal system of interstate and defense highways under any circumstances. No person may operate a limited use off-highway motorcycle on any part of any other freeway unless the department of transportation authorizes the use of limited use off-highway motorcycles on that freeway.

(11) OPERATION ADJACENT TO ROADWAY.

(a) *Location of operation.*

1. A person may operate an off-highway motorcycle adjacent to a roadway of a city, village, or town highway that is designated as an off-highway motorcycle route or an off-highway motorcycle trail without any restriction on how close the off-highway motorcycle is to the roadway.
2. A person may operate an off-highway motorcycle adjacent to a roadway of a U.S. numbered highway, a state highway, or a county highway that is designated an off-highway motorcycle route or an off-highway motorcycle trail provided that the operation occurs at a distance of 10 or more feet from the roadway or such greater distance as is reasonably necessary in order to avoid an obstruction. Travel on the median of a divided highway is prohibited except to cross.

(b) *Direction of operation.*

1. Except as provided in subd. 2., a person may operate an off-highway motorcycle on an off-highway motorcycle route or off-highway motorcycle trail adjacent to a roadway only in the same direction as motor vehicle traffic in the nearest lane.
 2. A person may operate the off-highway motorcycle in either direction if any of the following applies:
 - a. The off-highway motorcycle is being operated during hours of daylight.
 - b. The off-highway motorcycle is being operated during hours of darkness and the off-highway motorcycle route or off-highway motorcycle trail is located at least 40 feet from the roadway or is separated from the roadway by a head lamp barrier.
- (c) *Other limitation.* A person operating an off-highway motorcycle on an off-highway motorcycle route or off-highway motorcycle trail adjacent to a roadway shall comply with the speed limits of the adjacent roadway and with rules promulgated by the department and approved by the department of transportation.

(12) INTOXICATED OPERATION.

(a) *Operation.*

1. No person may operate an off-highway motorcycle while under the influence of an intoxicant to a degree which renders him or her incapable of safe operation of the off-highway motorcycle.
2. No person may engage in the operation of an off-highway motorcycle while the person has an alcohol concentration of 0.08 or more.
- 2m. No person may engage in the operation of an off-highway motorcycle while the person has a detectable amount of a restricted controlled substance in his or her blood.
3. If a person has not attained the age of 21, the person may not engage in the operation of an off-highway motorcycle while he or she has an alcohol concentration of more than 0.0 but not more than 0.08.
4. 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. (23) (c) 2. and 3. Subdivisions 1., 2., and 2m. each require proof of a fact for conviction which the others do not require.
5. 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.

(b) *Operation causing injury.*

1. No person while under the influence of an intoxicant to a degree which renders him or her incapable of safe operation of an off-highway motorcycle may cause injury to another person by the operation of an off-highway motorcycle.
2. No person who has an alcohol concentration of 0.08 or more may cause injury to another person by the operation of an off-highway motorcycle.
- 2m. 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 off-highway motorcycle.
3. 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. (23) (c) 2. and 3. Subdivisions 1., 2., and 2m. each require proof of a fact for conviction which the others do not require.
4. 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 even if he or she had not been under the

influence of an intoxicant to a degree which rendered him or her incapable of safe operation, 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.

5. 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.

(c) *Implied consent.* Any person who engages in the operation of an off-highway motorcycle upon the public highways of this state, or in those areas enumerated in par. (d), is considered 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 pars. (f) and (g). Any person who engages in the operation of an off-highway motorcycle within this state is considered 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 pars. (f) and (g).

(d) *Applicability of law.* The intoxicated operation of an off-highway motorcycle law applies to all of the following:

1. The operation of an off-highway motorcycle on any off-highway motorcycle corridor or any off-highway motorcycle route.
2. The operation of any off-highway motorcycle on other premises or areas located off the highways that are held out to the public for the recreational use of off-highway motorcycles whether such premises or areas are publicly or privately owned and whether or not a fee is charged for the use of an off-highway motorcycle.
3. The operation of a limited use off-highway motorcycle on a highway as authorized under sub. (10).
4. The operation of an off-highway motorcycle adjacent to a highway as authorized under sub. (11).

(e) *Preliminary breath screening.*

1. 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 off-highway motorcycle law and if, prior to an arrest, the law enforcement officer requested the person to provide this sample.
2. 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 off-highway motorcycle law or for the purpose of deciding whether or not to request a chemical test under par. (f). Following the preliminary breath screening test, chemical tests may be required of the person under par. (f).
3. 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 par. (f).
4. There is no penalty for a violation of subd. 1. Subsection (23) (a) and the general penalty provision under s. 939.61 do not apply to the violation.

(f) *Chemical tests; requirement.*

1. 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 off-highway motorcycle 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 off-highway motorcycle law and if he or she is requested to submit to the test by a law enforcement officer.
2. 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:
 - a. That he or she is deemed to have consented to tests under par. (c).
 - b. That a refusal to provide a sample or to submit to a chemical test constitutes a violation under par. (h) and is subject to the same penalties and procedures as a violation of par. (a) 1.
 - c. That in addition to the designated chemical test under par. (g) 2., he or she may have an additional chemical test under par. (g) 4.
3. 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 off-highway motorcycle 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.

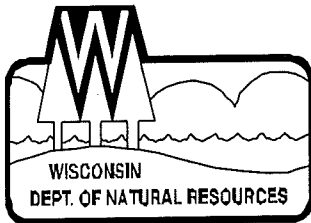
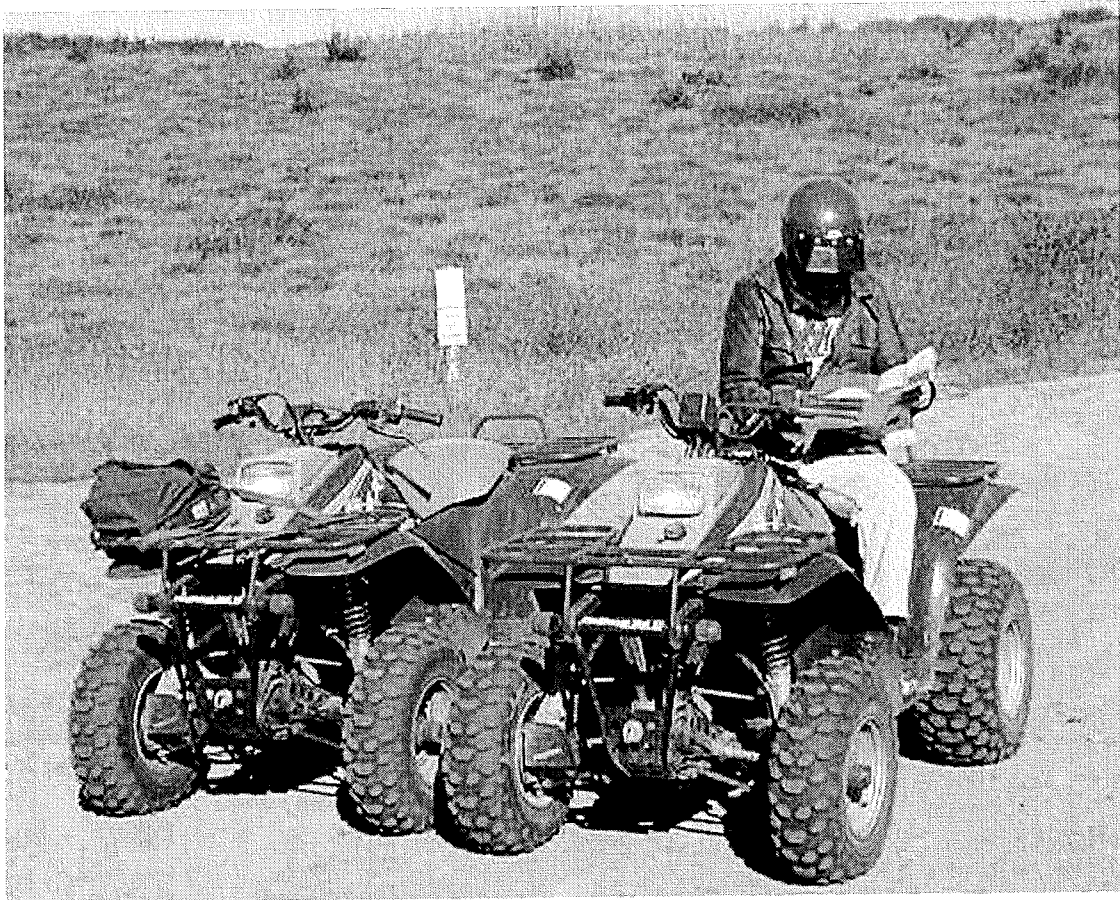
(g) *Chemical tests; procedures.*

1. 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 out of 3 of these tests for the purpose of authorized analysis. The department may enter into agreements for the cooperative use of test facilities.
2. A test facility shall designate one chemical test of breath, blood, or urine which it is prepared to administer first as the primary test for the purpose of authorized analysis.
3. A test facility shall designate another chemical test of breath, blood, or urine, other than the test designated under subd. 2., which it is prepared to administer as an additional chemical test for the purpose of authorized analysis.
4. If a person is arrested for a violation of the intoxicated operation of an off-highway motorcycle law or is the operator of an off-highway motorcycle 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. (f) 1., the person may request the test facility to administer the additional chemical test specified under subd. 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.
5. If a person is arrested for a violation of the intoxicated operation of an off-highway motorcycle law and if the person is not requested to provide a sample or to submit to a test under par. (f) 1., the person may request the test facility to administer a chemical test of his or her breath or may request, at his or her own expense, a 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 chemical test designated under subd. 2. or the additional chemical test designated under subd. 3.

6. A test facility shall comply with a request under this paragraph to administer any chemical test it is able to perform.
 7. 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 this paragraph or par. (f).
 8. 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 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 paragraph and par. (f). Blood may be withdrawn from a person arrested for a violation of the intoxicated operation of an off-highway motorcycle law only by a physician, registered nurse, medical technologist, physician assistant, phlebotomist, or other medical professional who is authorized to draw blood, 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.
 9. A test facility which administers a chemical test of breath, blood, or urine for the purpose of authorized analysis under this paragraph and par. (f) 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.
- (h) *Chemical tests; 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. (f). A person shall not be considered to have refused 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. (f) or this paragraph are limited to the following:
1. Whether the law enforcement officer had probable cause to believe the person was violating or had violated the intoxicated operation of an off-highway motorcycle law.
 2. Whether the person was lawfully placed under arrest for violating the intoxicated operation of an off-highway motorcycle law.
 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. (f) 2. or whether the request and information was unnecessary under par. (f) 3.
 4. Whether the person refused to provide a sample or to submit to a chemical test.
- (i) *Chemical tests; effect of test results.* The results of a chemical test required or administered under par. (f) or (g) 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 off-highway motorcycle 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. Paragraphs (f) to (h) do not limit the right of a law enforcement officer to obtain evidence by any other lawful means.
- (j) *Report of arrest to department.* If a law enforcement officer arrests a person for a violation of the intoxicated operation of an off-highway motorcycle law or the refusal law, the law enforcement officer shall notify the department of the arrest as soon as practicable.
- (k) *Release of persons arrested.*
1. A person arrested for a violation of the intoxicated operation of the off-highway motorcycle law may not be released until 12 hours have elapsed from the time of his or her arrest or unless a chemical test administered under par. (a) 1. or 2. shows that the person has an alcohol concentration of 0.05 or less, except as provided in subd. 2.
 2. A person arrested for a violation of the intoxicated operation of the off-highway motorcycle law may be released to his or her attorney, spouse, relative, or other responsible adult at any time after arrest.
- (L) *Public education program.*
1. The department shall promulgate rules to provide for a public education program to:
 - a. Inform off-highway motorcycle operators of the prohibitions and penalties included in the intoxicated operation of an off-highway motorcycle law.

ATV Route Guideline and Suggestions

(A Community Official's Handbook)



**Produced by the Bureaus of Law
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ATV Route Guideline and Suggestions
(A Community Official's Handbook)

This guideline and attached suggested ordinance is provided to assist the county, town, city, or village administrator with examining the considerations for ATV routes within the community.

There are specific statutes and codes that govern routes. A complete list of the statutes and codes are provided in the appendix of this guideline.

Original Route Intent - The route is generally recognized as a means to connect the terminal end of a trail (when it is obstructed by a city, village, river, railroad track or other impediment) back to the trail on the other side of the obstruction.

Route - A Route is a highway or sidewalk designated for use by ATV operators by the governmental agency having jurisdiction. Routes are identified at the beginning point by a 24"X18" sign showing a white silhouette of an ATV on a green background. White directional arrows (12"X9") on a green background, show the continuation of the route.

Trail - A trail is 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. Trails are identified by 6"X6" signs showing a white silhouette of an ATV on a brown background.

State law does not allow ATV residential or lodging access within communities in the manner that is afforded to snowmobile users. However, significant trends involving routes have been seen within several communities recently. These trends are in two forms; 1) Attempt to mimic the snowmobile statutes by opening all town roads to ATV use, 2) Create routes for meaningful riding experiences or as total means of ATV recreation. Providing the latter as a riding experience is generally contrary to the original route purpose, safety practices and machine design. Regardless of the trend's purpose, neither of these route types is created in the context of the original route function. But, is that all bad? Deciding whether these types of (route) uses hold positive or negative effects greatly depends on individual circumstances within the community. It is difficult to broad brush either trend good or bad, but loosely, both trends raise concerns for the Department of Natural Resources (DNR), which is charged with the ATV safety and law enforcement components.

Before we begin to discuss the finer points of routes, signage and legal requirements, we should first discuss the unsaid and perhaps the intangibles that affect ATVers, routes, communities and of course you, the administrator.

There are several of these intangible issues that will affect ATV use in your county and as the community administrator it is incumbent upon you to consider each area carefully. Some of the considerations are; **Safety & Liability, Law Enforcement, Tourism & Community Acceptance.**

Safety & Liability

The single most important route consideration will be the safety of all ATV riders, pedestrians, bicyclist, automobile operators and others. As the administrator and potentially the advocate for the adoption of a route, you should know certain things about ATVs and the way they handle so that you can make informed recommendations.

It seems simple enough that ATV routes will likely increase ATV user participation. With that said, you might not have considered that the ATV riding public would be subject to more frequent intermingling with automobiles. The more automobiles and ATVs mix the higher the risk to each party, especially when you consider the following;

Many of the ATVs in use today are not equipped with brake lights; taillamps yes, but not brake lights; this includes currently produced machines. When you realize this fact you can certainly see mixing ATVs with motor vehicles in a very different light.

The lack of brake lights complicates a young rider's multitasking skills when coupled with the need to use both hands to handle the ATV and the need to use hand signals. Add this to required braking, (needed) quick decision-making skills and you can have a very confused rider, not to mention an unsafe one.

- You should note that the DNR has concerns about increasing the use of ATVs on roadways with a broad-brush approach. The entire engineering makeup of an all-terrain vehicle is based on the premise of off-road use. Specifically, the ATV tires dictate that the machines be used off the roadway. All-terrain vehicle tires are designed to provide tread slip under some conditions, yet provide grip under others. The majority of problems associated with roadway accidents are a result of losing control due to the physics of tire and roadway incompatibility. The mere change in the road surface can and does cause crashes when not used properly.

Considerations should be given to route speed limits when changes in road surfaces occur. Changing from pavement to mud, gravel, etc. or any combination thereof can create a hazardous riding situation if speeds are excessive. The ATV will handle differently on each surface.

- An additional complication is noted when all-terrain vehicles are operated with one set of wheels on the paved portion of the road and the other set of tires on the non-paved portion of the road. The wheels on the paved portion grip the roadway with stress and rotate slower than the wheels on the non-paved surface. This type of operation coupled with a turn, slight bump or rut can create a physical upset of the machine under certain conditions.

ATVs can be used responsibly on paved roadways when precautions are taken to reduce the crash potential. Anecdotal accounts by reviewing ordinances have noted route speed restrictions from 10-25 mph. Also, when applicable, the ordinances mimic state speed

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restrictions, restricting operation to 10-mph when within 100 feet of pedestrians and when within 150 feet of a home. Although it's required by state statute, route ordinances have generally restated:

- Headlights and tail lights must be turned on at all times
- Youth under 16 are required to have safety certificates
- All persons under 18 operating and/or riding on an ATV must wear a helmet

Of all the areas that can truly create discomfort for an administrator, it will be in the area of public safety and the need to act reasonably. The administrator or town/county official should be mindful to any area involving the safety of the ATVer public.

Suggestion: Prior to creating a route, consider the amount and type of automobile traffic the road receives; the potential number of ATV riders that will use the route, ATV rider age potential, speeds that can be generated by ATVs, proper speed limits, stop signs/lights, intersections, pedestrian traffic, road surfaces (pavement, ice, mud, gravel,).

Law Enforcement

The ATV statutes and codes fall specifically within the DNR's jurisdiction, but that doesn't mean as much as you might think when considering who actually enforces these laws. Certainly, conservation wardens enforce ATV laws and in addition so can an officer of the state traffic patrol under s. 110.07 (1), inspector under s. 110.07 (3), county sheriffs/deputies or municipal peace officers. But, the assumption that conservation wardens will be the main law-enforcing officers of these laws (routes) will be a mistake that could cause distress for the administrator later on.

DNR Law Enforcement...

The DNR has 4-position (FTE) equivalents that are dedicated to the ATV program. These equivalents translate into 7,320 hours. The hours are distributed among the entire warden service (209) and are used for a variety of ATV related duties; including law enforcement, safety education, court, maintenance, accident investigation, public relations, and other activities. Unfortunately, this breakdown also translates into roughly nine hours of enforcement work that is available per warden/ year. The "DNR-hours dilemma" is that the agency is not authorized to work time beyond what the legislature has granted and there has been limited success in acquiring new FTE. Results: The DNR must rely heavily on local enforcement efforts.

County Law Enforcement...

The DNR provides grant money to counties for ATV law enforcement purposes. However, the county sheriff's offices are the only law enforcement branch eligible for the

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grants. Of the 72 Wisconsin counties, only 18-20 have traditionally participated in the patrol grant process and only \$70,000 state dollars are available for distribution.

Local Law Enforcement...

Local enforcement efforts besides the sheriffs' have generally been limited as well. Part of limited enforcement efforts could be because of grant ineligibility: cities and villages cannot apply. Additionally, when a city or village determines priorities for deploying officers and working criminal activity, ATV riding can receive low rankings and can be even lower on the agency's priority list. The results can sometimes yield high numbers of violations, high complaints and low community tolerance - end result - frustration and trail/route closures.

An additional consideration - Most towns do not employ their own law enforcement officers as do cities and villages. Creating a route in the township, away from the city or village, places additional law enforcement responsibility upon the DNR and/or sheriff patrols. Under current conditions increased coverage is not likely to be available.

To be successful, local law enforcement must support the use of ATVs and the use of a route(s) or at least commit to help keep problems to a minimum. If law enforcement is not available to handle the problems that may occur with associated/increased use, you will suffer the effects of poor planning even if the route is later removed.

Suggestion: Consider your law enforcement resources carefully prior to creating a route.

Tourism & Community Acceptance

ATV use within the community has been on the increase, and at times it's been increasing despite the lack of trails and or routes. One of the benefits of having an ATV trail interrupted by a city is that a properly placed route can divert ATV traffic to local businesses as long as the route passes adjacent to the businesses. Restaurants, motels, gas stations and chambers of commerce can see a substantial increase in foot traffic that is delivered via ATV. There are both pros and cons to the diverted ATV use in the business community.

- ATVs use can bring tourism dollars to the business.
- Increased ATV use in the city/village can bring congestion, which in turn will create frustrations for automobile operators and ATVers.
- At times, ATV users may take shorts cuts with automobile right of way laws.
- Increased ATV use among automobile traffic increases apprehensions about risking vehicular collisions, not only for citizens, but law enforcement as well.
- A small number of ATV users will take liberty by "exploring" areas/roads away from the route and will create a negative image for all ATV users.

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Route signing must be clear to everyone. Adjustments may be necessary if ATV users constantly become lost or stray from the route. This should not be a problem with a properly posted route.



The use of posted signs showing *NO ATVs* can prevent problems ahead of time. However, once you begin to use a system of signs, you must stay with it. The Trail Signing Handbook (PUB-CF- 023) will provide the proper guidance for posting legally required signs. Review your routes - the ATVer may be confused if you post the *NO ATV* sign at some intersecting roads and then fail to place them at others. Inconsistency may give the impression that it's okay to ride there.

Look beyond your own community and attempt to determine the effects a route will have on adjoining towns, cities or villages or county, state or federal lands. Will the other town/city/village accept the dead-end traffic to their jurisdiction? Will the route end up connecting to another route or trail? Does the route fulfill the original intentions of the route concept?

Suggestion: Consider carefully, the totality of the circumstances; law enforcement needs/requirements, community acceptance, tourism benefits and safety (vehicle and ATV) prior to creating a route. Consider the long term results and/or comments (pros and cons) that you might receive, or the comments town officials and law enforcement may receive. Consider ATV traffic that may unintentionally divert from the route to business services that are not directly adjacent to the route.

MEETING THE LEGAL REQUIREMENTS FOR ROUTES

Process

- A. When the route ordinance has been passed/approved by the local jurisdiction, the clerk of jurisdiction **MUST** send a copy of the route/ordinance to:

Department of Natural Resources
ATTN: ATV Section
P.O. Box 7921,
Madison, WI 53707

- B. The clerk of jurisdiction **MUST** also send a copy of the route/ordinance to the law enforcement agency having jurisdiction over the highway(s).

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- C. The unit of government that designated the route SHALL post the proper route signs or ensure that it is done. Sometimes the county, town, city or village, while maintaining supervisory responsibility, designates this task to an ATV club or an ATV association. Ultimately the designating unit of government is responsible for signing the route.

NOTE: Failure to sign the route, yet allowing ATVs to operate, sets a dangerous stage for litigation to follow any ATV accident that occurs on the unsigned route.

Failure to sign a route also creates very difficult enforcement situations. Law enforcement officers, especially state officers or county officers who may not be as closely connected to the city or village activities, won't always know that a route/ordinance has been adopted. In fact, this is more likely to be the case than not. If this circumstance arises and the officer observes an ATV operating on a roadway (unsigned route), the instinctual response is to determine the lawfulness of the operation. Even though the operator may feel that he/she is legally operating pursuant to the route allowances (which are written on paper only), the person may in fact be violating the law. The governing body that failed to place the signs is also culpable. Keep in mind that if an ATV route/ordinance is passed, the ATVs will likely be the first to know of it and will attempt to use it immediately.

A citation issued under these circumstance immediately draws negative attention to the governing body that created the route and every official that deals with the charge; including the judge and the officer.

The DNR does not have ordinance review authority over routes or the ordinances governing routes, but suggestions are made when inconsistencies are found .

A complete set of guidelines for signing trails can be located in the Department of Natural Resources "Trail Signing Handbook" Publication number PUB-CF-023.

GRANTS AND REIMBURSEMENTS - ELIGIBILITY (PAYING FOR SIGNS)

The cost of the initial set of route signs (to and from a trail and/or from a trail to services and back to a trail) is eligible for grant funds. However, you should know that the DNR distributes available funds using a ranking system. Most of the grant applications (for route signs) do not rank high enough to receive priority during the grant distribution setting process. Therefore, the county, town, city or village is often left with paying for the signs completely. This result often places the unit of government in a difficult position to make a conscious decision **"To sign or Not to sign."** Taking the later approach is tempting, especially when the all town roads have been opened as a route.

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The DNR discourages towns from managing routes in this manner. The cost for maintaining a route is not a reimbursable expense.

NOTE: Merely placing one sign at the village, city or town limits and attempting to notify the public that the entire set of roads within the jurisdiction are considered routes, will not be sufficient to comply with the route-signing requirements. Each road designated as a route must be marked in accordance with the route-signing handbook Pub-CF-023 99Rev.

The Grant Application process is -

- ✓ Complete and submit form 8700-159, which includes a brief description of your project and a breakdown of the type of sign, quantity, and price. This must be accompanied by the following documents:
- ✓ An ordinance passed by the municipality at a formal meeting,
- ✓ A map of the municipality identifying the roads being opened, where services are and where signs are being proposed, and
- ✓ A resolution approving the municipality's participation in the program (a sample is on the back of 8700-159).

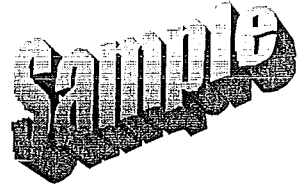
Applications must be received by April 15 of each year. Funding is based upon priorities.

NOTE: Before completing your ordinance or application, it is recommended that you talk to your Community Services Specialist and/or local warden about the project.

SUGGESTED ATV ROUTE/ORDINANCE FORMAT

All-Terrain Vehicle Route

Village of Dunn, Dane County



AN ORDINANCE DESIGNATING ALL-TERRAIN VEHICLE ROUTES AND REGULATING THE OPERATION OF ALL TERRAIN VEHICLES

Section I - Intent

The Village of Dunn, Dane County adopts the following all-terrain vehicle route for the operation of all-terrain vehicles upon the roadways listed in Section III.

Following due consideration of the recreational value to connect trail opportunities and weighted against possible dangers, public health, liability aspects, terrain involved, traffic density and history of automobile traffic, this route(s) has been created.

Section II - Statutory Authority

This route is created pursuant to village authority under section 1.1.01 as authorized by 23.33 (8) (b), Wis. Stats.

The applicable provisions of 23.33 regulating ATV operation pursuant to routes are adopted.

Section III - Routes

The following roads are designated as routes

- A. Clancy Road, beginning at Road 1 and ending at Town Line Road.
- B. Johnsonville Lane in its entirety.
- C. Said routes are further described and identified by the attached map.

Section IV - Conditions

As a condition for the use of this route, the following conditions shall apply to all operators (and passengers);

- A. All ATV operators shall observe posted roadway speed limits.
- B. All ATV operators shall ride single file.
- C. All ATV operators shall slow the vehicle to 10-mph or less when operating within 150 feet of a dwelling.
- D. Routes must be signed in accordance with NR 64.12, and NR 64.12(7)c.

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Section V - Enforcement

This ordinance shall be enforced by any law enforcement officer authorized to enforce the laws of the state of Wisconsin.

Section VI - Penalties

Wisconsin state All-Terrain Vehicle penalties as found in s. 23.33 (13) (a) Wis. Stats., are adopted by reference.

Section VII - Severability

The provision of this ordinance shall be deemed severable and it is expressly declared that the County/Town/City/Village would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provision of this ordinance or the application to any person or circumstances is held invalid, the remainder of the ordinance and the application of such provisions to other persons circumstances shall not be deemed affected.

Section VIII - Effective Date

This ordinance becomes effective upon passage and publication.

Passed this 10th Day of January 2010

Dunn Village Clerk

All-Terrain Vehicle _____

_____ of _____

AN ORDINANCE DESIGNATING _____

Section I - Intent

The _____ of _____
adopts the following all-terrain vehicle ordinance/route for the operation of all-
terrain vehicles upon the roadways listed in Section III.

Following due consideration of the recreational value to connect trail
opportunities and weighted against possible dangers, public health, liability
aspects, terrain involved, traffic density and history of automobile traffic, this
ordinance has been created.

Section II - Statutory Authority

This route is created pursuant to _____
authority under _____ as authorized by 23.33 (8) (b), Wis.
Stats.

Optional - the provisions of 23.33 are adopted.

Section III - Routes

The following roads are designates as routes;

- A. _____
- B. _____
- C. Said routes are further described and identified by the attached map.

Section IV - Conditions

As a condition for the use of this route, the following conditions shall apply to all
operators (and passengers where applicable);

- A. _____
- B. _____
- C. Routes must be signed in accordance with NR 64.12, and NR 64.12(7)c.

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Section V - Enforcement

This ordinance shall be enforced by any law enforcement officer of the _____,
County, Wisconsin.

Section VI - Penalties

Wisconsin state All-Terrain Vehicle penalties as found in s. 23.33 (13) (a) Wis. Stats., are adopted by reference.

Section VII - Severability

The provision of this ordinance shall be deemed severable and it is expressly declared that the _____ would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provision of this ordinance or the application to any person or circumstances is held invalid, the remainder of the ordinance and the application of such provisions to other persons circumstances shall not be deemed affected.

Section VIII - Effective Date

This ordinance becomes effective upon passage and publication.

Passed this _____ Day of _____, 20____

_____, Clerk

Appendix B
ATV ROUTES

A Reference of Statutes and Codes

23.33(1)(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 (4) Operation on or near highways.

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

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.

(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 (8) ROUTES and trails.

(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.

(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

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all-terrain vehicle **ROUTE** unless the department of transportation approves the designation.

- (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.
- (e) Signs. The department, in cooperation with the department of transportation, shall establish uniform all-terrain vehicle **ROUTE** and trail signs and standards.
- (f) Interference with signs and standards prohibited.
 - 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.
 - 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) Administration; enforcement; aids.

- (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-

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terrain vehicle project from the appropriation accounts under s. 20.370 (5) (ct) and (cu):

3. Development of all-terrain vehicle **ROUTES** or all-terrain vehicle trails.
4. 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.
5. Maintenance of all-terrain vehicle **ROUTE** or all-terrain vehicle trails.

23.33 (11) Local ordinances.

- (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.
- (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.
- (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 (13) Penalties.

- (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

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defendant removed, damaged, defaced, moved or obstructed.

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

RULES AND REGULATIONS

NR 64.12 ROUTES.

- (2) “All-terrain vehicle **ROUTE**” means a highway or sidewalk designated for use by all-terrain vehicle operators by the governmental agency having jurisdiction.

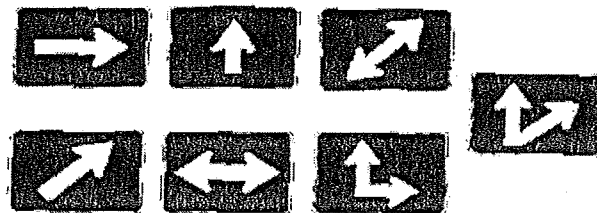
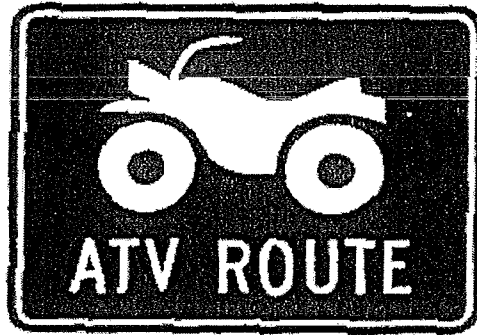
NR 64.12 ROUTES.

- (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.

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- (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"X18". 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"X9".
 - (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**.

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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**.

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**;
 - (e) Acquisition of land in fee and development of new all-terrain vehicle areas and trails, including **ROUTES**.

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(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).

(6) **Development**

(d) The department shall distribute aids for all-terrain vehicle areas 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.

MISCELLANEOUS STATUTES and references

84.02(1) Designation. The system of highways known as the trunk highway system heretofore selected and laid out by the legislature and by the highway commission and by special legislative state trunk highway committees and approved by said highway commission and as revised, altered and changed by and under authority vested by law in the highway commission, is hereby validated and confirmed and designated the state trunk highway system but without prejudice to the exercise of the power given to change such system, and all acts by which parts of said system were heretofore adopted or declared to be trunk highways are confirmed and validated. Section 80.32 (2) does not apply to the state trunk highway system.

84.02(11) Connecting highways. The state trunk highway system shall not include the marked routes thereof over the streets or highways in municipalities which the department has designated as being connecting highways. Those municipal streets or highways so excluded as state trunk highways but marked as such and designated as connecting highways are further described and the aids determined therefor under s. 86.32.

84.29 National system of interstate highways.

86.32(1) The department may designate, or rescind the designation of, certain marked routes of the state trunk highway system over the streets or highways in any municipality for which the municipality will be responsible for maintenance and traffic control and the maintenance and operation of any swing or lift bridge. Such maintenance, operation and traffic control of the connecting highways and swing and lift bridges shall be subject to review and approval by the department. Those marked routes of the state trunk highway system designated as connecting streets prior to July 1, 1977, shall become the connecting highways in municipalities which are eligible for aids payments under this section. The character of travel service provided by a route, uniformity of maintenance, the effect on the maintaining agency, and the municipality's maintenance capability will be considerations by the secretary, in cooperation with the municipalities and counties in making changes in the connecting highways of the state trunk highway system in municipalities. The decision of the secretary to designate or rescind a designation may be appealed to the division of hearings and appeals, which may affirm, reverse or modify the secretary's decision.

340.01 (22) "Highway" means all public ways and thoroughfares and bridges on the same. It includes the entire width between the boundary lines of every way open to the use of the public as a matter of right for the purposes of vehicular travel. It includes those roads or driveways in the state, county or municipal parks and in state forests which have been opened to the use of the public for the purpose of vehicular travel and roads or driveways upon the grounds of public schools, as defined in s. 115.01 (1), and institutions under the jurisdiction of the county board of supervisors, but does not include private roads or driveways as defined in sub. (46).

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340.01 (60) "State trunk highway" means any highway designated pursuant to s. 84.02 or 84.29 as part of the state trunk highway system, exclusive of connecting highways.

To view the state truck highway system, see "Official State Trunk Highway System Maps," Wisconsin Dept of Transportation, Division of Transportation Infrastructure Development

State Trunk Highways

"The Department of Transportation's (DOT) state trunk highway program is responsible for the construction, improvement and maintenance of the state's 11,752 mile trunk highway system."

"The responsibility for roads and highways is divided between local governments and the state. The state generally has jurisdiction over arterial roads, which function as corridors for interstate and interregional travel. This network is called the state trunk highway system. Generally, counties are responsible for collector roads, which serve short distance, intraregional traffic or provide connections between arterial roads and local roads. Municipalities are responsible for local roads, such as residential streets and town roads, which provide property access and short distance, local mobility services. Jurisdiction does not always follow this functional classification. For instance, a county road can begin to function as an arterial highway if traffic patterns change. However, current DOT policy is to align jurisdictional responsibilities with functional classifications whenever possible."

"Although state highways comprise only 10.5% of total road mileage, they carry 59.7% of the total traffic volume. Of the 11,752 miles of state highway in the system, about 87% are rural, 8% are urban and 5% are considered connecting highways."

Connecting Highways

"Connecting highways are state trunk highways that lie within the corporate limits of larger municipalities."

"State Trunk highway and Connecting Highways" - Source - John Dyck Wisconsin Legislative Fiscal Bureau, Madison, WI, 2001

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Appendix C

Ordinance No. 17-2

**An Ordinance Regarding All-Terrain and
Utility Terrain Vehicle Operations**

The Village Board of the Village of Elk Mound, Dunn County, Wisconsin, do ordain as follows:

SECTION I. REPEAL AND ADOPTION OF PROVISIONS.

Title 10, Chapter 4 of the Village of Elk Mound Code of Ordinances regarding all-terrain and utility terrain vehicle operations is repealed and re-adopted to read as follows: