



## 2005 ASSEMBLY BILL 219

March 16, 2005 – Introduced by Representatives AINSWORTH, GARD, HAHN, HINES, OTT, OWENS, PETROWSKI and MOLEPSKE, cosponsored by Senator OLSEN. Referred to Committee on Transportation.

1     **AN ACT** *to amend* 23.33 (4) (a), (b), (c) 1. and 1m., (d) (intro.) and 1. to 7. and (e)  
2             (intro.) , 23.33 (4c) (a) 1., 2., 2m. and 3. and (b) 1., 2. and 2m., 23.33 (4g) (a), 23.33  
3             (4g) (b), 23.33 (4j), (4L) and (4p) (a) 1. and 3., (b) 4., (c) 1. and 2., (d) and (e) 1.  
4             and 2., 23.33 (4t), 23.33 (4x) (title), 340.01 (35) and 345.11 (1r); and **to create**  
5             23.33 (1) (ij) and 346.02 (11m) of the statutes; **relating to:** lightweight utility  
6             vehicles, granting rule-making authority, and providing a penalty.

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### ***Analysis by the Legislative Reference Bureau***

This bill creates a new classification of vehicles called “lightweight utility vehicle.” A lightweight utility vehicle is an engine-driven device that has a gross weight of more than 700 pounds but not more than 1,999 pounds that is designed to travel on four or more low-pressure tires, is equipped with a cargo area, and is used principally off a highway. The bill applies many of the same rules of the road to operators of lightweight utility vehicles that are applicable to the operators of other motor vehicles, including obedience to traffic signs and signals, rules regarding making turns, parking, and approaching other vehicles, and the prohibition against operating a vehicle while intoxicated or with a prohibited alcohol or other drug concentration.

The bill places restrictions on the operation of a lightweight utility vehicle that are similar to the restrictions placed on operating an all-terrain vehicle. Under the bill, no person may operate a lightweight utility vehicle on any part of a freeway,

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unless the freeway is not part of the federal system of interstate highways, and the Department of Transportation (DOT) specifically authorizes the use of a lightweight utility vehicle on that freeway.

Further, no one may operate a lightweight utility vehicle on any highway, unless authorized by DOT, except under the following circumstances:

1. The lightweight utility vehicle is owned by a municipality, state agency, or public utility and the operator is performing emergency or official functions in a manner that does not jeopardize safety.

2. The operator is performing a land surveying operation in a manner that does not jeopardize safety.

3. The operator is at least 12 years old, and he or she is crossing a roadway, bridge, culvert, or railway.

4. The operator is at least 12 years old, and he or she is operating the lightweight utility vehicle on a roadway that is seasonally not maintained for motor vehicle traffic, or he or she is operating on a roadway that is designated as a route for all-terrain vehicles or lightweight utility vehicles.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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

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

2           23.33 (1) (ij) “Lightweight utility vehicle” means an engine-driven device  
3 having a gross weight of more than 700 pounds but not more than 1,999 pounds that  
4 is designed to travel on four or more low-pressure tires, is equipped with a cargo  
5 area, and is used principally off a highway. For the purposes of this paragraph, a “low  
6 pressure-tire” is a tire that is designed to be mounted on a rim with a maximum  
7 diameter of 13 inches and to be inflated with an operating pressure not to exceed 8  
8 pounds per square inch as recommended by the manufacturer.

9           **SECTION 2.** 23.33 (4) (a), (b), (c) 1. and 1m., (d) (intro.) and 1. to 7. and (e) (intro.)

10 of the statutes are amended to read:

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1           23.33 (4) (a) *Freeways.* No person may operate an all-terrain vehicle or a  
2 lightweight utility vehicle upon any part of any freeway ~~which~~ that is a part of the  
3 federal system of interstate and defense highways. No person may operate an  
4 all-terrain vehicle or a lightweight utility vehicle upon any part of any other freeway  
5 unless the department of transportation authorizes all-terrain vehicle or  
6 lightweight utility vehicle use on that freeway.

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

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

17           1m. Paragraphs (a) and (b) do not apply to the operator of an all-terrain vehicle  
18 or a lightweight utility vehicle who is engaged in land surveying operations, if safety  
19 does not require strict adherence to the restrictions under pars. (a) and (b).

20           (d) *Operation on roadway.* (intro.) A person may operate an all-terrain vehicle  
21 or, if the person is at least 12 years of age, a lightweight utility vehicle on the roadway  
22 portion of any highway only in the following situations:

23           1. To cross a roadway. The crossing of a roadway is authorized only if the  
24 crossing is done in the most direct manner practicable, if the crossing is made at a  
25 place where no obstruction prevents a quick and safe crossing, and if the operator

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1 stops the all-terrain vehicle or the lightweight utility vehicle prior to the crossing  
2 and yields the right-of-way to other vehicles, pedestrians, and electric personal  
3 assistive mobility devices using the roadway.

4 2. On any roadway ~~which~~ that is seasonally not maintained for motor vehicle  
5 traffic. Operation of an all-terrain vehicle or a lightweight utility vehicle on this type  
6 of roadway is authorized only during the seasons when no maintenance occurs and  
7 only if the roadway is not officially closed to all-terrain vehicle or lightweight utility  
8 vehicle traffic.

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

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

22 5. On roadways if the vehicle is an all-terrain vehicle and is an implement of  
23 husbandry, if the all-terrain vehicle is used exclusively for agricultural purposes and  
24 if the all-terrain vehicle is registered for private use under sub. (2) (d) or (2g).  
25 Operation of an all-terrain vehicle which is an implement of husbandry on a

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1 roadway is authorized only for the extreme right side of the roadway except that left  
2 turns may be made from any part of the roadway which is safe given prevailing  
3 conditions.

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

8 7. ~~On~~ If the vehicle is an all-terrain vehicle, on roadways of highways that are  
9 all-terrain vehicle trails.

10 (e) *Operation adjacent to roadway.* (intro.) A person may operate an all-terrain  
11 vehicle adjacent to a roadway on an all-terrain vehicle ~~route or trail~~ or operate an  
12 all-terrain vehicle or a lightweight utility vehicle adjacent to a roadway on an  
13 all-terrain vehicle route if the person operates the all-terrain vehicle in the  
14 following manner:

15 **SECTION 3.** 23.33 (4c) (a) 1., 2., 2m. and 3. and (b) 1., 2. and 2m. of the statutes  
16 are amended to read:

17 **23.33 (4c)** INTOXICATED OPERATION OF AN ALL-TERRAIN VEHICLE OR A LIGHTWEIGHT  
18 UTILITY VEHICLE. (a) *Operation.* 1. 'Operating while under the influence of an  
19 intoxicant.' No person may operate an all-terrain vehicle or a lightweight utility  
20 vehicle while under the influence of an intoxicant to a degree which renders him or  
21 her incapable of safe operation of an all-terrain vehicle.

22 2. 'Operating with alcohol concentrations at or above specified levels.' No  
23 person may engage in the operation of an all-terrain vehicle or a lightweight utility  
24 vehicle while the person has an alcohol concentration of 0.08 or more.

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1           2m. ‘Operating with a restricted controlled substance.’ No person may engage  
2 in the operation of an all-terrain vehicle or a lightweight utility vehicle while the  
3 person has a detectable amount of a restricted controlled substance in his or her  
4 blood.

5           3. ‘Operating with alcohol concentrations at specified levels; below age 19.’ If  
6 a person has not attained the age of 19, the person may not engage in the operation  
7 of an all-terrain vehicle or a lightweight utility vehicle while he or she has an alcohol  
8 concentration of more than 0.0 but not more than 0.08.

9           (b) *Causing injury.* 1. ‘Causing injury while under the influence of an  
10 intoxicant.’ No person while under the influence of an intoxicant to a degree which  
11 renders him or her incapable of safe operation of an all-terrain vehicle or a  
12 lightweight utility vehicle may cause injury to another person by the operation of an  
13 all-terrain vehicle or a lightweight utility vehicle.

14           2. ‘Causing injury with alcohol concentrations at or above specified levels.’ No  
15 person who has an alcohol concentration of 0.08 or more may cause injury to another  
16 person by the operation of an all-terrain vehicle or a lightweight utility vehicle.

17           2m. ‘Causing injury while operating with a restricted controlled substance.’ No  
18 person who has a detectable amount of a restricted controlled substance in his or her  
19 blood may cause injury to another person by the operation of an all-terrain vehicle  
20 or a lightweight utility vehicle.

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

22           23.33 (4g) (a) *Requirement.* A person shall provide a sample of his or her breath  
23 for a preliminary breath screening test if a law enforcement officer has probable  
24 cause to believe that the person is violating or has violated the intoxicated operation

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1 of an all-terrain vehicle or a lightweight utility vehicle law and if, prior to an arrest,  
2 the law enforcement officer requested the person to provide this sample.

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

4 23.33 (4g) (b) *Use of test results.* A law enforcement officer may use the results  
5 of a preliminary breath screening test for the purpose of deciding whether or not to  
6 arrest a person for a violation of the intoxicated operation of an all-terrain vehicle  
7 or a lightweight utility vehicle law or for the purpose of deciding whether or not to  
8 request a chemical test under sub. (4p). Following the preliminary breath screening  
9 test, chemical tests may be required of the person under sub. (4p).

10 **SECTION 6.** 23.33 (4j), (4L) and (4p) (a) 1. and 3., (b) 4., (c) 1. and 2., (d) and (e)

11 1. and 2. of the statutes are amended to read:

12 23.33 (4j) **APPLICABILITY OF THE INTOXICATED OPERATION OF AN ALL-TERRAIN**  
13 **VEHICLE OR A LIGHTWEIGHT UTILITY VEHICLE LAW.** In addition to being applicable upon  
14 highways, the intoxicated operation of an all-terrain vehicle or a lightweight utility  
15 vehicle law is applicable upon all premises held out to the public for use of their  
16 all-terrain or lightweight utility vehicles, whether such premises are publicly or  
17 privately owned and whether or not a fee is charged for the use thereof.

18 (4L) **IMPLIED CONSENT.** Any person who engages in the operation of an  
19 all-terrain vehicle or a lightweight utility vehicle upon the public highways of this  
20 state, or in those areas enumerated in sub. (4j), is deemed to have given consent to  
21 provide one or more samples of his or her breath, blood or urine for the purpose of  
22 authorized analysis as required under sub. (4p). Any person who engages in the  
23 operation of an all-terrain vehicle or a lightweight utility vehicle within this state  
24 is deemed to have given consent to submit to one or more chemical tests of his or her

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1 breath, blood or urine for the purpose of authorized analysis as required under sub.  
2 (4p).

3 (4p) (a) 1. 'Samples; submission to tests.' A person shall provide one or more  
4 samples of his or her breath, blood or urine for the purpose of authorized analysis if  
5 he or she is arrested for a violation of the intoxicated operation of an all-terrain  
6 vehicle or a lightweight utility vehicle law and if he or she is requested to provide the  
7 sample by a law enforcement officer. A person shall submit to one or more chemical  
8 tests of his or her breath, blood or urine for the purpose of authorized analysis if he  
9 or she is arrested for a violation of the intoxicated operation of an all-terrain vehicle  
10 or a lightweight utility vehicle law and if he or she is requested to submit to the test  
11 by a law enforcement officer.

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

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



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1 person acting under the direction of a physician and the person who withdraws the  
2 blood, the employer of that person and any hospital where blood is withdrawn have  
3 immunity from civil or criminal liability as provided under s. 895.53

4 (c) 1. 'Additional chemical test.' If a person is arrested for a violation of the  
5 intoxicated operation of an all-terrain vehicle or a lightweight utility vehicle law or  
6 is the operator of an all-terrain vehicle involved in an accident resulting in great  
7 bodily harm to or the death of someone and if the person is requested to provide a  
8 sample or to submit to a test under par. (a) 1., the person may request the test facility  
9 to administer the additional chemical test specified under par. (b) 3. or, at his or her  
10 own expense, reasonable opportunity to have any qualified person administer a  
11 chemical test of his or her breath, blood or urine for the purpose of authorized  
12 analysis.

13 2. 'Optional test.' If a person is arrested for a violation of the intoxicated  
14 operation of an all-terrain vehicle or a lightweight utility vehicle law and if the  
15 person is not requested to provide a sample or to submit to a test under par. (a) 1.,  
16 the person may request the test facility to administer a chemical test of his or her  
17 breath or, at his or her own expense, reasonable opportunity to have any qualified  
18 person administer a chemical test of his or her breath, blood or urine for the purpose  
19 of authorized analysis. If a test facility is unable to perform a chemical test of breath,  
20 the person may request the test facility to administer the designated chemical test  
21 under par. (b) 2. or the additional chemical test under par. (b) 3.

22 (d) *Admissibility; effect of test results; other evidence.* The results of a chemical  
23 test required or administered under par. (a), (b) or (c) are admissible in any civil or  
24 criminal action or proceeding arising out of the acts committed by a person alleged  
25 to have violated the intoxicated operation of an all-terrain vehicle or a lightweight

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1 utility vehicle law on the issue of whether the person was under the influence of an  
2 intoxicant or the issue of whether the person had alcohol concentrations at or above  
3 specified levels or a detectable amount of a restricted controlled substance in his or  
4 her blood. Results of these chemical tests shall be given the effect required under s.  
5 885.235. This subsection does not limit the right of a law enforcement officer to  
6 obtain evidence by any other lawful means.

7 (e) 1. Whether the law enforcement officer had probable cause to believe the  
8 person was violating or had violated the intoxicated operation of an all-terrain  
9 vehicle or a lightweight utility vehicle law.

10 2. Whether the person was lawfully placed under arrest for violating the  
11 intoxicated operation of an all-terrain vehicle or a lightweight utility vehicle law.

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

13 23.33 (4t) REPORT ARREST TO DEPARTMENT. If a law enforcement officer arrests  
14 a person for a violation of the intoxicated operation of an all-terrain vehicle or a  
15 lightweight utility vehicle law or the refusal law, the law enforcement officer shall  
16 notify the department of the arrest as soon as practicable.

17 **SECTION 8.** 23.33 (4x) (title) of the statutes is amended to read:

18 23.33 (4x) (title) OFFICER'S ACTION AFTER ARREST FOR OPERATING AN ALL-TERRAIN  
19 VEHICLE OR A LIGHTWEIGHT UTILITY VEHICLE WHILE UNDER INFLUENCE OF INTOXICANT.

20 **SECTION 9.** 340.01 (35) of the statutes is amended to read:

21 340.01 (35) "Motor vehicle" means a vehicle, including a combination of 2 or  
22 more vehicles or an articulated vehicle, which is self-propelled, except a vehicle  
23 operated exclusively on a rail. "Motor vehicle" includes, without limitation, a  
24 commercial motor vehicle or a vehicle which is propelled by electric power obtained  
25 from overhead trolley wires but not operated on rails. A snowmobile, a lightweight

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1 utility vehicle, and an all-terrain vehicle shall only be considered motor vehicles for  
2 purposes made specifically applicable by statute.

3 **SECTION 10.** 345.11 (1r) of the statutes is amended to read:

4 345.11 (1r) The uniform traffic citation or the citation form under s. 23.54 shall  
5 be used for violations of s. 23.33 relating to highway use or ordinances in conformity  
6 with that section if the violation is committed on a highway, but no points may be  
7 assessed against the driving record of the operator of an all-terrain vehicle or a  
8 lightweight utility vehicle. When the uniform traffic citation is used, the report of  
9 conviction shall be forwarded to the department. When the citation form under s.  
10 23.54 is used, the procedure in ss. 23.50 to 23.85 applies.

11 **SECTION 11.** 346.02 (11m) of the statutes is created to read:

12 346.02 (11m) APPLICABILITY TO LIGHTWEIGHT UTILITY VEHICLES. The operator of  
13 a lightweight utility vehicle on a roadway is subject to ss. 346.04, 346.06, 346.11,  
14 346.14 (1), 346.18, 346.19, 346.20, 346.21, 346.26, 346.27, 346.33, 346.35, 346.37,  
15 346.39, 346.40, 346.44, 346.46, 346.47, 346.48, 346.50 (1) (b), 346.51, 346.52, 346.53,  
16 346.54, 346.55, 346.87, 346.88, 346.89, 346.90, 346.91, 346.92 (1), and 346.94 (1) and  
17 (9) but is not subject to any other provision of this chapter.

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(END)