

1 **AN ACT** *to amend* 23.33 (3) (c), 350.10 (1) (f) and 350.11 (1) (a) and (b); and *to create*
2 23.33 (13) (aw) and 350.10 (2w) of the statutes; **relating to:** trespass by operators of
3 snowmobiles, all-terrain vehicles, and other off-road vehicles and providing a
4 penalty.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill draft was prepared for the Joint Legislative Council’s Special Committee on State Trails Policy.

The current statutes contain a general provision on trespass to land in s. 943.13. This statute prohibits any person from entering the land of another without the express or implied consent of the owner or occupant, or remaining on the land of another after being notified to leave. This statute applies whether or not the person is in a vehicle, and therefore would apply to trespass by a person who is operating an all-terrain vehicle (ATV), snowmobile, or other off-road vehicle. The penalty for violation of this statute is a Class B forfeiture, which is a civil penalty of a forfeiture not to exceed \$1,000. The trespass statute is enforced by local law enforcement authorities. Wardens of the department of natural resources (DNR) do not have authority to enforce the trespass statute. The trespass statute is enforced by a citation system, similar to that for a traffic citation. The judicial conference sets the actual amount of the bond for violations of the trespass statute, and the basic deposit amount that has been set by the judicial conference is \$100. The statutes impose a variety of other surcharges on the basic amount, with the result that the total deposit amount for a person who pleads no contest to a trespass citation is \$249.

The current statutes also have provisions regarding entry onto the property of another without the consent of the owner or lessee, when operating an ATV, snowmobile, or other off-road vehicle. The current penalty for violation of these statutes is a forfeiture not to exceed \$250. The judicial conference has also set the amount of the deposit for these violations at \$100, with a total deposit for the citation of \$249. These statutes are enforced by DNR wardens.

This draft expands the property that is subject to the prohibition by applying the prohibition to public property as well as private property. The draft does this by deleting “private” in the statute.

Also, the penalty for violation of these statutes is increased. The current penalty, described above, is a forfeiture not to exceed \$250. This draft changes the penalty to a forfeiture of not less than [\$250] and not more than [\$1,000.] If the judicial conference sets the deposit amount at the minimum of \$250, the total deposit for this violation would be \$438.

It is also possible that the district attorney could issue a complaint and summons and seek a forfeiture up to the maximum of \$1,000.

COMMENT: The amounts of the proposed forfeitures in this draft are shown in brackets. The intent of the draft is to increase the monetary penalty for violation of the statutes that prohibit operation of an ATV, snowmobile, or other off-road vehicle on the property of another without the consent of the owner or lessee. The special committee should determine the appropriate amount for these penalties.

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

2 23.33 **(3)** (c) On the ~~private~~ property of another without the consent of the owner or
3 lessee. Failure to post ~~private~~ such property does not imply consent for all-terrain vehicle use.

NOTE: This provision in current statutes is part of the rules of operation for ATVs. This paragraph is preceded by an introductory paragraph that states: “No person may operate an all-terrain vehicle:”.

4 **SECTION 2.** 23.33 (13) (aw) of the statutes is created to read:

5 23.33 **(13)** (aw) *Penalty related to operation on the property of another.* A person who
6 violates s. 23.33 (3) (c) shall forfeit not less than [\$250] and not more than [\$1,000].

NOTE: The current penalty for operation of an ATV on the property of another is a forfeiture not to exceed \$250. This provision of the draft sets a minimum forfeiture of \$250 and a maximum forfeiture of \$1,000 for violation of this statute.

7 **SECTION 3.** 350.10 (1) (f) of the statutes is amended to read:

8 350.10 **(1)** (f) On the ~~private~~ property of another without the consent of the owner or
9 lessee. Failure to post ~~private~~ such property does not imply consent for snowmobile use. Any
10 other motor-driven craft or vehicle principally manufactured for off-highway use shall at all

1 times have the consent of the owner before operation of such craft or vehicle on ~~private lands~~
2 the property of another.

NOTE: This provision of the current statutes is part of the provisions on snowmobile operation. This paragraph is preceded by an introductory paragraph that states: "No person shall operate a snowmobile in the following manner:". It should be noted that this provision is not limited to snowmobiles, but applies also to other "motor-driven craft or vehicle principally manufactured for off-highway use".

3 **SECTION 4.** 350.11 (1) (a) and (b) of the statutes are amended to read:

4 350.11 (1) (a) Except as provided in par. (b) and subs. (2g), (2m), ~~(2w)~~ and (3), any
5 person who violates any provision of this chapter shall forfeit not more than \$250.

6 (b) Except as provided in subs. (2g), (2m), ~~(2w)~~ and (3), any person who violates any
7 provision of this chapter and who, within the last 3 years prior to the conviction for the current
8 violation, was 2 or more times previously convicted for violating the same provision of this
9 chapter shall forfeit not more than \$500.

10 **SECTION 5.** 350.10 (2w) of the statutes is created to read:

11 350.10 (2w) A person who violates s. 350.10 (1) (f) shall forfeit not less than [\$250]
12 and not more than [\$1,000].

NOTE: This provision changes the penalty for violation of the prohibition on operating a snowmobile or other motor-driven craft or vehicle on the property of another from a forfeiture of not to exceed \$250 to a minimum forfeiture of \$250 and a maximum forfeiture of \$1,000.

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(END)