TRAIL: ATV damage claim program WLC: 0039/2

DWS:ksm 01/17/2007

1	AN ACT to create 20.370 (5) (cz) and 23.33 (8m) of the statutes; relating to: creating
2	an all-terrain vehicle damage claim program, and making an appropriation.
	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.
3	SECTION 1. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the
4	following amounts for the purposes indicated:
5	2007-08 2008-09
6	20.370 Natural Resources, Department of
7	(5) Conservation aids
8	(cz) Recreation aids — all-terrain
9	vehicle damage claims SEG A \$30,000 \$30,000
10	<b>SECTION 2.</b> 20.370 (5) (cz) of the statutes is created to read:
11	20.370 (5) (cz) Recreation aids — all-terrain vehicle damage claims. The amounts in
12	the schedule to pay claims under the all-terrain vehicle damage program under s. 23.33 (8m).
13	<b>SECTION 3.</b> 23.33 (8m) of the statutes is created to read:
14	23.33 (8m) All-terrain vehicle damage program. (a) The department shall
15	establish an all-terrain vehicle damage program to pay claims for the cost of restoring property
16	that is damaged by the operation of all-terrain vehicles. Any person may submit a claim under
17	this subsection.

1	(b) The department may pay a claim under this subsection only if all of the following
2	apply:
3	1. The damage to the property was caused by the operation of all-terrain vehicles in an
4	area not designated as an all-terrain vehicle route or all-terrain vehicle trail.
5	2. The applicant reports the trespass that causes the damage to local law enforcement
6	officers.
7	3. The applicant makes reasonable efforts to identify the responsible individual and
8	obtain payment from the responsible individual.
9	4. The applicant makes reasonable efforts to prevent reoccurrence of the damage.
10	(c) The department shall promulgate rules for eligibility and funding requirements for
11	the all-terrain vehicle damage claim program in order to maximize the cost-effectiveness of
12	the program. The department shall promulgate rules to establish all of the following:
13	1. Forms and procedures for processing and payment of claims, including an annual
14	period for making claims.
15	2. Procedures and standards for determining the cost to restore all-terrain vehicle
16	damage.
17	3. A methodology for proration of all-terrain vehicle damage claim payments if funds
18	are not sufficient to pay all claims.
19	4. Procedures for record keeping, audits, and inspections.
20	5. Participation by local all-terrain vehicle clubs in the review of claims under this
21	subsection.
22	(d) The department may not submit a claim under this subsection in any annual claim

year unless all approved claims other than the department's claims are paid in full.

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**Note:** There is no all-terrain vehicle (ATV) damage claim program under current law. If a person's property is damaged by the operation of an ATV in an area not designated for ATV use, the only remedy would be through court-ordered restitution as the judgment in a lawsuit.

This bill draft establishes an ATV damage claim program under which an applicant may receive a payment for the repair or restoration of property damaged by the operation of ATVs in any area not designated as an ATV route or ATV trail. The provision requires the department of natural resources to promulgate rules for implementation of the program. The provision requires the department to verify that certain minimum standards are met regarding the awarding of the payments. These standards include:

- 1. That the damage to the property was caused by the operation of ATVs in an area not designated as an ATV route or ATV trail.
- 2. That the applicant reports the trespass and makes reasonable efforts to identify the responsible individual and obtain payment from the individual.
- 3. That the applicant makes reasonable efforts to prevent reoccurrence of the damage.

The DNR may value a claim only if all eligible claims in an annual payment cycle are paid in full.

## **SECTION 4. Nonstatutory provisions.**

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(1) EMERGENCY RULES ON ALL-TERRAIN VEHICLE CLAIMS. Using the procedure under section 227.24 of the statutes, the department of natural resources shall promulgate the rules required under section 23.33 (8m) of the statutes, as created by this act, for the period before the effective date of the permanent rule promulgated under section 23.33 (8m) of the statutes, as created by this act, but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department of natural resources is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

1	SECTION 5. Initial applicability.
2	(1) The treatment of sections 23.33 (8m) of the statutes first applies to claims filed or
3	the effective date of this subsection.
4	SECTION 6. Effective date.
5	(1) This act takes effect on the first day of the 12th month beginning after publication
6	(END)