

1       **AN ACT** *to create* 23.33 (2d) and 23.33 (13) (g) of the statutes; **relating to:** requiring  
 2           a certificate of title for an all-terrain vehicle, creating penalties, and making  
 3           appropriations.

*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.

4       **SECTION 1.** 23.33 (2d) of the statutes is created to read:

5           23.33 (2d) CERTIFICATE OF TITLE; REQUIREMENTS; EXCEPTIONS. (a) *Certificate.* The  
 6           owner of an all-terrain vehicle subject to registration in this state, whether or not the all-terrain  
 7           vehicle is operated in this state, shall make application for a certificate of title for the  
 8           all-terrain vehicle under the following circumstances:

9           1. If the owner has newly acquired the all-terrain vehicle, he or she shall make  
 10          application under this subsection.

11          2. If the owner applies for registration of an all-terrain vehicle without holding a valid  
 12          certificate of title previously issued to that owner by the department for the all-terrain vehicle,  
 13          he or she shall at the same time apply for a certificate of title.

14          (b) *Exemptions.* An all-terrain vehicle is exempt from the certificate of title  
 15          requirements of this subsection if it is exempt under sub. (2) (b) from registration  
 16          requirements. The department may exempt additional classes of all-terrain vehicles from the  
 17          titling requirements.

1           (c) *All-terrain vehicles purchased by nonresidents.* A nonresident who purchases an  
2 all-terrain vehicle in this state and who intends to register the all-terrain vehicle in another  
3 state is not required to apply for a certificate of title under this chapter. A nonresident who  
4 purchases an all-terrain vehicle in this state may apply for a certificate of title under this  
5 subsection.

6           (d) *Application for certificate of title.* An application for a certificate of title shall be  
7 made to the department and shall be accompanied by the required fee. Each application for  
8 certificate of title shall contain the information required by the department.

9           (e) *Issuance; records; fees.* 1. The department shall file each application for certificate  
10 of title received by it and, when satisfied as to its genuineness and regularity and that the  
11 applicant is entitled to the issuance of a certificate of title, shall issue and deliver a certificate  
12 to the owner of the all-terrain vehicle.

13           2. The department shall file and retain for at least 5 years a record of all applications  
14 for a certificate of title.

15           3. The department shall conduct a title search upon the request of an applicant for a  
16 certificate of title.

17           4. The department shall by rule fix and collect fees which shall, as closely as possible,  
18 equal the cost of providing services under this subsection.

19           (f) *Contents of certificate of title.* Each certificate of title issued by the department shall  
20 contain information designated by the department.

21           (g) *Law enforcement.* The department shall establish procedures for identifying stolen  
22 all-terrain vehicles with the cooperation of local law enforcement officials and the department  
23 of justice, by checking applications for title against any lists of stolen all-terrain vehicles,

1 inspecting serial numbers if the owner applies for a replacement certificate of title, and  
2 inspecting all-terrain vehicles that are purchased out-of-state.

3 (h) *Replacements; transfer of title.* The department shall establish procedures and  
4 forms for the replacement of certificates of title and the transfer of title to an all-terrain vehicle  
5 or the transfer of any interest in an all-terrain vehicle.

6 (i) *Alterations and falsifications prohibited.* 1. No person may intentionally falsify an  
7 application for a certificate of title or a certificate of title issued under the subsection.

8 2. No person may intentionally alter, remove, or change any number or other character  
9 in an all-terrain vehicle engine serial number or all-terrain vehicle serial number.

10 (j) *Abandonment or destruction of all-terrain vehicle.* The department shall  
11 promulgate procedures that apply in the event of abandonment or destruction of an all-terrain  
12 vehicle covered by a certificate of title and certificate of number or registration issued by this  
13 state.

14 (k) *Security interests.* 1. A security interest in an all-terrain vehicle of a type for which  
15 a certificate of title is required is not valid against creditors of the owner or subsequent  
16 transferees or secured parties of the all-terrain vehicle unless perfected as provided in rules  
17 promulgated by the department.

18 2. A secured party named in a certificate of title shall, upon written request of the owner  
19 or of another secured party named on the certificate, disclose any pertinent information about  
20 the secured party's security agreement and the indebtedness secured by it.

21 3. An owner shall promptly deliver the certificate of title to any secured party who is  
22 named on it or who has a security interest in the all-terrain vehicle described in it under any  
23 applicable prior law of this state, upon receipt of a notice from the secured party that the  
24 secured party's security interest is to be assigned, extended or perfected.

1           4. A secured party who fails to disclose information under subd. (2) shall be liable to  
2 the owner for any loss caused by the failure to disclose.

3           5. An owner who fails to deliver the certificate of title to a secured party requesting it  
4 under subd. 3 shall be liable to the secured party for any loss caused to the secured party by  
5 the failure to deliver.

6           6. The method provided in this paragraph for perfecting and giving notice of security  
7 interests subject this subsection is exclusive. Security interests subject to this subsection are  
8 exempt from the provisions of law that otherwise require or relate to the filing of instruments  
9 creating or evidencing security interests. This subdivision does not affect the validity of a  
10 security interest perfected before the effective date of this subdivision ... [revisor inserts date].

11           (1) *Suspension or revocation of certificate of title.* The department shall suspend or  
12 revoke a certificate of title for an all-terrain vehicle if it finds any of the following:

13           1. The certificate of title was fraudulently procured, erroneously issued, or prohibited  
14 by law.

15           2. The all-terrain vehicle has been scrapped, dismantled, or destroyed.

16           3. A transfer of title is set aside by a court by order or judgment.

17           4. Suspension or revocation of a certificate of title does not, in itself, affect the validity  
18 of a security interest noted on it.

19           5. When the department suspends or revokes a certificate of title, the owner or person  
20 in possession of the certificate shall, within 5 days after receiving notice of the suspension or  
21 revocation, mail or deliver the certificate to the department.

22           6. The department may seize and impound a certificate of title that is suspended or  
23 revoked.

1 (m) *Grounds for refusing issuance of certificate of title.* The department shall refuse  
2 issuance of a certificate of title if any required fee is not paid or if it has reasonable grounds  
3 to believe that any of the following exists:

- 4 1. The person alleged to be the owner of the all-terrain vehicle is not the owner.
- 5 2. The application contains a false or fraudulent statement.
- 6 3. The applicant fails to furnish information or documents required by the department.

**NOTE:** This provision creates a requirement for the owner of an all-terrain vehicle (ATV) to obtain a certificate of title. Any owner of an ATV that is subject to registration in this state must comply with the titling requirement. The titling requirement applies to the owner of a newly acquired ATV and to the owner of an ATV who applies for registration without holding a previously issued certificate of title. Any ATV that is exempt from registration in this state is also exempt from the titling requirement. Although nonresidents who register an ATV in another state are not required to apply for a certificate of title, a nonresident may choose to obtain a Wisconsin title for an ATV purchased in this state.

The department of natural resources (DNR) is directed under this provision to implement the statute by promulgating administrative rules applicable to the procedures for application for a certificate of title, issuance of a certificate of title, recordkeeping, replacements, transfer of title, security interests, and all other provisions necessary for the titling program. The DNR is directed to set and collect fees established by rule which shall, as closely as possible, equal the cost of providing services related to ATV titling. The funds collected by the DNR will be placed in the Conservation Fund.

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

8 23.33 (13) (g) *All-terrain vehicle serial numbers.* Any person who violates sub. (4b)

9 (i) is guilty of a Class H felony.

**NOTE:** The new provision in this bill draft related to creating an ATV titling program contains a prohibition on the intentional falsification of an application for a certificate of title or a certificate of title, and the intentional authorization, removal, or change of any number or character in an ATV engine serial number or ATV serial number. This provision makes violation of those prohibitions a Class H felony. The maximum

penalty for a Class H felony is a fine not to exceed \$10,000 or imprisonment not to exceed 6 years, or both.

1       **SECTION 3. Effective date.**

2       (1) This act takes effect on January 1, 2009.

**NOTE:** The effective date of this provision primarily relates to the commencement of the requirement to obtain a certificate of title. This effective date means that the owner of an ATV newly purchased on or after January 1, 2009 or the owner of an ATV who applies for registration on or after January 1, 2009 and does not have a valid certificate of title previously issued must obtain a certificate of title for the ATV.

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(END)