

2009 DRAFTING REQUEST

Assembly Amendment (AA-AB390)

Received: **02/02/2010**

Received By: **agary**

Wanted: **As time permits**

Identical to LRB:

For: **Alvin Ott (608) 266-5831**

By/Representing: **Erin Ruby**

This file may be shown to any legislator: **NO**

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - motor vehicles**

Extra Copies: **EVM**

Submit via email: **YES**

Requester's email: **Rep.Ott@legis.wisconsin.gov**

Carbon copy (CC:) to: **aaron.gary@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Commercial quadricycles; local ordinance authority and statutory title

Instructions:

See attached

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|---------------------|----------------------|------------------------|----------------|------------------------|-----------------------|-----------------|
| /? | | | | | | | |
| /P1 | agary 02/02/2010 | bkraft 02/02/2010 | mduchek 02/02/2010 | _____ | sbasford 02/02/2010 | | |
| /1 | agary 02/18/2010 | bkraft 02/18/2010 | jfrantze 02/18/2010 | _____ | lparisi 02/18/2010 | lparisi 02/18/2010 | |

FE Sent For:

<END>

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1 bjk 2/18  2/18

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|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
| 1/? | agary | 1/1 bjk 2/2 | 2/2 M | _____ | _____ | _____ | _____ |

FE Sent For:

<END>

2/2

Hc w/ Erin - Rep. Ott 6-5831

AB 390

- allow municipalities to limit / ban
operation of commercial liquor
as defined in the bill
- regulate of alcohol on comm. liquor.

Gary, Aaron

From: Gary, Aaron
Sent: Tuesday, January 12, 2010 3:55 PM
To: Ruby, Erin
Cc: Salm, Don
Subject: RE: AB 390

Hi Erin,

Your reading of the language is correct.

The reason s. 125.10 (5) is in the bill is because of the breadth of s. 125.10, the title of which is "Municipal regulation." Section 125.10 (1) gives municipalities broad authority regarding regulation of alcohol beverages. Created s. 125.10 (5) in the bill takes a small slice of this authority away. It limits the municipality's authority to enact regulations "prohibiting the possession or consumption of alcohol beverages" This restriction is narrow and relates specifically to alcohol beverages. The title of sub (5) could be revised but I don't actually think it is misleading in light of the title to s. 125.10 (also, titles have no legal effect and they have to be short). In summary, I agree with your reading and don't see the problem here. Nonetheless, I would be happy to amend the title to sub. (5) if it is a problem and the title you want isn't too long.

I should also add that you have raised an interesting "transportation" question here. Did DOT testify at the hearing? Even if s. 125.10 (5) were taken entirely out of the bill, it is not clear to me that local governments would have authority to prohibit the operation of commercial quadricycles in their jurisdictions. When it comes to traffic matters, local ordinances generally need to be consistent with state statutes. One could argue that, without a newly created provision in ch. 349 allowing local governments to ban commercial quadricycles, local governments don't have the authority to do so. (For example, ch. 349 specifically authorizes local governments to restrict the use of in-line skates and Segways on the roadway.) I would defer to DOT's opinion on this issue. But I thought I'd raise it because, as long as commercial quadricycles can be legally operated under current state law, I'm not convinced that local governments actually have authority to ban their operation, even setting aside AB-390 (there might need to be a newly created provision in ch. 349 to authorize it, if that is the intent).

Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Ruby, Erin
Sent: Tuesday, January 12, 2010 3:03 PM
To: Gary, Aaron
Cc: Salm, Don
Subject: AB 390

Aaron,

AB 390 (possession and consumption of alcohol on commercial quadricycles) had an executive session today in the Assembly Committee on Public Safety.

As part of the committee's discussion, there was some concern expressed that the bill - specifically Section 3 - would prohibit a local government from regulating whether or not commercial quadricycles (with or without alcohol) can operate in their communities.

My boss would like some clarification on this issue. We read it to only prohibit local units of government from regulating the possession and consumption of alcohol on commercial quadricycles, particularly given the language's placement in s. 125.10, which applies to municipal regulation of alcoholic beverages. We do not see this as a prohibition on a municipality's ability to regulate or disallow commercial quadricycles in their community by ordinance.

Is this a correct interpretation? Do you have any thoughts on potentially needing clarifying language? (I think the title of

the section was misleading without it being considered in the context of the Chapter.)

Don - please feel free to comment if I've missed the mark at all regarding today's discussion.

Thanks!!

Erin

Erin Ruby

Research Assistant

Office of State Representative Al Ott

608.266.5831

erin.ruby@legis.wi.gov



needed by 2/4

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY AMENDMENT ,
TO 2009 ASSEMBLY BILL 390**

bh
SA
x-ref

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1, line 4: after "quadricycles" insert ", municipal authority to regulate
3 the operation of commercial quadricycles,".

4 **2.** Page 2, line 12: after "OF" insert "ALCOHOL BEVERAGES ON".

5 **3.** Page 2, line 14: after "quadricycle." insert "This subsection does not prohibit
6 a municipality from enacting regulations under s. 349.18 (1) (d) restricting or
7 prohibiting the operation of commercial quadricycles.".

8 **4.** Page 3, line 11: after that line insert:

9 "SECTION 6m. 349.18 (1) (d) of the statutes is created to read:

10 349.18 (1) (d) Restrict or prohibit the operation of commercial quadricycles on
11 any roadway under the jurisdiction of the city, village, or town.".

12 (END)



in 2/18

TODAY

LRBa1455/23
ARG:bjk:md

KWR

stays

2/18 - H/c v/ Erin - wants / 1

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

**ASSEMBLY AMENDMENT,
TO 2009 ASSEMBLY BILL 390**

bh
SA

No changes

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(END)