

2013 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB169)

Received: 5/22/2013

Received By: agary

Wanted: As time permits

Same as LRB:

For: Jeff Stone (608) 266-8590

By/Representing: Justin Phillips

May Contact:

Drafter: agary

Subject: Beverages

Addl. Drafters:

Extra Copies:

Submit via email: YES
Requester's email: Rep.Stone@legis.wisconsin.gov
Carbon copy (CC) to: aaron.gary@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Commercial quadricycles

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> |
|--------------|--------------------|--------------------|---------------------|----------------|----------------------|---------------------|-----------------|
| /? | agary 5/23/2013 | jdyer 5/24/2013 | phenry 5/24/2013 | _____ | | | |
| /P1 | agary 6/4/2013 | | | _____ | lparisi 5/24/2013 | | |
| /1 | | jdyer 6/4/2013 | jmurphy 6/4/2013 | _____ | mbarman 6/4/2013 | mbarman 6/4/2013 | |

FE Sent For:

<END>

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|--------------|--------------------|-------------------|---------------------|------------------|----------------------|-----------------|-----------------|
| /? | agary 5/23/2013 | jdye 5/24/2013 | phenry 5/24/2013 | _____ | | | |
| /P1 | | <i>1/6/4 jld</i> | <i>Jim 6/4</i> | <i>James 6/4</i> | lparisi 5/24/2013 | | |

FE Sent For:

<END>

2013 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB169)

Received: **5/22/2013** Received By: **agary**
Wanted: **As time permits** Same as LRB:
For: **Jeff Stone (608) 266-8590** By/Representing: **Justin Phillips**
May Contact: Drafter: **agary**
Subject: **Beverages** Addl. Drafters:
Extra Copies:

Submit via email: **YES**
Requester's email: **Rep.Stone@legis.wisconsin.gov**
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|--------------|----------------|-----------------|---------------|----------------|------------------|-----------------|-----------------|
| /? | agary | PI 5/24 jld | S/agary ph | Steel ph/BS | | | |

FE Sent For:

<END>

1/c w/
Justin Phillips - Rep. Stone 6-8590
5/22

- hours of operation →
- ~~beer~~ return at port of origin

- no later than 10:30 or
~~10:45 pm~~ →
 return no later
 than 10:30 pm

of draft
 of the
 amendment

FMB
 • beer only →

• riders are free to carry
 there on but cannot
 pay for them

mun. - could
 set earlier
 hours

penalties
 • not increased; only one
 one & done.

resent
 email

• local control → now
 • want standard statewide with
 an opt out

• hoping next week.

Gary, Aaron

From: Gary, Aaron
Sent: Wednesday, May 22, 2013 3:03 PM
To: Phillips, Justin
Subject: RE: AB-169

Justin,

Here's the email – it was actually Friday, not Monday.

Aaron

From: Gary, Aaron
Sent: Friday, May 17, 2013 11:56 AM
To: Phillips, Justin
Subject: AB-169

Justin,

To follow up on our discussion of the authorization to consume alcohol in a limo or on a charter bus, here is some background information:

Although the statutes generally prohibit consumption of alcohol in a *motor* vehicle, s. 346.935, there is an exception for passengers in a limousine operated by a chauffeur or in a motor bus. s. 346.935(4). This provision is not relevant here because a commercial quadricycle is not a *motor* vehicle.

Another, very old, provision of law provides that a passenger in a common carrier cannot publicly drink intoxicants or give another person intoxicants to drink under circumstances tending to provoke a disturbance. s. 947.04(1). The person in charge of the common carrier may temporarily confiscate intoxicants from any passenger violating this provision. S. 947.04(2). A motor bus or limousine would be a "common carrier" but this state law might in part be preempted by federal law (as discussed below).

I can't find any statute or administrative rule that specifically allows passengers in a limousine or motor bus to consume alcohol. The only provision I can find is s. 346.935, discussed above, which by its terms does *not* apply to any type of bicycle (including a quadricycle). Why is there no statutory provision on this topic? First, a limousine or a charter bus is probably not a "public" place. One could argue that a commercial quadricycle is also not a public place, but the bus and the limousine are enclosed and more private and a commercial quadricycle loaded with a keg is more likely to be viewed as part of a city "street scene," easily parked along the sidewalk. Second, a limousine and a motor bus are both motor carriers, subject to regulation by DOT and/or the Federal Motor Carrier Safety Administration. They must hold an operating authority issued under federal law or state law and are subject to all rules and restrictions under applicable law for that particular type of motor carrier. A motor carrier with interstate operations must hold a federal authority and the federal government holds the power of establishing operating standards, including whether alcohol can be consumed and by whom. If the state attempted to regulate the operations of that federal motor carrier, the state law would likely be preempted. See *Rowe v. New Hampshire Motor Transport Ass'n*, 552 U.S. 364 (2008). I believe the state could probably regulate alcohol consumption on intrastate motor carriers but not interstate motor carriers.

The bottom line is that there is *no provision* that I can find in current law specifically allowing alcohol consumption in limousine and motor buses that we could add "commercial quadricycles" to. The only relevant provision is an exception to a prohibition and does not apply to commercial quadricycles in the first place. If you are aware of a different provision that I have overlooked, please let me know. Otherwise, it is difficult to draft this bill treating a commercial quadricycle like a limousine or motor bus when state law is silent on this topic as relevant to this bill and federal law is preemptive.

Please let me know if you need additional information, have further questions, or need any drafting done. I would also be happy to talk to DOT, if you want, to see if I can obtain any further information on the topic of alcohol consumption in limousine and motor buses.

Thanks. Aaron

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



State of Wisconsin
2013 - 2014 LEGISLATURE

Scor



LRB-2013/12 s 0063/P1

ARG:jld:rs

Stays

D-Note

To *Assembly Substitute Amendment,*
2013 ASSEMBLY BILL 169

purse

April 25, 2013 - Introduced by Representatives STONE, ZEPNICK, OHNSTAD, A. OTT, SANFELIPPO, KOYENGA and HONADEL, cosponsored by Senators GROTHMAN and L. TAYLOR. Referred to Committee on Small Business Development.

✓

Regen

- 1 AN ACT to amend 125.09 (1); and to create 125.02 (4m), 125.10 (5), 340.01 (8m),
- 2 346.94 (23) and 346.95 (12) of the statutes; relating to: the consumption of
- 3 alcohol beverages on commercial quadricycles and providing a penalty. ✓

Analysis by the Legislative Reference Bureau

Under current law, an owner or other person in charge of a public place may not permit the consumption of alcohol beverages at that place unless a retail alcohol beverages license has been issued for the place. There are various exceptions to this prohibition, including for county parks, athletic fields and stadiums, school buildings, and churches. ~~Also under current law, municipalities may impose regulations related to alcohol beverages that are not in conflict with state law.~~

~~(no 4) This bill allows a municipality, by ordinance, to create an exception authorizing the consumption of alcohol beverages on a commercial quadricycle.~~ A "commercial quadricycle" is defined as a vehicle with fully operative pedals for propulsion entirely by human power, that has four wheels and is operated in a manner similar to a bicycle, that is equipped with at least 12 seats for passengers, that is designed to be occupied by a driver and by passengers providing pedal power to the drive train of the vehicle, that is used for commercial purposes, and that is operated by the vehicle owner or an employee of the owner.

Insert ANAL-A ✓

substitute amendment

The bill prohibits the driver of a commercial quadricycle from consuming alcohol while the commercial quadricycle is occupied by passengers and from driving a commercial quadricycle with an alcohol concentration of more than 0.02. A driver that violates either of these prohibitions may be required to forfeit not less than \$200

who of any

Insert ANAL-B ✓

ASSEMBLY BILL 169

for a violation

nor more than \$400 for the first offense and not less than \$500 nor more than \$1,000 for the second or subsequent conviction. Upon a second or subsequent conviction, the court must enter an order permanently prohibiting the person from driving a commercial quadricycle and, if the person violates this order, the person may be required to forfeit not less than \$1,000 nor more than \$2,000.

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

1 **SECTION 1.** 125.02 (4m) of the statutes is created to read:

2 125.02 (4m) "Commercial quadricycle" has the meaning given in s. 340.01
3 (8m).

insert
2-4

4 **SECTION 2.** 125.09 (1) of the statutes is amended to read:
5 125.09 (1) PUBLIC PLACE. No owner, lessee, or person in charge of a public place
6 may permit the consumption of alcohol beverages on the premises of the public place,
7 unless the person has an appropriate retail license or permit. This subsection does
8 not apply to municipalities, buildings and parks owned by counties, regularly
9 established athletic fields and stadiums, commercial quadricycles if authorized by
10 ordinance under s. 125.10 (5), school buildings, campuses of private colleges, as
11 defined in s. 16.99 (3g), at the place and time an event sponsored by the private
12 college is being held, churches, premises in a state fair park or clubs.

13 **SECTION 3.** 125.10 (5) of the statutes is created to read:

14 125.10 (5) ALCOHOL BEVERAGES ON COMMERCIAL QUADRICYCLES. A municipality
15 may, by ordinance, authorize the consumption of alcohol beverages by passengers on
16 a commercial quadricycle.

17 **SECTION 4.** 340.01 (8m) of the statutes is created to read:

18 340.01 (8m) "Commercial quadricycle" means a vehicle with fully operative
19 pedals for propulsion entirely by human power, that has 4 wheels and is operated in

ASSEMBLY BILL 169

1 a manner similar to a bicycle, that is equipped with at least 12 seats for passengers,
2 that is designed to be occupied by a driver and by passengers providing pedal power
3 to the drive train of the vehicle, that is used for commercial purposes, and that is
4 operated by the vehicle owner or an employee of the owner.

5 SECTION 5. 346.94 (23) of the statutes is created to read:

insert 3-6

6 346.94 (23) COMMERCIAL QUADRICYCLE DRIVERS (A) No driver of a commercial
7 quadricycle may consume alcohol while the commercial quadricycle is occupied by
8 passengers.

9 (A) No person may drive a commercial quadricycle while the person has an
10 alcohol concentration of more than 0.02.

insert 3-10

this subsection

11 (B) Upon conviction of a person for a 2nd or subsequent violation of par. (a) or
12 (b), the court shall enter an order permanently prohibiting the person from driving
13 a commercial quadricycle. No person may drive a commercial quadricycle in
14 violation of such an order.

15 SECTION 6. 346.95 (12) of the statutes is created to read:

(c), (d), or (e)

16 346.95 (12) (a) Any person violating s. 346.94 (23) (a) or (b) may be required
17 to forfeit not less than \$200 nor more than \$400 for the first offense and not less than
18 \$500 nor more than \$1,000 for the 2nd or subsequent conviction.

19 (b) Any person violating s. 346.94 (23) (c) may be required to forfeit not less than
20 \$1,000 nor more than \$2,000.

insert 3-20

21 SECTION 7. Effective date.

22 (1) This act takes effect on the first day of the 4th month beginning after
23 publication.

24

(END)

D-Note

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0063/Plins
ARG:.....

1

2

3

INSERT ANAL-A:

(no P) This substitute amendment[✓] adds an exception for the consumption of fermented malt beverages[✓] (beer) on[✓] commercial quadricycles, except in municipalities that have adopted ordinances negating this exception. NO P

4

INSERT ANAL-B:

(no P) A person may not drive a commercial quadricycle[✓] occupied by passengers after 10:30 p.m.[✓] or after any earlier time established by municipal ordinance. A person may not drive a commercial quadricycle on which alcohol beverages other than beer[✓] are carried or consumed or on which alcohol beverages are sold. NO P

5

6

INSERT 2-4:

7

SECTION 1. 125.09 (1)^X of the statutes is amended to read:

8

125.09 (1) PUBLIC PLACE. No owner, lessee, or person in charge of a public place

9

may permit the consumption of alcohol beverages on the premises of the public place,

10

unless the person has an appropriate retail license or permit. This subsection does

11

not apply to municipalities, buildings and parks owned by counties, regularly

12

established athletic fields and stadiums, school buildings, campuses of private

13

colleges, as defined in s. 16.99 (3g), at the place and time an event sponsored by the

14

private college is being held, churches, premises in a state fair park or clubs. This

15

subsection[✓] also does not apply to the consumption of fermented malt beverages on

16

commercial quadricycles except in municipalities that have adopted ordinances

17

under s. 125.10 (5).[✓]

18

SECTION 2. 125.10 (5)^X of the statutes is created to read:

↓

1 125.10 (5) ✓ FERMENTED MALT BEVERAGES ON COMMERCIAL QUADRICYCLES. A
2 municipality may, by ordinance, prohibit the consumption of fermented malt
3 beverages by passengers on a commercial quadricycle within the municipality. ✓

(end ins 2-4)

5 **INSERT 3-6:**

6 NO
 (a) In this subsection: ✓

7 1. "Alcohol beverages" has the meaning given in s. 125.02 (1). ✓

8 2. "Fermented malt beverages" has the meaning given in s. 125.02 (6). ✓

9 **INSERT 3-10:**

10 (d) No person may drive a commercial quadricycle occupied by passengers after
11 10:30 p.m. ✓ or after any earlier time established by ordinance under s. 349.18 (1) (d). ✓

12 (e) No person may drive a commercial quadricycle ✓ on which any alcohol
13 beverages other than fermented malt beverages ✓ are carried or consumed. No person
14 may drive a commercial quadricycle on which any alcohol beverages are sold,
15 including delivery on the commercial quadricycle of alcohol beverages previously
16 sold by a caterer. ✓

17 **INSERT 3-20:**

18 **SECTION 3.** 349.18 (1) (d) of the statutes is created to read:

19 349.18 (1) (d) Establish a time earlier than that specified in s. 346.94 (23) (d) ✓
20 after which a person may not drive a commercial quadricycle ✓ occupied by passengers
21 within the city, village, or town.

(end ins)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0063/P1dn

ARG:.....

date

JLD

ATTN: Justin Phillips

Please review the attached draft carefully to ensure that it is consistent with your intent.

As we discussed when we first began working on the drafting, the first draft of LRB-1455 prevented a municipality from using its "open container" ordinance to effectively shut down the operation of pedal taverns. I was instructed to remove this in the second draft and the provision has not been included in any succeeding draft, including the version introduced as AB-169. Therefore, this substitute amendment does not affect municipal authority to, by ordinance, prohibit operation of commercial quadricycles under the theory that the passengers of the commercial quadricycle are violating the municipality's "open container" ordinance. The newspapers have reported that, in the city of Milwaukee, the Milwaukee Police Department cracked down on pedal taverns under the theory that they were violating the city's open container ordinance. The Milwaukee Journal Sentinel reported on October 5, 2012, that the city attorney "said having intoxicants on the Pedal Tavern violates the law against having open intoxicants on the street." *City Cracks Down on Drinking Aboard Pedal Tavern*, at

www.jsonline.com/news/milwaukee/pedal-tavern-loses-its-beer-power-fb74d60-172851141.html

This issue is again important because of the changes in sections 2 and 3 that were requested for this substitute amendment. While this substitute amendment creates an "opt out" for purposes of s. 125.09 (1), it does not affect the many "open container" ordinances that may be used to prohibit the consumption of beer on commercial quadricycles. Accordingly, it does not necessarily authorize the operation of commercial quadricycles statewide.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0063/P1dn
ARG:jld:ph

May 24, 2013

ATTN: Justin Phillips

Please review the attached draft carefully to ensure that it is consistent with your intent.

As we discussed when we first began working on the drafting, the first draft of LRB-1455 prevented a municipality from using its "open container" ordinance to effectively shut down the operation of pedal taverns. I was instructed to remove this in the second draft and the provision has not been included in any succeeding draft, including the version introduced as AB-169. Therefore, this substitute amendment does not affect municipal authority to, by ordinance, prohibit operation of commercial quadricycles under the theory that the passengers of the commercial quadricycle are violating the municipality's "open container" ordinance. The newspapers have reported that, in the city of Milwaukee, the Milwaukee Police Department cracked down on pedal taverns under the theory that they were violating the city's open container ordinance. The Milwaukee Journal Sentinel reported on October 5, 2012, that the city attorney "said having intoxicants on the Pedal Tavern violates the law against having open intoxicants on the street." *City Cracks Down on Drinking Aboard Pedal Tavern*, at

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Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

6/3

50063

Justin Phillips →

-1455

6-8590

• city :

• open container - ^{ordinances} → put that back in
• local open container ordinances shouldn't block these

• limits carry us to three

• wants //



TODAY
A.M.



EMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY SUBSTITUTE AMENDMENT,
TO ASSEMBLY BILL 169

pass
6/4
jm

10/1/14

possession and ✓

Regen

4

1 **AN ACT to amend** 125.09 (1); and **to create** 125.02 (4m), 125.10 (5), 340.01 (8m),
2 346.94 (23), 346.95 (12) and 349.18 (1) (d) of the statutes; **relating to:** the
3 consumption of alcohol beverages on, and operation of, commercial
4 quadricycles and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, an owner or other person in charge of a public place may not permit the consumption of alcohol beverages at that place unless a retail alcohol beverages license has been issued for the place. There are various exceptions to this prohibition, including for county parks, athletic fields and stadiums, school buildings, and churches. This substitute amendment adds an exception for the consumption of fermented malt beverages (beer) on commercial quadricycles, except in municipalities that have adopted ordinances negating this exception. A "commercial quadricycle" is defined as a vehicle with fully operative pedals for propulsion entirely by human power, that has four wheels and is operated in a manner similar to a bicycle, that is equipped with at least 12 seats for passengers, that is designed to be occupied by a driver and by passengers providing pedal power to the drive train of the vehicle, that is used for commercial purposes, and that is operated by the vehicle owner or an employee of the owner.

A

insert ANAL-A ✓

✓
insert AMAL-B

The substitute amendment prohibits the driver of a commercial quadricycle from consuming alcohol while the commercial quadricycle is occupied by passengers and from driving a commercial quadricycle with an alcohol concentration of more than 0.02. A person may not drive a commercial quadricycle occupied by passengers after 10:30 p.m. or after any earlier time established by municipal ordinance. A person may not drive a commercial quadricycle on which alcohol beverages other than beer are carried or consumed or on which alcohol beverages are sold. A driver person who violates any of these prohibitions may be required to forfeit not less than \$200 nor more than \$500. Upon a conviction for a violation, the court must enter an order permanently prohibiting the person from driving a commercial quadricycle and, if the person violates this order, the person may be required to forfeit not less than \$1,000 nor more than \$2,000.

drivers

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

1 **SECTION 1.** 125.02 (4m) of the statutes is created to read:
2 125.02 (4m) "Commercial quadricycle" has the meaning given in s. 340.01
3 (8m).

4 **SECTION 2.** 125.09 (1) of the statutes is amended to read:
5 125.09 (1) PUBLIC PLACE. No owner, lessee, or person in charge of a public place
6 may permit the consumption of alcohol beverages on the premises of the public place,
7 unless the person has an appropriate retail license or permit. This subsection does
8 not apply to municipalities, buildings and parks owned by counties, regularly
9 established athletic fields and stadiums, school buildings, campuses of private
10 colleges, as defined in s. 16.99 (3g), at the place and time an event sponsored by the
11 private college is being held, churches, premises in a state fair park or clubs. This
12 subsection also does not apply to the consumption of fermented malt beverages on
13 commercial quadricycles except in municipalities that have adopted ordinances

14

under s. 125.10 (5) (a)

15 **SECTION 3.** 125.10 (5) of the statutes is created to read:

(a)

1 125.10 (5) FERMENTED MALT BEVERAGES ON COMMERCIAL QUADRICYCLES. A
2 municipality may, by ordinance, prohibit the consumption of fermented malt
3 beverages by passengers on a commercial quadricycle within the municipality.

4 **SECTION 4.** 340.01 (8m) of the statutes is created to read:

5 340.01 (8m) "Commercial quadricycle" means a vehicle with fully operative
6 pedals for propulsion entirely by human power, that has 4 wheels and is operated in
7 a manner similar to a bicycle, that is equipped with at least 12 seats for passengers,
8 that is designed to be occupied by a driver and by passengers providing pedal power
9 to the drive train of the vehicle, that is used for commercial purposes, and that is
10 operated by the vehicle owner or an employee of the owner.

11 **SECTION 5.** 346.94 (23) of the statutes is created to read:

12 346.94 (23) COMMERCIAL QUADRICYCLES.

13 (a) In this subsection:

14 1. "Alcohol beverages" has the meaning given in s. 125.02 (1).

15 2. "Fermented malt beverages" has the meaning given in s. 125.02 (6).

16 (b) No driver of a commercial quadricycle may consume alcohol while the
17 commercial quadricycle is occupied by passengers.

18 (c) No person may drive a commercial quadricycle while the person has an
19 alcohol concentration of more than 0.02.

20 (d) No person may drive a commercial quadricycle occupied by passengers after
21 10:30 p.m. or after any earlier time established by ordinance under s. 349.18 (1) (d).

22 (e) No person may drive a commercial quadricycle on which any alcohol
23 beverages other than fermented malt beverages are carried or consumed. No person
24 may drive a commercial quadricycle on which any alcohol beverages are sold,

insert
3-3

insert
4-2

1 including delivery on the commercial quadricycle of alcohol beverages previously
2 sold by a caterer.

driver of a commercial quadricycle

3 ~~(g)~~ (f) Upon conviction of a person for a violation of this subsection, the court shall
4 enter an order permanently prohibiting the person from driving a commercial
5 quadricycle. No person may drive a commercial quadricycle in violation of such an
6 order.

3 or (f)

7 SECTION 6. 346.95 (12) of the statutes is created to read:

8 346.95 (12) (a) Any person violating s. 346.94[✓](23) (b), (c), (d), or (e) may be
9 required to forfeit not less than \$200 nor more than \$500.

10 (b) Any person violating s. 346.94 (23) ~~(f)~~ ^(g) may be required to forfeit not less than
11 \$1,000 nor more than \$2,000.

12 SECTION 7. 349.18 (1) (d) of the statutes is created to read:

13 349.18 (1) (d) Establish a time earlier than that specified in s. 346.94 (23) (d)
14 after which a person may not drive a commercial quadricycle occupied by passengers
15 within the city, village, or town.

16 SECTION 8. Effective date.

17 (1) This act takes effect on the first day of the 4th month beginning after
18 publication.

19 (END)

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0063/lins
ARG:.....

1

2

INSERT ANAL-A:

(no 9) The substitute amendment also prohibits an ordinance of a municipality enacted before the bill's effective date that regulates the possession or consumption of open containers of alcohol beverages in public places ("open container" ordinance) from prohibiting the possession or consumption of alcohol beverages by passengers on commercial quadricycles, but allows an "open container" ordinance enacted after the bill's effective date to do so.

Substitute amendment's

3

INSERT ANAL-B:

(no 9) A person may not possess on, or carry onto, a commercial quadricycle more than 36 fluid ounces of beer. *NO 9*

4

5

INSERT 3-3:

(b) Notwithstanding sub. (1), an ordinance enacted before the effective date of this paragraph... [LRB inserts date], regulating the possession or consumption of open containers of alcohol beverages in public places may not prohibit the possession or consumption of alcohol beverages by passengers on a commercial quadricycle. An ordinance that is inconsistent with this paragraph may not be enforced.

11

12

13

INSERT 4-2:

(f) No person may possess on, or carry onto, a commercial quadricycle more than 36 fluid ounces of fermented malt beverages.

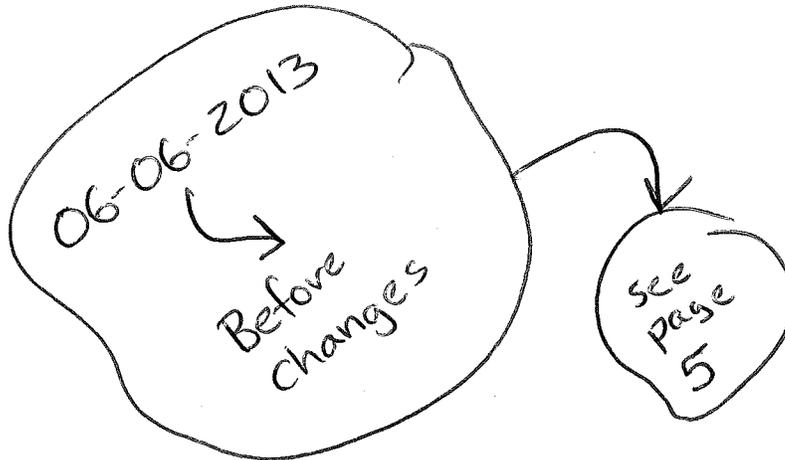
16

(end ins)



ASSEMBLY SUBSTITUTE AMENDMENT,
TO ASSEMBLY BILL 169

Stays same



1 AN ACT to amend 125.09 (1); and to create 125.02 (4m), 125.10 (5), 340.01 (8m),
2 346.94 (23), 346.95 (12) and 349.18 (1) (d) of the statutes; relating to: the
3 possession and consumption of alcohol beverages on, and operation of,
4 commercial quadricycles and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, an owner or other person in charge of a public place may not permit the consumption of alcohol beverages at that place unless a retail alcohol beverages license has been issued for the place. There are various exceptions to this prohibition, including for county parks, athletic fields and stadiums, school buildings, and churches. This substitute amendment adds an exception for the consumption of fermented malt beverages (beer) on commercial quadricycles, except in municipalities that have adopted ordinances negating this exception. A "commercial quadricycle" is defined as a vehicle with fully operative pedals for propulsion entirely by human power, that has four wheels and is operated in a manner similar to a bicycle, that is equipped with at least 12 seats for passengers, that is designed to be occupied by a driver and by passengers providing pedal power to the drive train of the vehicle, that is used for commercial purposes, and that is operated by the vehicle owner or an employee of the owner. The substitute amendment also prohibits an ordinance of a municipality enacted before the

substitute amendment's effective date that regulates the possession or consumption of open containers of alcohol beverages in public places ("open container" ordinance) from prohibiting the possession or consumption of alcohol beverages by passengers on commercial quadricycles, but allows an "open container" ordinance enacted after the substitute amendment's effective date to do so.

The substitute amendment prohibits the driver of a commercial quadricycle from consuming alcohol while the commercial quadricycle is occupied by passengers and from driving a commercial quadricycle with an alcohol concentration of more than 0.02. A person may not drive a commercial quadricycle occupied by passengers after 10:30 p.m. or after any earlier time established by municipal ordinance. A person may not drive a commercial quadricycle on which alcohol beverages other than beer are carried or consumed or on which alcohol beverages are sold. A person may not possess on, or carry onto, a commercial quadricycle more than 36 fluid ounces of beer. A person who violates any of these prohibitions may be required to forfeit not less than \$200 nor more than \$500. Upon a driver's conviction for a violation, the court must enter an order permanently prohibiting the person from driving a commercial quadricycle and, if the person violates this order, the person may be required to forfeit not less than \$1,000 nor more than \$2,000.

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

1 **SECTION 1.** 125.02 (4m) of the statutes is created to read:

2 125.02 (4m) "Commercial quadricycle" has the meaning given in s. 340.01
3 (8m).

4 **SECTION 2.** 125.09 (1) of the statutes is amended to read:

5 125.09 (1) PUBLIC PLACE. No owner, lessee, or person in charge of a public place
6 may permit the consumption of alcohol beverages on the premises of the public place,
7 unless the person has an appropriate retail license or permit. This subsection does
8 not apply to municipalities, buildings and parks owned by counties, regularly
9 established athletic fields and stadiums, school buildings, campuses of private
10 colleges, as defined in s. 16.99 (3g), at the place and time an event sponsored by the
11 private college is being held, churches, premises in a state fair park or clubs. This
12 subsection also does not apply to the consumption of fermented malt beverages on

1 commercial quadricycles except in municipalities that have adopted ordinances
2 under s. 125.10 (5) (a).

3 **SECTION 3.** 125.10 (5) of the statutes is created to read:

4 125.10 (5) FERMENTED MALT BEVERAGES ON COMMERCIAL QUADRICYCLES. (a) A
5 municipality may, by ordinance, prohibit the consumption of fermented malt
6 beverages by passengers on a commercial quadricycle within the municipality.

7 (b) Notwithstanding sub. (1), an ordinance enacted before the effective date of
8 this paragraph ... [LRB inserts date], regulating the possession or consumption of
9 open containers of alcohol beverages in public places may not prohibit the possession
10 or consumption of alcohol beverages by passengers on a commercial quadricycle. An
11 ordinance that is inconsistent with this paragraph may not be enforced.

12 **SECTION 4.** 340.01 (8m) of the statutes is created to read:

13 340.01 (8m) “Commercial quadricycle” means a vehicle with fully operative
14 pedals for propulsion entirely by human power, that has 4 wheels and is operated in
15 a manner similar to a bicycle, that is equipped with at least 12 seats for passengers,
16 that is designed to be occupied by a driver and by passengers providing pedal power
17 to the drive train of the vehicle, that is used for commercial purposes, and that is
18 operated by the vehicle owner or an employee of the owner.

19 **SECTION 5.** 346.94 (23) of the statutes is created to read:

20 346.94 (23) COMMERCIAL QUADRICYCLES.

21 (a) In this subsection:

- 22 1. “Alcohol beverages” has the meaning given in s. 125.02 (1).
23 2. “Fermented malt beverages” has the meaning given in s. 125.02 (6).

24 (b) No driver of a commercial quadricycle may consume alcohol while the
25 commercial quadricycle is occupied by passengers.

1 (c) No person may drive a commercial quadricycle while the person has an
2 alcohol concentration of more than 0.02.

3 (d) No person may drive a commercial quadricycle occupied by passengers after
4 10:30 p.m. or after any earlier time established by ordinance under s. 349.18 (1) (d).

5 (e) No person may drive a commercial quadricycle on which any alcohol
6 beverages other than fermented malt beverages are carried or consumed. No person
7 may drive a commercial quadricycle on which any alcohol beverages are sold,
8 including delivery on the commercial quadricycle of alcohol beverages previously
9 sold by a caterer.

10 (f) No person may possess on, or carry onto, a commercial quadricycle more
11 than 36 fluid ounces of fermented malt beverages.

12 (g) Upon conviction of a driver of a commercial quadricycle for a violation of this
13 subsection, the court shall enter an order permanently prohibiting the person from
14 driving a commercial quadricycle. No person may drive a commercial quadricycle in
15 violation of such an order.

16 **SECTION 6.** 346.95 (12) of the statutes is created to read:

17 346.95 (12) (a) Any person violating s. 346.94 (23) (b), (c), (d), (e), or (f) may be
18 required to forfeit not less than \$200 nor more than \$500.

19 (b) Any person violating s. 346.94 (23) (g) may be required to forfeit not less
20 than \$1,000 nor more than \$2,000.

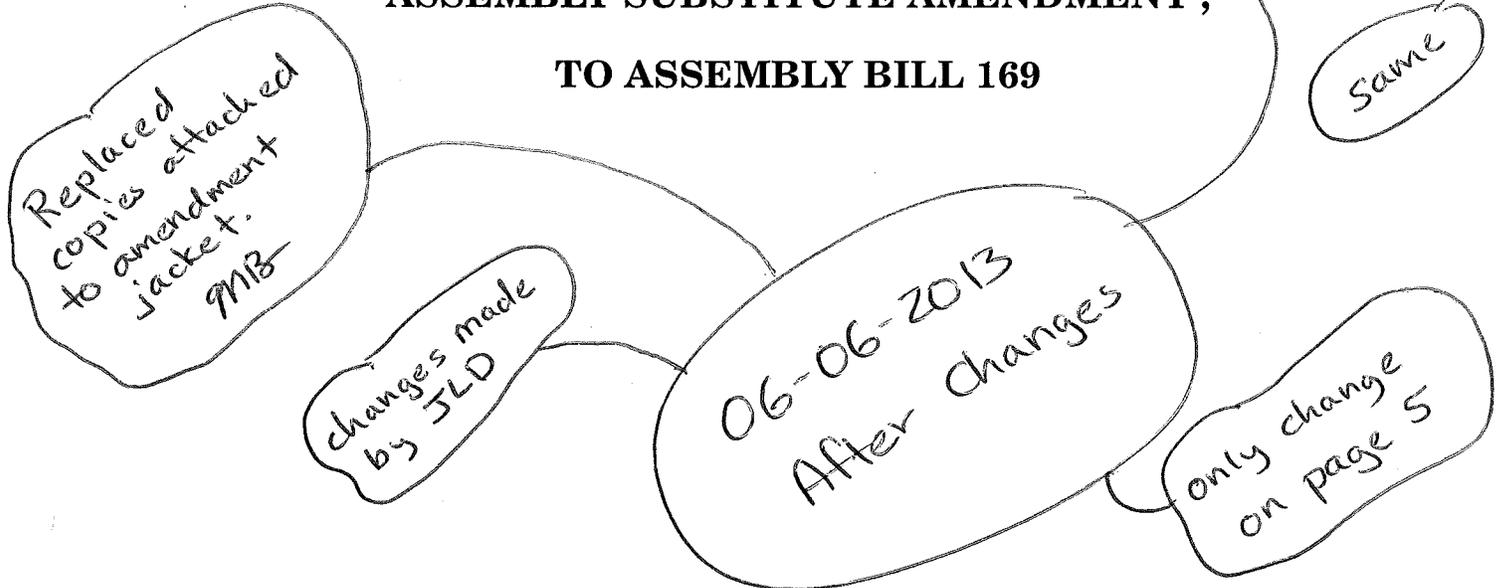
21 **SECTION 7.** 349.18 (1) (d) of the statutes is created to read:

22 349.18 (1) (d) Establish a time earlier than that specified in s. 346.94 (23) (d)
23 after which a person may not drive a commercial quadricycle occupied by passengers
24 within the city, village, or town.

25 **SECTION 8. Effective date.**



**ASSEMBLY SUBSTITUTE AMENDMENT,
TO ASSEMBLY BILL 169**



1 AN ACT *to amend* 125.09 (1); and *to create* 125.02 (4m), 125.10 (5), 340.01 (8m),
 2 346.94 (23), 346.95 (12) and 349.18 (1) (d) of the statutes; **relating to:** the
 3 possession and consumption of alcohol beverages on, and operation of,
 4 commercial quadricycles and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, an owner or other person in charge of a public place may not permit the consumption of alcohol beverages at that place unless a retail alcohol beverages license has been issued for the place. There are various exceptions to this prohibition, including for county parks, athletic fields and stadiums, school buildings, and churches. This substitute amendment adds an exception for the consumption of fermented malt beverages (beer) on commercial quadricycles, except in municipalities that have adopted ordinances negating this exception. A “commercial quadricycle” is defined as a vehicle with fully operative pedals for propulsion entirely by human power, that has four wheels and is operated in a manner similar to a bicycle, that is equipped with at least 12 seats for passengers, that is designed to be occupied by a driver and by passengers providing pedal power to the drive train of the vehicle, that is used for commercial purposes, and that is operated by the vehicle owner or an employee of the owner. The substitute amendment also prohibits an ordinance of a municipality enacted before the

