



## 2013 SENATE BILL 291

September 10, 2013 – Introduced by Senators GROTHMAN and L. TAYLOR, cosponsored by Representatives STONE, ZEPNICK, OHNSTAD, A. OTT, SANFELIPPO, KOYENGA and HONADEL. Referred to Committee on Agriculture, Small Business, and Tourism.

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.

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### *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 bill 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 bill 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

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beverages by passengers on commercial quadricycles, but allows an “open container” ordinance enacted after the bill’s effective date to do so.

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 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.

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*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).

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

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

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

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

11          340.01 **(8m)** “Commercial quadricycle” means a vehicle with fully operative  
12          pedals for propulsion entirely by human power, that has 4 wheels and is operated in  
13          a manner similar to a bicycle, that is equipped with at least 12 seats for passengers,  
14          that is designed to be occupied by a driver and by passengers providing pedal power  
15          to the drive train of the vehicle, that is used for commercial purposes, and that is  
16          operated by the vehicle owner or an employee of the owner.

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

18          346.94 **(23)** COMMERCIAL QUADRICYCLES.

19          (a) In this subsection:

20           1. “Alcohol beverages” has the meaning given in s. 125.02 (1).

21           2. “Fermented malt beverages” has the meaning given in s. 125.02 (6).

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

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

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1 (d) No person may drive a commercial quadricycle occupied by passengers after  
2 10:30 p.m. or after any earlier time established by ordinance under s. 349.18 (1) (d).

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

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

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

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

15 346.95 (12) (a) Any person violating s. 346.94 (23) (b), (c), (d), (e), or (f) may be  
16 required to forfeit not less than \$200 nor more than \$500.

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

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

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

23 **SECTION 8. Effective date.**

