

### Commercial Quadricycles or Pedal Pubs: Municipal Options

On January 1, 2014, 12-person, four-wheeled, pedal powered vehicles called “pedal pubs” became legal in Wisconsin. The proposal signed into law is *significantly different* from the original proposal and includes areas where municipal action is possible.

The bill, as passed, scaled back the original vision of rolling pubs serving alcohol to the limited role of transportation that allows passengers to drink beer while rolling through the streets, but not allowing the pedal pub to sell or distribute alcohol on the vehicle. For example, the pedal pub business operating in Milwaukee will provide transportation between bars as part of tour packages. Pedal pub patrons can purchase beer at one of the stops and drink it during the ride to the next stop. It is foreseeable that individuals or groups could rent pedal pubs allowing customers and guests to pedal around a community while each rider drinks from a 36 ounce container of beer obtained at a festival, tavern or a party.

As enacted:

- Pedal pubs will no longer sell or serve alcohol. Previously purchased alcohol may not be distributed on or delivered to a pedal pub.
- Passengers may hold and consume containers holding no more than 36 ounces of a fermented malt beverage (beer, malternatives, alco-pops) while riding on a pedal pub. No wine or distilled spirits may be consumed on a pedal pub.
- Pedal pub drivers (the individual steering the vehicle) may not consume alcohol while driving, may not have a blood alcohol concentration (BAC) in excess of 0.02 and may not drive a vehicle where passengers consume any alcohol beverage other than a fermented malt beverage.
- Pedal pubs may not operate after 10:30p.m.

By ordinance a municipality may:

1. Prohibit the consumption of fermented malt beverages by passengers on a commercial quadricycle within the municipality. 125.10 (5)(a)

Open intoxicant ordinances in effect on the date the authorizing legislation took effect, January 1, 2014, do not apply to pedal pubs. A municipality must take action after that date for the ordinance to apply to pedal pubs.

2. Establish a time, prior to 10:30 p.m. for pedal pubs to cease operation within the municipality.

As noted above, a municipality may adopt an ordinance that prohibits commercial quadricycles from serving fermented malt beverages within the municipality, as authorized by 125.10(5) (a). Such an ordinance does not prohibit commercial quadricycles; it prohibits quadricycle *passengers* from consuming fermented malt beverages (the only alcohol beverage passengers may carry) within the municipality.

The Legislation, Act 106 as signed is below:

**2013 WISCONSIN ACT 106**

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

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

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

125.02 (4m) “Commercial quadricycle” has the meaning given in s. 340.01 (8m).

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

125.09 (1) PUBLIC PLACE. No owner, lessee, or person in charge of a public place may permit the consumption of alcohol beverages on the premises of the public place, unless the person has an appropriate retail license or permit. This subsection does not apply to municipalities, buildings and parks owned by counties, regularly established athletic fields and stadiums, school buildings, campuses of private colleges, as defined in s. 16.99 (3g), at the place and time an event sponsored by the private college is being held, churches, premises in a state fair park or clubs. This subsection also does not apply to the consumption of fermented malt beverages on commercial quadricycles except in municipalities that have adopted ordinances under s. 125.10 (5) (a).

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

125.10 (5) FERMENTED MALT BEVERAGES ON COMMERCIAL QUADRICYCLES.

(a) A municipality may, by ordinance, prohibit the consumption of fermented malt beverages by passengers on a commercial quadricycle within the municipality.

(b) Notwithstanding sub. (1), an ordinance enacted before the effective date of this paragraph [January 1, 2014] 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.

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

340.01 (8m) “Commercial quadricycle” means a vehicle with fully operative pedals for propulsion entirely by human power, that has 4 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.

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

346.94 (23) COMMERCIAL QUADRICYCLES.

(a) In this subsection:

1. "Alcohol beverages" has the meaning given in s. 125.02 (1).
2. "Fermented malt beverages" has the meaning given in s. 125.02 (6).

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

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

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

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

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

For a violation of this subsection, the court shall enter an order permanently prohibiting the person from driving a commercial quadricycle. No person may drive a commercial quadricycle in violation of such an order.

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

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

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

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

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

SECTION 8. Effective date.

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