

The Real Scoop on the Ice Cream Man

(July 19, 2005) A FOX 6 Investigation shows convicted felons are driving ice cream trucks around southeast Wisconsin, and some cities are willing to give an ice cream peddler's license to criminals who've committed serious offenses.

In some towns, even a conviction for a heinous crime against a child would not prohibit someone from obtaining a permit to be an ice cream man.

"I'm not out to hurt no one. I'm just out here trying to do my job," Kevin Lain told The Investigators from inside an ice cream truck.

Lain is a habitual criminal with convictions for theft, battery, criminal trespass, and possession of a controlled substance. But a 2001 disorderly conduct might be his most serious offense.

Lain was selling ice cream to a 15-year-old girl in Kenosha when he also tried to sell the girl marijuana. According to a criminal complaint, the girl told police the ice cream man offered to sell her drugs then "suddenly grabbed my hand and pulled me toward him in a forceful manner, stating 'Give me a kiss.'"

Police charged Lain with disorderly conduct and contributing to the delinquency of a child, and a Kenosha County judge sentenced him to three years in prison. He got out of prison earlier this year and then went back to work as an ice cream man.

"I'm trying to stay off drugs, stay out of drug dealing because when I use drugs, I deal drugs. Kids come up to me and when I'm using I have no brains, I'll sell to anyone," he said after selling two popsicles in the town of Bristol. The man who hired Lain told FOX 6 he conducted a background check on the ice cream man but was not aware of his extensive criminal past.

"I didn't know that, Rodney Jensen told FOX 6 Investigator Bob Segall. "If I would have known that, it would be a different situation. Kevin Lain won't drive a truck for me again because he's dealing with kids all day."

According to Jensen, Lain quit his job two days after his interview with FOX 6.

Jensen runs one of the largest ice cream vending companies in Wisconsin. He owns twenty ice cream trucks that operate in Milwaukee, Racine, Kenosha, Waukesha, Walworth, Washington and Ozaukee counties. Jensen told FOX 6 he conducts background checks on all of his drivers before they are hired, but later admitted those checks are not thorough enough and, occasionally, do not happen at all.

Examples include:

David Blundell, who was arrested in June for alleged drunken driving. At the time, Blundell was selling ice cream out of one of Jensen's ice cream trucks in New Berlin, and court records show his blood alcohol level was .23 -- nearly three times the legal limit. Blundell has a prior conviction for drunken driving, and is also listed on the state's sex offender registry for a 1987 sex offense involving an adult. Jensen says his background check failed to find the prior convictions, and he fired Blundell after learning of the ice cream man's past. Blundell currently has a warrant out for his arrest after missing several recent court hearings.

Thomas Taylor has a rap sheet that includes charges of disorderly conduct, battery, resisting arrest, possession of drug paraphernalia, hit and run, criminal damage to property and bail

jumping. Jensen says he did not conduct a background check on Taylor because "I've known him personally for a long time." Jensen says he hired Taylor to sell "glow sticks" along the Racine lakefront. But when the Racine City Clerk asked Taylor what he would be selling, he wrote "ice cream" on his peddler's license application. FOX 6 could not reach Taylor for comment, but his family says Taylor is not currently selling ice cream.

Jensen says he plans to hire a private investigator to conduct more thorough background checks on future job applicants who might have a questionable past.

"Looks like we have to do things different," he said, adding "Overall, people have a positive image of the ice cream man. I've been doing this for fifteen years and we have not had a problem."

A FOX 6 survey of more than forty area cities, towns and villages finds most communities around southeast Wisconsin perform their own background checks on individuals who want to drive an ice cream truck or push an ice cream cart.

But the investigation also finds a few cities, such as Racine and Milwaukee, do not perform background checks on those applying for an ice cream peddler's license. Milwaukee requires no peddler's license at all.

In those cities, anyone can be an ice cream man -- even rapists, drunk drivers and drug dealers.

"I don't believe we should be giving those people a license," said Racine alderman David Maack. After reviewing the FOX 6 Investigation, he says he wants to see quick changes to Racine's city code. "I don't think it should be that difficult to require a background check and a check on their driving records."

Maack says he will propose changes to the city's "hawkers and peddler's" licensing requirements at Monday's meeting of the City Licensing and Welfare Committee. He is chairman of that committee.

Many ice cream truck drivers say they also believe cities should conduct background checks on ice cream peddlers.

"Of course they should," said ice cream man Adam Gardner.

Gardner got a peddler's license from the city of Racine last month despite his long criminal record that includes an arrest for twice selling crack cocaine to an undercover Racine police officer. Gardner says his past convictions should not have prevented him from getting a peddler's license to sell ice cream in Racine.

"I'm just a guy, just a regular guy trying his best to get ahead in life. I'm not a bad guy," he said. Gardner says he plans to keep selling ice cream out of his recently-acquired ice cream truck.

To see a city-by-city list showing which southeast Wisconsin communities regulate ice cream peddlers, [click here](#).

CHECKING OUT THE ICE CREAM MAN

Most -- but not all -- communities around southeast Wisconsin require individuals who drive ice cream trucks and/or ice cream push carts to obtain a peddler's license before they can legally sell ice cream. Most communities also perform background checks before those licenses are issued. The following chart compiled by FOX 6 News shows local policies related to ice cream peddlers for local cities, towns and villages.

<u>City/Village</u>	<u>License required?</u>	<u>Criminal background check?</u>
Bayside	NO	NO
Brookfield (city)	Yes	Yes
Brookfield (township)	Yes	Yes
Brown Deer	Yes	Yes
Burlington	Yes	Yes
Caledonia	Yes	Yes
Cudahy	Yes	Yes
Cedarburg	Yes	Yes
Elm Grove	Yes	Yes
Fox Point	Yes	Yes
Franklin	Yes	Yes
Germantown	Yes	Yes
Glendale	Yes	Yes*
Grafton	Yes	Yes
Greendale	Yes	Yes
Greenfield	Yes	NO
Hartland	Yes	Yes
Kenosha	Yes	Yes
Menomonee Falls	Yes	NO
Mequon	Yes	Yes
Milwaukee	NO	NO
Mt. Pleasant	Yes	Yes
Muskego	Yes	Yes
New Berlin	Yes	Yes
Oak Creek	Yes	Yes
Oconomowoc	Yes	Yes
Pleasant Prairie	Yes	Yes
Port Washington	Yes	Yes
Racine	Yes	NO
St. Francis	Yes	Yes
Sheboygan	Yes	Yes
Shorewood	Yes	Yes
Somers	Yes	Yes
Vernon	Yes	Yes
Waukesha	Yes	Yes
Wauwatosa	Yes	Yes
West Allis	Yes	Yes
West Bend	Yes	Yes
West Milwaukee	Yes	Yes
Whitefish Bay	Yes	Yes

* Background check conducted unless peddler has valid license from another municipality
 Note: Most local communities require a separate license and health inspection for each peddler's truck or cart.
 Source: All information provided by local police departments, health departments or municipal clerk departments.