



**City
of
Milwaukee**

*INTERDEPARTMENTAL CORRESPONDENCE
LEGISLATIVE REFERENCE BUREAU*

Memorandum

To: Ald. Michael J. Murphy
From: Richard Withers, Legislative Research and Fiscal Analyst
Date: July 30, 2007
Re: Scope and Impact of the Proposed Ordinance Relating to Peddling of Food and Beverages By Children - File # 070557

This memorandum responds to your question whether restrictions contained in the proposed ordinance at Common Council File # 070557 go further than current laws and ordinances in limiting the ability of children to sell food and beverages to the public. This issue has been raised in the context of lemonade stands and similar activities. The ordinance was drafted in the context of state laws governing child labor and also in the context of food and beverage safety ordinances and is not designed to limit activities such as lemonade stands further than already limited under laws and ordinances. It provides law enforcement with additional tools to hold adults responsible when they endanger children.

Wisconsin statutes and the child labor rules of the Wisconsin department of workforce development prohibit the employment of a minor less than 12 years of age in any "street trade." Limited exceptions for certain nonprofit activities do not appear to apply to the usual operation of lemonade stands. The statutory provisions are found at s. 103.23, Wis Stats., and the rules are found at Chapter DWD 270, Wis. Admin. Code.

The term "street trade" is defined at s. 103.21(6), Wis. Stats., to mean:

"...the selling, offering for sale, soliciting for , collecting for, displaying or distribution any articles, goods, merchandise, commercial service, posters, circulars, newspapers or magazines, or the blacking of boots, on any street or other public place or from house to house."

The ordinance applies in narrower circumstances to food and beverage peddling by children, which is not prohibited under the ordinance if conducted on private property such as yards, driveways and parking lots.

The ordinance also applies to sales from medians. Sales by food peddlers from medians are currently prohibited by s. 74-1-2.5. There is a loophole, however, that is created by the definition of food peddler to include only those persons selling from a vehicle or container. A single sale of items such as a bottle of water handed to a child to sell does not appear to be covered. This ordinance closes that loophole. The ordinance also adds penalties for adults who employ or direct young persons to sell from medians.

Health ordinances that require licensing and permits for food preparation and handling, such as in the operation of lemonade stands, are not affected by the proposed ordinance. These health regulations are found throughout chs. 68 to 72 of the code.

Please contact the Bureau if you have further questions.

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