



# MEMORANDUM

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## LEGISLATIVE REFERENCE BUREAU

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**To:** Ald. James Bohl  
**From:** Richard L. Withers, Legislative Fiscal Analyst ext. 8532  
**Date:** February 14, 2014  
**Subject:** File Number 131408: Background and Options for Amendments to Quadricycle Legislation

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Common Council File Number 131408, Substitute 1, was referred to the Public Works Committee by action of the Common Council on February 11, 2014. Substitute 1 regulates the consumption of fermented malt beverages on commercial quadricycles.

A Proposed Substitute B was also considered by the Public Works committee when the matter was initially heard on January 29, 2014, which would prohibit the consumption of all alcohol beverages – including fermented malt beverages – on quadricycles.

Concerns were expressed during deliberation on this file by Council Members related to plans of operation, issues of enforcement, areas of operation and risks inherent in the use of glass beverage containers while operating on municipal highways. This memorandum provides background information and suggested language for 2 simple amendments to address these concerns.

### **Background**

Milwaukee Pedal Tavern, LLC, began operating a pedicab service in Milwaukee in 2008 using 12-passenger, pedal-powered vehicles (Fiets Café model) generally in Walker's Point and Third Ward neighborhoods. For a period of time, Pedal Tavern operators allowed patrons to bring and consume alcohol beverages onboard. At no time have the operators sold or dispensed alcohol beverages and the operation of the business is not subject to alcohol beverage licensing.

Complaints about violation of open container ordinances and statutes culminated in a hearing on the Pedal Tavern's pedicab permit application held October 4, 2012. Exhibit Number 1 was introduced at that time including a one-page document described as a plan of operation and entitled "Improvements for Now, 2013, and Future Years" (copy attached and see File Number 120497). Section 100-4-3 authorizes the licensing committee to prescribe regulations and issue orders in conformity with the chapter ("Public Passenger Vehicle Regulations"), subject to the penalties provided in the chapter.

Legislation effective January 1, 2014 (2013 Wisconsin Act 106), authorizes the carrying and consumption of fermented malt beverages on commercial quadricycles as an exception to state prohibitions of consumption of alcohol in public places (sometimes referred to as the "open container" law). Key elements of the new legislation include:

1. Authorizing municipalities to prohibit consumption of fermented malt beverages on quadricycles.

2. Prohibiting municipalities from enforcing any “open container” ordinance enacted prior to January 1, 2014, against persons consuming any alcohol beverage (including intoxicating liquor) on a commercial quadricycle (statutory prohibitions against consuming intoxicating liquor in public may still apply).
3. Authorizing municipalities to permit the consumption of fermented malt beverages on commercial quadricycles in conformity with regulations provided in ch. 346, Wis. Stats. (“Rules of the Road”).

### **Substitute 1**

Substitute 1, as currently drafted, requires commercial quadricycles to have an approved plan of operation (new paragraph k of s. 100-50-12 “REGULATIONS”). The required plan of operations is also referenced in the exceptions to prohibitions in ch. 106 (“Public Safety”) against drinking upon public parking structures or surface lots.

### **Proposed Amendments to Substitute 1**

Substitute 1 could be amended at Part 2, page 3, to strengthen the regulatory provisions already provided by adding the following language to s. 100-50-12-k:

#### **100-50. Public Passenger Vehicle Permits.**

##### **12. REGULATIONS.**

##### **k. Commercial Quadricycles.**

k-9. No glass beverage containers shall be carried upon a quadricycle while operated on the public way.

k-10. The plan of operation of a licensed quadricycle shall identify the geographic area or areas in which the quadricycle shall routinely operate and may include a description of procedures for notifying police or other authorities when anticipated operation of a quadricycle deviates from customary routes.

Please feel free to contact me if you have any questions or suggestions.