

..Number

131408

..Version

PROPOSED SUBSTITUTE B

..Reference

..Sponsor

ALD. BAUMAN

..Title

A substitute ordinance relating to consumption of alcohol beverages on commercial quadricycles and regulating the possession and consumption of alcohol beverages in public places.

..Sections

106-1.8-1 am

106-1.8-2 rc

106-1.8-3 cr

..Analysis

The Wisconsin Legislature enacted 2013 Wisconsin Act 106 (Act 106), effective January 1, 2014, providing an exception to the prohibition against consumption of alcohol beverages in public places for the consumption of fermented malt beverages on commercial quadricycles. Act 106 authorizes a municipality to prohibit the consumption of fermented malt beverages by passengers on a commercial quadricycle within the municipality upon adoption of an ordinance.

This ordinance prohibits consumption of all alcohol beverages including fermented malt beverages on a commercial quadricycle within the city.

The ordinance also includes the limitations established by Act 106 in ch. 346, Wis. Stats., relating to the conduct of drivers and passengers of commercial quadricycles which include prohibitions on sale, transport or possession of alcohol beverages on commercial quadricycles.

Forfeiture penalties are provided for violation of commercial quadricycle regulations in the amount of not less than \$200 nor more than \$500 with minimum penalties of not less than \$350 if the violation occurs in designated cruising areas between 8:00 p.m. and 5:00 a.m.

Additionally, persons convicted of driving a commercial quadricycle in violation of the regulations are prohibited from subsequently driving a commercial quadricycle and, if convicted of prohibited driving, are subject to a forfeiture of not less than \$1,000 nor more than \$2,000.

..Body

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 106-1.8-1 of the code is amended to read:

106-1.8. Public Drinking and Possession of Alcohol Beverages. 1. PROHIBITED. It shall be unlawful for any person to consume any alcohol beverage or possess on his or her person, any bottle or receptacle containing alcohol beverages if the bottle has been opened, the seal broken or the contents of the bottle or receptacle have been partially removed upon any public alley, highway, pedestrian mall, sidewalk, or street within the limits of the city>>, including upon or within any commercial quadricycle as defined in s. 340.01(8m), Wis. Stats>>. Public events for which a permit has been issued under s.105-55.5 to barricade and occupy the public right of way are exempt from this section.

Part 2. Section 106-1.8-2 is repealed and recreated to read:

2. REGULATION OF COMMERCIAL QUADRICYCLES. a. No driver of a commercial quadricycle, as defined in s. 340.01(8m), Wis. Stats., may consume alcohol while the commercial quadricycle is occupied by passengers.

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

c. No person may drive a commercial quadricycle on which any alcohol beverages are carried or consumed or on which any alcohol beverages are sold, including delivery on the commercial quadricycle of alcohol beverages previously sold by a caterer.

d. No person may possess on, or carry onto, a commercial quadricycle any alcohol beverage.

e. No person convicted of driving a commercial quadricycle in violation of any provision of pars. a to d shall subsequently drive a commercial quadricycle within the city.

f. No person may drive a commercial quadricycle occupied by passengers after 10:30 p.m.

Part 3. Section 106-1.8-3 of the code is created to read:

3. PENALTIES. a. Any person who violates sub. 1 shall upon conviction be subject to a forfeiture of not less than \$50 nor more than \$250, together with the costs and disbursements of prosecution and upon default of payment thereof may be imprisoned as provided by law; and, further, any person who violates sub. 1 between the hours of 8:00 p.m. and 5:00 a.m. upon a street designated as a cruising area under s. 101-20.5, including the land within the street lines whether or not improved, shall be subject to a forfeiture of not less than \$100 nor more than \$500, together with the costs and disbursements of prosecution and upon default thereof may be imprisoned as provided by law.

b. b-1. Any person who violates any provision of sub. 2-a to d shall upon conviction be subject to a forfeiture of not less than \$200 nor more than \$500, together with the costs and disbursements of prosecution and upon default of payment thereof shall be

imprisoned as provided by law; and, further, any person who violates sub. 2 between the hours of 8:00 p.m. and 5:00 a.m. upon a street designated as a cruising area under s. 101-20.5, including the land within the street lines whether or not improved, shall be subject to a forfeiture of not less than \$350 nor more than \$500, together with the costs and disbursements of prosecution and upon default thereof may be imprisoned as provided by law.

b-2. Any person who violates sub. 2-e shall upon conviction be subject to a forfeiture of not less than \$1,000 nor more than \$2,000 and upon default of payment thereof may be imprisoned as provided by law.

..LRB

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

..Attorney

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

..Requestor

..Drafter

LRB150872-1.1

Richard L. Withers

1/24/2014