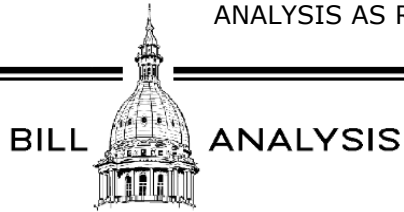




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Senate Bill 165 (Substitute S-1 as reported)
Senate Bill 166 (as reported without amendment)
Sponsor: Senator Wayne Schmidt (S.B. 165)
Senator Tom Casperson (S.B. 166)
Committee: Transportation

Date Completed: 5-7-15

RATIONALE

In a number of Michigan communities, a new form of chauffeured transportation has emerged in recent years. Entrepreneurs have begun offering rides on four-wheeled open-air vehicles capable of seating around a dozen passengers, who propel the vehicle using pedals while a single paid operator handles the steering and braking. These quadricycles--commonly called "pedal pubs"--shuttle riders through downtown areas and between popular tourist attractions such as breweries, wineries, and distilleries, and some have the capacity to be outfitted with beer kegs. Evidently, when these vehicles were introduced, the expectation was that a pedal pub would function like a limousine, in which passengers are allowed to bring their own alcohol and consume it while a sober driver operates the vehicle. The Michigan Department of Transportation, however, has determined that pedal pubs do not meet the criteria for licensure as limousines; thus, although they may be operated on the street, they are subject to the State's general ban on open containers in a vehicle's passenger compartment. In response to the ambiguity with regard to classification and licensing of these vehicles, it has been suggested that regulations specific to commercial quadricycles should be established, including approval for passengers to possess open alcohol containers while onboard, general regulations for operation, and authorization for local units of government to further regulate or prohibit operation.

CONTENT

Senate Bill 165 (S-1) would amend the Michigan Vehicle Code to do the following:

- **Require a commercial quadricycle owner to furnish a specified amount of liability insurance.**
- **Allow a commercial quadricycle passenger to possess or transport open alcohol unless prohibited by a local ordinance.**
- **Prohibit a person from operating a commercial quadricycle with any bodily alcohol content, and prescribe misdemeanor penalties for a violation.**
- **Designate other Code violations involving commercial quadricycles as civil infractions and prescribe a fine.**
- **Extend to a commercial quadricycle certain provisions that apply to the operation of a bicycle, electric personal assistive mobility device, moped, or low-speed vehicle.**
- **Authorize a local unit of government to regulate the operation of commercial quadricycles.**

Senate Bill 166 would amend the Code to provide that the term "motor vehicle" would not include a commercial quadricycle, and to define "commercial quadricycle" as a vehicle that meets all of the following criteria:

- **Has fully operative pedals for propulsion entirely by human power.**
- **Has at least four wheels and is operated in a manner similar to a bicycle.**

- **Has at least six seats for passengers.**
- **Is designed to be occupied by a driver and powered either by passengers providing pedal power to the vehicle's drive train or by a motor capable of propelling the vehicle in the absence of human power.**
- **Is used for commercial purposes.**
- **Is operated by the vehicle's owner or an employee of the owner.**

The bills are tie-barred. Senate Bill 165 (S-1) is described below in further detail.

Insurance

The bill would require the owner of a commercial quadricycle to furnish bodily injury and property damage liability insurance with a minimum combined single limit of \$2.0 million for all people injured or for property damage.

Transport/Possession of Alcohol

Under the Code, except as otherwise provided, a person who is an operator or an occupant may not transport or possess alcoholic liquor in a container that is open or uncapped, or that has a broken seal, within the passenger area of a vehicle upon a highway, or within the passenger area of a moving vehicle in any place open to the general public or generally accessible to motor vehicles, including an area designated for parking. A person may transport or possess alcoholic liquor under those circumstances if the vehicle does not have a trunk or compartment separate from the passenger area, and the container is in a locked glove compartment, behind the last upright seat, or in an area not normally occupied by the operator or passenger. A person who violates these provisions is guilty of a misdemeanor.

The bill would create an exception to these provisions for a passenger in a commercial quadricycle, unless prohibited by local ordinance.

Quadricycle Alcohol Violation

The bill would prohibit a person, whether licensed or not, from operating a commercial quadricycle within the State if he or she had an alcohol content of greater than 0.00 gram per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

A person who was convicted of violating this prohibition or a substantially corresponding local ordinance would be guilty of a misdemeanor punishable by one of the following:

- If the person had an alcohol content of at least 0.04 gram, imprisonment for a maximum of 93 days and/or a maximum fine of \$300, as well as the costs of prosecution.
- If the person had an alcohol content of more than 0.00 gram but less than 0.04 gram, a maximum fine of \$300, together with the costs of prosecution.

Quadricycle Operation

The Code provides that, as applicable, each person riding a bicycle, electric personal assistive mobility device, or moped or operating a low-speed vehicle upon a roadway has all of the rights and is subject to all of the duties applicable to the driver of a vehicle, except as otherwise provided. The bill would extend this provision to a person operating a commercial quadricycle.

The bill would include a commercial quadricycle in a provision prohibiting the operation of a moped or low-speed vehicle on a sidewalk constructed for pedestrian use.

The Code establishes a maximum speed of 25 miles per hour for the operation of a low-speed vehicle. Under the bill, this speed limit also would apply to the operation of a commercial quadricycle. Additionally, the bill would prohibit the operation of a commercial quadricycle on a

highway or street with a speed limit of more than 45 miles per hour except for the purpose of crossing that highway or street.

An individual could not operate a commercial quadricycle that was equipped with a motor unless he or she had a valid driver license.

Under the Code, the Michigan Department of Transportation may prohibit the operation of a low-speed vehicle on any highway or street under its jurisdiction if it determines that the prohibition is necessary in the interest of public safety. The bill would extend this provision to the operation of a commercial quadricycle.

The Code authorizes the governing body of a county, city, village, township, or entity created under the Urban Cooperation Act to regulate by ordinance the operation of electric personal assistive mobility devices on sidewalks, highways, streets, or crosswalks. A local unit also may prohibit the operation of such devices in an area open to pedestrian traffic adjacent to a waterfront or on a trail under its jurisdiction or in a downtown or central business district.

Under the bill, the local unit could regulate or prohibit the operation of commercial quadricycles in a similar manner.

Currently, a bicycle or electric personal assistive mobility device being operated on a roadway between one-half hour after sunset and one-half hour before sunrise must be equipped with a lamp and reflector that meet prescribed visibility requirements. An electric personal assistive mobility device also must enable the operator to bring it to a controlled stop. The bill would extend these requirements to a commercial quadricycle.

Code Violation

A violation of the Vehicle Code is a misdemeanor unless it is designated by the Code or other State law as a felony or a civil infraction. Under the bill, a violation by the owner of a commercial quadricycle arising out of the vehicle's ownership or operation would be a civil infraction, except as otherwise provided by the Code.

If a person were determined to be responsible or responsible "with explanation" for a civil infraction under the Code or a substantially corresponding local ordinance, and the civil infraction arose out of the ownership or operation of a commercial quadricycle, he or she would have to pay costs as prescribed in the Code and a civil fine of up to \$500.

(Under the Code, if a civil fine is ordered, the judge or district court magistrate must determine and order the defendant to pay the costs of the action. Costs may not be ordered in excess of \$100.

In addition to any civil fines or costs ordered to be paid, the judge or district court magistrate must order the defendant to pay a justice system assessment of \$40 for each civil infraction determination, subject to certain exceptions.)

MCL 257.624a et al. (S.B. 165)
257.33 et al. (S.B. 166)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bills would establish parameters for the operation of pedal pubs that would maintain public safety while allowing passengers to fully enjoy the experience. These vehicles enhance tourism and economic development in the communities where they operate by transporting people to popular local destinations. Also, the vehicles can be a convenient transportation choice for group

social events, such as birthday parties and tours. Pedal pubs help showcase Michigan agriculture and the State's robust beer, wine, and spirit industry, as the stops frequently include breweries, wine tasting rooms, and distilleries. In other states, passengers may enjoy the alcoholic beverages they purchase at route locations while riding on the quadricycle. Current law, however, precludes this in Michigan, leading to worries that some people might drink too quickly at various stops along the route. This is of particular concern in the case of passengers who stop at multiple establishments within a relatively short time period. Allowing open containers on the pedal pub would enable people to enjoy their purchases at a safer pace. Under the requirements of Senate Bill 165 (S-1) that a sober person operate the quadricycle and that the operator carry a certain level of liability insurance, the vehicle would function much like a limousine. Additionally, the bills would provide for the safe operation of pedal pubs by specifying that they are not motor vehicles and appropriately placing them in the same category as bicycles, mopeds, electric mobility assistive devices, and low-speed vehicles. The legislation also would maintain regard for local control--local units could prohibit the operation of pedal pubs if they so desired, while others could incorporate the vehicles into their community development plans as they saw fit.

Response: Insurance coverage for pedal pub owners can be expensive already. The \$2.0 million minimum required by Senate Bill 165 (S-1) could increase premiums to overly burdensome levels, even for quadricycle operators who did not allow their passengers to consume alcohol while riding.

Opposing Argument

The operation of pedal pubs can present problems in communities that could be worsened by the onboard consumption of alcohol. It is not clear that allowing passengers to spread their consumption over a longer time period by drinking in transit would be safer than the situation created by the current law. This could just encourage them to consume even more, which could result in intoxicated people falling off the vehicle. Even with a sober operator, there is a potential for accidents. In 2013, a Minneapolis pedal pub tipped over when the driver took a turn too quickly, resulting in a number of injuries. While alcohol was determined not to be a factor in that particular incident and accidents reportedly are infrequent, it would be ill-advised to introduce alcohol into a situation that carries this type of risk. Furthermore, numerous complaints about commercial quadricycles have been filed with local units in other states where onboard alcohol consumption is allowed, many of them related to noise, litter, and the drivers' inadequate control of unruly passengers. The operation of slow-moving vehicles on community streets already poses safety concerns and traffic flow issues; potentially increasing alcohol consumption could exacerbate these problems.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bills would have no fiscal impact on State government. To the extent that the proposed misdemeanor resulted in more convictions or the proposed civil infraction resulted in more civil infraction determinations, there could be an increase in costs to local courts and law enforcement. Additionally, any fine revenue from misdemeanor convictions or civil infraction determinations would be dedicated to public libraries.

Fiscal Analyst: John Maxwell

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.