



Legislation Text

File #: 42503, Version: 1

**Fiscal Note**

No fiscal impact.

**Title**

Amending Sections 12.325 and 1.08(3)(a) of the Madison General Ordinances to remove references to the purpose for approaching a vehicle and making it illegal to approach the front or side of a vehicle in operation on the highway for any purpose.

**Body**

DRAFTER'S ANALYSIS: Current Sec. 12.325 prohibits solicitation on the highway. The ordinance is intended as a safety measure, but the reference to soliciting makes it suspect due to recent court rulings on panhandling. In light of recent court rulings striking down panhandling ordinances (see City Attorney Opinion of January 27, 2016, attached in Legistar), this ordinance must be changed.

This amendment removes all references to the purpose for approaching the vehicle. Instead, as a safety measure, it prohibits being or entering upon a highway and approaching the front or side of a vehicle while that vehicle is in operation. This prohibition would apply to motor vehicles and other vehicles such as bicycles, while they are in operation. This protects the operator from distractions that might lead to vehicle accidents, injuring those on the highway or in the vehicle, and protects individuals approaching vehicles. Exceptions are made for law enforcement, rescue activities, and for persons using the safety zone (crosswalk) to cross the street or persons on the sidewalk. The exception for activities authorized by a Street Use Permit is being deleted because the prohibitions and exceptions of this ordinance, as amended, will apply equally to anyone wishing to approach a vehicle.

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The Common Council of the City of Madison do hereby ordain as follows:

1. Section 12.325 entitled "Solicitation on Highway Prohibited" of the Madison General Ordinances is amended to read as follows:

**"12.325 SOLICITATION APPROACHING VEHICLES ON HIGHWAY PROHIBITED.**

- (1) ~~No person shall be upon or go upon a highway for the purpose of soliciting employment, business or charitable or other contributions of any kind from and approach the occupant front or side of any vehicle in operation, unless such person shall have obtained a Street Use Permit pursuant to Sec. 10.056, MGO, is engaged in law enforcement or rescue activities. other authorization under these ordinances. As used in this ordinance, a vehicle is "in operation" when it has an operator, as defined in Wis. Stat. § 340.01(41).~~
- (2) No operator of a vehicle shall park, stop or leave standing a vehicle on a highway where prohibited or suddenly decrease the speed of said vehicle or deviate from a traffic lane for the purpose of responding to an individual engaging in activities prohibited in subsection (1).
- (3) Exceptions: This section is not intended to prohibit conduct permitted under Sec. Wis. Stat. § 346.29(1), Wis. Stats. nor does it apply to persons on the sidewalk or persons using the safety zone portion of the highway to cross the highway.
- (4) Any person violating subsections (1) or (2) may be required to forfeit not less than thirty dollars (\$30) nor more than three hundred dollars (\$300)."

2. Subdivision (a) of Subsection (3) entitled "Schedule of Deposits" of Section 1.08 entitled "Issuance of Citations for Violations of Certain Ordinances and Providing a Schedule of Cash Deposits" of the Madison General Ordinances is amended by creating and amending therein the following:

<u>“Offense</u>	<u>Ord. No./Adopted Statute No.</u>	<u>Deposit</u>
Solicitation <u>Approaching vehicles on highway prohibited.</u>	12.325	\$100”