



Legislation Text

File #: 00585, Version: 2

**Fiscal Note**

Minimal increase in General Fund revenues.

**Title**

SUBSTITUTE - Repealing Section 12.128(2) and creating Section 12.82 of the Madison General Ordinances to establish new regulations for advertising on vehicles or other mobile objects when operating or parked on the highway, and amending Section 1.08(3)(a) of the Madison General Ordinances to establish a bail deposit amount for violations of new Section 12.82.

**Body**

DRAFTER'S ANALYSIS: This ordinance amendment would delete an outdated section of 12.128 that generally prohibits operating and parking vehicles primarily for the purpose of advertising, and creates a new, more specific ordinance to describe and prohibit such conduct. This ordinance would prohibit driving and parking vehicles on the city streets when the primary purpose is to display advertising.

Section 12.82(3) lists situations that would be considered "primarily for the purpose of advertising:" (1) if the shape or design of the vehicle appears to be designed for the primary function of displaying advertising, (2) if it is a mobile object not classified as a "vehicle" but left on the highway and displays advertising (such as a small detached trailer or other wheeled object that is not considered a vehicle by DMV standards,) (3) a passenger car that is covered with more than 75% advertising and is driving or parked on the street, and (4) a car that has windows covered with advertising in violation of Wis. Stat. sec. 346.88(3), and is left parked on the street for more than six hours at a time. (The original ordinance said twelve hours; this substitute changes the hours from twelve to six hours.) Sec. 346.88(3) makes it illegal to operate a vehicle on the highway with the windows obstructed; this ordinance extends that prohibition to parking, for more than six hours at a time, and just for cars. The ordinance also makes clear that the placement of any advertising signage in the highway right-of-way is already prohibited under city ordinance, sec. 31.04(6)(e).

Under this ordinance, a ticket could be issued to the driver of the vehicle, the vehicle owner, the business owner, or the business that is being advertised on the vehicle. Sub. (1) makes clear that the prohibition applies to the person who is driving or the person who "caused" the advertising to occur. The ordinance creates bail deposits for a first and subsequent violations, enforceable by the police department.

\*\*\*\*\*

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

1. Subsection (2) entitled "Advertising Display" of Section 28.128 entitled "Miscellaneous Restrictions on Parking" of the Madison General Ordinances is hereby repealed. (See editor's notes for text of repealed subsection.)
2. Section 12.82 entitled "Advertising On Vehicles Or Other Mobile Objects" of the Madison General Ordinances is created to read as follows:

**"12.82 ADVERTISING ON VEHICLES OR OTHER MOBILE OBJECTS**

- (1) Advertising Display. No person shall operate, park, stop or leave standing; or cause to be operated, parked, stopped or left standing; any vehicle or other mobile object on any highway for the primary purpose of displaying advertising.
- (2) "Advertising." For the purpose of this section, "advertising" shall be defined as any commercial or noncommercial message that directs attention to a business, commodity, service, political candidate or cause, public service, social cause, charity, community affair or entertainment, or any other topic.
- (3) "Primary Purpose." A vehicle or mobile object shall be considered to be used for the primary purpose of displaying advertising when it:

- (a) appears to a reasonable person to be designed for the primary function of displaying advertising. This includes but is not limited to a tractor and trailer combination, semi-trailer, or any other combination of vehicles that includes a trailer or other object capable of being drawn upon the highway whether or not it is designed to carry passengers or cargo;
- (b) is a trailer or other non-motorized, non-self propelled vehicle, conveyance or other object upon the highway that displays advertising and is not attached to a motor vehicle,
- (c) is a Type 1 or Type 2 automobile that displays advertising over more than seventy-five percent (75%) of the exterior, non-glass surfaces of the automobile and is operated, parked, stopped or left standing on the highway, or displays advertising on the windows in violation of sec. 346.88(3) of the Wisconsin Statutes and is parked on the highway for more than six (6) hours.
- (4) Exceptions. The prohibitions in sub. (1) shall not apply to the following:
  - (a) Vehicles in use for normal delivery or other transportation purposes, if the advertisement relates solely to the business for which the vehicle is operated;
  - (b) Vehicles operated pursuant to a valid parade permit issued under sec. 12.87 of these ordinances.
  - (c) Motor buses or common motor carriers operated by the City of Madison transit and paratransit system or otherwise authorized by the Common Council. Such vehicles that display advertising shall not be considered to be operated, parked, stopped or left standing for the primary purpose of advertisement.
- (5) Applicability. The prohibitions in sub. (1) shall apply equally to the operator and owner of the vehicle or object, any person engaged in the business of operating said vehicle or displaying said object upon the highway on behalf of another, and any person who has hired, contracted, or otherwise arranged for advertising to be displayed on a vehicle or object found to be in violation of sub. (1).
- (6) Nothing in this section shall be interpreted to interfere with sec. 31.04(6)(e), Rev. 12/15/99, prohibiting the display of street graphics and other advertisement in the right-of-way. In the event of a conflict, 31.04(6)(e) shall control.
- (7) Severability. In the event any portion of this section shall be declared or judged by a court of competent jurisdiction to be unconstitutional or otherwise invalid, the court's declaration or adjudication shall not effect the other portions of this section, which shall remain in full force and effect.
- (8) Penalty. Any person who violates sub. (1), upon conviction thereof, shall forfeit not less than fifty dollars (\$50) and not more than three-hundred dollars (\$300) plus applicable costs and fees. Each day or portion thereof that a violation continues shall be considered a separate offense."

3. 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 adding therein the following:

Offense	Ord. No.	Deposit
<u>No operating, parking, standing or stopping of vehicle or object for purpose of advertising</u>	<u>12.82(1)</u>	<u>\$100 - 1<sup>st</sup> ; \$300 - 2<sup>nd</sup>, subsequent in 12 months</u>

EDITOR'S NOTES:

1. Section 12.128(2) of the Madison General Ordinances currently reads as follows:

"(2) Advertising Display. No person shall drive or park a vehicle on any highway for the primary purpose of displaying advertising; provided, however, that this ordinance shall not be deemed to prohibit a street parade sponsored by business, industrial or trade organizations for the purpose of promoting a general business theme or program where no advertising matter relating to a particular make or brand of article or product or a particular business outlet is displayed."

2. Municipal Judge approval of new bail deposits is required. This deposit must be approved by the judge before taking effect.