



CITY COUNCIL STAFF REPORT

DATE: July 6, 2016

NEW BUSINESS

SUBJECT: CONSIDER ADOPTING A LOCAL ORDINANCE OR RESOLUTION ALLOWING CONSUMPTION OF ALCOHOLIC BEVERAGES ON BOARD PEDICABS AS DEFINED BY SENATE BILL 530.

FROM: David H. Ready, City Manager

BY: Community & Economic Development Department

SUMMARY

SB 530, approved by Governor Brown on October 4, 2015, expands the definition of pedicab vehicles, and imposes a state mandated local program. The bill authorizes local jurisdictions to adopt by ordinance or resolution regulations for pedicab operators that allow passenger alcohol consumption.

Operators of pedal-powered passenger vehicles (pedicabs) are requesting that the City Council review, discuss, and consider adopting a local ordinance allowing consumption of alcoholic beverages onboard their vehicles as defined by SB 530.

RECOMMENDATION:

Discuss and provide staff direction regarding a request from two business owners to prepare an ordinance permitting consumption of alcohol by passengers on pedicabs.

STAFF ANALYSIS:

The City of Palm Springs has two businesses operating pedal-powered multi-passenger vehicles (pedicabs). Both businesses focus on tourism and convention markets, and have modeled their business practices on established programs in areas such as Austin, Sacramento and Minneapolis. Both operators encourage and provide an eco-friendly outdoor experience along city streets. The operators have requested that the City Council review SB 530 to consider a local ordinance or resolution that would allow their passengers to consume alcohol onboard the pedicab vehicles.

Senate Bill 530 establishes requirements for pedicabs that allow passengers to consume alcohol until January 1, 2020. The bill also amends the definition of “pedicabs” to include a four-wheeled device that is primarily or exclusively pedal-powered and has a seating capacity for eight or more passengers, does not travel in excess of 15 miles per hour, and is used for transporting passengers for hire.

Article 4.5 Chapter 1 of Division 11 of the Vehicle Code - Operation of Pedicabs, Sections 21215 (1) through (9) outline requirements an operator is subject to within the applicable local jurisdiction. These requirements are generally related to seating capacity, age requirements of operator, and safety, such as seat belts, seat backs, brakes, and lights. This section also addresses insurance requirements, inspection fees, posted speed limit restrictions, and annual reporting to the Department of the California Highway Patrol about accidents caused or experienced by the pedicabs.

Section 21215.2 (a) defines the requirements an operator is subject to if alcoholic beverages are consumed onboard the pedicab. The first requirement states, “The consumption of alcoholic beverages onboard the pedicab shall be authorized by local ordinance or resolution.” This section also includes requirements pertaining to education and safety training implemented by the Department of Alcoholic Beverage Control. It also states, “Alcoholic beverages shall not be provided by the operator or onboard safety monitor or any employee or agent of the operator or onboard safety monitor of the pedicab. All alcoholic beverages may only be supplied by the passengers of the pedicab. All alcoholic beverages supplied by passengers of the pedicab shall be in enclosed, sealed, and unopened containers that have been labeled pursuant to Chapter 13 (commencing with Section 25170) of Division 9 of the Business and Professions Code prior to their consumption onboard the pedicab. Alcoholic beverages may be consumed by a passenger only while he or she is physically onboard and within the pedicab, and all passengers must be 21 or older if alcohol is consumed while the vehicle is in operation.” Open container laws still apply and any passenger who sets foot in the public right-of-way while holding an open container of alcohol can still be cited.

Section 21215.5 does not preclude a local authority from imposing more stringent operating or equipment requirements on a pedicab.

It was not possible to contact all cities in the State, but the Palm Springs Police Department did consult a few cities about their stance on SB 530. The Cities of San Diego and Santa Monica have elected not to allow alcohol onboard the pedicab vehicles. Long Beach has not looked into the matter because they have not received a request to do so. The City of Sacramento recently amended their existing ordinance to allow alcohol consumption on 4-wheeled pedicab vehicles. The code change prohibits alcohol consumption for the traditional single operator pedicabs. It also prohibits hard alcohol consumption, but allows up to 36 oz. of beer or 18 oz. of wine per passenger.

The City does not have an ordinance for general pedicab operations. The City's current pedicab decal application imposes some of the requirements that are generally outlined in Section 21215 (1) to (9), with the exception of reporting to the Department of California Highway Patrol.

The decision to allow consumption of alcohol onboard pedicabs would likely enhance the festive atmosphere of the experience and increase sales for the business operators, but must be weighed against safety concerns stemming from pedicab riders being under the influence of alcohol.

FISCAL IMPACT:

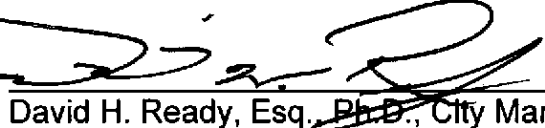
None identified at this time.



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Attachments:
SB 530



Senate Bill No. 530

CHAPTER 496

An act to amend Sections 467.5 and 23229 of, and to add Article 4.5 (commencing with Section 21215) to Chapter 1 of Division 11 of, and to repeal Section 21215.2 of, the Vehicle Code, relating to vehicles.

[Approved by Governor October 4, 2015. Filed with
Secretary of State October 4, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

SB 530, Pan. Pedicabs.

Existing law generally regulates the operation of bicycles, including, among other things, providing that a person operating a bicycle on the highway has all the rights and is subject to all the provisions applicable to the driver of a vehicle, including a prohibition against operating a bicycle while under the influence of an alcoholic beverage or any drug. These provisions also apply to a pedicab, as defined. A violation of the provisions regulating the operation of a bicycle or pedicab is an offense.

This bill would expand the definition of a pedicab to include a 4-wheeled device that is primarily or exclusively pedal-powered, has a seating capacity for 8 or more passengers, cannot travel in excess of 15 miles per hour, and is being used for transporting passengers for hire, as prescribed. The bill would impose specified requirements on these pedicabs defined by the bill, relating to, among other things, a maximum seating capacity for 15 passengers, local authorization to operate, operator qualifications and training, safety equipment, inspections, financial responsibility, reporting of accidents to the Department of the California Highway Patrol, the loading and unloading of passengers, and general operation of pedicabs. The bill would, until January 1, 2020, establish requirements for pedicabs that allow passenger alcohol consumption. Because a violation of these provisions would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 467.5 of the Vehicle Code is amended to read:
467.5. "Pedicab" means any of the following:

(a) A bicycle that has three or more wheels, that transports, or is capable of transporting, passengers on seats attached to the bicycle, that is operated by a person, and that is being used for transporting passengers for hire.

(b) A bicycle that pulls a trailer, sidecar, or similar device, that transports, or is capable of transporting, passengers on seats attached to the trailer, sidecar, or similar device, that is operated by a person, and that is being used for transporting passengers for hire.

(c) A four-wheeled device that is primarily or exclusively pedal-powered, has a seating capacity for eight or more passengers, cannot travel in excess of 15 miles per hour, and is being used for transporting passengers for hire. A pedicab defined under this subdivision is subject to the requirements of Article 4.5 (commencing with Section 21215) of Chapter 1 of Division 11.

SEC. 2. Article 4.5 (commencing with Section 21215) is added to Chapter 1 of Division 11 of the Vehicle Code, to read:

Article 4.5. Operation of Pedicabs

21215. (a) A pedicab defined in subdivision (c) of Section 467.5 shall operate subject to all of the following requirements:

(1) The pedicab shall have a seating capacity for not more than 15 passengers.

(2) The pedicab shall be authorized by local ordinance or resolution to operate within the applicable local jurisdiction.

(3) The operator of the pedicab shall be at least 21 years of age, with a valid California driver's license.

(4) The pedicab shall be equipped with seatbelts for all passengers, seat backs, brakes, reflectors, headlights, and grab rails. The pedicab shall be inspected annually for compliance with the requirements of this paragraph by an entity designated by the local jurisdiction that authorized the pedicab to operate. The entity may charge a reasonable fee to cover the costs of the inspection. A pedicab that does not meet these requirements shall meet these requirements by January 1, 2017, in order to continue operation.

(5) The operator of the pedicab shall at all times be able to establish financial responsibility in a minimum amount of one million dollars (\$1,000,000) general liability insurance coverage and an additional five hundred thousand dollars (\$500,000) general umbrella insurance that covers the pedicab. The local jurisdiction that authorized the pedicab to operate may require additional proof of financial responsibility.

(6) A pedicab shall not operate on any highway under the jurisdiction of the local authority unless authorized by resolution or ordinance. A pedicab shall not operate on any freeway and shall not operate on any highway with a posted speed limit in excess of 30 miles per hour, except to cross the highway at an intersection.

(7) The operator of the pedicab shall annually report to the Department of the California Highway Patrol, commencing on January 1, 2016, any accidents caused or experienced by the pedicabs.

(8) The pedicab shall not load or unload passengers on roadways or in the middle of highways.

(9) Pedicabs shall be operated as close as practicable to the right-hand curb or edge of the roadway, except when necessary to overtake another vehicle, to avoid a stationary object, or when preparing to make a left turn.

(b) This article only applies to pedicabs defined by subdivision (c) of Section 467.5, and does not apply to pedicabs defined in subdivision (a) or (b) of Section 467.5.

21215.2. (a) If alcoholic beverages are consumed on board the pedicab, a pedicab defined in subdivision (c) of Section 467.5 shall additionally operate subject to all of the following requirements:

(1) The consumption of alcoholic beverages onboard the pedicab shall be authorized by local ordinance or resolution.

(2) An onboard safety monitor who is 21 years of age or older shall be present whenever alcohol is being consumed by passengers during the operation of the pedicab. The onboard safety monitor shall not be under the influence of any alcoholic beverage and shall be considered as driving the pedicab for purposes of Article 2 (commencing with Section 23152) of Chapter 12 of Division 11 during the operation of the pedicab.

(3) Both the operator and safety monitor shall have completed either the Licensee Education on Alcohol and Drugs (LEAD) program implemented by the Department of Alcoholic Beverage Control or a training course utilizing the curriculum components recommended by the Responsible Beverage Service Advisory Board established by the Director of Alcoholic Beverage Control.

(4) Alcoholic beverages shall not be provided by the operator or onboard safety monitor or any employee or agent of the operator or onboard safety monitor of the pedicab. Alcoholic beverages may only be supplied by the passengers of the pedicab. All alcoholic beverages supplied by passengers of the pedicab shall be in enclosed, sealed, and unopened containers that have been labeled pursuant to Chapter 13 (commencing with Section 25170) of Division 9 of the Business and Professions Code prior to their consumption on board the pedicab.

(5) Alcoholic beverages may be consumed by a passenger of the pedicab only while he or she is physically on board and within the pedicab.

(6) All passengers shall be 21 years of age or older if alcohol is consumed during the operation of the pedicab.

(7) For purposes of this subdivision, passengers who are pedaling the device are not operators.

(b) A license or permit from the Department of Alcoholic Beverage Control shall not be required of the operator or onboard safety monitor, so long as neither they, nor their employees or agents sell, serve, or furnish any alcoholic beverage to any passenger.

(c) For purposes of this section, "alcoholic beverage" has the same meaning as defined in Section 23004 of the Business and Professions Code.

(d) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

21215.5. This article does not preclude a local authority from imposing more stringent operating or equipment requirements on a pedicab subject to this article.

SEC. 3. Section 23229 of the Vehicle Code is amended to read:

23229. (a) Except as provided in Section 23229.1, Sections 23221 and 23223 do not apply to passengers in any bus, taxicab, or limousine for hire licensed to transport passengers pursuant to the Public Utilities Code or proper local authority, the living quarters of a housecar or camper, or of a pedicab operated pursuant to Article 4.5 (commencing with Section 21215) of Chapter 1.

(b) Except as provided in Section 23229.1, Section 23225 does not apply to the driver or owner of a bus, taxicab, or limousine for hire licensed to transport passengers pursuant to the Public Utilities Code or proper local authority, or of a pedicab operated pursuant to Article 4.5 (commencing with Section 21215) of Chapter 1.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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