

1 SENATE BILL 369

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO TRANSPORTATION; DEFINING "ELECTRIC BICYCLES";
12 PROVIDING FOR THE REGULATION AND USE OF ELECTRIC BICYCLES.

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 SECTION 1. Section 66-1-4.5 NMSA 1978 (being Laws 1990,
16 Chapter 120, Section 6, as amended) is amended to read:

17 "66-1-4.5. DEFINITIONS.--As used in the Motor Vehicle
18 Code:

19 A. "electric bicycle" means a bicycle or tricycle
20 equipped with pedals for human propulsion, a seat or saddle for
21 use by the rider and an electric motor of less than seven
22 hundred fifty watts that meets the requirements of one of the
23 following three classifications:

24 (1) an electric bicycle equipped with a motor
25 that provides assistance only when the rider is pedaling and

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1 that ceases to provide assistance when the bicycle reaches the
2 speed of twenty miles per hour, known as a class 1 electric
3 bicycle;

4 (2) an electric bicycle equipped with a motor
5 that may be used exclusively to propel the bicycle and that is
6 not capable of providing assistance when the bicycle reaches
7 the speed of twenty miles per hour, known as a class 2 electric
8 bicycle; or

9 (3) an electric bicycle equipped with a motor
10 that provides assistance only when the rider is pedaling, and
11 that ceases to provide assistance when the bicycle reaches the
12 speed of twenty-eight miles per hour, known as a class 3
13 electric bicycle;

14 ~~[A.]~~ B. "electric personal assistive mobility
15 device" means a self-balancing device having two nontandem
16 wheels designed to transport a single person by means of an
17 electric propulsion system with an average power of one
18 horsepower and with a maximum speed on a paved level surface of
19 less than twenty miles per hour when powered solely by its
20 propulsion system and while being ridden by an operator who
21 weighs one hundred seventy pounds;

22 ~~[B.]~~ C. "essential parts" means all integral and
23 body parts of a vehicle of a type required to be registered by
24 the provisions of the Motor Vehicle Code, the removal,
25 alteration or substitution of which would tend to conceal the

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1 identity of the vehicle or substantially alter its appearance,
2 model, type or mode of operation;

3 ~~[G.]~~ D. "established place of business", for a
4 dealer or auto recycler, means a place:

5 (1) devoted exclusively to the business for
6 which the dealer or auto recycler is licensed and related
7 business;

8 (2) identified by a prominently displayed sign
9 giving the dealer's or auto recycler's trade name used by the
10 business;

11 (3) of sufficient size or space to permit the
12 display of one or more vehicles or to permit the parking or
13 storing of vehicles to be dismantled or wrecked for recycling;

14 (4) on which there is located an enclosed
15 building on a permanent foundation, which building meets the
16 building requirements of the community and is large enough to
17 accommodate the office or offices of the dealer or auto
18 recycler and large enough to provide a safe place to keep the
19 books and records of the dealer or auto recycler;

20 (5) where the principal portion of the
21 business of the dealer or auto recycler is conducted and where
22 the books and records of the business are kept and maintained;
23 and

24 (6) where vehicle sales are of new vehicles
25 only, such as a department store or a franchisee of a

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1 department store, as long as the department store or franchisee
2 keeps the books and records of its vehicle business in a
3 general office location at its place of business; as used in
4 this paragraph, "department store" means a business that offers
5 a variety of merchandise other than vehicles, and sales of the
6 merchandise other than vehicles constitute at least eighty
7 percent of the gross sales of the business; and

8 ~~[D.]~~ E. "explosives" means any chemical compound or
9 mechanical mixture that is commonly used or intended for the
10 purpose of producing an explosion and that contains any
11 oxidizing and combustive units or other ingredients in such
12 proportions, quantities or packing that an ignition by fire,
13 friction, concussion, percussion or detonator of any part of
14 the compound or mixture may cause such a sudden generation of
15 highly heated gases that the resultant gaseous pressures are
16 capable of producing destructive effects on contiguous objects
17 or of destroying life or limb."

18 SECTION 2. Section 66-1-4.11 NMSA 1978 (being Laws 1990,
19 Chapter 120, Section 12, as amended) is amended to read:

20 "66-1-4.11. DEFINITIONS.--As used in the Motor Vehicle
21 Code:

22 A. "mail" means any item properly addressed with
23 postage prepaid delivered by the United States postal service
24 or any other public or private enterprise primarily engaged in
25 the transport and delivery of letters, packages and other

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1 parcels;

2 B. "manufactured home" means a movable or portable
3 housing structure that exceeds either a width of eight feet or
4 a length of forty feet, constructed to be towed on its own
5 chassis and designed to be installed with or without a
6 permanent foundation for human occupancy;

7 C. "manufacturer" means every person engaged in the
8 business of constructing or assembling vehicles of a type
9 required to be registered under the Motor Vehicle Code;

10 D. "manufacturer's certificate of origin" means a
11 certification, on a form supplied by or approved by the
12 department, signed by the manufacturer that the new vehicle or
13 boat described in the certificate has been transferred to the
14 New Mexico dealer or distributor named in the certificate or to
15 a dealer duly licensed or recognized as such in another state,
16 territory or possession of the United States and that such
17 transfer is the first transfer of the vehicle or boat in
18 ordinary trade and commerce;

19 E. "moped" means a two-wheeled or three-wheeled
20 vehicle with an automatic transmission and a motor having a
21 piston displacement of less than fifty cubic centimeters, that
22 is capable of propelling the vehicle at a maximum speed of not
23 more than thirty miles an hour on level ground, at sea level,
24 but does not include an electric bicycle;

25 F. "motorcycle" means every motor vehicle having a

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1 seat or saddle for the use of the rider and designed to travel
2 on not more than three wheels in contact with the ground,
3 including autocycles and excluding an electric bicycle and a
4 tractor;

5 G. "motor home" means a camping body built on a
6 self-propelled motor vehicle chassis so designed that seating
7 for driver and passengers is within the body itself;

8 H. "motor vehicle" means every vehicle that is
9 self-propelled and every vehicle that is propelled by electric
10 power obtained from batteries or from overhead trolley wires,
11 but not operated upon rails, but does not include an electric
12 bicycle; but for the purposes of the Mandatory Financial
13 Responsibility Act, "motor vehicle" does not include "special
14 mobile equipment"; and

15 I. "motor vehicle insurance policy" means a policy
16 of vehicle insurance that covers self-propelled vehicles of a
17 kind required to be registered pursuant to New Mexico law for
18 use on the public streets and highways. A "motor vehicle
19 insurance policy":

20 (1) shall include:

21 (a) motor vehicle bodily injury and
22 property damage liability coverages in compliance with the
23 Mandatory Financial Responsibility Act; and

24 (b) uninsured motorist coverage, subject
25 to the provisions of Section 66-5-301 NMSA 1978 permitting the

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1 insured to reject such coverage; and

2 (2) may include:

3 (a) physical damage coverage;

4 (b) medical payments coverage; and

5 (c) other coverages that the insured and
6 the insurer agree to include within the policy."

7 SECTION 3. Section 66-1-4.13 NMSA 1978 (being Laws 1990,
8 Chapter 120, Section 14) is amended to read:

9 "66-1-4.13. DEFINITIONS.--As used in the Motor Vehicle
10 Code:

11 A. "odometer" means a device for recording the
12 total mileage traveled by a vehicle from the vehicle's
13 manufacture and for so long as the vehicle is operable on the
14 highways;

15 B. "off-highway motor vehicle" means any motor
16 vehicle operated or used exclusively off the highways of this
17 state and that is not legally equipped for operation on the
18 highways of this state, but does not include an electric
19 bicycle;

20 C. "official printout" means any record supplied by
21 the division or a similar agency or government entity that
22 indicates the lienholders of record or owners of record of a
23 vehicle or motor vehicle registered within that government's
24 jurisdiction or indicates information about a driver's license
25 or identification card, including traffic violation history or

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1 status;

2 D. "official traffic-control devices" means all
3 signs, signals, markings and devices [~~not inconsistent~~]
4 consistent with the Motor Vehicle Code placed or erected, by
5 authority of a public body or official having jurisdiction, for
6 the purpose of regulating, warning or guiding traffic;

7 E. "operator" means driver, as defined in Section
8 66-1-4.4 NMSA 1978; and

9 F. "owner" means a person who holds the legal title
10 of a vehicle and may include a conservator, guardian, personal
11 representative, executor or similar fiduciary, or, in the event
12 that a vehicle is the subject of an agreement for conditional
13 sale or lease with the right of purchase upon performance of
14 the conditions stated in the agreement and with an immediate
15 right of possession vested in the conditional vendee or lessee,
16 or, in the event that a mortgagor of a vehicle is entitled to
17 possession, then such conditional vendee or lessee or
18 mortgagor."

19 SECTION 4. Section 66-3-1 NMSA 1978 (being Laws 1978,
20 Chapter 35, Section 21, as amended) is amended to read:

21 "66-3-1. VEHICLES SUBJECT TO REGISTRATION--
22 EXCEPTIONS.--

23 A. With the exception of vehicles identified in
24 Subsection B of this section, every motor vehicle, manufactured
25 home, trailer, semitrailer and pole trailer when driven or
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1 moved upon a highway and every off-highway motor vehicle is
2 subject to the registration and certificate of title provisions
3 of the Motor Vehicle Code except:

4 (1) any such vehicle driven or moved upon a
5 highway in conformance with the provisions of the Motor Vehicle
6 Code relating to manufacturers, dealers, lien-holders or
7 nonresidents;

8 (2) any such vehicle that is driven or moved
9 upon a highway only for the purpose of crossing the highway
10 from one property to another;

11 (3) an implement of husbandry that is only
12 incidentally operated or moved upon a highway;

13 (4) special mobile equipment;

14 (5) a vehicle that is propelled exclusively by
15 electric power obtained from overhead trolley wires though not
16 operated upon rails;

17 (6) a freight trailer if it is:

18 (a) properly registered in another
19 state;

20 (b) identified by a proper base
21 registration plate that is properly displayed; and

22 (c) identified by other registration
23 documents that are in the possession of the operator and
24 exhibited at the request of a police officer;

25 (7) a freight trailer or utility trailer owned

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1 and used by:

2 (a) a nonresident solely for the
3 transportation of farm products purchased by the nonresident
4 from growers or producers of the farm products and transported
5 in the trailer out of the state;

6 (b) a farmer or a rancher who transports
7 to market only the produce, animals or fowl produced by that
8 farmer or rancher or who transports back to the farm or ranch
9 supplies for use thereon; or

10 (c) a person who transports animals to
11 and from fairs, rodeos or other places, except racetracks,
12 where the animals are exhibited or otherwise take part in
13 performances, in trailers drawn by a motor vehicle or truck of
14 less than ten thousand pounds gross vehicle weight rating
15 bearing a proper registration plate, but in no case shall the
16 owner of an unregistered trailer described in this paragraph
17 perform such uses for hire;

18 (8) a moped;

19 (9) an electric personal assistive mobility
20 device;

21 (10) a vehicle moved on a highway by a towing
22 service as defined in Section 59A-50-2 NMSA 1978; [~~and~~]

23 (11) an off-highway motor vehicle exempted
24 pursuant to Section 66-3-1005 NMSA 1978; and

25 (12) an electric bicycle.

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1 B. A certificate of title required pursuant to
2 Subsection A of this section is not required for a vehicle of a
3 type subject to registration owned by:

4 (1) the government of the United States; or

5 (2) a carrier that is from a jurisdiction that
6 is not a participant in the International Fuel Tax Agreement,
7 that is authorized by the United States government or an agency
8 of the United States government to conduct cross-border
9 operations beyond the commercial border zone pursuant to the
10 provisions of the North American Free Trade Agreement and that
11 identifies New Mexico as the carrier's base jurisdiction.

12 C. A person who violates the provisions of this
13 section is guilty of a penalty assessment misdemeanor. A
14 person charged with violating this section shall not be
15 convicted if the person produces, in court, evidence of
16 compliance valid at the time of issuance of the citation."

17 SECTION 5. A new section of the Motor Vehicle Code,
18 Section 66-3-708 NMSA 1978, is enacted to read:

19 "66-3-708. [NEW MATERIAL] ELECTRIC BICYCLES--OPERATION--
20 LABELING--PERMITTED USE.--

21 A. Except as specifically provided in this section,
22 an electric bicycle or an operator of an electric bicycle shall
23 be afforded all of the rights and privileges of a bicycle or
24 the operator of a bicycle and shall be subject to all of the
25 duties and provisions of the Motor Vehicle Code.

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1 B. An electric bicycle or a person operating an
2 electric bicycle is not subject to provisions of the Motor
3 Vehicle Code pertaining to registration, certificates of title,
4 operator's licenses, financial responsibility, off-highway
5 motor vehicles or off-highway motorcycles.

6 C. After December 31, 2021, manufacturers,
7 distributors and retail sellers of electric bicycles shall
8 apply a label permanently affixed in a prominent location on
9 each electric bicycle manufactured or distributed in New
10 Mexico. The label shall contain the classification number, top
11 assisted speed and motor wattage of the electric bicycle, and
12 shall be printed in Arial font in at least nine-point type.

13 D. A person shall not modify an electric bicycle so
14 as to change the motor-powered speed capability or engagement
15 of an electric bicycle, unless the person appropriately
16 replaces the label required pursuant to Subsection C of this
17 section with a new label showing the classification number, top
18 assisted speed and motor wattage of the electric bicycle after
19 such modification.

20 E. An electric bicycle shall comply with the
21 equipment and manufacturing requirements for bicycles adopted
22 by the United States consumer product safety commission as set
23 forth in 16 C.F.R. Part 1512.

24 F. An electric bicycle shall operate in a manner so
25 that the electric motor is disengaged when either the brakes

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1 are applied or the rider stops pedaling or disengages the
2 throttle.

3 G. Except as provided in Subsection H of this
4 section, an electric bicycle may be ridden where bicycles are
5 permitted to travel, including streets, highways, roads,
6 bicycle lanes and public bicycle paths where bicycles are
7 permitted.

8 H. Following notice and a public hearing, a
9 municipality, county or state agency having jurisdiction over a
10 public bicycle path may prohibit the operation of an electric
11 bicycle on a public bicycle path if the municipality, county or
12 state agency finds such a restriction is needed for safety
13 reasons or compliance with other laws or legal obligations. As
14 used in this subsection, "public bicycle path" means a right of
15 way under the jurisdiction and control of the state or a local
16 political subdivision for use primarily by bicyclists and
17 pedestrians.

18 I. A municipality, county or state agency having
19 jurisdiction over a trail that is specifically designated as
20 non-motorized and that has a natural surface tread made by
21 clearing and grading the native soil with no added surfacing
22 materials may regulate the use of an electric bicycle on that
23 trail.

24 J. Operators of electric bicycles who are sixteen
25 or seventeen years of age shall comply with the requirements

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1 for the use of helmets pursuant to the Child Helmet Safety Act.

2 K. A person under sixteen years of age shall not
3 operate a class 3 electric bicycle but may ride as a passenger
4 on a class 3 electric bicycle that is designed to accommodate
5 passengers.

6 L. All class 3 electric bicycles shall be equipped
7 with a speedometer that is capable of displaying the speed in
8 miles per hour that the electric bicycle is traveling."

9 SECTION 6. Section 66-3-1101 NMSA 1978 (being Laws 1978,
10 Chapter 35, Section 213, as amended) is amended to read:

11 "66-3-1101. MOPEDS--STANDARDS--OPERATOR REQUIREMENTS--
12 APPLICATION OF MOTOR VEHICLE CODE.--

13 A. Mopeds shall comply with those motor vehicle
14 safety standards deemed necessary and prescribed by the
15 director [~~of motor vehicles~~].

16 B. Operators of mopeds shall have in their
17 possession while operating a moped a valid driver's license of
18 any class or permit issued to them.

19 C. Except as provided in Subsections A and B of
20 this section, none of the provisions of the Motor Vehicle Code
21 relating to motor vehicles or motorcycles as defined in that
22 code [~~shall~~] apply to a moped.

23 D. As used in this section, "moped" means a two-
24 wheeled or three-wheeled vehicle with an automatic transmission
25 and a motor having a piston displacement of less than fifty

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1 cubic centimeters [~~which~~] that is capable of propelling the
2 vehicle at a maximum speed of not more than thirty miles per
3 hour on level ground at sea level, but does not include an
4 electric bicycle."

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