

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 69

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO TRANSPORTATION; AMENDING THE CHILD HELMET SAFETY ACT; DEFINING "ELECTRIC-ASSISTED BICYCLE"; PROVIDING STANDARDS FOR THE REGULATION AND USE OF ELECTRIC-ASSISTED BICYCLES; AMENDING AND ENACTING SECTIONS OF THE MOTOR VEHICLE CODE.

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

SECTION 1. Section 32A-24-2 NMSA 1978 (being Laws 2007, Chapter 66, Section 2) is amended to read:

.225166.4AIC March 15, 2023 (5:47pm)

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"32A-24-2. DEFINITIONS.--As used in the Child Helmet Safety Act:

A. "bicycle" means a human-powered vehicle with two wheels in tandem designed to transport, by the act of pedaling, one or more persons seated on one or more saddle seats on its frame and includes an electric-assisted bicycle and a human-powered vehicle designed to transport by the act of pedaling, which has more than two wheels when the vehicle is used on a public roadway, public bicycle path or other public road or right of way, including a tricycle;

B. "electric-assisted bicycle" means a bicycle with fully operable pedals and an electric motor not exceeding seven hundred fifty watts of power;

~~[B.]~~ C. "minor" means a person under eighteen years of age;

~~[C.]~~ D. "operator" means a person under eighteen years of age who travels on a bicycle seated on a saddle seat from which that person is intended to and can pedal the bicycle, or who propels ~~[himself]~~ the person's self by way of using inline skates, roller skates, a skateboard or a scooter;

~~[D.]~~ E. "passenger" means a person under eighteen years of age who travels on a bicycle or scooter in any manner except as an operator;

~~[E.]~~ F. "protective helmet" means a piece of headgear that meets or exceeds the impact standard for

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protective helmets set by the United States consumer product safety commission federal safety standard and those standards developed by the American national standards institute, the Snell memorial foundation or the American society for testing and materials;

~~[F.]~~ G. "public bicycle path" means a right of way under the jurisdiction and control of the state or a local political subdivision for use primarily by bicyclists and pedestrians;

~~[G.]~~ H. "public roadway" means a right of way under the jurisdiction and control of the state or a local political subdivision for use primarily by motor vehicular traffic;

~~[H.]~~ I. "public skateboard park" means an area of public property set aside, designed and maintained for recreation by persons using bicycles, scooters, skateboards or skates;

~~[I.]~~ J. "scooter" means a wheeled vehicle, regardless of the number or placement of those wheels, that has handlebars, designed to be stood on by the operator or passenger and used to glide or propel the operator or passenger over the ground;

~~[J.]~~ K. "skateboard" means a set of wheels attached to a platform or flat surface, regardless of the number or placement of those wheels, and used to glide or propel the operator over the ground; and

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[K-] L. "skates" means a pair of devices worn on the feet with a set of wheels attached and used to glide or propel the user over the ground and may be either inline or roller, but "skates" does not include a pair of devices, similar to a pair of common shoes, that has one or more wheels embedded in the sole of each device."

SECTION 2. Section 66-1-4.5 NMSA 1978 (being Laws 1990, Chapter 120, Section 6, as amended) is amended to read:

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

A. "electric-assisted bicycle" means a vehicle having two or three wheels, fully operable pedals and an electric motor. Electric-assisted bicycles are classified as follows:

(1) "class 1 electric-assisted bicycle" means an electric-assisted bicycle equipped with a motor not exceeding seven hundred fifty watts of power that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches a speed of twenty miles per hour;

(2) "class 2 electric-assisted bicycle" means an electric-assisted bicycle equipped with a motor not exceeding seven hundred fifty watts of power that provides assistance regardless of whether the rider is pedaling but ceases to provide assistance when the bicycle reaches a speed

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of twenty miles per hour; and

(3) "class 3 electric-assisted bicycle" means an electric-assisted bicycle equipped with a motor not exceeding seven hundred fifty watts of power that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches a speed of twenty-eight miles per hour;

B. "electric mobility device" means a two- or three-wheel vehicle with an electric motor for propulsion that does not meet the definition of an electric-assisted bicycle and is capable of exceeding a speed of twenty miles per hour on motor power alone;

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

~~[B.]~~ D. "essential parts" means all integral and body parts of a vehicle of a type required to be registered by the provisions of the Motor Vehicle Code, the removal, alteration or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance,

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model, type or mode of operation;

[~~E.~~] E. "established place of business", for a dealer or auto recycler, means a place:

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

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

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

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

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

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

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keeps the books and records of its vehicle business in a general office location at its place of business; as used in this paragraph, "department store" means a business that offers a variety of merchandise other than vehicles, and sales of the merchandise other than vehicles constitute at least eighty percent of the gross sales of the business; and

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

SECTION 3. Section 66-1-4.11 NMSA 1978 (being Laws 1990, Chapter 120, Section 12, as amended) is amended to read:

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

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

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

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

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

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

F. "motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground,

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including autocycles and excluding a tractor;

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

H. "motor vehicle" means every vehicle that is self-propelled and every vehicle that is propelled by electric power obtained from batteries or from overhead trolley wires, but not operated upon rails, including an electric mobility device, but does not include an electric-assisted bicycle;

[~~but~~] for the purposes of the Mandatory Financial Responsibility Act, "motor vehicle" does not include "special mobile equipment"; and

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

(1) shall include:

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

(b) uninsured motorist coverage, subject to the provisions of Section 66-5-301 NMSA 1978 permitting the insured to reject such coverage; and

(2) may include:

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(a) physical damage coverage;
(b) medical payments coverage; and
(c) other coverages that the insured and the insurer agree to include within the policy."

SECTION 4. Section 66-1-4.13 NMSA 1978 (being Laws 1990, Chapter 120, Section 14, as amended) is amended to read:

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

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

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

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

D. "official traffic-control devices" means all

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signs, signals, markings and devices consistent with the Motor Vehicle Code placed or erected, by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic;

E. "operational design domain" means the specific conditions under which a given automated driving system or feature of the system is designed to function;

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

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

SECTION 5. Section 66-3-1 NMSA 1978 (being Laws 1978, Chapter 35, Section 21, as amended) is amended to read:

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

A. With the exception of vehicles identified in Subsection B of this section, every motor vehicle, manufactured

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home, trailer, semitrailer and pole trailer when driven or moved upon a highway and every off-highway motor vehicle is subject to the registration and certificate of title provisions of the Motor Vehicle Code except:

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

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

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

(4) special mobile equipment;

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

(6) a freight trailer if it is:

(a) properly registered in another state;

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

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

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(7) a freight trailer or utility trailer owned and used by:

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

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

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

(8) a moped;

(9) an electric personal assistive mobility device;

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

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

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(12) an electric-assisted bicycle.

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

(1) the government of the United States; or

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

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

SECTION 6. A new section of the Motor Vehicle Code, Section 66-3-708 NMSA 1978, is enacted to read:

"66-3-708. [NEW MATERIAL] ELECTRIC-ASSISTED BICYCLES-- LABELS--STANDARDS.--

A. Every manufacturer or distributor of new electric-assisted bicycles intended for sale or distribution in New Mexico shall permanently affix to each electric-assisted

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bicycle, in a prominent location, a label that contains the classification number, top assisted speed and motor wattage of the electric-assisted bicycle. The label shall be printed in arial font in at least nine-point type.

B. A person shall not knowingly modify an electric-assisted bicycle so as to change the speed capability or motor engagement of the electric-assisted bicycle without also appropriately replacing, or causing to be replaced, the label indicating the classification required by Subsection A of this section.

C. An electric-assisted bicycle shall comply with the equipment and manufacturing requirements for bicycles adopted by the United States consumer product safety commission and codified at 16 CFR 1512 or its successor regulation.

D. A class 2 electric-assisted bicycle shall operate in a manner so that the electric motor is disengaged or ceases to function when the brakes are applied. Class 1 and class 3 electric-assisted bicycles shall be equipped with a mechanism or circuit that cannot be bypassed and that causes the electric motor to disengage or cease to function when the rider stops pedaling.

E. A class 3 electric-assisted bicycle shall be equipped with a speedometer that displays, in miles per hour, the speed that the electric-assisted bicycle is traveling."

SECTION 7. A new section of the Motor Vehicle Code,

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Section 66-3-709 NMSA 1978, is enacted to read:

"66-3-709. [NEW MATERIAL] OPERATION OF ELECTRIC-ASSISTED BICYCLES.--

A. A person may ride a class 1 HTPWC ~~→~~ **or class 2** ~~←~~ HTPWC electric-assisted bicycle on a bicycle or pedestrian path where bicycles are authorized to travel; provided that a political subdivision of the state may prohibit the operation of a class 1 HTPWC ~~→~~ **or class 2** ~~←~~ HTPWC electric-assisted bicycle on a bicycle or pedestrian path within its jurisdiction.

B. A person shall not ride a HTPWC ~~→~~ **class 2** ~~←~~ **or** ~~←~~ HTPWC class 3 electric-assisted bicycle on a bicycle or pedestrian path unless:

- (1) the path is within a street or highway; or
- (2) a political subdivision of the state permits the operation of a HTPWC ~~→~~ **class 2** ~~←~~ **or** ~~←~~ HTPWC class 3 electric-assisted bicycle on a path under its jurisdiction.

C. A person under sixteen years of age shall not operate a class 3 electric-assisted bicycle upon any street, highway or bicycle or pedestrian path, except that a person under sixteen years of age may ride as a passenger on a class 3 electric-assisted bicycle that is designed to accommodate passengers.

D. This section does not apply to a trail that is specifically designated as non-motorized and that has a natural surface tread that is made by clearing and grading the native

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soil with no added surfacing materials. A political subdivision of the state or a state agency having jurisdiction over a trail described in this subsection may regulate the use of an electric-assisted bicycle on that trail."

SECTION 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

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