

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR  
SENATE BILL 69

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

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:

"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,

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1 which has more than two wheels when the vehicle is used on a  
2 public roadway, public bicycle path or other public road or  
3 right of way, including a tricycle;

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

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

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

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

17 ~~[E.]~~ F. "protective helmet" means a piece of  
18 headgear that meets or exceeds the impact standard for  
19 protective helmets set by the United States consumer product  
20 safety commission federal safety standard and those standards  
21 developed by the American national standards institute, the  
22 Snell memorial foundation or the American society for testing  
23 and materials;

24 ~~[F.]~~ G. "public bicycle path" means a right of way  
25 under the jurisdiction and control of the state or a local

1 political subdivision for use primarily by bicyclists and  
2 pedestrians;

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

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

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

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

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

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

2 "66-1-4.5. DEFINITIONS.--As used in the Motor Vehicle  
3 Code:

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

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

14 (2) "class 2 electric-assisted bicycle" means  
15 an electric-assisted bicycle equipped with a motor not  
16 exceeding seven hundred fifty watts of power that provides  
17 assistance regardless of whether the rider is pedaling but  
18 ceases to provide assistance when the bicycle reaches a speed  
19 of twenty miles per hour; and

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

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

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

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

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

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

25                   (2) identified by a prominently displayed sign

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1 giving the dealer's or auto recycler's trade name used by the  
2 business;

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

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

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

16 (6) where vehicle sales are of new vehicles  
17 only, such as a department store or a franchisee of a  
18 department store, as long as the department store or franchisee  
19 keeps the books and records of its vehicle business in a  
20 general office location at its place of business; as used in  
21 this paragraph, "department store" means a business that offers  
22 a variety of merchandise other than vehicles, and sales of the  
23 merchandise other than vehicles constitute at least eighty  
24 percent of the gross sales of the business; and

25 [~~D~~] F. "explosives" means any chemical compound or

1 mechanical mixture that is commonly used or intended for the  
2 purpose of producing an explosion and that contains any  
3 oxidizing and combustive units or other ingredients in such  
4 proportions, quantities or packing that an ignition by fire,  
5 friction, concussion, percussion or detonator of any part of  
6 the compound or mixture may cause such a sudden generation of  
7 highly heated gases that the resultant gaseous pressures are  
8 capable of producing destructive effects on contiguous objects  
9 or of destroying life or limb."

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

12 "66-1-4.11. DEFINITIONS.--As used in the Motor Vehicle  
13 Code:

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

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

24 C. "manufacturer" means every person engaged in the  
25 business of constructing or assembling vehicles of a type

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1 required to be registered under the Motor Vehicle Code;

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

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

16 F. "motorcycle" means every motor vehicle having a  
17 seat or saddle for the use of the rider and designed to travel  
18 on not more than three wheels in contact with the ground,  
19 including autocycles and excluding a tractor;

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

23 H. "motor vehicle" means every vehicle that is  
24 self-propelled and every vehicle that is propelled by electric  
25 power obtained from batteries or from overhead trolley wires,

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1 but not operated upon rails, including an electric mobility  
 2 device, but does not include an electric-assisted bicycle;  
 3 [~~but~~] for the purposes of the Mandatory Financial  
 4 Responsibility Act, "motor vehicle" does not include "special  
 5 mobile equipment"; and

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

11 (1) shall include:

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

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

18 (2) may include:

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

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

25 "66-1-4.13. DEFINITIONS.--As used in the Motor Vehicle

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1 Code:

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

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

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

18 D. "official traffic-control devices" means all  
19 signs, signals, markings and devices consistent with the Motor  
20 Vehicle Code placed or erected, by authority of a public body  
21 or official having jurisdiction, for the purpose of regulating,  
22 warning or guiding traffic;

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

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1 F. "operator" means driver, as defined in Section  
2 66-1-4.4 NMSA 1978; and

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

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

15 "66-3-1. VEHICLES SUBJECT TO REGISTRATION--  
16 EXCEPTIONS.--

17 A. With the exception of vehicles identified in  
18 Subsection B of this section, every motor vehicle, manufactured  
19 home, trailer, semitrailer and pole trailer when driven or  
20 moved upon a highway and every off-highway motor vehicle is  
21 subject to the registration and certificate of title provisions  
22 of the Motor Vehicle Code except:

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

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1 nonresidents;

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

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

7 (4) special mobile equipment;

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

11 (6) a freight trailer if it is:

12 (a) properly registered in another  
13 state;

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

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

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

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

25 (b) a farmer or a rancher who transports

1 to market only the produce, animals or fowl produced by that  
2 farmer or rancher or who transports back to the farm or ranch  
3 supplies for use thereon; or

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

12 (8) a moped;

13 (9) an electric personal assistive mobility  
14 device;

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

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

19 (12) an electric-assisted bicycle.

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

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

24 (2) a carrier that is from a jurisdiction that  
25 is not a participant in the International Fuel Tax Agreement,

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1 that is authorized by the United States government or an agency  
2 of the United States government to conduct cross-border  
3 operations beyond the commercial border zone pursuant to the  
4 provisions of the [~~North American Free Trade~~] United States-  
5 Mexico-Canada Agreement and that identifies New Mexico as the  
6 carrier's base jurisdiction.

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

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

14 "66-3-708. [NEW MATERIAL] ELECTRIC-ASSISTED BICYCLES--  
15 LABELS--STANDARDS.--

16 A. Every manufacturer or distributor of new  
17 electric-assisted bicycles intended for sale or distribution in  
18 New Mexico shall permanently affix to each electric-assisted  
19 bicycle, in a prominent location, a label that contains the  
20 classification number, top assisted speed and motor wattage of  
21 the electric-assisted bicycle. The label shall be printed in  
22 arial font in at least nine-point type.

23 B. A person shall not knowingly modify an electric-  
24 assisted bicycle so as to change the speed capability or motor  
25 engagement of the electric-assisted bicycle without also

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1 appropriately replacing, or causing to be replaced, the label  
2 indicating the classification required by Subsection A of this  
3 section.

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

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

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

18 SECTION 7. A new section of the Motor Vehicle Code,  
19 Section 66-3-709 NMSA 1978, is enacted to read:

20 "66-3-709. [NEW MATERIAL] OPERATION OF ELECTRIC-ASSISTED  
21 BICYCLES.--

22 A. A person may ride a class 1 electric-assisted  
23 bicycle on a bicycle or pedestrian path where bicycles are  
24 authorized to travel; provided that a political subdivision of  
25 the state may prohibit the operation of a class 1 electric-

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1 assisted bicycle on a bicycle or pedestrian path within its  
2 jurisdiction.

3 B. A person shall not ride a class 2 or class 3  
4 electric-assisted bicycle on a bicycle or pedestrian path  
5 unless:

- 6 (1) the path is within a street or highway; or  
7 (2) a political subdivision of the state  
8 permits the operation of a class 2 or class 3 electric-assisted  
9 bicycle on a path under its jurisdiction.

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

16 D. This section does not apply to a trail that is  
17 specifically designated as non-motorized and that has a natural  
18 surface tread that is made by clearing and grading the native  
19 soil with no added surfacing materials. A political  
20 subdivision of the state or a state agency having jurisdiction  
21 over a trail described in this subsection may regulate the use  
22 of an electric-assisted bicycle on that trail."

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