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SENATE BILL

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

INTRODUCED BY

Antoinette Sedillo Lopez

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

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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 not exceeding seven hundred fifty watts of
7 power. Electric-assisted bicycles are further required to
8 conform to one of three classes as follows:

9 (1) "class 1 electric-assisted bicycle" means
10 an electric-assisted bicycle equipped with a motor that
11 provides assistance only when the rider is pedaling and that
12 ceases to provide assistance when the bicycle reaches a speed
13 of twenty miles per hour;

14 (2) "class 2 electric-assisted bicycle" means
15 an electric-assisted bicycle equipped with a motor that
16 provides assistance regardless of whether the rider is pedaling
17 but ceases to provide assistance when the bicycle reaches a
18 speed of twenty miles per hour; and

19 (3) "class 3 electric-assisted bicycle" means
20 an electric-assisted bicycle equipped with a motor that
21 provides assistance only when the rider is pedaling and that
22 ceases to provide assistance when the bicycle reaches a speed
23 of twenty-eight miles per hour;

24 ~~[A.]~~ B. "electric personal assistive mobility
25 device" means a self-balancing device having two nontandem

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1 wheels designed to transport a single person by means of an
2 electric propulsion system with an average power of one
3 horsepower and with a maximum speed on a paved level surface of
4 less than twenty miles per hour when powered solely by its
5 propulsion system and while being ridden by an operator who
6 weighs one hundred seventy pounds;

7 ~~[B.]~~ C. "essential parts" means all integral and
8 body parts of a vehicle of a type required to be registered by
9 the provisions of the Motor Vehicle Code, the removal,
10 alteration or substitution of which would tend to conceal the
11 identity of the vehicle or substantially alter its appearance,
12 model, type or mode of operation;

13 ~~[C.]~~ D. "established place of business", for a
14 dealer or auto recycler, means a place:

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

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

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

24 (4) on which there is located an enclosed
25 building on a permanent foundation, which building meets the

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1 building requirements of the community and is large enough to
2 accommodate the office or offices of the dealer or auto
3 recycler and large enough to provide a safe place to keep the
4 books and records of the dealer or auto recycler;

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

9 (6) where vehicle sales are of new vehicles
10 only, such as a department store or a franchisee of a
11 department store, as long as the department store or franchisee
12 keeps the books and records of its vehicle business in a
13 general office location at its place of business; as used in
14 this paragraph, "department store" means a business that offers
15 a variety of merchandise other than vehicles, and sales of the
16 merchandise other than vehicles constitute at least eighty
17 percent of the gross sales of the business; and

18 ~~[D.]~~ E. "explosives" means any chemical compound or
19 mechanical mixture that is commonly used or intended for the
20 purpose of producing an explosion and that contains any
21 oxidizing and combustive units or other ingredients in such
22 proportions, quantities or packing that an ignition by fire,
23 friction, concussion, percussion or detonator of any part of
24 the compound or mixture may cause such a sudden generation of
25 highly heated gases that the resultant gaseous pressures are

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1 capable of producing destructive effects on contiguous objects
2 or of destroying life or limb."

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

5 "66-1-4.11. DEFINITIONS.--As used in the Motor Vehicle
6 Code:

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

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

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

20 D. "manufacturer's certificate of origin" means a
21 certification, on a form supplied by or approved by the
22 department, signed by the manufacturer that the new vehicle or
23 boat described in the certificate has been transferred to the
24 New Mexico dealer or distributor named in the certificate or to
25 a dealer duly licensed or recognized as such in another state,

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1 territory or possession of the United States and that such
2 transfer is the first transfer of the vehicle or boat in
3 ordinary trade and commerce;

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

9 F. "motorcycle" means every motor vehicle having a
10 seat or saddle for the use of the rider and designed to travel
11 on not more than three wheels in contact with the ground,
12 including autocycles and excluding an electric-assisted bicycle
13 and a tractor;

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

17 H. "motor vehicle" means every vehicle that is
18 self-propelled and every vehicle that is propelled by electric
19 power obtained from batteries or from overhead trolley wires,
20 but not operated upon rails, but does not include an electric-
21 assisted bicycle; but for the purposes of the Mandatory
22 Financial Responsibility Act, "motor vehicle" does not include
23 "special mobile equipment"; and

24 I. "motor vehicle insurance policy" means a policy
25 of vehicle insurance that covers self-propelled vehicles of a

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1 kind required to be registered pursuant to New Mexico law for
2 use on the public streets and highways. A "motor vehicle
3 insurance policy":

4 (1) shall include:

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

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

11 (2) may include:

12 (a) physical damage coverage;

13 (b) medical payments coverage; and

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

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

18 "66-1-4.13. DEFINITIONS.--As used in the Motor Vehicle
19 Code:

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

24 B. "off-highway motor vehicle" means any motor
25 vehicle operated or used exclusively off the highways of this

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1 state and that is not legally equipped for operation on the
2 highways of this state, but does not include an electric-
3 assisted bicycle;

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

11 D. "official traffic-control devices" means all
12 signs, signals, markings and devices consistent with the Motor
13 Vehicle Code placed or erected, by authority of a public body
14 or official having jurisdiction, for the purpose of regulating,
15 warning or guiding traffic;

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

19 F. "operator" means driver, as defined in Section
20 66-1-4.4 NMSA 1978; and

21 G. "owner" means a person who holds the legal title
22 of a vehicle and may include a conservator, guardian, personal
23 representative, executor or similar fiduciary, or, in the event
24 that a vehicle is the subject of an agreement for conditional
25 sale or lease with the right of purchase upon performance of

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1 the conditions stated in the agreement and with an immediate
2 right of possession vested in the conditional vendee or lessee,
3 or, in the event that a mortgagor of a vehicle is entitled to
4 possession, then such conditional vendee or lessee or
5 mortgagor."

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

8 "66-3-1. VEHICLES SUBJECT TO REGISTRATION--
9 EXCEPTIONS.--

10 A. With the exception of vehicles identified in
11 Subsection B of this section, every motor vehicle, manufactured
12 home, trailer, semitrailer and pole trailer when driven or
13 moved upon a highway and every off-highway motor vehicle is
14 subject to the registration and certificate of title provisions
15 of the Motor Vehicle Code except:

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

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

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

25 (4) special mobile equipment;

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

4 (6) a freight trailer if it is:

5 (a) properly registered in another
6 state;

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

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

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

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

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

22 (c) a person who transports animals to
23 and from fairs, rodeos or other places, except racetracks,
24 where the animals are exhibited or otherwise take part in
25 performances, in trailers drawn by a motor vehicle or truck of

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1 less than ten thousand pounds gross vehicle weight rating
2 bearing a proper registration plate, but in no case shall the
3 owner of an unregistered trailer described in this paragraph
4 perform such uses for hire;

5 (8) a moped;

6 (9) an electric personal assistive mobility
7 device;

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

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

12 (12) an electric-assisted bicycle.

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

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

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

24 C. A person who violates the provisions of this
25 section is guilty of a penalty assessment misdemeanor. A

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1 person charged with violating this section shall not be
2 convicted if the person produces, in court, evidence of
3 compliance valid at the time of issuance of the citation."

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

6 "66-3-708. [NEW MATERIAL] ELECTRIC-ASSISTED BICYCLES--
7 LABELS--STANDARDS.--

8 A. Every manufacturer or distributor of new
9 electric-assisted bicycles intended for sale or distribution in
10 New Mexico shall permanently affix to each electric-assisted
11 bicycle, in a prominent location, a label that contains the
12 classification number, top assisted speed and motor wattage of
13 the electric-assisted bicycle. The label shall be printed in
14 arial font in at least nine-point type.

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

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

25 D. A class 2 electric-assisted bicycle shall

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

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

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

12 "66-3-709. [NEW MATERIAL] OPERATION OF ELECTRIC-ASSISTED
13 BICYCLES.--

14 A. A person may ride a class 1 or class 2 electric-
15 assisted bicycle on a bicycle or pedestrian path where bicycles
16 are authorized to travel; provided that a political subdivision
17 of the state may prohibit the operation of a class 1 or class 2
18 electric-assisted bicycle on a bicycle or pedestrian path
19 within its jurisdiction.

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

- 22 (1) the path is within a street or highway; or
23 (2) a political subdivision of the state
24 permits the operation of a class 3 electric-assisted bicycle on
25 a path under its jurisdiction.

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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."

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