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HOUSE BILL 1721

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State of Washington

61st Legislature

2009 Regular Session

By Representatives Springer, Armstrong, Hudgins, Condotta, and Simpson; by request of Washington State Patrol

Read first time 01/28/09. Referred to Committee on Transportation.

1 AN ACT Relating to two-wheeled and three-wheeled vehicles; and  
2 amending RCW 46.04.304, 46.04.330, 46.04.336, 46.37.530, 46.44.050,  
3 46.61.610, 46.61.688, and 46.61.710.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 46.04.304 and 1990 c 250 s 18 are each amended to read  
6 as follows:

7 "Moped" means a motorized device designed to travel with not more  
8 than three (~~sixteen-inch or larger diameter~~) wheels in contact with  
9 the ground(~~, having fully operative pedals for propulsion by human~~  
10 ~~power,~~) and having an electric or a liquid fuel motor with a cylinder  
11 displacement not exceeding fifty cubic centimeters which produces no  
12 more than two gross brake horsepower (developed by a prime mover, as  
13 measured by a brake applied to the driving shaft) that is capable of  
14 propelling the device at not more than thirty miles per hour on level  
15 ground.

16 (~~The Washington state patrol may approve of and define as a~~  
17 ~~"moped" a vehicle which fails to meet these specific criteria, but~~  
18 ~~which is essentially similar in performance and application to~~  
19 ~~motorized devices which do meet these specific criteria.))~~

1           **Sec. 2.** RCW 46.04.330 and 2003 c 141 s 3 are each amended to read  
2 as follows:

3           "Motorcycle" means a motor vehicle designed to travel on not more  
4 than three wheels in contact with the ground, on which the driver:

5           (1) Rides ((~~astride the motor unit or power train~~)) on a seat or  
6 saddle and the motor vehicle is designed to be steered with a handle  
7 bar(~~(, but excluding~~)); or

8           (2) Rides on a seat in a partially or completely enclosed seating  
9 area that is equipped with safety belts and the motor vehicle is  
10 designed to be steered with a steering wheel.

11           "Motorcycle" excludes a farm tractor, a power wheelchair, an  
12 electric personal assistive mobility device, a motorized foot scooter,  
13 an electric-assisted bicycle, and a moped.

14           ~~((The Washington state patrol may approve of and define as a~~  
15 ~~"motorcycle" a motor vehicle that fails to meet these specific~~  
16 ~~criteria, but that is essentially similar in performance and~~  
17 ~~application to motor vehicles that do meet these specific criteria.))~~

18           **Sec. 3.** RCW 46.04.336 and 2003 c 353 s 6 are each amended to read  
19 as follows:

20           "Motorized foot scooter" means a device with no more than two ten-  
21 inch or smaller diameter wheels that has handlebars, is designed to be  
22 stood (~~(or sat~~)) upon by the operator, and is powered by an internal  
23 combustion engine or electric motor that is capable of propelling the  
24 device with or without human propulsion at a speed no more than twenty  
25 miles per hour on level ground.

26           For purposes of this section, a motor-driven cycle, a moped, an  
27 electric-assisted bicycle, or a motorcycle is not a motorized foot  
28 scooter.

29           **Sec. 4.** RCW 46.37.530 and 2003 c 197 s 1 are each amended to read  
30 as follows:

31           (1) It is unlawful:

32           (a) For any person to operate a motorcycle, moped, or motor-driven  
33 cycle not equipped with mirrors on the left and right sides (~~(of the~~  
34 ~~motorcycle~~)) which shall be so located as to give the driver a complete  
35 view of the highway for a distance of at least two hundred feet to the  
36 rear of the motorcycle, moped, or motor-driven cycle: PROVIDED, That

1 mirrors shall not be required on any motorcycle or motor-driven cycle  
2 over twenty-five years old originally manufactured without mirrors and  
3 which has been restored to its original condition and which is being  
4 ridden to or from or otherwise in conjunction with an antique or  
5 classic motorcycle contest, show, or other such assemblage: PROVIDED  
6 FURTHER, That no mirror is required on any motorcycle manufactured  
7 prior to January 1, 1931;

8 (b) For any person to operate a motorcycle, moped, or motor-driven  
9 cycle which does not have a windshield unless wearing glasses, goggles,  
10 or a face shield of a type conforming to rules adopted by the state  
11 patrol;

12 (c) For any person to operate or ride upon a motorcycle, motor-  
13 driven cycle, or moped on a state highway, county road, or city street  
14 unless wearing upon his or her head a motorcycle helmet except when the  
15 vehicle is an antique motor-driven cycle or (~~automobile that is~~  
16 ~~licensed as a motorcycle or~~) when the vehicle is equipped with (~~seat~~  
17 ~~belts and roll bars approved by the state patrol~~) all of the  
18 following:

- 19 (i) Steering wheel;
- 20 (ii) Seat belts that conform to standards prescribed under 49  
21 C.F.R. Part 571; and
- 22 (iii) Partially or completely enclosed seating area for the driver  
23 and passenger that is certified by the manufacturer as meeting the  
24 standards prescribed under 49 C.F.R. Sec. 571.216.

25 The motorcycle helmet neck or chin strap must be fastened securely  
26 while the motorcycle, moped, or motor-driven cycle is in motion.  
27 Persons operating electric-assisted bicycles and motorized foot  
28 scooters shall comply with all laws and regulations related to the use  
29 of bicycle helmets;

30 (d) For any person to transport a child under the age of five on a  
31 motorcycle or motor-driven cycle;

32 (e) For any person to sell or offer for sale a motorcycle helmet  
33 that does not meet the requirements established by this section.

34 (2) The state patrol may adopt and amend rules(~~, pursuant to the~~  
35 ~~Administrative Procedure Act,~~) concerning standards for glasses,  
36 goggles, and face shields.

37 (3) For purposes of this section, "motorcycle helmet" means a  
38 protective covering for the head consisting of a hard outer shell,

1 padding adjacent to and inside the outer shell, and a neck or chin  
2 strap type retention system, with ~~((a sticker))~~ the manufacturer's  
3 certification applied in accordance with 49 C.F.R. Sec. 571.218  
4 indicating that the motorcycle helmet meets standards established by  
5 the United States department of transportation.

6 **Sec. 5.** RCW 46.44.050 and 1979 ex.s. c 213 s 7 are each amended to  
7 read as follows:

8 It shall be unlawful to operate any vehicle upon public highways  
9 with a wheelbase between any two axles thereof of less than three feet,  
10 six inches when weight exceeds that allowed for one axle under RCW  
11 46.44.042 or 46.44.041. It shall be unlawful to operate any motor  
12 vehicle upon the public highways of this state with a wheelbase between  
13 the frontmost axle and the rearmost axle of less than three feet, six  
14 inches(~~((: PROVIDED, That the minimum wheelbase for mopeds is thirty-~~  
15 ~~eight inches))~~).

16 For the purposes of this section, wheelbase shall be measured upon  
17 a straight line from center to center of the vehicle axles designated.

18 **Sec. 6.** RCW 46.61.610 and 1975 c 62 s 37 are each amended to read  
19 as follows:

20 A person operating a motorcycle shall ride only upon the permanent  
21 and regular seat attached thereto, and such operator shall not carry  
22 any other person nor shall any other person ride on a motorcycle unless  
23 such motorcycle is designed to carry more than one person, in which  
24 event a passenger may ride upon the permanent and regular seat if  
25 designed for two persons, or upon another seat firmly attached to the  
26 motorcycle at the rear or side of the operator(~~((: PROVIDED, HOWEVER,~~  
27 ~~That))~~). However, the motorcycle must contain foot pegs(~~(, of a type~~  
28 ~~approved by the equipment commission,))~~ or be equipped with an  
29 additional bucket seat and seat belt meeting standards prescribed under  
30 49 C.F.R. Part 571 for each person such motorcycle is designed to  
31 carry.

32 **Sec. 7.** RCW 46.61.688 and 2007 c 510 s 5 are each amended to read  
33 as follows:

34 (1) For the purposes of this section, ~~((the term))~~ "motor vehicle"  
35 includes:

1       (a) "Motorcycle," meaning a three-wheeled motor vehicle that is  
2 designed (i) so that the driver rides on a seat in a partially or  
3 completely enclosed seating area that is equipped with safety belts and  
4 (ii) to be steered with a steering wheel.

5       (b) "Buses," meaning motor vehicles with motive power, except  
6 trailers, designed to carry more than ten passengers;

7       ~~((b))~~ (c) "Multipurpose passenger vehicles," meaning motor  
8 vehicles with motive power, except trailers, designed to carry ten  
9 persons or less that are constructed either on a truck chassis or with  
10 special features for occasional off-road operation;

11       ~~((e))~~ (d) "Neighborhood electric vehicle," meaning a self-  
12 propelled, electrically powered four-wheeled motor vehicle whose speed  
13 attainable in one mile is more than twenty miles per hour and not more  
14 than twenty-five miles per hour and conforms to federal regulations  
15 under 49 C.F.R. Sec. 571.500;

16       ~~((d))~~ (e) "Medium-speed electric vehicle" meaning a self-  
17 propelled, electrically powered four-wheeled motor vehicle, equipped  
18 with a roll cage or crush-proof body design, whose speed attainable in  
19 one mile is more than thirty miles per hour but not more than thirty-  
20 five miles per hour and otherwise meets or exceeds the federal  
21 regulations set forth in 49 C.F.R. Sec. 571.500;

22       ~~((e))~~ (f) "Passenger cars," meaning motor vehicles with motive  
23 power, except multipurpose passenger vehicles, motorcycles, or  
24 trailers, designed for carrying ten passengers or less; and

25       ~~((f))~~ (g) "Trucks," meaning motor vehicles with motive power,  
26 except trailers, designed primarily for the transportation of property.

27       (2)(a) This section only applies to:

28       (i) Motor vehicles that meet the manual seat belt safety standards  
29 as set forth in ~~((federal motor vehicle safety standard 208 and to))~~ 49  
30 C.F.R. Sec. 571.208;

31       (ii) Motorcycles, when equipped with safety belts that meet the  
32 standards set forth in 49 C.F.R. Part 571; and

33       (iii) Neighborhood electric vehicles and medium-speed electric  
34 vehicles that meet the seat belt standards as set forth in 49 C.F.R.  
35 Sec. 571.500.

36       (b) This section does not apply to a vehicle occupant for whom no  
37 safety belt is available when all designated seating positions as

1 required ((~~by federal motor vehicle safety standard 208~~)) under 49  
2 C.F.R. Part 571 are occupied.

3 (3) Every person sixteen years of age or older operating or riding  
4 in a motor vehicle shall wear the safety belt assembly in a properly  
5 adjusted and securely fastened manner.

6 (4) No person may operate a motor vehicle unless all child  
7 passengers under the age of sixteen years are either: (a) Wearing a  
8 safety belt assembly or (b) are securely fastened into an approved  
9 child restraint device.

10 (5) A person violating this section shall be issued a notice of  
11 traffic infraction under chapter 46.63 RCW. A finding that a person  
12 has committed a traffic infraction under this section shall be  
13 contained in the driver's abstract but shall not be available to  
14 insurance companies or employers.

15 (6) Failure to comply with the requirements of this section does  
16 not constitute negligence, nor may failure to wear a safety belt  
17 assembly be admissible as evidence of negligence in any civil action.

18 (7) This section does not apply to an operator or passenger who  
19 possesses written verification from a licensed physician that the  
20 operator or passenger is unable to wear a safety belt for physical or  
21 medical reasons.

22 (8) The state patrol may adopt rules exempting operators or  
23 occupants of farm vehicles, construction equipment, and vehicles that  
24 are required to make frequent stops from the requirement of wearing  
25 safety belts.

26 **Sec. 8.** RCW 46.61.710 and 2003 c 353 s 10 are each amended to read  
27 as follows:

28 (1) No person shall operate a moped upon the highways of this state  
29 unless the moped has been assigned a moped registration number and  
30 displays a moped permit in accordance with the provisions of RCW  
31 46.16.630.

32 (2) Notwithstanding any other provision of law, a moped may not be  
33 operated on a bicycle path or trail, bikeway, equestrian trail, or  
34 hiking or recreational trail.

35 (3) Operation of a moped, electric personal assistive mobility  
36 device, motorized foot scooter, or an electric-assisted bicycle on a

1 fully controlled limited access highway is unlawful. Operation of a  
2 moped, motorized foot scooter, or an electric-assisted bicycle on a  
3 sidewalk is unlawful.

4 (4) Removal of any muffling device or pollution control device from  
5 a moped is unlawful.

6 (5) Subsections (1), (2), and (4) of this section do not apply to  
7 electric-assisted bicycles. Electric-assisted bicycles and motorized  
8 foot scooters may have access to highways, other than limited access  
9 highways, of the state to the same extent as bicycles. Subject to  
10 subsection (6) of this section, electric-assisted bicycles and  
11 motorized foot scooters may be operated on a multipurpose trail or  
12 bicycle lane, but local jurisdictions may restrict or otherwise limit  
13 the access of electric-assisted bicycles and motorized foot scooters,  
14 and state agencies may regulate the use of motorized foot scooters on  
15 facilities and properties under their jurisdiction and control.

16 (6) Subsections (1) and (4) of this section do not apply to  
17 motorized foot scooters. Subsection (2) of this section applies to  
18 motorized foot scooters when the bicycle path, trail, bikeway,  
19 equestrian trail, or hiking or recreational trail was built or is  
20 maintained with federal highway transportation funds. Additionally,  
21 any new trail or bicycle path or readily identifiable existing trail or  
22 bicycle path not built or maintained with federal highway  
23 transportation funds may be used by persons operating motorized foot  
24 scooters only when appropriately signed.

25 (7) A person operating an electric personal assistive mobility  
26 device (EPAMD) shall obey all speed limits and shall yield the right-  
27 of-way to pedestrians and human-powered devices at all times. An  
28 operator must also give an audible signal before overtaking and passing  
29 a pedestrian. Except for the limitations of this subsection, persons  
30 operating an EPAMD have all the rights and duties of a pedestrian.

31 (8) The use of an EPAMD may be regulated in the following  
32 circumstances:

33 (a) A municipality and the department of transportation may  
34 prohibit the operation of an EPAMD on public highways within their  
35 respective jurisdictions where the speed limit is greater than twenty-  
36 five miles per hour;

37 (b) A municipality may restrict the speed of an EPAMD in locations  
38 with congested pedestrian or nonmotorized traffic and where there is

1 significant speed differential between pedestrians or nonmotorized  
2 traffic and EPAMD operators. The areas in this subsection must be  
3 designated by the city engineer or designee of the municipality.  
4 Municipalities shall not restrict the speed of an EPAMD in the entire  
5 community or in areas in which there is infrequent pedestrian traffic;

6 (c) A state agency or local government may regulate the operation  
7 of an EPAMD within the boundaries of any area used for recreation, open  
8 space, habitat, trails, or conservation purposes.

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