

HOUSE BILL REPORT

ESHB 1772

As Amended by the Senate

Title: An act relating to motorized foot scooters.

Brief Description: Concerning motorized foot scooters.

Sponsors: House Committee on Transportation (originally sponsored by Representatives Macri, Chambers, Fitzgibbon, Irwin and Shewmake).

Brief History:

Committee Activity:

Transportation: 2/21/19, 2/27/19 [DPS].

Floor Activity:

Passed House: 3/12/19, 85-13.

Senate Amended.

Passed Senate: 4/12/19, 35-7.

Brief Summary of Engrossed Substitute Bill

- Authorizes local authorities to regulate the operation of motorized foot scooters and shared scooters within their jurisdictions.
- Restricts the speed of motorized foot scooters on roadways and bicycle lanes to 15 miles per hour, and authorizes local jurisdictions to set maximum motorized foot scooter speed limits for sidewalks and pedestrian and bicycle trails if the local jurisdiction authorizes the use of motorized foot scooters on them.
- Prohibits a person under the age of 16 years from operating a motorized foot scooter, unless a local jurisdiction authorizes it.
- Permits electric-assisted bicycles and motorized foot scooters to park as bicycles are permitted to park.
- Mandates that scooter share operators carry commercial general liability insurance coverage with a limit of at least \$1 million for each occurrence and \$5 million in the aggregate, and automobile liability insurance coverage with a combined single limit of at least \$1 million.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 23 members: Representatives Fey, Chair; Slatter, 2nd Vice Chair; Valdez, 2nd Vice Chair; Wylie, 1st Vice Chair; Barkis, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Young, Assistant Ranking Minority Member; Chambers, Chapman, Doglio, Entenman, Eslick, Goehner, Irwin, Kloba, Lovick, Mead, Paul, Pellicciotti, Ramos, Riccelli, Shewmake and Van Werven.

Minority Report: Do not pass. Signed by 5 members: Representatives Boehnke, Dufault, McCaslin, Orcutt and Shea.

Minority Report: Without recommendation. Signed by 1 member: Representative Dent.

Staff: Jennifer Harris (786-7143).

Background:

Definitions.

A "motorized foot scooter" is defined as a device with no more than two 10-inch or smaller diameter wheels that has handlebars, is designed to be stood upon by the operator, and is powered by an internal combustion engine or electric motor that is capable of propelling the device with or without human propulsion at a speed no greater than 20 miles per hour (mph) on level ground.

Motorized Foot Scooter Usage.

No driver's license is required to operate a motorized foot scooter. Individuals operating motorized foot scooters must comply with all laws and regulations related to the use of bicycle helmets, which are not currently required under state law but are required by some local jurisdictions in the state. Unless they are equipped with reflectors approved by the Washington State Patrol, motorized foot scooters may not be operated at any time from one half-hour after sunset to one half-hour before sunrise.

A motorized foot scooter may not be operated on a fully controlled limited access highway. A motorized foot scooter may use roadways to the same extent as bicycles. Bicycles must be ridden as near to the right side of the right through lane of a roadway as is safe if they are traveling at a rate of speed lower than the normal flow of traffic unless a bicyclist is preparing to make turning movements or is overtaking and passing another bicycle or vehicle proceeding in the same direction (or unless the bicycle is traveling on a one-way highway, in which case it may be ridden as near to the left side of the left through lane as is safe). Bicycles may use the shoulder of the roadway or any specially designated bicycle lane.

While motorized foot scooters may be operated on a shared-use path or any part of a highway designated for the use of bicycles, local jurisdictions or state agencies may restrict or otherwise limit the access of motorized foot scooters and may regulate their use on facilities and properties under their jurisdiction and control.

A motorized foot scooter may not be operated on a sidewalk, unless there is no alternative than for it to travel over a sidewalk as part of a bicycle or pedestrian path. Any new trail or bicycle path or readily identifiable existing trail or bicycle path not built or maintained with federal highway transportation funds may be used by individuals operating motorized foot scooters if it is appropriately signed. However, if a bicycle path, trail, bikeway, equestrian trail, or hiking or recreational trail was built or is maintained with federal highway transportation funds, a motorized foot scooter may not be operated on it.

Summary of Engrossed Substitute Bill:

Definitions.

The definition of "motorized shared scooter" is modified; it is defined as a device with two or three wheels that has handlebars, a floorboard that can be stood upon while riding, and is powered by an internal combustion engine or electric motor that has a maximum speed of no greater than 20 mph on level ground. A "scooter share operator" is defined as a person offering shared scooters for hire. A "scooter share program" is defined as offering shared scooters for hire.

Motorized foot scooters are not considered vehicles or motor vehicles and are not subject to laws governing vehicle titling, vehicle registration, vehicle automobile liability insurance and financial responsibility requirements, vehicle lighting and other equipment requirements, vehicle dealer and manufacturer requirements, and the vehicle use tax.

Motorized Foot Scooter Usage.

Individuals under the age of 16 years may not operate a motorized foot scooter, unless permitted by a local jurisdiction.

Motorized foot scooters operated on a roadway or bicycle lane may not exceed a speed of 15 mph. If authorized by a local jurisdiction to operate on sidewalks and pedestrian and bicycle paths, the local jurisdictions may set the maximum speed limit of motorized foot scooters for their usage.

A motorized foot scooter may be operated on a sidewalk if authorized by local ordinance. Local jurisdictions and state agencies may regulate the use of Class 1 and Class 2 electric-assisted bicycles and motorized foot scooters on rights of way under their jurisdiction and control.

A motorized foot scooter may not be operated on 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 soil with no added surfacing materials, unless a local authority or agency with jurisdiction over the trail permits it.

Electric-assisted bicycles and motorized foot scooters may be parked as is permitted of bicycles.

Scooter Share Programs.

To be offered for hire, shared scooters must bear a single, unique alphanumeric identification visible from a distance of 5 feet, which may not be obfuscated by branding or other markings, and which must be used throughout the state, including by local authorities, to identify the shared scooter.

Scooter share operators are required to carry the following insurance coverage for the operation of shared scooters:

1. commercial general liability coverage with a limit of at least \$1 million for each occurrence and \$5 million in the aggregate;
2. automobile insurance coverage with a combined single limit of at least \$1 million; and
3. if a local authority authorizes the operation of a motorized foot scooter by individuals under 16 years of age, the local authority may require all scooter share operators offering shared scooters for hire to these individuals to carry insurance coverage at a greater amount negotiated between the operators and the local authority.

A local authority may regulate the operation of motorized foot scooters and shared scooters within its jurisdiction, including but not limited to, by:

- determining if shared scooters may be operated within the local authority's jurisdiction, and if permitted, the locations where they may be operated;
- requiring scooter share operators to pay reasonable fees and taxes;
- requiring that shared scooters be staged in a manner compliant with the Americans with Disabilities Act, to ensure clear passage of pedestrian traffic on sidewalks; and
- adopting and assessing penalties for moving or parking violations involving shared scooters to the person responsible for such violation.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment merges the definitions of "scooter share operator" and "scooter share program," clarifying that the insurance coverage requirements are applicable to any person offering shared scooters for hire. The Senate amendment also requires a contract offered by a scooter share program to a prospective scooter share independent contractor being contracted with to provide scooter location, transport, and/or battery charging or repair services to include a specified written disclosure regarding the possible inapplicability of that independent contractor's automobile, homeowner's, condominium, and/or renter's insurance coverage to activities related to the scooter services to be provided under the contract.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) It is time for a revolution in how we get around. Scooters are being used around the state as people get around in different ways. Scooters are useful for point-to-point trips and covering the first and last mile to transit. Most car trips are very short. If scooters were used for half of car trips that are less than a mile, this would significantly reduce carbon dioxide emissions and result in sizeable financial savings. This bill starts the conversation on how scooters should be regulated.

The bill will help make Washington a safer, cleaner, more affordable place to move around. It draws a distinction between scooters and scooter share companies. The bill also allows local jurisdictions to regulate scooters. It proposes thoughtful standards and empowers cities to be involved in regulating scooters.

Discussions are underway with stakeholders, including cities, to address their concerns. The changes to the bill include aligning terms with national definitions and making modifications to allow for technology and product improvements.

(Opposed) While it is reasonable for the state to define what scooters are, local jurisdictions should make decisions regarding their regulation. The City of Tacoma is conducting a scooter pilot with Lime and Bird. The response from citizens has been positive, although there have been some concerns expressed about scooter parking, where scooters are used, and scooter speeds. The city has a good working relationship with scooter companies.

The bill is very heavy handed, requiring parking for scooters on every side of every block in business districts. Local officials know how to address these types of regulations. Insurance policy requirements should also be up to local jurisdictions, which may want to require a bond be put up instead.

The City of Seattle was the first city in the United States to launch a free floating bicycle pilot, which became the standard across the country. Scooters have not been tested in the same way. There is limited research and few industry standards, especially related to safety and injury. More work is needed to ensure the safety of scooters. Cities have not been able to request safety and maintenance data on scooters. Consumer protections would be reversed under the bill because of how companies have written user waivers. Local jurisdictions must be able to regulate their own rights of way.

The rapidity of innovation of these industries does not necessitate a change to state law, and the preemption language in the bill would severely limit cities' authority to regulate scooters. Public safety is the paramount concern. A compromise is being worked on. The preference is for the bill to be silent on local regulations that can and cannot be put in place.

Persons Testifying: (In support) Representative Macri, prime sponsor; Joanie Deutsch, Bird; and Brad Boswell, Uber.

(Opposed) Randy Lewis, City of Tacoma; Joel Miller, City of Seattle; and Logan Bahr, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: None.