

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 453 Micromobility Devices  
**SPONSOR(S):** State Affairs Committee, Local, Federal & Veterans Affairs Subcommittee, Toledo  
**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 542

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	14 Y, 0 N	Roth	Vickers
2) Local, Federal & Veterans Affairs Subcommittee	11 Y, 1 N, As CS	Darden	Miller
3) State Affairs Committee	21 Y, 1 N, As CS	Roth	Williamson

### SUMMARY ANALYSIS

Unless expressly authorized, it is unlawful for any local government to pass or attempt to enforce any ordinance on a matter that is addressed by state traffic control laws. State traffic control laws allow a county or municipality to regulate the operation of bicycles and enact an ordinance to permit, control, or regulate the operation of motorized scooters on sidewalks.

Bicycle and motorized scooter share programs allow users to rent and ride bicycles and motorized scooters on a short-term basis, for a fee, within designated geographical areas. Currently, local governments may contract with and regulate bicycle and motorized scooter share programs to the extent not otherwise prohibited by general law.

The bill provides regulations governing micromobility device share programs. The bill defines the terms “micromobility device” and “motorized bicycle”, and amends the definition of “motorized scooter” to provide that such devices may not be capable of propelling the vehicle at a speed greater than 20 miles per hour. The bill authorizes a county or municipality to regulate the operation of micromobility devices as long as the regulation does not conflict with state or federal law and is not more restrictive than the county’s or municipality’s regulation of bicycles. The bill authorizes a county or municipality to restrict the use of micromobility devices, for limited periods, on certain sidewalks, and require companies offering micromobility devices to be licensed.

The bill specifies that except as provided in statute, state and federal law exclusively controls regulation of micromobility devices. The bill provides that the operator of a micromobility device has all the rights and duties applicable to the rider of a bicycle, and allows such vehicles to be operated on sidewalks. The bill specifies that a micromobility device is not required to be registered and insured like a motor vehicle and such an operator does not have to have a valid driver license. In addition, the bill provides that an operator may park a micromobility device on a sidewalk as long as it does not impede pedestrian traffic.

Finally, the bill removes motorized scooters from the requirements for sale of miniature motorcycles, and provides that micromobility devices are not required to display slow-moving vehicle emblems.

The bill has an indeterminate fiscal impact on local governments. See Fiscal Comments.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

###### Florida Uniform Traffic Control Law

The Legislature has enacted a wide array of traffic control laws in order to standardize traffic regulation and enforcement across the state. This collection of laws is known as the “Florida Uniform Traffic Control Law” and is codified in Chapter 316, F.S. Unless expressly authorized, it is unlawful for any local government to pass or attempt to enforce any ordinance on a matter that is covered by state traffic control laws.<sup>1</sup>

###### Bicycle Regulation

Section 316.003, F.S., defines a “bicycle” as:

Every vehicle propelled solely by human power, and every motorized bicycle propelled by a combination of human power and an electric helper motor capable of propelling the vehicle at a speed of not more than 20 miles per hour on level ground upon which any person may ride, having two tandem wheels, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels. The term does not include such a vehicle with a seat height of no more than 25 inches from the ground when the seat is adjusted to its highest position or a scooter or similar device. A person under the age of 16 may not operate or ride upon a motorized bicycle.<sup>2</sup>

Under state traffic control laws, bicyclists are considered vehicle operators and are generally required to obey the same rules of the road as other vehicle operators, including traffic signs, signals, and lane markings.<sup>3</sup> Section 316.2065, F.S., governs the operation of bicycles in Florida and provides for a number of bicycle-specific regulations, including:

- A bicycle rider or passenger who is under 16 years of age must wear a bicycle helmet.<sup>4</sup>
- A person may not knowingly rent or lease any bicycle to be ridden by a child who is under the age of 16 years unless:
  - The child possesses a bicycle helmet; or
  - The lessor provides a bicycle helmet for the child to wear.<sup>5</sup>
- Every bicycle in use between sunset and sunrise must be equipped with a lamp on the front exhibiting a white light visible from a distance of at least 500 feet to the front and a lamp and reflector on the rear each exhibiting a red light visible from a distance of 600 feet to the rear.<sup>6</sup>
- A person operating a bicycle on a sidewalk, or across a roadway on a crosswalk, must yield the right-of-way to any pedestrian and must give an audible signal before overtaking and passing the pedestrian.<sup>7</sup>

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<sup>1</sup> Ss. 316.002 and 316.007, F.S.

<sup>2</sup> S. 316.003(4), F.S.

<sup>3</sup> S. 316.2065(1), F.S.

<sup>4</sup> S. 316.2065(3)(d), F.S.

<sup>5</sup> S. 316.2065(15)(a), F.S.

<sup>6</sup> S. 316.2065(7), F.S.

<sup>7</sup> S. 316.2065(10), F.S.

A person operating a bicycle on a roadway must ride in the bicycle lane, but if there is no bicycle lane, the bicycle operator must ride as close to the right-hand curb as practicable. However, a bicycle operator may move to the center of the lane when:

- Overtaking and passing another bicycle or vehicle proceeding in the same direction;
- Preparing for a left turn at an intersection or into a private road or driveway; or
- Reasonably necessary to avoid any condition or potential conflict, including, but not limited to, a fixed or moving object, parked or moving vehicle, bicycle, pedestrian, animal, surface hazard, turn lane, or substandard-width lane,<sup>8</sup> which makes it unsafe to continue along the right-hand curb or edge or within a bicycle lane.<sup>9</sup>

Bicycle operators operating a bicycle on a one-way highway with two or more marked traffic lanes may ride as near to the left-hand curb as practicable<sup>10</sup> and bicycle operators may not ride more than two abreast on a roadway.<sup>11</sup>

### Local Traffic Control Authority

Although state traffic control laws broadly apply to traffic regulation across the state, state law authorizes local authorities to exercise police power to regulate a number of traffic-related activities within their jurisdictions, including:<sup>12</sup>

- The operation of bicycles;
- Restricting the use of streets;
- Establishing speed limits for vehicles in public parks;
- Regulating or prohibiting stopping, standing, or parking;
- Prohibiting or regulating the use of heavily traveled streets by any class or kind of traffic found to be incompatible with the normal and safe movement of traffic;
- Regulating, restricting, or monitoring traffic by security devices or personnel on public streets and highway;
- Designating and regulating traffic on play streets;
- Regulating, restricting, or prohibiting traffic within the boundary of any airport owned by the state, a county, a municipality, or a political subdivision; and
- Adopting and enforcing such temporary or experimental regulations as may be necessary to cover emergencies or special conditions.

A county or municipality may enact an ordinance to permit, control, or regulate the operation of vehicles, golf carts, mopeds, motorized scooters, and electric personal assistive mobility devices on sidewalks or sidewalk areas under certain conditions.<sup>13</sup>

### Share Programs

Bicycle and motorized scooter share programs allow users to rent and ride bicycles and motorized scooters on a short-term basis, for a fee, within designated geographical areas. Bicycle and motorized scooter share programs are not regulated by the state; therefore, local governments may regulate such share programs to the extent not otherwise prohibited by general law.<sup>14</sup> As such, many local governments in Florida have entered into contracts with bicycle and motorized scooter share programs to facilitate the share programs in their jurisdiction.

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<sup>8</sup> A substandard width lane is any lane that is too narrow for a bicycle and another vehicle to travel safely side-by-side within the lane. S. 316.2065(5)(a), F.S.

<sup>9</sup> *Id.*

<sup>10</sup> S. 316.2065(5)(b), F.S.

<sup>11</sup> S. 316.2065(6), F.S.

<sup>12</sup> S. 316.008, F.S.

<sup>13</sup> S. 316.008(7)(a), F.S.

<sup>14</sup> See art. VIII, ss. 1(f), 1(g), 2(b), Fla. Const.

## *Bicycle Share Programs*

Bicycle share programs are either “docked” or “dockless.” Companies offering “docked” bicycles require their bicycles to be rented from and returned to designated, unmanned docking stations.<sup>15</sup> Some jurisdictions require the bicycle share program to apply for a permit to operate and pay a rental fee for the docking stations. Rental options vary by program, but generally allow some combination of a single use rate for a flat fee, or a weekly, monthly, or annual subscription allowing the user to rent a bicycle for either an unlimited number of rides or a certain number of minutes per day during the subscription period.<sup>16</sup>

Companies offering “dockless” bicycles do not have stations located at fixed positions where the bicycles must be rented and returned. Instead, the operator unlocks the bicycle, using information provided by or transmitted from the program’s mobile application on their mobile phone (to tell the user where to find the bicycle), and the bicycle is used according to the terms of the program agreement.<sup>17</sup>

## *Motorized Scooter Share Programs*

In many of the business models, riders can use the motorized scooter share program’s app to locate and reserve a motorized scooter for a fee (typically \$1) plus a per-minute fare. Within the app, the rider can see the motorized scooters available in the surrounding area, as well as the battery charge and range of miles available on the motorized scooter. Once the motorized scooter is located, the rider can capture a barcode located on the motorized scooter via a cell phone camera to reserve and start the ride. The rider will end his or her ride by parking the motorized scooter and selecting to end the ride on the app. The rider will receive a summary of the ride with the total amount of the fare.<sup>18</sup>

These motorized scooter programs are dockless, and riders are able to leave the motorized scooters in a location of their choosing when they end their rides.<sup>19</sup> The parking of motorized scooters has resulted in concerns including:

- Crowding and obstruction of sidewalks for pedestrians;
- Restricting the use of sidewalks for people with disabilities; and
- Motorized scooters being left in the travel lanes of roadways.<sup>20</sup>

## **Effect of Proposed Changes**

The bill defines the term “micromobility device” to mean any motorized transportation device, including a motorized bicycle or motorized scooter, made available for private use by reservation through an online application, website, or software for point-to-point trips, which is incapable of traveling at speeds greater than 20 miles per hour on level ground when powered solely by the motor.

The bill defines the term “motorized bicycle” to mean a vehicle propelled by a combination of human power and an electric helper motor capable of propelling the vehicle at a speed of not more than 20 miles per hour on level ground upon which any person may ride, having two tandem wheels, and including any device generally recognized as a motorized bicycle equipped with two front or two rear wheels. The term does not include a vehicle with a seat height of no more than 25 inches from the ground when the seat is fully adjusted or a scooter or similar device. The definition provides that a person under the age of 16 may not operate or ride upon a motorized bicycle.

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<sup>15</sup> See, e.g., Citibike, *How it Works*, <http://citibikemiami.com/how-it-works> (last visited Feb. 20, 2019).

<sup>16</sup> See, e.g., Broward B-cycle, <https://broward.bcycle.com/>; Juice Orlando Bike Share, <https://juicebikeshare.com/#about> (last visited Feb. 20, 2019).

<sup>17</sup> See, e.g., Lime, <https://www.lime/> (last visited Feb. 20, 2019).

<sup>18</sup> American Association of Motor Vehicle Administrators, *Electric Dockless Scooters Whitepaper*, 2019, at 3.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* at 4.

The bill amends the definition of “motorized scooter” to lower the allowable speed from no greater than 30 miles per hour to no greater than 20 miles per hour when powered solely by the motor. The bill also amends the definition of “bicycle” to remove references to motorized bicycle.

The bill authorizes a county or municipality to regulate the operation of micromobility devices as long as the regulation does not conflict with state or federal law and is not more restrictive than the county’s or municipality’s regulation of bicycles. Specifically, the bill authorizes a county or municipality to restrict the operation of micromobility devices, for limited periods, on sidewalks the county or municipality designates as a high pedestrian traffic area or that are 5 feet or less in width. However, the regulations may not prohibit the parking of micromobility devices. Additionally, a county or municipality may require companies offering micromobility devices to be licensed. The license must be granted if the applicant provides:

- Proof of commercial general liability insurance coverage with a limit of at least \$1 million per occurrence with a \$2 million aggregate limit; and
- Workers’ compensation insurance that meets minimum requirements under state law.

The bill allows counties and municipalities to designate locations where the operators of micromobility devices may not stage shared devices, provided that at least one location is available for staging on each side of each city block in commercial and business districts.

The bill specifies the regulation of micromobility devices is exclusively controlled by state and federal law, except as specifically provided.

The bill provides that an operator of a micromobility device has all the rights and duties applicable to the rider of a bicycle, and specifies that a micromobility device may be operated upon any bicycle path, sidewalk, sidewalk area, bicycle lane, or highway permissible for bicycle use.

The bill provides that a micromobility device is not required to be registered and insured like a motor vehicle. An operator of a micromobility device does not have to have a valid driver license to operate such device. In addition, the bill provides that an operator of a micromobility device may park it on a sidewalk as long as the micromobility device does not impede pedestrian traffic.

The bill provides that a person offering micromobility devices is responsible for securing the devices within an area where a tropical storm or hurricane warning has been issued by the National Weather Service.

The bill removes the requirement that commercial sellers of motorized scooters display and provide notice that motorized scooters may not be operated on public roads, may not be registered as motor vehicles, and may not be operated on sidewalks unless pursuant to local ordinance.

The bill provides that micromobility devices are not required to display slow-moving vehicle emblems.

## B. SECTION DIRECTORY:

**Section 1:** Amends s. 316.003, F.S., relating to definitions.

**Section 2:** Amends s. 316.008, F.S., relating to powers of local authorities.

**Section 3:** Amends s. 316.1995, F.S., relating to driving upon sidewalk or bicycle path.

**Section 4:** Amends s. 316.2128, F.S., relating to operation of motorized scooters and miniature motorcycles; requirements for sale.

**Section 5:** Amends s. 316.2225, F.S., relating to additional equipment required on certain vehicles.

**Section 6:** Amends s. 320.08, F.S., relating to license taxes.

**Section 7:** Amends s. 655.960, F.S., relating to definitions.

**Section 8:** Provides that the act takes effect upon becoming a law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Public access to micromobility devices may increase if the bill results in additional local markets being opened to businesses offering these services.

### D. FISCAL COMMENTS:

The bill may result in an indeterminate fiscal impact to local governments. Counties and municipalities may see an indeterminate positive fiscal impact from the licensure fees collected from companies offering micromobility devices. However, counties and municipalities may see an indeterminate negative fiscal impact associated with resources needed to regulate the operation of micromobility devices.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

## C. DRAFTING ISSUES OR OTHER COMMENTS:

### Other Comments: Regulatory Requirements

The bill creates regulatory requirements for motorized scooters and motorized bicycles operated as a micromobility device; however, these same regulatory requirements do not appear to apply to a motorized scooter or motorized bicycle owned and operated for personal use. For example, the bill allows micromobility devices to be operated on sidewalks but does not appear to authorize the same for personal use motorized scooters and motorized bicycles.

### Other Comments: Department of Transportation

The Department of Transportation notes the bill allows micromobility devices to drive upon sidewalks and bicycle paths. This may impact pedestrian and bicycle safety due to the additional weight, speed differential, and momentum kinetic energy imposed by these vehicles.<sup>21</sup>

Similarly, the bill allows for parking a micromobility device on a sidewalk in a manner that does not impede normal pedestrian movement. However, leaving these vehicles on the sidewalk unattended may be problematic for pedestrians, particularly those that are visually impaired or wheelchair bound.<sup>22</sup>

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 26, 2019, the Local, Federal & Veterans Affairs Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Clarified that the speed limit for a micromobility device or motorized scooter refers to the speed when powered solely by the motor;
- Authorized counties and municipalities to designate locations where operators of micromobility devices and motorized scooters may not stage shared devices, as long as at least one location on each side of each city block in commercial and business districts is available for staging;
- Reduced the minimum aggregate limit of required commercial general liability insurance coverage from \$5 million to \$2 million; and
- Required persons offering micromobility devices and motorized scooters for hire to secure their devices in any area of the state subject to a tropical storm or hurricane warning issued by the National Weather Service.

On April 10, 2019, the State Affairs Committee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Amended the definition of the terms “bicycle”, “micromobility device”, and “motorized scooter”.
- Defined the term “motorized bicycle”.
- Authorized counties and municipalities to restrict the use of micromobility devices on certain sidewalks for limited periods or on sidewalks 5 feet or less in width.
- Clarified locations where a micromobility device can be operated.
- Removed references to “for-hire motorized scooter” and “motorized scooter” when referring to a “micromobility device”.

This analysis is drafted to the committee substitute as approved by the State Affairs Committee.

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<sup>21</sup> Department of Transportation, Agency Analysis of House Bill 453, p. 5, (Jan. 22, 2019).

<sup>22</sup> *Id.*