

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: CS/SB 1148

INTRODUCER: Infrastructure and Security Committee and Senator Brandes

SUBJECT: Electric Bicycles

DATE: February 6, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Price</u>	<u>Miller</u>	<u>IS</u>	<u>Fav/CS</u>
2.	<u>Toman</u>	<u>Ryon</u>	<u>CA</u>	<u>Pre-meeting</u>
3.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1148 addresses the definition and operation of electric bicycles (e-bikes) within a three-tiered classification system, revising a number of related definitions. The bill creates regulations governing the operation of e-bikes, affording an e-bike or e-bike operator with all of the rights and privileges, and subjecting them to all of the duties, of a bicycle or bicycle operator. E-bikes are authorized to operate where bicycles are allowed, including, but not limited to, streets, highways, roadways, shoulders, bicycle lanes, and bicycle or multiuse paths. However, the bill provides that the new e-bike regulations may not be construed to prevent a local government from regulating the operation of e-bikes on streets, highways, sidewalks, and sidewalk areas under the local government's jurisdiction; or to prevent a municipality, county, or agency of the state having jurisdiction over a bicycle lane, bicycle path, multiuse path, or trail network from restricting or prohibiting the operation of an e-bike on such lanes, paths, or trail networks.

The bill provides that an e-bike or an e-bike operator is not subject to the provisions of law relating to financial responsibility, driver or motor vehicle licenses, vehicle registration, title certificates, off-highway motorcycles, or off-highway vehicles. Additionally, the bill sets out labeling requirements for manufacturers and distributors of electric bicycles and prohibits tampering with or modifying an electric bicycle unless the label is replaced after modification.

The bill will likely have a negative but insignificant fiscal impact to the State Transportation Trust Fund and the Highway Safety Operating Trust Fund. The fiscal impact to local governments is indeterminate. See the “Fiscal Impact Statement” for additional information.

The bill takes effect July 1, 2020.

II. Present Situation:

In 2002, Congress amended the Consumer Product Safety Commission (CPSC) definition of e-bikes.¹ The law defines a low-speed e-bike as “A two- or three-wheeled vehicle with fully operable pedals and an electric motor of less than 750 watts (1 h.p.), whose maximum speed on a paved level surface, when powered solely by such a motor while ridden by an operator who weighs 170 pounds, is less than 20 mph.” The federal law permits e-bikes to be powered by the motor alone (a “throttle-assist” e-bike), or by a combination of motor and human power (a “pedal-assist” e-bike).²

Devices that meet the federal definition of an e-bike are regulated by the CPSC and must meet bicycle safety standards. However, federal law only applies to e-bikes’ product standards and safety, and only specifies the maximum speed that an e-bike can travel under motor power alone. It does not provide a maximum speed when the bicycle is being propelled by a combination of human and motor power. The law does distinguish e-bikes that can travel 20 mph or less under motor power *alone* from motorcycles, mopeds, and motor vehicles.³ The CPSC has clarified that the federal law does not prohibit e-bikes from traveling faster than 20 mph when using a combination of human and motor power.⁴

While the federal government regulates the manufacturing and first sale of an e-bike, its operation on streets and bikeways remains within each state’s control. Therefore, many states have their own laws that categorize e-bikes with mopeds and other motorized vehicles, require licensure and registration, or do not enable them to be used on facilities such as bike lanes or multi-purpose trails.⁵

For ease of organization of the provisions in SB 1148, the present situation is discussed below in conjunction with the Effect of Proposed Changes.

¹ House Bill 727, available at <https://www.congress.gov/bill/107th-congress/house-bill/727/text> (last visited February 6, 2020).

² National Conference of State Legislatures, *State Electric Bicycle Laws: A Legislative Primer* (March 28, 2019), available at <https://www.ncsl.org/research/transportation/state-electric-bicycle-laws-a-legislative-primer.aspx> (last visited February 6, 2020).

³ *Id.* Emphasis added.

⁴ *Id.*

⁵ *Id.*

Bicycle Regulation

Present Situation

State Bicycle Regulation:

Section 316.003(4), 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.”⁶ 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.

That section prohibits a person under the age of 16 from operating or riding upon a motorized bicycle.⁷

Under current law, every person propelling a vehicle *by human power* has all of the rights and duties applicable to any other vehicle driver and is generally required to obey the same rules of the road as other vehicle operators, including traffic signs, signals, and lane markings.⁸ Section 316.2065, F.S., governs the operation of bicycles in Florida and provides a number of regulations, including:

- A bicycle rider or passenger who is under 16 years of age must wear a bicycle helmet.⁹
- 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.¹⁰
- 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.¹¹
- 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.¹²

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 or edge of the roadway as practicable, except when:

- Overtaking and passing another bicycle or vehicle proceeding in the same direction.

⁶ Section 316.003(4), F.S. Emphasis added.

⁷ *Id.*

⁸ Section 316.2065, F.S.

⁹ Section 316.2065(3)(d), F.S.

¹⁰ Section 316.2065(15)(a), F.S.

¹¹ Section 316.2065(7), F.S.

¹² Section 316.2065(10), F.S.

- Preparing for a left turn at an intersection or into a private road or driveway.
- 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, which makes it unsafe to continue along the right-hand curb or edge or within a bicycle lane.¹³

Bicycle operators traveling on a one-way highway with two or more marked traffic lanes may ride as near to the left-hand curb or edge of the roadway as practicable¹⁴ and bicycle operators may not ride more than two abreast on a roadway.¹⁵

With respect to vehicle drivers relative to a bicycle or other nonmotorized vehicle on the roadway, a driver overtaking either must pass at a safe distance of not less than three feet between the vehicle and the bicycle or nonmotorized vehicle.¹⁶

Bicycles are currently excluded from provisions of law relating to child restraint requirements,¹⁷ safety belt usage,¹⁸ vehicle registration,¹⁹ driver licensing,²⁰ minimum insurance requirements,²¹ and waste tire and lead-acid battery requirements.²²

Motorized Bicycle Registration:

For purposes of vehicle registration, s. 320.01, F.S., currently provides that a “motor vehicle” does not include bicycles. However, among other fees, s. 320.08, F.S., imposes a \$5 flat fee for registration (or renewal of registration) of mopeds and motorized bicycles. In addition, a \$2.50 motorcycle safety education fee is imposed on mopeds, which is deposited into the Highway Safety Operating Trust Fund (HSOTF).²³ The Department of Highway Safety and Motor Vehicles advises that moped and motorized bicycle registration data is combined and provides the following information on moped *and* motorized bicycle registration:²⁴

¹³ Section 316.2065(5)(a), F.S. For purposes of subsection (5), 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.

¹⁴ Section 316.2065(5)(b), F.S.

¹⁵ Section 316.2065(6), F.S.

¹⁶ Section 316.083, F.S.

¹⁷ Section 316.613(2), F.S.

¹⁸ Section 316.614(3)(a), F.S.

¹⁹ Section 320.01(1), F.S.

²⁰ Section 322.01(27) and (44), F.S.

²¹ Section 324.021(1), F.S.

²² Section 403.717(1), F.S.

²³ Section 320.08(1)(c), F.S. These funds may be used to fund a motorcycle driver improvement program, the Florida Motorcycle Safety Education Program, or the general operations of the Department of Highway Safety and Motor Vehicles.

²⁴ See email to House Committee Staff, January 9, 2020 (on file in the Senate Infrastructure and Security Committee).

Section 320.20, F.S., after other distributions, directs the remainder of revenue derived from registration of motor vehicles for deposit in the State Transportation Trust Fund.

Moped and Motorized Bicycle Registration Transactions		
FY 2016-17	FY 2017-18	FY 2018-19
2,389	2,159	1,951
Moped and Motorized Bicycle Revenue Distribution		
State Transportation Trust Fund (\$5)		
\$11,945.00	\$10,795.00	\$9,755.00
Highway Safety Operating Trust Fund (\$2.50)		
\$5,972.50	\$5,397.50	\$4,877.50

Local Regulation of Bicycles and Other Motorized Transportation Modes:

Local authorities, in the exercise of their police power, are authorized to regulate the operation of bicycles.²⁵ Additionally, local authorities may prohibit or regulate 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.²⁶ As the definition of “bicycles” currently includes motorized bicycles, local authorities are authorized to impose regulations under both grants of power.

Current law prohibits a person from driving any vehicle *other than by human power* upon a bicycle path, sidewalk, or sidewalk area, except upon a permanent or duly authorized temporary driveway.²⁷ However, exceptions to the prohibition are made with respect to local regulation, and current law provides that:

- A county or municipality may enact an ordinance to regulate the operation of vehicles, golf carts, mopeds,²⁸ motorized scooters,²⁹ and electric personal assistive mobility devices³⁰ on sidewalks or sidewalk areas when such use is permissible under federal law, if the vehicles or devices are restricted to a maximum speed of 15 miles per hour in such areas.³¹

²⁵ Section 316.008(1)(h), F.S.

²⁶ Section 316.008(1)(n), F.S.

²⁷ Section 316.1995, F.S.

²⁸ The term “moped” means “any vehicle with pedals to permit propulsion by human power, having a seat or saddle for the use of the rider and designed to travel on not more than three wheels, with a motor rated not in excess of 2 brake horsepower and not capable of propelling the vehicle at a speed greater than 30 miles per hour on level ground and with a power-drive system that functions directly or automatically without clutching or shifting gears by the operator after the drive system is engaged. If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters.” Section 316.003(41), F.S.

²⁹ The term “motorized scooter” means “any vehicle or micromobility device that is powered by a motor with or without a seat or saddle for the use of the rider, which is designed to travel on not more than three wheels, and which is not capable of propelling the vehicle at a speed greater than 20 miles per hour on level ground.” Section 316.003(45), F.S.

³⁰ The term “electric personal assistive mobility device” means “any self-balancing, two-nontandem-wheeled device, designed to transport only one person, with an electric propulsion system with average power of 750 watts (1 horsepower), the maximum speed of which, on a paved level surface when powered solely by such a propulsion system while being ridden by an operator who weighs 170 pounds, is less than 20 miles per hour.” These devices, however, are not vehicles as defined in s. 316.003, F.S. Section 316.003(22), F.S.

³¹ Section 316.008(7)(a), F.S.

- A personal delivery device³² and a mobile carrier³³ may be operated on sidewalks and crosswalks within a county or municipality when such use is permissible under federal law, except that a county or municipality may adopt regulations for the safe operation of personal delivery devices and mobile carriers. A personal delivery device may not be operated on the Florida Shared-Use Nonmotorized Trail Network or components of the Florida Greenways and Trails System.³⁴ As its title indicates, the network consists “of a statewide network of nonmotorized trails which *allows nonmotorized vehicles and pedestrians* to access a variety of origins and destinations *with limited exposure to motorized vehicles.*”³⁵
- A local governmental entity may regulate golf cart operation on sidewalks adjacent to specific segments of municipal streets, county roads, or state highways within the jurisdictional territory of the local governmental entity if:
 - The local entity determines, after considering the condition and current use of the sidewalks, the character of the surrounding community, and the locations of authorized golf cart crossings, that golf carts, bicycles, and pedestrians may safely share the sidewalk;
 - The local entity consults with the Department of Transportation before adopting the ordinance;
 - The ordinance restricts golf carts to a maximum speed of 15 miles per hour and permits such use on sidewalks adjacent to state highways only if the sidewalks are at least eight feet wide;
 - The ordinance requires golf carts to meet certain equipment requirements;³⁶ and
 - The local entity posts appropriate signs or otherwise informs residents that the ordinance exists and applies to such sidewalks.³⁷
- A local government may regulate the operation of micromobility devices and motorized scooters on streets, highways, sidewalk, and sidewalk areas under the local government’s jurisdiction.³⁸

³² The term “personal delivery device” means “an electrically powered device that (a) is operated on sidewalks and crosswalks and intended primarily for transporting property, (b) weighs less than 80 pounds, excluding cargo; (c) has a maximum speed of 10 miles per hour; and (d) is equipped with technology to allow for operation of the device with or without the active control or monitoring of a natural person.” Section 316.003(55), F.S.

³³ The term “mobile carrier” means “an electrically powered device that (a) is operated on sidewalks and crosswalks and intended primarily for transporting property, (b) weighs less than 80 pounds, excluding cargo; (c) has a maximum speed of 12.5 miles per hour; and (d) is equipped with a technology to transport personal property with the active monitoring of a property owner and primarily designed to remain with 25 feet of the property owner.” Section 316.003(40), F.S. Under current law, a personal delivery device is not a vehicle unless expressly defined by law as a vehicle, and a mobile carrier is not a personal delivery device. Section 316.003(55), F.S.

³⁴ Section 316.008(7)(b), F.S. Emphasis added. Section 339.81, F.S., creates the Florida Shared-Use Nonmotorized Trail Network as a component of the Florida Greenways and Trails System established in ch. 260, F.S. “The statewide network consists of multiuse trails or shared-use paths physically separated from motor vehicle traffic and constructed with asphalt, concrete, or another hard surface which, by virtue of design, location, extent of connectivity or potential connectivity, and allowable uses, provides *nonmotorized* transportation opportunities for bicyclists and pedestrians statewide....” Section 339.81(2), F.S.

³⁵ Section 339.81(1), F.S. Emphasis added. A bicycle rider or pedestrian on the trail network might, for example, encounter limited exposure to motorized vehicles on an on-road facility no longer than one-half mile connecting two or more nonmotorized trails. *See s. 339.81(3)(a)*, F.S.

³⁶ Section 316.212(6), F.S., requires a golf cart to be equipped with efficient brakes, reliable steering apparatus, safe tires, a rear-view mirror, and red reflectorized warning devices in both the front and rear.

³⁷ Section 316.212(8)(b), F.S.

³⁸ Section 316.2128, F.S.

Effect of Proposed Changes

Definitions (Sections 1, 2, 4, and 7-15):

Section 2 of the bill revises s. 316.003, F.S., relating to definitions for the purposes of state uniform traffic control requirements. Specifically, the bill removes the definition of “motorized bicycle” from within the definition of “bicycle.” The bill creates a separate definition for “electric bicycle,” and defines three classes, as follows:

- “Electric bicycle” means “a bicycle or tricycle equipped with fully operable pedals, a seat or saddle for the use of the rider, and an electric motor of less than 750 watts which meets the requirements of one of the following three classifications:
 - “Class 1 electric bicycle” means an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the electric bicycle reaches the speed of 20 miles per hour.
 - “Class 2 electric bicycle” means an electric bicycle equipped with a motor that may be used exclusively to propel the electric bicycle and that ceases to provide assistance when the electric bicycle reaches the speed of 20 miles per hour.
 - “Class 3 electric bicycle” means an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the electric bicycle reaches the speed of 28 miles per hour.

The bill deletes the provision in the current definition of “bicycle” providing that the term does not include “a vehicle with a seat height of no more than 25 inches from the ground when the seat is adjusted to its highest position,” leaving in place exclusion from the definition of a scooter or similar device. This revision means that vehicles with the specified seat height are bicycles and would be subject to all bicycle regulations.

While provided information³⁹ indicates that this revision is an attempt to address confusion over recumbent bicycles and tricycles,⁴⁰ a reading of the plain words of the revision could allow small children to legally operate the described bicycles on highways and streets.⁴¹ However, riders of the described bicycles who are under 16 years of age would be required to wear bicycle helmets.⁴²

The bill deletes the provision in the current definition of “bicycle” prohibiting a person under the age of 16 from operating or riding on a motorized bicycle. Presumably, this revision is intended to authorize any person, regardless of age, to operate or ride on an e-bike as defined in the bill.

³⁹ Telephone conversation with Becky Afonso, Executive Director, Florida Bicycle Association, January 31, 2020. *See also* FDOT and DHSMV email to committee staff, January 31, 2020 (on file in the Senate Infrastructure and Security Committee).

⁴⁰ Merriam-Webster defines “recumbent” with respect to a bicycle as “a bicycle with a wide seat that has a back support and is positioned so that the rider’s legs are extended horizontally forward to the pedals and the body is reclined. Merriam-Webster, available at <https://www.merriam-webster.com/dictionary/recumbent> (last visited Feb. 6, 2020).

⁴¹ *See* s. 316.2065(5)(a), F.S.

⁴² Section 316.2065(3)(d), F.S.

This section of the bill also excludes e-bikes from the current definitions of moped,⁴³ motor vehicle,⁴⁴ motorcycle,⁴⁵ and motorized scooter.⁴⁶ Definition of the terms “bicycle,” “moped,” “motorcycle,” and “motorized scooter” continue to include identification as “vehicles.”

Section 4 of the bill amends s. 316.027, F.S., relating to vulnerable road users and leaving the scene of a crash, to include a person operating an e-bike within that section’s definition of “vulnerable road user.” This revision has no effect, as under current law, a motorized bicycle rider is already a vulnerable road user.

Sections 1 and 9 through 15 make conforming revisions, likewise excluding e-bikes from the current definitions of:

- “OHM” or “off-highway motorcycle” in s. 261.03(4), F.S., for purposes of off-highway vehicle safety and recreation provisions.
- “Motor vehicle” in s. 316.613(2), F.S., relating to child restraint requirements; in s. 316.614(3)(a), F.S., relating to safety belt usage; in s. 320.01(1), F.S., relating to motor vehicle registration; in s. 322.01(27), F.S., relating to driver licensing; in s. 324.021(1), F.S., relating to minimum insurance requirements; in s. 403.717(1), F.S., relating to waste tire and lead-acid battery requirements; and in s. 681.102(14), F.S., relating to motor vehicle sales warranties.
- “Vehicle” in s. 322.01(44), F.S., relating to driver licensing.

State and Local Regulation of E-bikes (Sections 3, 5, and 8):

Section 3 amends s. 316.008(7)(a), F.S., relating to powers of local authorities with respect to traffic control, authorizing a county or municipality to enact an ordinance regulating the operation of e-bikes on sidewalks and sidewalk areas when such use is permissible under federal law.⁴⁷ Under current state law, the ordinance must restrict e-bikes to a maximum speed of 15 miles per hour in such areas. While federal law *authorizes* state and local regulations permitting the use of e-bikes on sidewalks, whether to undertake such state or local regulation is within state or local government discretion.

Section 8 creates s. 316.20655, F.S., establishing regulations governing the operation of e-bikes and providing that an e-bike or an e-bike operator shall be afforded all the rights and privileges,

⁴³ *Supra* note 28.

⁴⁴ Currently defined, except when used in s. 316.1001, F.S., relating to toll payment, as “a self-propelled vehicle not operated upon rails or guideway, but not including any bicycle, motorized scooter, electric personal assistive mobility device, mobile carrier, personal delivery device, swamp buggy, or moped.” Section 316.003(43), F.S.

⁴⁵ Currently defined as “any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground,” including an auticycle, but the term “does not include a tractor, a moped, or any vehicle in which the operator is enclosed by a cabin unless it meets the requirements of the National Highway Traffic Safety Administration for a motorcycle.” Section 316.003(44), F.S.

⁴⁶ *Supra* note 29.

⁴⁷ 23 U.S.C. s. 217 authorizes a state to expend certain funds for construction of pedestrian walkways (sidewalks) and bicycle transportation facilities and for carrying out non-construction projects related to safe bicycle use. 23 U.S.C. s. 217(h) specifically prohibits motorized vehicles on trails and pedestrian walkways if such funds are used by the state to construct them, except for maintenance purposes; when snow conditions and state or local regulations permit, snowmobiles; motorized wheelchairs; when state or local regulations permit, electric bicycles; and such other circumstances as the U.S.D.O.T. Secretary deems appropriate. Failure to comply can result in the state’s loss of those federal funds.

and be subject to all of the duties, of a bicycle or a bicycle operator, including s. 316.2065, F.S., governing the operation of bicycles. However, the bill provides that the new section of law may not be construed to prevent a local government, through the exercise of its powers under s. 316.008, F.S., from adopting an ordinance governing the operation of e-bikes on streets, highways, sidewalks, and sidewalk areas under the local government's jurisdiction; or to prevent a municipality, county, or agency of the state having jurisdiction over a bicycle lane, bicycle path, multiuse path, or trail network from restricting or prohibiting the operation of an e-bike on such lanes, paths, or trail networks.

Under the bill, an e-bike is considered a vehicle to the same extent as a bicycle, and the bill authorizes an e-bike to operate where bicycles are allowed, including, but not limited to, streets, highways, roadways, shoulders, bicycle lanes, bicycle or multiuse paths, and trail networks, unless restricted or prohibited as authorized.

Like bicycles under current law, the bill provides that an e-bike or an operator of an e-bike is not subject to the provisions of law relating to financial responsibility, driver or motor vehicle licenses, vehicle registration, title certificates, off-highway motorcycles, or off-highway vehicles. These provisions have no effect, as bicycles are already excluded from those provisions, except that "motorized" bicycles as currently defined are subject to the described registration fees. E-bikes will not be subject to registration fees.

The bill also requires that an e-bike must function so that the electric motor is disengaged or ceases to function when the rider stops pedaling or when the brakes are applied.

Beginning January 1, 2021, the bill requires manufacturers and distributors of e-bikes to apply a label that is permanently affixed in a prominent location to each e-bike containing the classification number, top assisted speed, and motor wattage of the e-bike. The bill prohibits a person from tampering with or modifying an e-bike in order to change the motor-powered speed capability or engagement of an e-bike, unless the label indicating the classification number required is replaced after such modification. E-bikes must comply with the equipment and manufacturing requirements for bicycles adopted by the CPSC.⁴⁸ The latter provision is a restatement of current law, as bicycles (including e-bikes) must already comply with the requirements of applicable federal law.

Section 5 amends s. 316.083, F.S., to include e-bikes in the provisions of law relating to a driver overtaking a bicycle or other nonmotorized vehicle. Under the bill, a driver overtaking an e-bikes must pass the e-bike at a safe distance of not less than three feet between the vehicle and the e-bike.

Motorized Bicycle Registration (Section 16):

Section 16 amends s. 320.08, F.S., to repeal the imposition of the \$5 flat fee for registration or registration renewal, as well as the \$2.50 safety education fee, imposed on motorized bicycles. These fees will no longer be collected and distributed into the State Transportation Trust Fund and the Highway Safety Operating Trust Fund.

⁴⁸ 16 C.F.R. Part 1512 applies to bicycles and e-bikes.

Additional Technical and Conforming Changes (Sections 6, 7, 17, and 18):

Section 6 amends s. 316.1995, F.S., relating to driving on a sidewalk or bicycle path, to insert a cross-reference to the e-bike regulations in new s. 316.20655, F.S.

Section 7 amends s. 316.2065(3)(d), F.S., to remove references to obsolete bicycle helmet safety standards, leaving in place reference to the federal safety standard for bicycle helmets in 16 C.F.R. part 1203.

Section 17 and 18 amend ss. 316.306 and 655.960, F.S., to correct cross-references made necessary by the revisions to the definitions in s. 316.003, F.S.

III. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure 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.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

IV. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Owners of e-bikes will no longer have to pay a \$5 flat fee for registration or registration renewal, nor the \$2.50 safety education fee.

C. Government Sector Impact:

The bill will likely have a negative but insignificant fiscal impact to the State Transportation Trust Fund and Highway Safety Operating Trust Fund. In FY 2018-19, \$14,633 was collected by the Department of Highway Safety and Motor Vehicles (DHSMV) for both moped and motorized bicycle registration fees.⁴⁹ Because the data is collected and stored together, it is uncertain what percent of the \$14,633 is associated with motorized bicycle registration fees that would not be collected under the bill. The DHSMV advises its Division of Motorist Services will be required to modify its existing procedures, website, driver license handbook, and communications to specific stakeholders, including tax collectors, but assigned no dollar value to these expenses.⁵⁰

Local governments that choose to hold public hearings for the purpose of restricting or prohibiting the operation of an e-bike on bicycle or multi-use paths may incur indeterminate but likely insignificant expenses, offset by possible penalties for violation of any restriction or limitation adopted by the local government. However, the fiscal impact to local governments is indeterminate.

V. Technical Deficiencies:

None.

VI. Related Issues:

The bill deletes the provision in the current definition of “bicycle” prohibiting a person under the age of 16 from operating or riding on a motorized bicycle. Presumably, this revision is intended to authorize any person, regardless of age, to operate or ride on an electric bicycle as defined in the bill. The bill may need revision to ensure that such authorization is or is not intended.

Representatives of the Florida Bicycle Association have expressed some concerns with the e-bike three-class definition. One concern is that the class 2 e-bike does not need pedal assist to engage and may be more similar to a motorized vehicle than a bicycle. Another concern is that the class 3 e-bike can reach speeds of 28 mph, which may be too fast to safely operate on sidewalks or multi-use paths.⁵¹

Likewise, some environmental groups, mountain bikers, hunters, and anglers in other states have voiced opposition to the authorization of e-bikes on public trails. Their concerns relate to damage to the trails, overcrowding of the trails, and too much access to wildlife habitats.⁵²

⁴⁹ *Supra* note 26.

⁵⁰ See the DHSMV’s 2020 Legislative Bill Analysis for SB 1148 (on file in the Senate Infrastructure and Security Committee).

⁵¹ See email to House committee staff, November 11, 2019 (on file in the Senate Infrastructure and Security Committee).

⁵² See Kurt Repanshek, *Dozens of Conservation Groups Oppose eBikes on Non-Motorized Trails*, National Parks Traveler (August 7, 2019), available at <https://www.nationalparkstraveler.org/2019/08/dozens-conservation-groups-oppose-ebikes-non-motorized-trails> (last visited Feb. 6, 2020).

VII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 261.03, 316.003, 316.027, 316.083, 316.1995, 316.613, 316.614, 320.01, 322.01, 324.021, 403.717, 681.102, 320.08, 316.306, and 655.960.

This bill creates the following section of the Florida Statutes: 316.20655.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Infrastructure and Security on February 3, 2020:

The committee substitute:

- Removes obsolete language relating to bicycle helmets, leaving reference to the existing federal safety standard for bicycle helmets.
- Removes a current exclusion for a bicycle with a specified seat height from the definition of “bicycle,” thereby subjecting the described bicycles to bicycle regulations.
- Authorizes a county or municipality to enact an ordinance to regulate the operation of e-bikes on sidewalks and sidewalk areas when permissible under federal law if the ordinance restricts the maximum speed of an e-bike to 15 miles per hour.
- Provides that the new e-bike regulations may not be construed to prevent a local government from adopting an ordinance governing the operation of e-bikes on streets, highways, sidewalks, and sidewalk areas under the local government’s jurisdiction; or to prevent a municipality, county, or agency of the state having jurisdiction over a bicycle lane, bicycle path, multiuse path, or trail network from restricting or prohibiting the operation of an e-bike on such lanes, paths, or trail networks.
- Removes the provision requiring a municipality, county, or agency of the state having jurisdiction over a bicycle or multiuse path to provide notice and hold a public hearing before restricting or prohibiting the operation of an e-bike on the path if the entity finds that such a restriction is necessary in the interest of public safety or to comply with other laws or legal obligations.

- B. **Amendments:**

None.