

June 18, 2004

The Honorable Wayne Smith
Delaware House of Representatives
P.O. Box 1401
Dover, Delaware 19903

The Honorable Catherine Cloutier
Delaware State Senate
P.O. Box 1401
Dover, Delaware 19903

RE: House Bill 439 Electric Bicycles

Dear Representative Smith and Senator Cloutier:

The Delaware Developmental Disabilities Council has reviewed House Bill 439, which attempts to regulate the usage of electric bicycles.

Our Council as well as State Council for Persons with Disabilities' Brain Injury Committee has been active in assessing legislation regulating personal transportation devices such as electric scooters and electric personal assistance mobility devices. Safety and prevention of traumatic brain injury have been the primary focus of this interest. Bills regulating motorized scooters are still pending final action in the Legislature. See S.B. No. 234 and H.B. No.336.

H.B. No. 439 is designed to regulate "low speed electric bicycles" and is prompted by recent federal legislation described in the synopsis.

As background, the House Report on the federal legislation (attached) is informative. It notes that electric bicycles were traditionally regulated by the Department of Transportation as motor vehicles. The legislation removed that jurisdiction and transferred it to the Consumer Product Safety Commission. According to the House Report, the rationale for the change is as follows:

If NHTSA were to enforce its regulations on low-speed electric bicycles strictly, the bikes would be required to have a number of safety features, such as brake lights, turn signals, automotive grade headlights, rear view mirrors, and license plates, that are prohibitively costly, unwieldy, or consume too much power for a low-speed electric bicycle. It is estimated that the application of motor vehicle regulations to power-assisted bicycles would increase the retail price of these bicycles by at least \$200-\$300 and make them less manageable and more unwieldy for consumers.

The federal legislation authorizes the CPSA to issue requirements for low-speed electric bicycles. The bill also excludes the bicycles from federal definitions of “motor vehicles”. Significantly, the bill supersedes any State law or requirement which is stricter than federal law.

We have the following observations on H.B. No. 439.

First, the bill adopts the definition of “low- speed electric bicycle” (lines 7-10) from the federal law. However, the definition overlaps with the definitions of “moped” and “triped”. In other words, the same vehicle may qualify as a “moped “, “triped” and “low-speed electric bicycle” despite inclusion of an exclusionary caveat (lines 12-13 and 15-16) The definition of low-speed electric bicycle is as follows: “...a two- or three-wheeled vehicle with fully operational 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 overlapping definition of a moped [21 Del.C. §101(53)] is as follows: “a pedal or nonpedal bicycle having 2 tandem wheels, either of which is 10 inches or more in maximum diameter, and having a motor characterized in that the maximum piston displacement if less than 55 cc, rated at no more than 2.7 brake horsepower and that the maximum speed does not exceed 25 miles per hour.” The same problem exists with respect to the definition of a “triped” [21 Del.C. §101(61)] which is the same as “moped” except that it has 3 wheels.

The overlapping criteria will result in confusion when enforcing motor vehicle laws and in registration. For example, a moped , but not an electric bicycle, must be registered with DMV. See Title 21 Del.C. §4198J.

Second, line 17 refers to an amendment to Title 21 Del.C. §101(83). Both the Web-based and book versions of the Delaware Code do not contain such a section. Parenthetically, S.B. No. 234, Section 1, which has already passed the Senate, would create a new §101(83) and could create a conflict.

Third, lines 21-24 may benefit from inclusion of an additional restriction, i.e., prohibition of operation “upon interstate and limited access highways” and “operating in railroad right-of-ways”. Compare moped restrictions [Title 21 Del.C. §4198J(a)].

Fourth, the bill (lines 7 and Synopsis) exempts electric bicycles from the prohibition against operation of bicycles while under the influence of drugs or alcohol. It is difficult to understand the rationale for the exemption. If riding a bike while intoxicated on highways is prohibited, why authorize riders to operate a motorized bike while intoxicated? This exemption should be deleted from the bill.

If you have any questions or concerns, please contact our office staff at 739-3333. Thank you for your consideration.

Sincerely,

Anthony L. Horstman
Chair

cc: The Honorable Ruth Ann Minner
Members of 142nd General Assembly
State Council for Persons with Disabilities
SCPD's Brain Injury Committee
Mothers Against Drunk Driving
Think First