

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 Infrastructure and Security

BILL: CS/SB 542

INTRODUCER: Infrastructure and Security Committee and Senator Brandes

SUBJECT: Micromobility Devices and Motorized Scooters

DATE: March 27, 2019 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Miller	IS	Fav/CS
2.			ATD	
3.			AP	

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 542 addresses the operation of micromobility devices and motorized scooters. More specifically, the bill:

- Defines “micromobility device” and revises the definition of “motorized scooter.”
- Grants certain rights and applies certain duties of a bicycle rider to the operator of a micromobility device or motorized scooter, but provides a local government is not prevented from exercising its regulatory authority with respect to streets, highways, and sidewalks under their jurisdiction.
- Provides an operator of a micromobility device or motorized scooter is not required to have a valid driver license.
- Excludes micromobility devices and motorized scooters from compliance with vehicle registration, licensing, and insurance requirements.
- Deems a person who offers motorized scooters or micromobility devices for hire responsible for securing all such devices located in any area of the state where an active tropical storm or hurricane warning has been issued.
- Excludes micromobility devices and motorized scooters from provisions relating to equipment required on slow-moving vehicles, and from the definition of “motor vehicle” in provisions relating to motor vehicle licensing and license-plate display provisions.
- Makes technical and conforming changes.

The fiscal impact to local government and to the private sector is indeterminate. See the Fiscal Impact Statement heading for details.

The bill takes effect upon becoming a law.

II. Present Situation:

Share Programs

Some local governments across the country, and in Florida, have entered into agreements with bicycle and motorized scooter share programs to make the bicycles and scooters available to the public. Advocates see the bicycles and scooters as additional modes of transportation that increase personal mobility, particularly for shorter urban trips. Others local governments have moved to ban them, citing safety concerns.¹

These share programs allow the public to rent and ride bicycles and motorized scooters on a short-term basis within designated geographical areas.²

Docked Bicycle Share Programs

Companies offering “docked” bicycles require their bicycles to be rented from and returned to designated, unmanned docking stations.³ 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 member to rent a bicycle for either an unlimited number of rides or a certain number of minutes per day during the subscription period.⁴

Dockless Bicycle Share Programs

Companies offering “dockless” bicycles do not have stations located at fixed positions from where their bicycles must be rented and returned. The operator unlocks the bicycle using information provided by or transmitted from the program’s mobile application on their mobile phone, and the bicycle is used according to the terms of the program agreement. The program agreement may require the operator to sign a waiver of liability prior to using the bicycle, including waiver of liability by parents who rent a bicycle for their minor children.⁵

The absence of designated bicycle racks, stations, or hubs to dock the bicycles when not in use distinguishes the dockless bicycle sharing model from the docked bicycle sharing models.

¹ See Tallahassee Democrat, Etters, C., March 7, 2019, *E-scooters in Tallahassee? Not right now say commissioners*, available at <https://www.tallahassee.com/story/news/2019/03/07/e-scooters-tallahassee-not-right-now-say-commissioners/3089813002/> (last viewed March 23, 2019).

² Some programs use “geofencing,” “a virtual boundary that triggers an action when crossed by a mobile device,” such as slowing the vehicle down or stopping it. See Route Fifty, *One operator, Bird, expressed displeasure with the 12 mph speed limit the city imposed*, Nyczepir, D., December 19, 2018, available at <https://www.routeifty.com/smart-cities/2018/12/san-jose-moves-forward-scooter-geofencing-rule/153682/> (last viewed March 23, 2019).

³ See, e.g., Citibike, *How it Works*, available at <http://citibikemiami.com/how-it-works> (last viewed March 23, 2019).

⁴ See, e.g., Broward B-cycle, *How it Works*, available at <https://broward.bcycle.com/how-it-works> and Juice Orlando Bike Share, *How it Works*, available at [Juice, About](https://juiceorlando.com/about), (last viewed March 23, 2019).

⁵ See, e.g., Lime, available at <https://www.li.me/> and the Lime user agreement, available at <https://www.li.me/user-agreement> (last viewed March 23, 2019).

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 ends the ride by parking the motorized scooter and selecting to end the ride on the app. The rider receives a summary of the ride with the total amount of the fare.⁶ These motorized scooters are dockless, and riders are able to leave the motorized scooters in a location of their choosing when they end their rides.⁷

Bicycle and motorized scooter share programs are not currently regulated by the state.

Safety and Other Concerns

The Center for Disease Control recently partnered with Austin, Texas, to conduct its first study of emergency services calls and injuries related to dockless electric scooters. In Austin, one of the oldest and biggest dockless scooter programs in the country, six scooter companies were operating a combined 11,000 vehicles in the city as of December of 2018.⁸ The study will examine 37 scooter-related emergency medical services calls and 68 scooter injuries reported at local hospitals in just a two-month period from September to November of 2018.⁹

Riders in Florida have not escaped injury,¹⁰ but in some locations, reported injuries are minimal.¹¹ The causes of such disparate results are difficult to identify due to the broad variation of a number of factors, such as traffic density, geography, weather conditions, the number of scooters deployed in a given local jurisdiction, the number and length of trips, and a host of other potentials. Some doctors point to the need for useful data that will be produced only by development of "a classification schema that does not currently exist: Was the scooter shared or privately owned? Was the user wearing a helmet? ... Doctors are hoping more specific data will inform safety regulations..."¹²

⁶ American Association of Motor Vehicle Administrators, *Electric Dockless Scooters Whitepaper*, 2019, at p. 3. (Copy on file in the Senate Infrastructure and Security Committee.)

⁷ *Id.*

⁸ See Next City, *Federal Agency to Study Dockless Scooter Health Risks*, Kaufman, R., December 13, 2018, available at <https://nextcity.org/daily/entry/federal-agency-to-study-dockless-scooter-health-risks> (last viewed March 23, 2019).

⁹ See Quartz, *Austin is calling in the CDC to study the public health risk of scooters*, Griswold, A., December 12, 2018, available at <https://qz.com/1492227/cdc-will-study-public-health-risk-of-electric-scooters-in-austin/> (last viewed March 23, 2019).

¹⁰ See, e.g., Newser, *Family to Sue After E-Scooter Accident Leaves Woman in Coma*, Quinn, R., February 12, 2019, available at <http://www.newser.com/story/271183/family-to-sue-after-e-scooter-accident-leaves-woman-in-coma.html> (last viewed March 23, 2019). Hollywood, Florida banned scooters "citing an uptick in emergency room visits as they flood sidewalks. ..." *Supra* note 1.

¹¹ *Supra* note 8.

¹² *Id.*

Other concerns have been cited with respect to dockless motorized scooters, perhaps resulting from riders being able to leave the scooters in a location of their choosing. Parking of these scooters has caused concerns relating to:

- Crowding and obstruction of sidewalks for pedestrians;
- Restricting the use of sidewalks for people with disabilities; and
- Riders leaving the scooters in the travel lanes of roadways.¹³

Similar concerns have been raised with respect to the bicycle share programs, including bicycles being thrown into bodies of water, stranded in trees or on rooftops, and left in other undesirable locations.¹⁴

Florida Uniform Traffic Control Law

The Florida Uniform Traffic Control Laws is codified in ch. 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.¹⁵

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. 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.

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.¹⁶ 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.¹⁷
- 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

¹³ *Supra* note 6.

¹⁴ See Next City, *Seattle Test Will Lead to Regulating Dockless Bike-Share*, Cohen, J., December 21, 2017, available at <https://nextcity.org/daily/entry/seattle-dockless-bikeshare-pilot-regulation> (last viewed March 23, 2019).

¹⁵ Sections 316.002 and 316.007, F.S.

¹⁶ Section 316.2065(1), F.S.

¹⁷ Section 316.2065(3)(d), F.S.

- The lessor provides a bicycle helmet for the child to wear.¹⁸
- Every bicycle in use between sunset and sunrise shall 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.¹⁹
- 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.²⁰

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, which makes it unsafe to continue along the right-hand curb or edge or within a bicycle lane.²¹

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.²² 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 practicable²³ and bicycle operators may not ride more than two abreast on a roadway.²⁴

Local Traffic Control Authority

State traffic control laws allow local authorities to exercise some discretion over matters relating to bicycle safety and operation. Section 316.008, F.S., “Powers of local authorities,” grants local authorities with a reasonable exercise of police power to regulate a number of traffic-related activities within their jurisdictions, including:

- 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;

¹⁸ Section 316.2065(15)(a), F.S.

¹⁹ Section 316.2065(7), F.S.

²⁰ Section 316.2065(10), F.S.

²¹ Section 316.2065(5)(a), F.S.

²² *Id.*

²³ Section 316.2065(5)(b), F.S.

²⁴ Section 316.2065(6), F.S.

- 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.

Section 316.008(7), F.S., authorizes a county or municipality to 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, when such use is permissible under federal law²⁵ and under certain conditions. Local authorities, in conjunction with the Department of Transportation, are authorized to determine when overtaking and passing or driving to the left of the roadway would be especially hazardous and may require signs and markings to be placed to designate a no-passing zone.²⁶

Driving on Sidewalks or Bicycle Paths

Section 316.1995, F.S., 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, except:

- Pursuant to a local ordinance as authorized in s. 316.008, F.S., discussed above, or
- As provided in s. 316.212(8), F.S., relating to golf carts.

Operation of Motorized Scooters and Miniature Motorcycles

Section 316.2128, F.S., addresses operation of motorized scooters and miniature motorcycles and their sales. That section requires a commercial seller of these scooters and motorcycles to display at the place of business a notice that they are not legal to operate on public roads, may not be registered as motor vehicles, and may not be operated on sidewalks unless authorized by an ordinance enacted pursuant to s. 316.008(7)(a) or s. 316.212(8), F.S., discussed above. The notice must also appear in all forms of advertising offering motorized scooters or miniature motorcycles for sale, and a copy of the notice must be provided to a consumer prior to becoming obligated to make a purchase.

Additional Equipment Required on Certain Vehicles

Section 316.2225(7), F.S., requires in part that every slow-moving vehicle or equipment, animal-drawn vehicle, or other machinery designed for use and speeds less than 25 miles per hour being operated on a public highway to display a triangular slow-moving vehicle emblem.

III. Effect of Proposed Changes:

The bill addresses the operation of micromobility devices and motorized scooters and revises various related provisions of current law.

²⁵ 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.

²⁶ Section 316.0875, F.S.

Section 1 of the bill amends s. 316.003, F.S., to define the term “micromobility device” to mean “any motorized transportation device 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. This term includes motorized scooters and bicycles as defined in this section.”

This section of the bill also revises the current definition of “motorized scooter” to include any vehicle²⁷ or *micromobility device powered by a motor with or without a seat or saddle for the use of the rider*. The definition is also revised to reduce the maximum allowable speed of such vehicles or devices on level ground from 30 miles per hour to 20 miles per hour. The bill also corrects a cross reference necessitated by the bill’s revisions.

The reduced speed may increase safety for other users of sidewalks where bicycles and motorized scooters use the same sidewalks. However, this result may be offset to the extent that the bill results in increased use of the sidewalks by bicycles and motorized scooters. This result may also be offset to the extent that increased interaction of these devices with “conventional” traffic in the roadways results in additional injuries or fatalities.

Section 2 amends s. 316.1995, F.S., relating to exceptions to driving upon sidewalks or bicycle paths, to insert a cross-reference to new provisions created by the bill in s. 316.2128, F.S.

Section 3 amends s. 316.2128, F.S., relating to operation and sales of motorized scooters and miniature motorcycles, to incorporate micromobility devices into the section title and limit the reference to sales provisions in the title to miniature motorcycles. Additionally, with respect to the operation of micromobility devices or motorized scooters, the bill:

- Grants the operator of a micromobility device or motorized scooter all of the rights and duties applicable to the rider of a bicycle under s. 316.2065, F.S., except those imposed by s. 316.2065(2), (3)(b), and (3)(c), F.S., which by their nature do not apply.²⁸
- Provides that s. 316.2128, F.S., 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 micromobility devices and motorized scooters on streets, highways, sidewalks and sidewalk areas under the local government’s jurisdiction.
- Excludes a micromobility device or motorized scooter from compliance with the vehicle registration and insurance requirements of s. 320.02, F.S.,²⁹ or the vehicle licensing requirements of s. 316.605, F.S.³⁰

²⁷ Section 316.003(99), F.S., defines “vehicle” to mean “every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except personal delivery devices, mobile carriers, and devices used exclusively upon stationary rails or tracks.”

²⁸ These duties include: A person operating a bicycle must ride upon or astride a permanent and regular seat attached thereto; must carry any passenger who is a child under four years of age, or who weighs 40 pounds or less, in a seat or carrier that is designed to carry a child of that age or size that secures and protects the child from the moving parts of the bicycle; and must remain in immediate control of the bicycle when a passenger is in a child seat or carrier.

²⁹ Section 320.02, F.S., generally requires every owner or person in charge of a motor vehicle that is operated or driven on the roads of this state to register the vehicle in this state

³⁰ Section 316.605, F.S., generally requires every vehicle to be licensed in the name of the owner and provides requirements for display of the vehicle license plate.

- Allows a person without a valid driver license to operate a micromobility device or motorized scooter.
- Requires a person who offers micromobility devices or motorized scooters for hire to be responsible for securing all such devices located in any area of the State where the National Weather Service has issues an active tropical storm or hurricane warning.

Because riders of micromobility devices and motorized scooters would have the same rights and duties of bicycle riders under s. 316.2065, F.S. (with the identified exceptions that do not apply by their nature), riders of micromobility devices and motorized scooters would be bound by the provisions of that section of law. For example:

- A person under the age of 16 would continue to be prohibited from operating or riding upon a motorized bicycle.
- A rider or passenger under 16 on a micromobility device or motorized scooter would be required to wear a helmet.
- A rider of a micromobility device or motorized scooter on a roadway would be required to ride in the bicycle lane, but if there is no bicycle lane, as close to the right-hand curb as practicable.
- A rider of a micromobility device or motorized scooter on a sidewalk, or across a roadway on a crosswalk, would be required to yield the right-of-way to any pedestrian.

However, except with respect to specific requirements in the bill, such as the exclusions from vehicle registration, licensing, and insurance requirements, a local government retains its authority under s. 316.008, F.S., to regulate the operation of micromobility devices and motorized scooters on streets, highways, sidewalks and sidewalk areas under the local government's jurisdiction. A local government could not, for example, require a person to have a valid driver license but could set a minimum age requirement for rentals of these devices. Alternatively, a local government could limit the areas where the devices could be operated or potentially prohibit operation of these devices completely.

This section of the bill also removes references to motorized scooters in the consumer notice provisions currently contained in s. 316.2128, F.S., thereby removing motorized scooters from application of those provisions.

Section 4 amends s. 316.2225(7), F.S., to exclude micromobility devices and motorized scooters from equipment requirements related to display of a triangular slow-moving vehicle emblem for certain slow-moving vehicles.

Section 5 amends s. 320.01, F.S., to exclude motorized scooters and micromobility devices from the definition of "motor vehicle" in ch. 320, F.S., relating to motor vehicle licensing provisions.

Section 6 amends s. 655.960(1), F.S., to revise a cross-reference to conform to changes made by the bill.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

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

Increased use of micromobility devices and motorized scooters may have an indeterminate impact on users' out-of-pocket medical treatment costs and other expenses depending on the frequency and severity of injuries that result. The parties to any litigation relating to injuries or fatalities associated with micromobility devices or motorized scooters may incur significant expenses to defend against a claim for or to seek recoverable damages.

C. Government Sector Impact:

Increased use of micromobility devices and motorized scooters may have an indeterminate impact on public health costs depending on the frequency and severity of injuries that may result and the availability of private health insurance to cover those costs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.003, 316.1995, 316.2128, 316.2225, 320.01, and 655.960.

IX. 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 March 26, 2019:

The committee substitute removed the following provisions from the bill:

- Allowing county and municipal regulation of micromobility devices and motorized scooters if the regulation is not in conflict with ch. 316, F.S., and is no more restrictive than the regulation of bicycles.
- Establishing exclusive state and federal control of regulation of such devices and scooters.
- Authorizing counties and municipalities to require licensure of persons offering micromobility devices or motorized scooters for hire and requiring counties and municipalities to grant licenses if specified proof of insurance is provided.
- Authorizing a person to park such devices or scooters on sidewalks under certain conditions.

The committee substitute also provides:

- A local government is not prevented from exercising its traffic-related statutory powers with respect to streets, highways, and sidewalks under local government jurisdiction.
- A person who offers motorized scooters or micromobility devices for hire is responsible for securing all such devices in any area of the state where an active tropical storm or hurricane warning has been issued.

- B. **Amendments:**

None.