

**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.)

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Prepared By: The Professional Staff of the Committee on Rules

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BILL: CS/SB 738

INTRODUCER: Rules Committee and Senator Baxley

SUBJECT: Bicycle Operation Regulations

DATE: March 26, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Vickers	TR	<b>Favorable</b>
2.	Hackett	Ryon	CA	<b>Favorable</b>
3.	Price	Phelps	RC	<b>Fav/CS</b>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 738 amends a current prohibition against a person operating a bicycle other than upon or astride a permanent and regular attached seat, providing that the prohibition applies unless the bicycle was designed by the manufacturer to be ridden without a seat. Under the bill, a person riding a bicycle manufactured without a seat would not be subject to an existing penalty for a violation of the prohibition.

The bill also amends existing electric bicycle regulations that afford an electric bicycle or electric bicycle operator the same rights, privileges, and duties of a bicycle or bicycle operator, providing that such regulations do not prevent a municipality, county, or agency of the state with jurisdiction over a beach or dune from restricting or prohibiting the operation of an electric bicycle on such beach or dune.

The bill, with respect to riding a bicycle manufactured without a seat, is expected to present an unknown but likely insignificant negative fiscal impact to state and local revenues, and an insignificant positive fiscal impact to riders of bicycles manufactured to be ridden without a seat.

The fiscal impact of the provision relating to electric bicycles is unknown.

The bill takes effect July 1, 2021.

## II. Present Situation:

### Bicycles

While the “traditional” bicycle that comes to mind may be of the two-tandem-wheel variety with an attached seat, other devices generally recognized as bicycles, such as elliptical bicycles, may be sold with two tandem wheels or with two front or two rear wheels<sup>1</sup> and may be manufactured *without* an attached seat for a rider’s use. For these, no seat is attached by the manufacturer, as the rider stands while propelling the bicycle by human power.

### Attached Bicycle Seats

#### *Florida Bicycle Law*

Section 316.003(4), F.S., defines the term “bicycle” to mean “every vehicle<sup>2</sup> propelled solely by human power, having two tandem wheels, *and including any device generally recognized as a bicycle though equipped with two front or two rear wheels.*<sup>3</sup> The term does not include a scooter or similar device.” An elliptical bicycle, for example, appears to meet the definition.

Section 316.2065(2), F.S., however, prohibits a person operating a bicycle from riding *other than upon or astride a permanent and regular seat attached thereto.*<sup>4</sup> At least one rider has reportedly been cited for a violation of this provision while riding an elliptical bicycle.<sup>5</sup>

Section 316.2065(19), F.S., provides that a violation of that section is a noncriminal traffic infraction, which is punishable as a pedestrian violation, and subjects a violator to a \$15 penalty,<sup>6</sup> plus court costs, portions of which are distributed monthly to various entities and trust funds.<sup>7</sup>

#### *California Bicycle Law*

Research identifies one other state, California,<sup>8</sup> with a statute that includes the same prohibition against riding other than upon or astride a permanent and regular seat attached to the bicycle, but *also* provides an exception when the bicycle was designed by the manufacturer to be ridden without a seat.

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<sup>1</sup> See *Bicycling, Take Your Low-Impact Workout Outside with an Elliptical Bike*, to view examples of three differently-configured elliptical bikes, available at <https://www.bicycling.com/bikes-gear/g23895814/elliptical-bike/> (retrieved February 16, 2021).

<sup>2</sup> The term “vehicle” is defined in s. 316.003(103), F.S., as “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.”

<sup>3</sup> Emphasis added.

<sup>4</sup> Emphasis added.

<sup>5</sup> See email to committee staff, January 29, 2021 (on file in the Senate Community Affairs Committee).

<sup>6</sup> Section 318.18(1)(b), F.S.

<sup>7</sup> Revenues for a violation of the current prohibition against riding other than on or astride a seat attached to a bicycle are distributed monthly in portions specified in s. 318.21, F.S., to various local entities (such as court clerks, and counties and municipalities in which a violation occurs) and various state trust funds (such as the Child Welfare Training Trust Fund, Grants and Donations Trust Fund, and Emergency Medical Services Trust Fund).

<sup>8</sup> See California Vehicle Code, VEH s. 21204.

While use of elliptical bicycles may not be as prevalent as use of “traditional” bicycles, elliptical bicycles are readily available on the market. However, a person operating an elliptical bicycle is explicitly in violation of current Florida law if the bicycle has no attached seat for the rider’s use.

### **Regulation of Electric Bicycles**

Under current law, an electric bicycle<sup>9</sup> or an operator of an electric bicycle is generally afforded all the rights and privileges and is subject to all of the duties of a bicycle or a bicycle operator.<sup>10</sup> However, current law does not prevent a local government, through the exercise of its powers under s. 316.008, F.S.,<sup>11</sup> from adopting an ordinance governing the operation of electric bicycles on streets, highways, sidewalks, and sidewalk areas under the local government’s jurisdiction, nor to prevent a municipality, county, or state agency with jurisdiction over a bicycle path, multiuse path, or trail network from restricting or prohibiting the operation of an electric bicycle on a bicycle path, multiuse path, or trail network.<sup>12</sup>

### **Beach Access and Use**

Article X, Section 11 of the Florida Constitution provides that the state holds the land seaward of the mean high-tide line (MHTL) in trust for the public, leaving the public a right of access below the MHTL, as depicted in the graphic below.<sup>13</sup> Known as the “Public Trust Doctrine,” the traditionally contemplated public access for fishing, commerce, and navigation has been more recently expanded to include recreational uses.<sup>14</sup> Beaches are treated as essential public coastal recreational resources, as is reflected in the State Comprehensive Plan, which expressly states with respect to coastal and marine resources a policy of ensuring the public’s right to reasonable access to beaches.<sup>15</sup> Private beachfront property, however, extends to the MHTL, unless the dry beach is owned for public use, such as in local, state, or federal parks; but private property owners may have the ability to exclude public access to or through their property.<sup>16</sup>

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<sup>9</sup> Section 316.003(22), F.S., defines the term “electric bicycle” to mean 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...” one of three classifications of electric bicycles, depending upon whether a rider is pedaling, whether the motor is capable of exclusive propulsion of the electric bicycle, and the speed at which the motor ceases to provide propulsion assistance. These bicycles are, as indicated, motorized.

<sup>10</sup> Section 316.20655(1), F.S.

<sup>11</sup> Current law states that the provisions of chapter 316, F.S., relating to uniform traffic control, do not prevent local authorities, with respect to *streets and highways* under their jurisdiction and within the reasonable exercise of the police power, from enacting a broad list of approved regulations, one of which specifically refers to regulating the operation of bicycles. Section 316.008, F.S.,

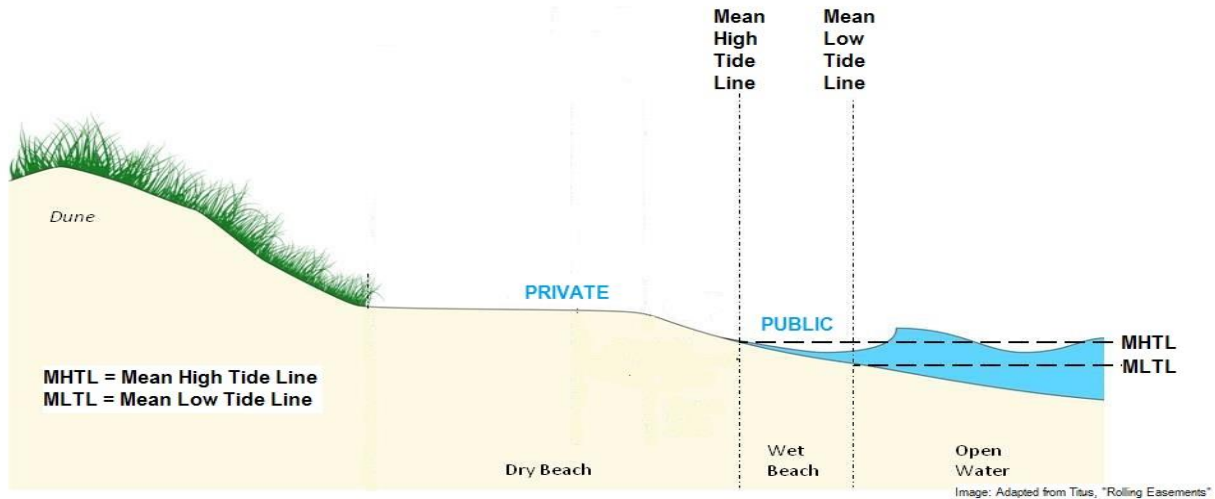
<sup>12</sup> *Supra* note 10.

<sup>13</sup> See Sea Grant Florida, *Beaches*, available at [https://www.flseagrant.org/wateraccess/beaches/#:~:text=Affairs%201995\).-Beach%20Users,in%20trust%20for%20the%20public](https://www.flseagrant.org/wateraccess/beaches/#:~:text=Affairs%201995).-Beach%20Users,in%20trust%20for%20the%20public). (last visited March 24, 2021). “Florida Sea Grant is a university-based program [at the University of Florida] that supports research, education, and extension to conserve coastal resources and enhance economic opportunities for the people of Florida. See Sea Grant Florida, *About Us*, available at <https://www.flseagrant.org/about/> (last visited March 24, 2021).

<sup>14</sup> *Id.*

<sup>15</sup> Section 187.201(8)(b)(2), F.S.

<sup>16</sup> *Id.*



**Definitions**

The term “beach” is defined for purposes of construing the Coastal Zone Protection Act of 1985,<sup>17</sup> to mean “the zone of unconsolidated material that extends landward from the mean low-water line to the place where there is marked change in material or physiographic form, or to the line of permanent vegetation, usually the effective limit of storm waves. ‘Beach’ is alternatively termed ‘shore.’”<sup>18</sup>

The term “dune” is defined for the same purpose to mean “a mound or ridge of loose sediments, usually sand-sized sediments, lying landward of the beach and deposited by any natural or artificial mechanism.”<sup>19</sup>

**III. Effect of Proposed Changes:**

The bill amends s. 316.2065(2), F.S., to require a person operating a bicycle to ride upon or astride a permanent and regular attached seat, unless the bicycle was designed by the manufacturer to be ridden without a seat. Thus, under the bill, persons riding a bicycle manufactured to be ridden without a seat will no longer be subject to the \$15 penalty.

The bill also amends s. 316.2065(1), F.S., providing that bicycle regulations that afford an electric bicycle or electric bicycle operator the same rights, privileges, and duties of a bicycle or bicycle operator do not prevent a municipality, county, or agency of the state with jurisdiction over a beach or dune, defined as described above, from restricting or prohibiting the operation of an electric bicycle on such beach or dune. Under the bill, a municipality, a county, or a state agency with jurisdiction over a beach or dune may regulate the operation of electric bicycles on such beach or dune, which would include prohibiting such operation.

<sup>17</sup> Sections 161.52-161.58, F.S.

<sup>18</sup> Section 161.54(3), F.S.

<sup>19</sup> Section 161.54(4), F.S.

**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 identified.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

An insignificant positive fiscal impact is expected for riders of bicycles manufactured to be ridden without a seat, as such riders would no longer be subject to the applicable penalty. To the extent that any municipality, county, or state agency enacts ordinances or rules restricting or prohibiting the operation of electric bicycles on beaches or dunes, electric bicycle riders may be subject to payment of a penalty for a violation. However, the extent of any fiscal impact resulting from a potential penalty is unknown.

## C. Government Sector Impact:

The number of citations previously issued for violations of the prohibition is unknown; thus, the extent of any reduction to state and local revenues resulting from the exception provided under the bill is unknown. However, any revenue reduction is likely insignificant.

The Florida Department of Highway Safety and Motor Vehicles advises it will incur insignificant expenses associated with updating the Florida Driver's Handbook and

Uniform Traffic Infraction guide, as well as training law enforcement personnel on the bill's provisions.<sup>20</sup>

To the extent that any municipality, county, or state agency enacts ordinances or rules restricting or prohibiting the operation of electric bicycles on beaches or dunes, that entity will likely incur insignificant administrative expenses associated with enacting such ordinances or adopting such rules, offset by collection of potential penalties. The extent of any fiscal impact resulting from a potential penalty is unknown.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill amends s. 316.2065 of the Florida Statutes.

**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 Rules on March 25, 2021:**

The committee substitute provides that existing electric bicycle regulations affording an electric bicycle or electric bicycle operator the same rights, privileges, and duties of a bicycle or bicycle operator do not prevent a municipality, county, or agency of the state with jurisdiction over a beach or dune from restricting or prohibiting the operation of an electric bicycle on such beach or dune.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>20</sup> See Department of Highway Safety and Motor Vehicles Legislative Bill Analysis for 2020 SB 738 (on file in the Senate Transportation Committee).