

Date of Hearing: April 22, 2019

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 1112 (Friedman) – As Amended April 8, 2019

SUBJECT: Motorized scooters: local regulation

SUMMARY: Authorizes local authorities to regulate motorized scooters and scooter share operators as specified. Specifically, **this bill**:

- 1) Defines “shared scooter” as a motorized scooter offered for hire, a “scooter share operator” as a person offering shared scooters for hire, and a “scooter share program” as the offering of shared scooters for hire.
- 2) Requires all shared scooters to include a single unique alphanumeric ID visible from five feet.
- 3) Requires all scooter share operators to maintain the following insurance coverage:
 - a) Commercial general liability coverage with a limit of no less than \$1 million per occurrence, and \$5 million aggregate;
 - b) Automobile insurance coverage with a combined single limit of no less than \$1 million; and
 - c) Worker’s compensation coverage if the scooter share operator maintains employees as required by existing law.
- 4) Authorizes a local authority to regulate the operation of motorized scooters and specifies that those regulations may include, but are not limited to, restricting the maximum speed of operation in a pedestrian zone and penalties for moving or parking violations as long as they do not exceed the penalty assessed to bicycle riders.
- 5) Authorizes a local authority to regulate the operation of shared scooters and specifies that those regulations may include, but are not limited to, the following:
 - a) Requiring the scooter share operator to pay fees, provided that the total amount of fees collected does not exceed the reasonable and necessary cost of administering the program;
 - b) Requiring the scooter share operator to indemnify the local authority for claims, demands, costs, losses, or damages arising out of negligence or willful misconduct;
 - c) Designating locations where scooter share operators can or cannot stage shared scooters, as long as at least one location is available on each side of each city block in commercial zones and business districts; and
 - d) Promulgating and assessing penalties for moving or parking violations as long as they do not exceed the penalty assessed to bicycle riders.
- 6) Authorizes a local authority to require a scooter share operator to provide trip data on any shared scooter whose trip starts or finishes within its jurisdiction as long as the local authority agrees to comply with all of the following:

- a) The data is provided by an application programming interface and is subject to a privacy policy disclosing what data is collected and how the data is used and shared;
 - b) The data is safely and securely stored by the local authority;
 - c) The data is treated as personal, trade secret, and proprietary business information and is exempt from public disclosure pursuant to any public records request; and
 - d) The data is not shared with law enforcement except pursuant to a valid legal process.
- 7) Limits a local authority from imposing on a scooter share operator any unduly restrictive requirements or requirements more restrictive than those applicable to riders of privately owned motorized scooters or bicycles.
 - 8) Includes findings that a basic level of statewide standards for local regulation of motorized scooters encourages innovation, but that the intent of this bill is not to limit regulations a local authority may otherwise implement beyond the minimum standards outlined in this bill.

EXISTING LAW:

- 1) Authorizes a city or county to make and enforce within its limits all local, police, sanitary and other ordinances and regulations not in conflict with general laws, known as the police power of cities.
- 2) Authorizes local governments to require businesses operating in their jurisdictions to obtain a license and impose related licensing fees.
- 3) Defines a “motorized scooter” as a two-wheeled device that has handlebars and a floorboard that is designed to be stood upon while riding and is powered by an electric motor.
- 4) Authorizes a local authority to regulate the parking and operation of a motorized scooter on pedestrian or bicycle facilities and local streets within its jurisdiction.
- 5) Restricts a motorized scooter from operation on sidewalks.
- 6) Requires an operator of a motorized scooter to have a valid driver’s license or learner permit, and to wear a helmet if under the age of 18.
- 7) Authorizes a local jurisdiction to adopt rules and regulations prohibiting or restricting persons from riding or propelling bicycles on sidewalks.

FISCAL EFFECT: Unknown.

COMMENTS: The California Constitution allows a city or county to "make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws, known as the police power of cities." It is from this fundamental power that local governments derive their authority to regulate land uses through planning, zoning ordinances, and use permits. Local agencies also use this police power to abate nuisances and protect public health, safety and welfare.

As an extension of the police power, local governments may require businesses operating in their jurisdictions to obtain a license and impose related licensing fees. Local governments license businesses for a number of reasons: to identify individuals operating businesses in their jurisdictions, to ensure compliance with other local laws, to facilitate contact in case a problem arises, and to raise money to support public services that support those businesses.

Cities and counties subject businesses to a wide variety of regulations to preserve the public health and welfare, such as limitations on their hours of operation, restrictions on where various types of businesses can be located within a jurisdiction, and regulations on the type of merchandise that can be sold. These regulations are typically intended to address concerns of local citizens about the impact of a business.

The number of mobility options available to the average consumer is exploding. Not long ago, the only common ways for people to get from one place to another were walking, biking, public transit, driving their own vehicle, or hailing a taxi. The shared economy has changed the way of getting around by providing the ability to use existing modes of transport without personal ownership. Transportation Network Companies like Lyft and Uber allow individuals to provide a taxi-like service using their personal vehicles. Car sharing companies like Zipcar and Gig Car Share allow individuals to drive a vehicle they do not own located on the curb instead of renting a car from a rental company. Instead of choosing between walking and using one's personal bicycle, consumers can use motorized skateboards, motorized scooters, electric bicycles, or rent any number of these personal mobility devices by the minute from companies like Jump or Bird.

The mobility revolution has expanded rapidly over the last decade, and appears likely to continue as automated vehicles and various other mobility solutions are developed and become available. At times, government has struggled to keep up with the changes and effectively regulate the safe use of these various technologies as they have become available. This bill takes one segment of this technological transformation, motorized scooters, and attempts to create some uniformity of regulation from one jurisdiction to the next.

According to the author, "Currently, there is a patchwork of ordinances regulating e-scooters with varying requirements that make it difficult for riders to understand whether they are in compliance. AB 1112 establishes uniform regulations. This bill brings the state Vehicle Code into alignment with California's ambitious transportation and climate goals by establishing statewide guidance for e-scooters and e-scooter share companies. AB 1112 does not limit any regulations a local authority can otherwise implement beyond the minimum standards specified in the bill."

Bird, a scooter share operator, writing in support of this bill, states it "establishes guidelines to ensure clarity in the law to enable zero-emission transportation, reduce traffic congestion, and increase safety on the road. Bird strongly feels that the aims of this bill align with our mission to partner with cities to ease congestion and advance their climate goals in a safe and economically accessible way." In addition, Sierra Club and a number of other partners write in support, "With the growing success and adoption of electric scooters across the state, we applaud the author's important work in providing a clear framework for how this micro-mobility solution can best be utilized in order to achieve the vast benefits electric scooters provide."

Writing in opposition, the League of California Cities argues that this bill would eliminate the ability for cities to fully regulate corporations that offer shared motorized scooter services or implement innovative measures such as incentivizing parking in drop zones and discount programs

for low-income and/or the elderly. The League states, “While a handful of corporations have been willing to work with cities and counties in deploying this technology in a responsible manner, a number of corporations have been running afoul of local regulation and law enforcement as companies skirt local laws to compete for market share. Absent minimum safety and consumer protections statewide, cities have been enforcing local laws that protect motorists, bicyclists, pedestrians, and scooter users while crafting pilot programs and ordinances to responsibly deploy scooter shared services as an alternative mode of transportation. Unfortunately, AB 1112’s elimination of local authority in this space would put the public’s safety, health, and welfare at risk.”

Committee concerns: As motorized scooters proliferate in California’s cities, concerns about safety have increased. In existing law there are a number of restrictions on the use of these scooters to help ensure safe operation, such as riding on a sidewalk, with a passenger, or leaving a scooter on its side on any sidewalk. Unfortunately, these illegal behaviors appear to occur with alarming frequency, and emergency rooms are seeing a noted increase in trauma visits due to scooter use.

While the aim of this bill seems reasonable, the implementation of that aim demonstrates the perennial struggle between the state’s quest for uniformity and the local jurisdictions’ desire for autonomy. The author’s stated intention is for this bill to establish uniform regulations, but the only effective way to do so is to enact legislation with statewide requirements, which in effect eliminates the local jurisdiction’s free agency. Instead, the vast majority of this bill authorizes local jurisdictions to adopt regulations, which they can already do, and then gives examples of the types of regulations the local agency could adopt.

While this bill does not create a floor of regulation, as the author suggests, it does effectively put some limits to local’s authority to regulate share scooter programs. For example, this bill limits the penalty a local authority can assess for moving or parking violations to those assess to riders of bicycles. Also, this bill specifically limits requirements on shared scooter operators to not be “unduly restrictive,” but fails to define what that means. While authorizing local authorities to require scooter share operators to pay fees, this bill limits the total amount of fees to the “reasonable and necessary” cost of administering the program but does not define that is reasonable or necessary.

As a counterpoint, AB 1286 (Muratsuchi) requires a city or county to adopt operation, parking, maintenance and safety rules regarding the use of shared mobility devices in its jurisdiction before the shared mobility service provider may offer its services. AB 1286 is currently pending in the Assembly Committee on Privacy and Consumer Protection. While AB 1286 represents more meaningful change than this bill, it may run into the same challenges that exist today of rules being passed but not enforced and therefore having no material impact.

It is unclear whether this bill does much to help protect the public’s interests, and may in fact undermine local jurisdictions’ ability to properly regulate motorized scooters. The author may wish to consider amending the bill into a requirement that the California Department of Transportation, or some other appropriate statewide entity, publish a best practices guidebook for local governments to use as they consider the best way to permit and regulate the operation of shared scooter programs within their jurisdictions.

Double referral: This bill will be heard by the Assembly Committee on Privacy and Consumer Protection if it passes out of this committee. The Consumer Attorneys of California, writing in opposition to this bill, raise a number of additional concerns with this bill related to the insurance coverage and data requirements which will be considered in the second committee.

Related legislation: AB 1286 (Muratsuchi) requires a city or county to adopt operation, parking, maintenance and safety rules regarding the use of shared mobility devices in its jurisdiction before the shared mobility service provider may offer its services. AB 1286 is currently pending in the Assembly Committee on Privacy and Consumer Protection.

Previous legislation: AB 2989 (Flora), Chapter 552, Statutes of 2018, allowed a local authority to authorize the operation of a motorized scooter on streets with a speed limit of up to 35 miles per hour and required an operator of a motorized scooter under the age of 18 to wear a helmet.

REGISTERED SUPPORT / OPPOSITION:

Support

Bay Area Council
Bird
California Hispanic Chambers Of Commerce
Central Coast Health Network
Circulate San Diego
Clinicas Del Camino Real
Clinicas Del Valle de Salinas
Congress of Racial Equality
Interfaith Movement for Human Integrity
Los Angeles Metropolitan Churches
National Action Network
National Asian American Coalition
Sierra Club California
Silicon Valley Leadership Group
Southern Christian Leadership Conference of Southern California

Opposition

California Walks
Consumer Attorneys of California
League of California Cities

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