

ACT 174

H.B. NO. 72

A Bill for an Act Relating to Electric Foot Scooters.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 249, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“~~§249-~~ **Electric foot scooters; registration.** An electric foot scooter shall be required to be registered, and shall be subject to a permanent registration fee of \$30, to be paid by the owners thereof to the director of finance to be deposited into the bikeway fund under section 249-17.5, Hawaii Revised Statutes.”

SECTION 2. Chapter 291C, Hawaii Revised Statutes, is amended by adding a new section to part XII to be appropriately designated and to read as follows:

“§291C- Electric foot scooters. (a) This section shall apply whenever an electric foot scooter is operated upon any highway, street, roadway, or other designated public area set aside for the use of electric foot scooters.

(b) Every person operating an electric foot scooter upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to a driver of a vehicle under this chapter, except as to provisions of this:

(1) Section to the contrary; and

(2) Chapter that, by their nature, can have no application.

(c) The counties by ordinance shall regulate operations of electric foot scooters with regard to, but not limited to, the following:

(1) Operations in or upon roadways, bikeways, bicycle paths, and sidewalks;

(2) Storage and docking locations;

(3) Restrictions on maximum speed;

(4) Safety considerations; and

(5) Insurance requirements;

provided that no authority adopted in accordance with this subsection shall be less restrictive than the requirements set forth in this section.

(d) No person under fifteen years of age shall operate an electric foot scooter on a highway, street, roadway, or any other public property in the State. No person under sixteen years of age shall operate an electric foot scooter unless the person wears a safety helmet securely fastened with a chin strap. The safety helmet shall meet the specifications of and requirements for a bicycle helmet as set out in section 291C-150.

(e) No person shall operate an electric foot scooter that is carrying any other person, nor shall any person other than the operator ride upon an electric foot scooter.

(f) No person operating an electric foot scooter shall carry any package, bundle, or article that prevents the use of both hands in the control and operation of the electric foot scooter.

(g) Any electric foot scooter used from thirty minutes after sunset until thirty minutes before sunrise shall meet the specifications of and requirements for lamps and other equipment on bicycles as set out in section 291C-147; provided that in lieu of the requirement of section 291C-147(b), every electric foot scooter shall be equipped with a lighted lamp that is visible from the rear.

(h) No person shall operate an electric foot scooter at a speed other than is reasonable and prudent and having regard to the actual and potential hazards and conditions then existing; provided that no person shall operate an electric foot scooter at a speed greater than fifteen miles per hour.

(i) Any person who operates an electric foot scooter recklessly in disregard of the safety of persons or property shall be assessed penalties as set forth in section 291C-161(b).

(j) A person or entity that provides electric foot scooters for hire shall not rent or lease an electric foot scooter to any person unless:

(1) Each renter or lessee that is under the age of sixteen wears a safety helmet, as required by subsection (d), while operating the electric foot scooter; and

(2) Each renter or lessee is provided with a copy of the electric foot scooter ordinances or rules that have been adopted by the applicable county.

(k) Electric foot scooters shall only be stored or docked at specific locations that shall be authorized by the counties.”

SECTION 3. Section 249-1, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read:

“Electric foot scooter” means a device:

- (1) Weighing less than seventy-five pounds;
- (2) With two or three wheels;
- (3) With handlebars;
- (4) With either:
 - (A) A floorboard that can be stood upon while riding; or
 - (B) A seat or saddle for the use of the rider and stationary footrests;
- (5) That is powered by an electric motor or human power; and
- (6) Whose maximum speed, with or without human propulsion on a paved level surface, does not exceed fifteen miles per hour.

“Electric foot scooter” does not include foot-powered scooters that do not have a motor.”

2. By amending the definition of “moped” to read:

“Moped” means a device upon which a person may ride [~~which~~] that has two or three wheels in contact with the ground, a motor having a maximum power output capability measured at the motor output shaft, in accordance with the Society of Automotive Engineers standards, of two horsepower (one thousand four hundred ninety-two watts) or less and, if it is a combustion engine, a maximum piston or rotor displacement of 3.05 cubic inches (fifty cubic centimeters) and [~~which~~] that will propel the device, unassisted, on a level surface at a maximum speed no greater than thirty miles per hour; and a direct or automatic power drive system, which requires no clutch or gear shift operation by the moped driver after the drive system is engaged with the power unit. “Moped” does not include an electric foot scooter.”

SECTION 4. Section 286-2, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read:

“Electric foot scooter” means a device:

- (1) Weighing less than seventy-five pounds;
- (2) With two or three wheels;
- (3) With handlebars;
- (4) With either:
 - (A) A floorboard that can be stood upon while riding; or
 - (B) A seat or saddle for the use of the rider and stationary footrests;
- (5) That is powered by an electric motor or human power; and
- (6) Whose maximum speed, with or without human propulsion on a paved level surface, does not exceed fifteen miles per hour.

“Electric foot scooter” does not include foot-powered scooters that do not have a motor.”

2. By amending the definition of “moped” to read:

“Moped” means a device upon which a person may ride [~~which~~] that has two or three wheels in contact with the ground, a motor having a maximum power output capability measured at the motor output shaft, in accordance with the Society of Automotive Engineers standards, of two horsepower (one thousand four hundred ninety-two watts) or less and, if it is a combustion engine, a maximum piston or rotor displacement of 3.05 cubic inches (fifty cubic centimeters) and [~~which~~] that will propel the moped, unassisted, on a level surface at a

maximum speed no greater than thirty miles per hour; and a direct or automatic power drive system, which requires no clutch or gear shift operation by the moped driver after the drive system is engaged with the power unit. “Moped” does not include an electric foot scooter.”

SECTION 5. Section 291-31.5, Hawaii Revised Statutes, is amended by amending its title and subsection (a) to read as follows:

“§291-31.5 Blue lights prohibited for motor vehicles, motorcycles, motor scooters, bicycles, electric foot scooters, and mopeds. (a) No person shall knowingly operate, affix or cause to be affixed, display, or possess any lamp, reflector, or illumination device that appears to be the color blue, or colors blue and red, upon any motor vehicle, motorcycle, motor scooter, bicycle, electric foot scooter, or moped, except for:

- (1) County law enforcement vehicles authorized and approved by the chief of police of the county in which the vehicle is operated;
- (2) Department of public safety law enforcement vehicles with blue and red lamps, reflectors, or illumination devices authorized and approved by the director of public safety;
- (3) Department of land and natural resources division of conservation and resources enforcement vehicles with blue and red lamps, reflectors, or illumination devices authorized and approved by the chairperson of the board of land and natural resources; or
- (4) Department of transportation division of harbors law enforcement vehicles with blue and red lamps, reflectors, or illumination devices authorized and approved by the director of transportation.

This prohibition shall not apply to factory-installed instrument illumination.”

SECTION 6. Section 291C-1, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read:

““Electric foot scooter” means a device:

- (1) Weighing less than seventy-five pounds;
- (2) With two or three wheels;
- (3) With handlebars;
- (4) With either:
 - (A) A floorboard that can be stood upon while riding; or
 - (B) A seat or saddle for the use of the rider and stationary footrests;
- (5) That is powered by an electric motor or human power; and
- (6) Whose maximum speed, with or without human propulsion on a paved level surface, does not exceed fifteen miles per hour.

“Electric foot scooter” does not include foot-powered scooters that do not have a motor.”

2. By amending the definition of “moped” to read:

““Moped” means a device upon which a person may ride [which] that has two or three wheels in contact with the ground, a motor having a maximum power output capability measured at the motor output shaft, in accordance with the Society of Automotive Engineers standards, of two horsepower (one thousand four hundred ninety-two watts) or less and, if it is a combustion engine, a maximum piston or rotor displacement of 3.05 cubic inches (fifty cubic centimeters) and [which] that will propel the device unassisted, on a level surface at a maximum speed no greater than thirty miles per hour; and a direct or automatic power drive system, which requires no clutch or gear shift operation by the mo-

ped driver after the drive system is engaged with the power unit. “Moped” does not include an electric foot scooter.”

SECTION 7. Section 291C-123, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) No person shall drive any vehicle other than a bicycle, electric foot scooter, or moped upon a bicycle lane or bicycle path, except upon a permanent or authorized temporary driveway, or park any vehicle upon a bicycle lane or bicycle path; provided that any vehicle may be driven or parked in a bicycle lane or bicycle path as applicable if:

- (1) It is in the process of executing a legal turn, lane change, or parking maneuver;
- (2) It is an authorized emergency vehicle performing the functions under section 291C-26;
- (3) It is an official federal, state, or county vehicle in the performance of its actual duty;
- (4) It is a stalled or broken vehicle;
- (5) It is necessary to assist a stalled or broken vehicle;
- (6) It is necessary to yield to an authorized emergency vehicle pursuant to section 291C-65; or
- (7) It is otherwise provided by law.”

SECTION 8. Section 431:10C-304, Hawaii Revised Statutes, is amended to read as follows:

“§431:10C-304 Obligation to pay personal injury protection benefits. For purposes of this section, the term “personal injury protection insurer” includes personal injury protection self-insurers. Every personal injury protection insurer shall provide personal injury protection benefits for accidental harm as follows:

- (1) Except as otherwise provided in section 431:10C-305(d), in the case of injury arising out of a motor vehicle accident, the insurer shall pay, without regard to fault, to the provider of services on behalf of the following persons who sustain accidental harm as a result of the operation, maintenance, or use of the vehicle, an amount equal to the personal injury protection benefits as defined in section 431:10C-103.5(a) payable for expenses to that person as a result of the injury:
 - (A) Any person, including the owner, operator, occupant, or user of the insured motor vehicle;
 - (B) Any pedestrian [including a bicyclist]; [Ø]
 - (C) Any user or operator of a moped as defined in section 249-1; or
 - (D) Any user or operator of an electric foot scooter as defined in section 249-1;provided that this paragraph shall not apply in the case of injury to or death of any operator or passenger of a motorcycle or motor scooter as defined in section 286-2 arising out of a motor vehicle accident, unless expressly provided for in the motor vehicle policy;
- (2) Payment of personal injury protection benefits shall be made as the benefits accrue, except that in the case of death, payment of benefits under section 431:10C-302(a)(5) may be made immediately in a lump sum payment, at the option of the beneficiary;
- (3) (A) Payment of personal injury protection benefits shall be made within thirty days after the insurer has received reasonable

- proof of the fact and amount of benefits accrued, and demand for payment thereof. All providers ~~[must]~~ shall produce descriptions of the service provided in conformity with applicable fee schedule codes;
- (B) If the insurer elects to deny a claim for benefits in whole or in part, the insurer shall, within thirty days, notify the claimant in writing of the denial and the reasons for the denial. The denial notice shall be prepared and mailed by the insurer in triplicate copies and be in a format approved by the commissioner. In the case of benefits for services specified in section 431:10C-103.5(a) the insurer shall also mail a copy of the denial to the provider; and
 - (C) If the insurer cannot pay or deny the claim for benefits because additional information or loss documentation is needed, the insurer shall, within the thirty days, forward to the claimant an itemized list of all the required documents. In the case of benefits for services specified in section 431:10C-103.5(a) the insurer shall also forward the list to the service provider;
- (4) Amounts of benefits ~~[which]~~ that are unpaid thirty days after the insurer has received reasonable proof of the fact and the amount of benefits accrued, and demand for payment thereof, after the expiration of the thirty days, shall bear interest at the rate of one and one-half per cent per month;
 - (5) No part of personal injury protection benefits paid shall be applied in any manner as attorney's fees in the case of injury or death for which the benefits are paid. The insurer shall pay, subject to section 431:10C-211, in addition to the personal injury protection benefits due, all attorney's fees and costs of settlement or suit necessary to effect the payment of any or all personal injury protection benefits found due under the contract. Any contract in violation of this provision shall be illegal and unenforceable. It shall constitute an unlawful and unethical act for any attorney to solicit, enter into, or knowingly accept benefits under any contract;
 - (6) Disputes between the provider and the insurer over the amount of a charge or the correct fee or procedure code to be used under the workers' compensation supplemental medical fee schedule shall be governed by section 431:10C-308.5; and
 - (7) Any insurer who violates this section shall be subject to section 431:10C-117(b) and (c)."

SECTION 9. Section 707-700, Hawaii Revised Statutes, is amended by amending the definition of "vulnerable user" to read as follows:

""Vulnerable user" means:

- (1) A pedestrian legally within a street or public highway;
- (2) A roadway worker actually engaged in work upon a street or public highway or in work upon utility facilities along a street or public highway, or engaged in the provision of emergency services within a street or public highway, including but not limited to:
 - (a) Construction and maintenance workers; and
 - (b) Police, fire, and other emergency responders; or
- (3) A person legally operating any of the following within the street or public highway:
 - (a) A bicycle;
 - (b) A moped;

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(c) An electric foot scooter;

~~[(e)]~~ (d) An electric personal assistive mobility device; or

~~[(d)]~~ (e) A wheelchair conveyance or other personal mobility device.”

SECTION 10. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 11. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 12. This Act shall take effect upon its approval.

(Approved July 1, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.