

ACT 214

S.B. NO. 615

A Bill for an Act Relating to Rentals of Mopeds and Motor Scooters.

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

PART I

SECTION 1. This part shall be known and may be cited as “Lexi’s Law”.

SECTION 2. The legislature finds that wearing a helmet while operating a moped, powered scooter, or other motorized cycle decreases fatalities and serious injuries. In August 2017, Alexis “Lexi” Jenkins, a visitor to Maui who was not wearing a helmet, suffered a fatal accident when the rented moped she was riding collided with a truck.

According to the Hawaii Injury Prevention Plan for 2012-2017, published by the emergency medical services and injury prevention system branch of the department of health, properly worn helmets prevent death and brain injuries. In the event of a crash, helmets reduce the risk of death by forty-two per cent and the risk of a head injury by sixty-nine per cent. The legislature recognizes that wearing a helmet can be a significant factor in helping to reduce fatalities or the severity of injuries in accidents on Hawaii’s roadways.

The purpose of this part is to mitigate fatalities and traumatic brain injuries on Hawaii’s roadways by strengthening helmet safety laws as they relate to mopeds and motor scooters that are rented.

SECTION 3. Chapter 286, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§286- Leased or rented moped or motor scooter; flag required. No person shall lease or rent a moped or motor scooter to another person unless

the moped or motor scooter is equipped with a safety flag that shall extend not less than five feet above the ground and be permanently affixed to the rear of the moped or motor scooter. The safety flag shall be triangular in shape with an area of not less than thirty square inches. The safety flag and the pole that secures the flag to the moped or motor scooter shall be fluorescent orange in color.”

SECTION 4. Section 286-2, Hawaii Revised Statutes, is amended by amending the definition of “motor scooter” to read as follows:

““Motor scooter” means [~~every motorcycle~~]:

- (1) Every motor vehicle that has a handlebar and seating that requires the operator to straddle or sit astride on it and is designed to travel on no more than three wheels in contact with the ground, but excludes a farm tractor; or
- (2) Every motor vehicle that has a steering wheel and seating that does not require the operator to straddle or sit astride on it, and is designed to travel on three wheels in contact with the ground, called an autocycle, which is certified by the manufacturer to comply with all applicable Federal Motor Vehicle Safety Standards as of the date of manufacture,

with a motor [~~which~~] that produces [~~not~~] no more than five horsepower, but excludes a moped.”

SECTION 5. Section 286-81, Hawaii Revised Statutes, is amended to read as follows:

“§286-81 Motorcycle, motor scooter, moped, etc.; protective devices.

(a) No person shall[:

- (1) ~~Operate~~ operate a motorcycle or motor scooter, on any highway in the State unless the person and any passenger the person carries on the motorcycle or motor scooter wears:
 - [~~(A)~~] (1) Safety glasses, goggles, or a face shield, in the case of a motorcycle or motor scooter that is not equipped with windscreens or windshields; and
 - [~~(B)~~] (2) Any other protective devices, other than a safety helmet, required by rules adopted by the director.

For the purpose of meeting the requirements of this [~~paragraph,~~] subsection, a required device shall meet the specifications and requirements established by rules adopted by the director[;].

[~~(2) Lease~~] (b) Notwithstanding subsection (a) and section 291C-195, no person shall operate a moped or motor scooter leased from a rental company on any roadway in the State unless the person wears a safety helmet, which shall be provided by the rental company unless the person provides the person’s own safety helmet; provided that this subsection shall not apply to persons who possess a valid license under this chapter to operate a motorcycle or an equivalent license issued from another state. To meet the requirements of this subsection, the safety helmet shall meet the specifications and requirements established by rules adopted by the director.

(c) In addition to the requirements of subsection (b), no person shall lease or rent a motorcycle or motor scooter to another person unless the person furnishes:

- [~~(A)~~] (1) Safety glasses, goggles, or a face shield, in the case of a motorcycle or motor scooter that is not equipped with windscreens or windshields; and
- [~~(B)~~] (2) Any other protective devices required by the rules adopted by the director for the use of the person or persons intending to

operate or ride as a passenger on the motorcycle or motor scooter; provided that any person to whom a motorcycle or motor scooter is leased or rented may furnish for the person's own use the protective devices required by this part.

For the purposes of meeting the requirements of this ~~[paragraph,]~~ subsection, a required device shall meet the specifications and requirements established by rules adopted by the director~~[-øf]~~.

~~[(3) Sell-øf]~~ (d) No person shall sell, offer for sale, or furnish any safety helmet, safety glasses, goggles, face shield, windscreen, windshield, or other protective devices represented to meet the requirements of this part unless the device meets the specifications and requirements established by rules adopted by the director.

~~[(b)]~~ (e) No person less than eighteen years of age shall operate or ride as a passenger on a motorcycle or motor scooter on any highway in the State unless the person wears a safety helmet securely fastened with a chin strap.

~~[(e)]~~ (f) A safety helmet shall not be required for any person who operates or rides as a passenger on a motorcycle or motor scooter; provided that the motorcycle or motor scooter:

- (1) Has three wheels;
- (2) Is powered by an electric motor;
- (3) Has a full body enclosed cab; and
- (4) Has a seat belt assembly or a child restraint system for the driver and passenger;

and the operator and passenger uses the seat belt or child restraint system pursuant to sections 291-11.5 and 291-11.6.”

SECTION 6. Section 291C-1, Hawaii Revised Statutes, is amended by amending the definition of “motor scooter” to read as follows:

““Motor scooter” means ~~[every motorcycle which]~~:

- (1) Every motor vehicle that has a handlebar and seating that requires the operator to straddle or sit astride on it and is designed to travel on no more than three wheels in contact with the ground, but excludes a farm tractor; or
- (2) Every motor vehicle that has a steering wheel and seating that does not require the operator to straddle or sit astride on it, and is designed to travel on three wheels in contact with the ground, called an autocycle, which is certified by the manufacturer to comply with all applicable Federal Motor Vehicle Safety Standards as of the date of manufacture,

with a motor that produces ~~[not]~~ no more than five horsepower, ~~[and]~~ but excludes a moped.”

SECTION 7. Section 291C-195, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) ~~[No]~~ Notwithstanding section 286-81(b), no person ~~[less]~~:

- (1) Less than fifteen years of age shall drive a moped on a highway, street, roadway, or any other public property in the State~~[-No person less]; and~~
- (2) Less than eighteen years of age shall drive a moped unless the person wears a safety helmet securely fastened with a chin strap.

The safety helmet shall meet the specifications and requirements established by rules adopted by the director.”

PART II

SECTION 8. The purpose of this part is to encourage safety on Hawaii's roadways through motor vehicle safety standards by prohibiting moped and motor scooter rental companies from renting any moped or motor scooter that has an aftermarket modification to the motor of the moped or the motor of a motor scooter.

SECTION 9. Section 291C-206, Hawaii Revised Statutes, is amended to read as follows:

“§291C-206 Modifying moped motor; violation. (a) A motor used to power a moped shall not be modified in any manner except as authorized by the motor manufacturer and any ~~such~~ modification shall not increase the power capacity of the motor above two horsepower (one thousand four hundred ninety-two watts).

(b) No person shall rent or lease to another person any moped or motor scooter that has an aftermarket modification to the motor of the moped or motor scooter that does not comply with this subsection.

~~[(b)]~~ (c) Any person who violates this section shall be fined not more than \$500.”

PART III

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 on July 1, 2021.

(Approved July 6, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.