

Legalize the Future, Please

What is taken for granted in some forms of transportation, weather protection, potential for multiple riders, access to creature comforts and the ability to carry freight, is absent from virtually any current versions of human-powered and other minimum-impact vehicles. Tiny, 1HP electric-assist motors enable a very significant upgrade in the potential for rider satisfaction delivered by human-scale transport. If deployed artfully, these safe, comfortable and attractive little (ideally, shared) devices, can change our mobility paradigm and steer us back onto a sustainable path.

Currently, discussions of electric bikes focus entirely on the behavior of some restaurant deliverers who use these machines to help make it easier to get hot food to impatient customers while it is still hot. Since the city has a host of enforcement mechanisms available to influence the behavior of highly-regulated businesses like restaurants, the failure to discipline these businesses and their employees' bad behavior has nothing to do with transportation in urban environments or the suitability of various mobility modalities to these streets, or their importance in helping to improve the health and freedom of movement of numerous populations, including the elderly and the overweight. Conflating these issues demolishes our ability to understand them.

The bill now in the NYS Senate, 1357A, will improve upon the situation in different ways. It will limit speeds to 20 MPH, as the Federal law requires, so the reported 25 MPH models, if there are any, will need to be retired. In fact it will require pedaling if you want to go faster than 10 MPH, so only pedal-activated models will be popular and mopeds disguised as bikes will disappear. The State can require approved vehicles, less than 1 HP and 20 MPH, with proper brakes etc. to have identifying labels, permanently affixed to any legal models.

The city is concerned about enforcement, but the regulation of food delivers' habits has been an ongoing concern for decades, long before bikes became modestly-electrified. Only better relations with the restaurant industry will affect this issue in a serious way. Meanwhile, nobody should be riding bikes on sidewalks no matter what. Biking so aggressively that it seriously threatens pedestrians' health and safety should be treated as any assault on another person is, as a potential crime, not just impoliteness. Of course, in fairness, such a campaign to alter behaviors must include far more dangerous vehicles, from motorcycles to huge trucks and the targeting of cyclists because they are a sometimes-maligned minority, is obviously unacceptable.

The standard design of "Safety" bicycles is about 120 years old. It has turned out to be a very durable configuration, but it has not advanced in many ways until the efficiency of the lithium-ion battery freed it from the tyranny of four times as heavy lead-acid versions. 90% of the populace does not ride a bike, even once, in a given year. The primary reason, aside from dangerous highway-like roads, is that we have evolved a value system which renders physical effort, unless in a gym or athletic event, unpopular. We are accustomed to ease and the effort of working up a sweat pushing pedals is not a pleasant prospect for most. Electric-assist bikes bring freedom of choice, how much effort one wants to expend, into personal transportation. While some cyclists may prefer a purer form of muscle-powered biking, the other 90% of the population in this State is currently being denied legal access to those machines that would best enable them to get some healthy exercise and have an easy un-sweaty journey at the same time. It's just not fair.

SENATE COMMITTEE AGENDA

To: Senator Martin Malave Dilan 903 LOB

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MEMORANDUM IN OPPOSITION

LEGISLATIVE REFERENCE. 1357-A _by Senator Dilan _Transportation Committee
TITLE AN ACT to amend the vehicle and traffic law, in relation to the definition of electric assisted bicycle

SUMMARY OF PROVISIONS

This bill would amend the New York State Vehicle and Traffic Law to add a new subdivision 2 to Section 102-c, defining an “electric assisted bicycle” as a bicycle with an electric motor having a power output of no more than 750 watts, and capable of propelling the bicycle at a speed no greater than 20 miles per hour on level ground. The bill would also create a new VTL Section 1238-a, which would outline several requirements specifically applicable to electric assisted bicycles, in addition to the laws and rules generally applicable to all bicycles.

REASONS FOR OPPOSITION

The New York State Department of Motor Vehicles has made clear that electric assisted bicycles are, indeed, motor vehicles but without the correct equipment or design for operation on roadways (see <http://www.nvsdmv.com/drnvfaqs>). This bill attempts to circumvent that determination and blur the line between what is and what is not a motor vehicle. The proposal also presents a direct conflict with New York City Administrative Code Section 19-171.1, which makes it a misdemeanor to operate a motorized pedicab on City streets.

Notwithstanding language in the bill that requires compliance with federal equipment and manufacturing standards, this legislation fails to sufficiently protect the public from the inherent danger in allowing high-speed motorized bicycles on public roadways. Operators of motor vehicles must have driver’s licenses, must register their vehicles, must carry liability insurance, and must operate vehicles equipped with the proper safety features that protect both the operators and the other users of public streets. This bill would enable bicycles with motors attached, and with none of these safeguards present, to drive at speeds up to 20 miles per hour in crowded urban settings, presenting a myriad of traffic safety and enforcement problems.

In addition, the arbitrary lines drawn by the bill would be unworkable. Enforcement personnel would have no way of knowing whether an electric assisted bicycle is capable of reaching 15, or 20, or 22, or 25 miles per hour, or whether it can put out 700 watts, or 1000 watts, or 1250 watts of power, and they therefore would be unable to enforce even this threshold requirement. It is already difficult to

conduct enforcement operations against bicyclists who violate traffic laws and rules. Adding a motor to a bicycle not only facilitates escape but, more important, creates added possibility of injury to pedestrians being hit by bicycles traveling at speeds much higher than expected. Electric assisted bicycles are not old-fashioned two-wheelers, and should not be treated as such.

Current law provides ample options for those who need or wish to operate a low-speed motor vehicle. Disabled individuals may utilize an electrically-driven mobility assistance device, which is not considered a motor vehicle under current law. The Vehicle and Traffic Law also provides for lawful operation of mopeds, or limited use motorcycles, divided into class according to the range of their top speed. Mopeds capable of reaching a speed of 20 miles per hour are considered Class C limited use motorcycles, requiring a driver's license and registration of the vehicle, but carrying no insurance requirement. Registration of the vehicle is dependent upon the certification of the Department of Motor Vehicles regarding the vehicle's top speed. It would be unreasonable and legally inconsistent to allow a motorized vehicle which is capable of attaining the same speed as a Class C limited use motorcycle to travel the public roadways with no driver training and no registration requirement. Both vehicles are capable of reaching the same speeds, and both are capable of causing significant injury or death in an accident on a City street.

Finally, the current version of the bill has been amended to remove a provision explicitly excluding electric assisted bicycles from the definition of motor vehicle in VTL Section 125. The removal of that provision unnecessarily casts doubt on the intent of the bill. It is clear that the sponsor intends electric assisted bicycles to be treated as bicycles and not motor vehicles, but because they operate on a combination of muscular and non-muscular power, the definitions of bicycle and motor vehicle would now be inconsistent, and would need to be reconciled so as not to cause unnecessary confusion.

Accordingly, it is urged that this bill be disapproved.

Respectfully submitted,
MICAI-I C. LASHER
Director
JG: 5/31/11

A response to the points made in the NYC "Opposition Memo" to proposed NYS Senate bill 1357A, (intended to conform NYS law to Federal Definitions and Standards as regards electric-assist bicycles and tricycles). This was written by Steve Stollman, Festival@Lightwheels.com 518 392 6664, with alarm over its tone and conclusions.

- 1- NYS DMV currently says that this is a motor Vehicle
One primary reason for this legislation is that the Federal government has passed a law which re-defines an electric-assist bicycle as not a motor vehicle, but rather a matter for the Consumer Product Safety Commission to regulate. This law is said to take precedence over State laws in regards to this definition. 1357A is meant to conform New York State law to the Federal statute as Federal law requires.
- 2- It is without correct equipment or design
There is an opportunity here for the State to provide a detailed set of requirements for equipment or design to insure that this need is met. This memo does not enumerate any specific fault in design or otherwise, and the proposed law also allows for additional needed measures to be taken.
- 3- This circumvents DMV's determination
Actually it updates and over-rides that determination as the law requires and new technology enables.
- 4- This is in conflict with 19-171-1 which makes electric pedicabs illegal in NYC

That law would likely still stand because the City may regulate pedicabs in this way regardless.

5- Notwithstanding language requires compliance with Federal standards

This is a bit confusing since this specific complaint merely re-states the purpose of the law.

6- There is “inherent danger” in allowing “high-speed” motorized vehicles

Bikes can go 30 MPH and these bikes are limited to 20 MPH so why is there more danger than there would be for ordinary bikes? The weight is virtually the same too. Cars have 300, not 1 HP and are legal.

7- MV's must have registration, license, insurance (actually not for 20MPH mopeds) and proper safety features

One purpose of 1357A is to conform to the Federal definition as a non-motorized vehicle while insisting that whatever safety features and standards evolve be adhered to by all manufacturers and providers.

The appropriate place to make this argument was at the Federal level before they changed the law.

8- This will cause a myriad of safety and enforcement problems

These vehicles have been around for a long time in other places. Is there any evidence that they have caused these problems or this kind of condition to arise anywhere else? Doesn't evading the police create a host of potential serious criminal charges and aren't “pursuit vehicles” much faster anyway?

9- Arbitrary lines-unworkable

This complaint is, frankly, too vague to be easily understand

10- No way to know if it is 700 or 1250 watts, 15 or 25 MPH

Moped laws distinguish different speeds. Vehicle makers would need to have models inspected and buy decals to affix to all vehicles to signify compliance with Federal and NYS law, under 1HP and 20 MPH.

11- Already difficult to conduct enforcement operations

Ordinary bikes can go faster and be just as difficult to manage but they are legal and allowed

12- They facilitate escape and at “speeds much higher than expected”

If they can't go more than 20MPH what does this mean? Higher than who expects?

13- Not an old fashioned two-wheeler

In size, weight, ease of operation and many other respects it is exactly like one

14- It is the same as a moped without driver training

Which is not required either, but mopeds weigh hundreds of pounds and electric-assist bikes tens

15- Both vehicles can cause significant injury or death

Much less than a now legal moped, and as much as an ordinary bicycle can, if it is operated irresponsibly

16- VTL section 125 must be changed or confusion will result

True, and this new transport modality can bring vast health, economic, and environmental benefits too