



Committee: Joint
Committee Review: At a future date
Staff: Robert H. Drummer, Senior Legislative Attorney
Purpose: To receive testimony – no vote expected
Keywords: #E-Scooters

AGENDA ITEM #8
November 9, 2021
Public Hearing

SUBJECT

Bill 36-21, Motor Vehicles and Traffic – E-Scooters – Operation Requirements and Registration

Lead Sponsors: Councilmember Katz

Co-Sponsor: Council Vice-President Albornoz

EXPECTED ATTENDEES

Members of the Public

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

N/A; hearing testimony from public

DESCRIPTION/ISSUE

E-scooters are being used more in the County with little regulation. Bill 36-21 would enact regulations to improve the safety of these e-scooters in the County.

SUMMARY OF KEY DISCUSSION POINTS

None

This report contains:

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MEMORANDUM

November 4, 2021

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney

SUBJECT: Bill 36-21, Motor Vehicles and Traffic – E-Scooters – Operation Requirements and Registration

PURPOSE: Public Hearing – to receive testimony

Bill 36-21, Motor Vehicles and Traffic – E-Scooters – Operation Requirements and Registration, sponsored by Lead Sponsor Councilmember Katz with Co-Sponsor Council Vice-President Alborno, was introduced on October 19, 2021. A joint Public Safety and Transportation & Environment Committee worksession will be scheduled at a later date.

Background

Bill 36-21 would permit a person to register an electric low speed scooter (e-scooter) owned by a County resident for personal use. The owner of 2 or more e-scooters would be required to register and pay a fee for an e-scooter fleet offered for rent in the County. The Bill would also establish operating and parking requirements for e-scooter use in the County.

Bill 36-21 is similar to Bill 8-20, Bicycles and E-Scooters – Operating Requirements and Registration, introduced on March 3, 2020. Bill 8-20 was recommended for approval by a joint Public Safety and Transportation and Environment Committee, with amendments, on June 25, 2020. However, Bill 8-20 was never considered by the full Council before expiring last month due to the global COVID-19 pandemic. Bill 36-21 includes the amendments approved by the joint Committee last June.

The County Attorney's Office concluded that the Bill had no legal impediments (©9).

This packet contains:

Expedited Bill 36-21
Legislative Request Report
OCA Bill Review

Circle #

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Bill No. 36-21
Concerning: Motor Vehicles and Traffic –
E-Scooters – Operating
Requirements and Registration
Revised: 11-4-21 Draft No. 4
Introduced: October 19, 2021
Expires: April 19, 2023
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: _____
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Katz
Co-Sponsors: Council Vice-President Albornoz

AN ACT to:

- (1) permit a person to register an electric low speed scooter owned by a County resident for personal use;
- (2) require the registration of an electric low speed scooter fleet offered for rent in the County and pay a registration fee;
- (3) establish operating and parking requirements for electric low speed scooter use in the County; and
- (4) generally amend County law governing electric low speed scooter use in the County.

By adding

Montgomery County Code
Chapter 31, Motor Vehicles and Traffic
Article IX, E-Scooters
Sections 31-70, 31-71, 31-72, 31-73, 31-74, 31-75, 31-76, and 31-77

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Article IX (Sections 31-70, 31-71, 31-72, 31-73, 31-74, 31-75, 31-76,**
 2 **and 31-77) of Chapter 31 is added as follows:**

3 **Article IX. E-Scooters.**

4 **31-70. Definitions.**

5 In this Article, the following words have the meanings indicated:

6 *Electric low speed scooter or E-scooter* means a vehicle that:

- 7 (1) is designed to transport only the operator;
- 8 (2) weighs less than 100 pounds;
- 9 (3) has single wheels in tandem or a combination of 1 or 2 wheels at the
 10 front and rear of the vehicle;
- 11 (4) is equipped with handlebars and a seat or a platform designed to be
 12 stood on while riding;
- 13 (5) is solely powered by an electric motor and human power; and
- 14 (6) is capable of operating at a speed of up to 20 miles per hour.

15 *Electric low speed scooter* does not include:

- 16 (1) an electric personal assistive mobility device; or
- 17 (2) an electric wheelchair or other mobility aid used by a disabled
 18 individual.

19 *Pedestrian zone* means the portion of the sidewalk corridor where pedestrians
 20 walk.

21 *Personal use* means riding an electric low speed scooter by the owner or any
 22 other person who the owner authorizes to ride the electric low speed scooter
 23 without charging rent.

24 **31-71. Helmets required.**

- 25 (a) A person who is under age 18 must wear a helmet when riding an e-
 26 scooter on a public street, right-of-way, or bicycle path in the County.

- (b) The helmet must be approved by the Snell Memorial Foundation or the American National Standards Institute, or other institution that the Director of Transportation determines meets an equivalent standard.

31-72. Registration of e-scooters for personal use.

- (a) Any County resident who owns an e-scooter for personal use in the County may:

- (1) register the e-scooter with the Montgomery County Police Department by:

- (A) completing a form provided by the County Executive or designee; and

- (B) paying a registration fee, if any;

- (2) have a legible County registration decal on the e-scooter; and

- (3) remove the County registration decal when the e-scooter is sold, transferred, or dismantled.

- (b) E-scooter registration under this Section is not transferable.

- (c) A person, other than the owner, must not remove a County registration decal from an e-scooter.

- (d) The County Executive may set e-scooter registration fees by Method (3) Regulation.

31-73. Registration of e-scooter fleets.

- (a) The owner of 2 or more e-scooters for rent in the County must register the e-scooter fleet with the Department of Transportation by:

- (1) completing a form provided by the County Executive or the Executive's designee; and

- (2) paying a registration fee.

- (b) The owner of an e-scooter fleet operating in the County must ensure that each e-scooter has the following information visible:

(1) e-scooter company name;

(2) unique identifier for each e-scooter; and

(3) contact information for the e-scooter company.

(c) E-scooter registration under this Section is not transferable.

(d) The Executive may set e-scooter registration fees by Method (3) Regulation or through a memorandum of understanding between the Department of Transportation and the owner of an e-scooter fleet.

31-74. E-scooter operation and parking requirements.

(a) Minimum age. A person under 14 must not operate an e-scooter.

(b) Maximum speed. A person must not operate an e-scooter at a speed greater than 15 miles per hour.

(c) Reflectors required.

(1) Every e-scooter operating in the County must have:

(A) a lamp on the front that emits a white light visible from at least 500 feet to the front; and

(B) a red reflector on the rear visible from all distances from 600 feet to 100 feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle.

(2) In addition to, or instead of, the reflector required in subsection (c)(1)(B), an e-scooter may have a functioning lamp that acts as a reflector and emits a red light or a flashing amber light visible from at least 500 feet to the rear.

(d) Parking requirements.

(1) An e-scooter must be parked in a standing upright position.

(2) Unless otherwise prohibited by law that specifically prohibits parking on a sidewalk, a person may park an e-scooter:

- (A) in the street buffer zone, which is located between the sidewalk and curb;
- (B) in the frontage zone, which is located between the sidewalk and right-of-way line;
- (C) in the curbside zone, which is located on-street, if:
 - (i) corrals or demarcated spaces are available; or
 - (ii) if there is no sidewalk or street buffer zone
- (D) on a residential street that permits on-street parking; and
- (E) in a designated location as determined by the Director of the Department of Transportation.

(3) A person must not park an e-scooter:

- (A) on a sidewalk that is 5 feet in width or narrower;
- (B) in a driveway without the permission of the owner of the driveway;
- (C) in an area reserved for sidewalk dining;
- (D) in a transit zone, including bus stops, shelters, and passenger-waiting areas, except at designated areas within a transit zone, as determined by the Director;
- (E) in a loading zone;
- (F) in a parking zone dedicated to accessible parking;
- (G) in a bicycle lane;
- (H) in a manner that impedes access to a doorway, gate, or other entrance or exit;
- (I) in a manner that reduces the pedestrian zone to less than 4 feet or that otherwise prohibits the free flow of pedestrian traffic; or

(J) in a manner that interferes with places of access for persons with disabilities as required by the Americans with Disabilities Act.

31-75. Enforcement

(a) The enforcement provisions in this Section are in addition to the enforcement provisions of Article VII of this Chapter.

(b) The fine for a person's first violation of a helmet requirement of this Article must be waived if:

(1) the person charged:

(A) is a minor; and

(B) produces proof that the person has obtained a helmet for the person's use; or

(2) the person charged:

(A) is the parent or guardian of a minor; and

(B) produces proof that the person has obtained a helmet for use by that minor.

(c) Impoundment.

(1) The County Police Department may impound any unregistered e-scooter that is provided for rent until the e-scooter is properly registered.

(2) The County police must give an impounding receipt to the owner or operator of the unregistered e-scooter that is provided for rent. If an unregistered e-scooter provided for rent is impounded, the County police must hold an unregistered e-scooter provided for rent until it is:

(A) registered;

- (B) donated to a non-profit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code in the discretion of the Chief Administrative Officer if reasonable attempts to locate the owner are unsuccessful;
or
- (C) disposed of in the manner provided for abandoned motor vehicles under Section 31-63.

31-76. Parental responsibility.

A parent or guardian of a minor must not knowingly allow that minor to violate this Article.

31-77. Evidence of negligence.

Failure of a person to use a helmet as required by this Article, or evidence that a parent or guardian of a minor knowingly allowed the minor to violate a helmet requirement of this Article, must not:

- (a) be considered evidence of negligence;
- (b) be considered evidence of contributory negligence;
- (c) limit liability of a party or an insurer; or
- (d) diminish recovery for damages arising out of the ownership, maintenance, or operation of a motor vehicle.

LEGISLATIVE REQUEST REPORT

Bill 36-21

Motor Vehicles and Traffic – E-Scooters – Operation Requirements and Registration

DESCRIPTION:	Bill 36-21 would permit a person to register an electric low speed scooter (e-scooter) owned by a County resident for personal use. The owner of 2 or more e-scooters would be required to register and pay a fee for an e-scooter fleet offered for rent in the County. The Bill would also establish operating and parking requirements for e-scooter use in the County.
PROBLEM:	E-scooters are a growing transportation method, but there few laws or regulations regarding their operation.
GOALS AND OBJECTIVES:	To provide operating expectations for e-scooters
COORDINATION:	Transportation, Police
FISCAL IMPACT:	To be requested.
ECONOMIC IMPACT:	To be requested.
EVALUATION:	To be researched.
EXPERIENCE ELSEWHERE:	To be researched.
SOURCE OF INFORMATION:	Robert H. Drummer, Senior Legislative Attorney (240) 777-7895
APPLICATION WITHIN MUNICIPALITIES:	To be researched.
PENALTIES:	A violation of Chapter 31 is a Class B violation.



Marc Elrich
County Executive

OFFICE OF THE COUNTY ATTORNEY

Marc P. Hansen
County Attorney

MEMORANDUM

October 29, 2021

TO: Chris Conklin, Director
Department of Transportation

FROM: Neal Anker *Neal Anker*
Associate County Attorney

VIA: Edward Lattner, Chief *Edward B. Lattner*
Division of Governmental Operations
Office of County Attorney

RE: Bill 36-21, Motor Vehicles and Traffic - E-Scooters - Operation Requirements
and Registration

Bill 36-20 would permit a person to register an electric low speed scooter (e-scooter) owned by a County resident for personal use; would require the owner of two (2) or more e-scooters (an e-scooter fleet) to register and pay a fee for an e-scooter fleet for rent in the County; and would establish operating and parking requirements for e-scooter use in the County.

The Bill is legally valid. Although the Maryland Vehicle Law¹ expressly preempts local regulation on any subject with which the Maryland Vehicle Law deals, Transp. § 25-101.1, the provisions of Bill 36-21 fall within one of the statutory exceptions to preemption.

The Maryland Vehicle Law broadly provides that no local authority or political subdivision of the state may “make or enforce any local law, ordinance or regulation on any subject covered by the Maryland Vehicle Law.” Transp. Art., § 25-101.1(b)(3). The same statute also provides that “[t]he provisions of the Maryland Vehicle Law prevail over all local legislation and regulation on any subject with which the Maryland Vehicle Law deals” and “[a]ll public local laws, ordinances, and regulations that are inconsistent or identical with or equivalent to any provision in the Maryland Vehicle Law are repealed.” Transp. Art., § 25-101.1(c)(1) & (2).

¹ The Maryland Vehicle Law is found in Titles 11 through 27 of the Transportation Article, Md. Code Ann., Transp. § 11-206.

But Bill 36-21 falls within one of the many exceptions where the Maryland Vehicle Law permits local regulation. Transp. § 25-102(a) states that the Maryland Vehicle Law “do[es] not prevent a local authority, in the reasonable exercise of its police power, from exercising [certain enumerated] powers as to highways under its jurisdiction. One of those powers is “regulating the operation of bicycles, requiring them to be registered, and imposing a registration fee.” Transp. § 25-102(a)(8). The Maryland Vehicle Law includes and Electric Low Speed Scooter within its definition of the term Bicycle², the County is empowered to regulate the operation and registration of Electric Low Speed Scooters as to the highways under its jurisdiction. As a result, the Bill is not preempted by state law.

Bill 36-21 is similar to Bill 8-20, Bicycles and E-Scooters - Operating Requirements and Registration that was introduced on March 3, 2020 and recommended for approval by a joint Public Safety and Transportation and Environment Committee, with amendments, on June 25, 2020, but which was never considered by the full Council before expiring last month due to the global COVID-19 pandemic. Bill 36-21 includes the amendment approved by the joint committee in June 2020.

One note: it appears there may be a typo on line 70 (should this read as “**60** feet to 100 feet”?). I have no other editing suggestions or concerns regarding this Bill. All the editing suggestions and concerns that I raised in my memorandum regarding Bill 36-20, dated March 16, 2020, and which were applicable to e-scooters, have been incorporated into this Bill.

If you have any questions or concerns regarding this memorandum, please call me at (240) 777-4240.

cc: Marc Hansen, County Attorney
Dale Tibbitts, Special Assistant to the County Executive
Robert H. Drummer, Senior Legislative Attorney
Gary Erenrich, Special Assistant for WMATA
Ken Hartman, Director of the Strategic Partnerships

21-011527

² Transp. §§ 11-104 (Bicycle) & 11-117.2 (Electric Low Speed Scooter).