

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: May 31, 2019

TO: Honorable Members of the Rules, Elections, and Intergovernmental Relations Committee

FROM: Sharon M. Tso *Sharon M. Tso* Council File No.: 19-0002-S94
Chief Legislative Analyst Assignment No.: 19-05-0534

SUBJECT: Opposition to new requirements on shared mobility device providers.

CLA RECOMMENDATION: Adopt Resolution (Bonin - Krekorian) to include in the City's 2019-2020 State Legislative Program OPPOSITION to AB 1112 (Friedman) that would limit a local authority from imposing restrictions on shared mobility device providers.

SUMMARY

Dockless personal mobility devices, such as e-scooters and e-bicycles, offer low carbon first/last mile mobility alternatives for travel. Their increasing presence on streets and sidewalks, however, has also created safety, blight, and quality-of-life challenges.

Existing law allows local authorities to regulate the registration, parking, and operation of motorized scooters and bicycles in a manner that does not conflict with state law. This allows jurisdictions to adopt and enforce policies for these new transportation devices. Under this authority, the City Council approved a Dockless On-Demand Personal Mobility Pilot Program (C.F. 17-1125). An important part of the City's Pilot Program is reporting and data sharing with the personal mobility device providers to ensure that the devices are expanding mobility options to all residents, addressing first/last mile accessibility issues, and reducing single occupancy vehicle trips.

On February 21, 2019, Assembly Member Friedman introduced AB 1112 to regulate motorized scooters and shared mobility device service providers. The bill was amended on May 7, 2019 to limit a local authority from imposing various requirements on a shared mobility device provider, as follows:

Prohibiting the sharing of individual trip data. The bill language would only allow local jurisdictions to collect aggregated data from personal mobility device companies. This would eliminate the City's ability to use a new digital tool, the Mobility Data Specification (MDS), which allows staff to monitor individual trips in real time and issue guidance to the companies providing them. In what has become a national model, the City of Los Angeles pioneered this groundbreaking data sharing requirement to monitor compliance with its regulations, ensure compliance with the Americans with Disabilities Act, address constituent complaints, and evaluate and enforce equitable distribution of services.

In order to exercise regulatory authority over the over 36,000 devices allowed under the pilot program, the City must be able to identify their exact location. Aggregated data may be sufficient for project planning purposes, but it is insufficient to enforce provisions of the pilot program that protect vulnerable populations, including pedestrians, people with disabilities, older adults, and

low-income communities. The City, as the local regulator, should not be made to rely on the regulated entity to provide data, which could allow companies to obfuscate accuracy and allow for manipulation. It is important to note that the City has taken appropriate steps to classify individual vehicle trip data as confidential and establish data protection principles that protect consumer privacy. To date, all eight companies permitted in the City of Los Angeles are complying with the City's data requirements.

Prevent local regulations "requiring operation below cost." This legislative language could block cities from pursuing equity goals, such as the City's requirement to allow additional devices if they are located in disadvantaged communities.

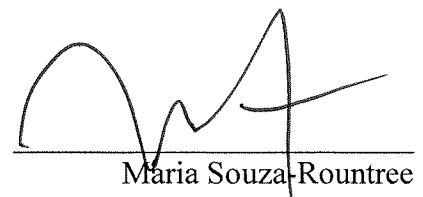
Bans "unduly restrictive" local e-scooter regulations. AB 1112, if approved, could be used to challenge the cap on the total number of shared e-scooters permitted within the City.

Expands these regulatory limitations to all personal mobility modes of transportation. As new mobility services emerge and are deployed on streets, it is important that local authorities are able to regulate mobility technology to promote safety and equitable access. The new dockless mobility options are less than two years old and the City's pilot program has been in effect for less than six months. Additional time is necessary to determine if best practices and/or specific aspects should be codified at the state level. Furthermore, the bill language could have the unintended consequence of impacting existing City service contracts, as well as future transportation technologies.

Preempt local control. By legislating restrictions on a local agency's ability regulate the use of public streets, the Legislature is overruling the City's authority over the effective operation and the safe integration of personal mobility devices into the transportation system.

BILL STATUS

5/23/2019	Referred to the Senate Rules Committee for assignment
5/22/2019	Passed and ordered to the Senate
4/23/2019	Passed and Referred to the Committee on Privacy and Consumer Protection
3/28/2019	Referred to the Assembly Committee on Transportation
2/21/2019	Introduced



Maria Souza-Rountree
Analyst

Attachments:

1. AB 1112
2. Resolution (Bonin – Krekorian)

AMENDED IN ASSEMBLY MAY 7, 2019
AMENDED IN ASSEMBLY APRIL 8, 2019
AMENDED IN ASSEMBLY MARCH 28, 2019
CALIFORNIA LEGISLATURE—2019—20 REGULAR SESSION

ASSEMBLY BILL

No. 1112

Introduced by Assembly Member Friedman

February 21, 2019

An act to add Division 16.8 (commencing with Section 39050) to the Vehicle Code, relating to ~~motorized scooters~~; *shared mobility devices*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1112, as amended, Friedman. ~~Motorized scooters~~; *Shared mobility devices*: local regulation.

(1) Existing law generally prescribes the operation of a motorized scooter, defined as a 2-wheeled device that has handlebars, has a floorboard that is designed to be stood upon when riding, and is powered by an electric motor or by a source other than electric power. Existing law requires a driver's license or permit to operate a motorized scooter. Existing law generally prohibits the operation of a motorized scooter on a highway with a speed limit in excess of 25 miles per hour, but permits a local authority to authorize the operation of a motorized scooter on a highway with a speed of up to 35 miles per hour.

This bill would authorize a local authority to regulate motorized scooters by, among other things, assessing limited penalties for moving or parking violations involving the use of motorized scooters. The bill would prohibit a local authority from subjecting the riders of shared

scooters to requirements more restrictive than those applicable to riders of privately owned motorized scooters or bicycles.

The bill would authorize a local authority to regulate scooter share operators by, among other things, requiring a scooter share operator to pay fees that do not exceed the reasonable cost to the local authority of regulating the scooter share operator. The bill would prohibit a local authority from imposing any unduly restrictive requirements on a scooter share operator. The bill would authorize a local authority to require a scooter share operator to provide to the local authority trip data for all trips starting or ending within the jurisdiction of the local authority and would prohibit disclosure of the information pursuant to public records requests received by the local authority.

Existing law generally regulates the operation of bicycles, electric bicycles, motorized scooters, and electrically motorized boards. Existing law allows local authorities to regulate the registration, parking, and operation of bicycles and motorized scooters in a manner that does not conflict with state law.

This bill would define a “shared mobility device” as a bicycle, electric bicycle, motorized scooter, electrically motorized board, or other similar personal transportation device, that is made available to the public for shared use and transportation, as provided. The bill would require shared mobility devices to include a single unique alphanumeric ID. The bill would allow a local authority to require a shared mobility device provider to provide the local authority with deidentified and aggregated trip data as a condition for operating a shared mobility device program. The bill would prohibit the sharing of individual trip data, except as provided by the Electronic Communications Privacy Act. The bill would prohibit a local authority from imposing an unduly restrictive requirement on a provider of shared mobility devices, including a requirement that is more restrictive than those applicable to riders of personally owned similar transportation devices.

The bill would include findings that uniformity in certain aspects of local regulation of motorized scooters and commercial scooter share programs and operators *shared mobility devices and providers* proposed by this bill addresses a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities and counties, including charter cities and counties.

(2) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating

the interest protected by the limitation and the need for protecting that interest.

~~This bill would make legislative findings to that effect.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Division 16.8 (commencing with Section 39050)
2 is added to the Vehicle Code, to read:

3
4 DIVISION 16.8. LOCAL REGULATION OF MOTORIZED
5 SCOOTERS
6

7 39050. The Legislature finds and declares that a basic level of
8 statewide standards for local regulation of ~~motorized scooters~~
9 *shared mobility devices* encourages innovation and ensures basic
10 expectations for consumers. Except as expressly stated, it is not
11 the intent of the Legislature that this division limit regulations a
12 local authority may otherwise implement beyond the minimum
13 standards outlined in this division.

14 ~~39051. For the purposes of this division, the following~~
15 ~~definitions shall apply, unless the context requires otherwise:~~

16 (a) ~~“Shared scooter” means any motorized scooter offered for~~
17 ~~hire.~~

18 (b) ~~“Scooter share operator” means a person offering shared~~
19 ~~scooters for hire.~~

20 (c) ~~“Scooter share program” means the offering of shared~~
21 ~~scooters for hire.~~

22 (d) ~~“Trip data” means any data elements related to trips taken~~
23 ~~by users of a shared scooter of a scooter share operator, including,~~
24 ~~but not limited to, Global Positioning System, timestamp, or route~~
25 ~~data.~~

26 *39051. For the purposes of this division, the following*
27 *definitions apply, unless the context requires otherwise:*

28 (a) *“Aggregate” means data that relates to a group of trips,*
29 *from which the start points, stop points, routes, and times of*
30 *individual trips have been removed and that cannot be used, or*
31 *combined with other information to isolate details of an individual*
32 *trip.*

1 (b) “Deidentified” means information that cannot reasonably
2 identify, relate to, describe, be capable of being associated with,
3 or be linked, directly or indirectly, to a particular consumer,
4 provided that a business that uses deidentified information meets
5 all of the following criteria:

6 (1) Has implemented technical safeguards that prohibit
7 reidentification of the consumer to whom the information may
8 pertain.

9 (2) Has implemented business processes that specifically
10 prohibit reidentification of the information.

11 (3) Has implemented business processes to prevent inadvertent
12 release of deidentified information.

13 (4) Makes no attempt to reidentify the information.

14 (c) “Shared mobility device” means an electrically motorized
15 board as defined in Section 313.5, a motorized scooter as defined
16 in Section 407.5, an electric bicycle as defined in Section 312.5,
17 a bicycle as defined in Section 231, or other similar personal
18 transportation device, except as provided in subdivision (b) of
19 Section 415, that is made available to the public by a shared
20 mobility service provider for shared use and transportation in
21 exchange for financial compensation via a digital application or
22 other electronic digital platform.

23 (d) “Shared mobility device service provider” or “provider”
24 means a person or entity that offers, makes available, or provides
25 a shared mobility device in exchange for financial compensation
26 or membership via a digital application or other electronic or
27 digital platform.

28 (e) “Trip data” means deidentified and aggregated data
29 elements related to trips taken by users of a shared mobility device
30 including, but not limited to, Global Positioning System, time
31 stamp, or route data.

32 (f) “Individual trip data” means data elements related to trips
33 taken by users of a shared mobility device including, but not limited
34 to, Global Positioning System, time stamp, or route data that are
35 not deidentified and aggregate. Individual trip data is “electronic
36 device information” as defined in subdivision (g) of Section 1546
37 of the Penal Code and is subject to the protections established in
38 Chapter 3.6 (commencing with Section 1546) of Title 12 of Part
39 2 of the Penal Code.

1 39052. All shared-scooters *mobility devices* operated in the
2 state shall include a single unique alphanumeric ID assigned by
3 the operator *provider* that is visible from a distance of five feet,
4 that is not obfuscated by branding or other markings, and that is
5 used throughout the state, including by local authorities, to identify
6 the shared-scooter. *mobility device*.

7 39053. All scooter share operators in the state shall maintain
8 the following insurance coverage:

9 (a) Commercial general liability insurance coverage with a limit
10 of no less than one million dollars (\$1,000,000) per occurrence,
11 and five million dollars (\$5,000,000) aggregate.

12 (b) Automobile insurance coverage with a combined single limit
13 of no less than one million dollars (\$1,000,000).

14 (c) If the scooter share operator employs a person, workers'
15 compensation coverage of no less than required by law.

16 39054. A local authority may regulate the operation of
17 motorized scooters within its jurisdiction. These regulations may
18 include, but are not limited to, both of the following:

19 (a) Restricting the maximum speed at which a person may
20 operate a motorized scooter in a pedestrian zone, including plazas
21 and promenades.

22 (b) Promulgating and assessing penalties for moving or parking
23 violations involving a motorized scooter on the person responsible
24 for the violation, except that any penalty shall not exceed a penalty
25 assessed to riders of bicycles.

26 39055. A local authority may regulate the operation of shared
27 scooters within its jurisdiction. These regulations may include, but
28 are not limited to, any of the following:

29 (a) Requiring a scooter share operator to pay fees, provided that
30 the total amount of any fees collected do not exceed the reasonable
31 and necessary cost to the local authority of administering the
32 scooter share program.

33 (b) Requiring a scooter share operator to indemnify the local
34 authority for claims, demands, costs, including reasonable
35 attorney's fees, losses, or damages brought against the local
36 authority, and arising out of any negligent act, error, omission, or
37 willful misconduct by the scooter share operator or its officers or
38 employees, except to the extent that claims, demands, costs, losses,
39 or damages arise out of the local authority's own negligence or
40 willful misconduct.

1 (c) ~~In the interests of safety and right-of-way management,~~
2 ~~designating locations where scooter share operators are prohibited~~
3 ~~from staging shared scooters, except that at least one location shall~~
4 ~~be permitted on each side of each city block in commercial zones~~
5 ~~and business districts.~~

6 ~~(d) Promulgating and assessing penalties for moving or parking~~
7 ~~violations involving a shared scooter on the person responsible for~~
8 ~~the violation, except that any penalty shall not exceed a penalty~~
9 ~~assessed to riders of bicycles.~~

10 39056. A local authority may require a scooter share operator,
11 *shared mobility device provider*, as a condition for operating a
12 scooter share *shared mobility device* program, to provide to the
13 local authority trip data for all trips starting or ending within the
14 jurisdiction of the local authority on any shared scooter of the
15 scooter share operator, provided that, to protect personal privacy,
16 any data provided to the local authority shall comply with all of
17 the following:

18 (a) ~~The trip data is provided by an application programming~~
19 ~~interface, subject to the scooter share operator's license agreement~~
20 ~~for the interface, that is subject to a publicly published privacy~~
21 ~~policy of the local authority or its designee, as applicable,~~
22 ~~disclosing what data is collected and how the data is used and~~
23 ~~shared with any third parties.~~

24 (b) ~~The trip data provided is safely and securely stored by the~~
25 ~~local authority, which shall implement administrative, physical,~~
26 ~~and technical safeguards to protect, secure, and, if appropriate,~~
27 ~~encrypt or limit access to, the data.~~

28 (c) ~~The trip data provided shall be treated as personal, trade~~
29 ~~secret, and proprietary business information, shall be exempt from~~
30 ~~public disclosure pursuant to any public records request, and shall~~
31 ~~not be treated as owned by the local authority.~~

32 (d) ~~The trip data shall not be shared with law enforcement,~~
33 ~~except pursuant to valid legal process, and shall not be shared to~~
34 ~~third parties without the scooter share operator's consent, provided~~
35 ~~that, upon a showing of legitimate and necessary need, a local~~
36 ~~authority may designate a third party to receive trip data pursuant~~
37 ~~to subdivision (a) if the third party is in privity with the local~~
38 ~~authority and maintains compliance with the privacy protections~~
39 ~~of this subdivision.~~ *shared mobility device. Individual trip data*
40 *shall not be shared with the local authority, except as provided by*

1 *Chapter 3.6 (commencing with Section 1546) of Title 12 of Part*
2 *2 of the Penal Code.*

3 39058. In regulating ~~shared scooters or shared scooter~~
4 ~~programs, mobility devices and providers~~, a local authority shall
5 not impose any unduly restrictive requirement on a ~~scooter share~~
6 ~~operator, provider~~, including requiring operation below cost, and
7 shall not subject the riders of ~~shared scooters~~ *mobility devices* to
8 requirements more restrictive than those applicable to riders of
9 ~~privately owned motorized scooters or bicycles. personally owned~~
10 *similar transportation devices, including, but not limited to,*
11 *personally owned electric bicycles and electric scooters.*

12 39060. ~~The~~ *It is the intent of the Legislature to promote and*
13 *encourage the use of zero-emission shared mobility devices, which*
14 *have been proven to be a safe, affordable, and environmentally*
15 *sustainable replacement for automobile trips. In accordance with*
16 *this policy, the Legislature finds and declares that uniformity in*
17 *certain aspects of local regulation of* ~~motorized scooters and~~
18 ~~commercial scooter share programs and operators~~ *shared mobility*
19 *devices is of vital statewide importance, and thus a matter of*
20 *statewide concern. Thus, the Legislature finds and declares that*
21 *the provisions of this division, providing for uniformity in certain*
22 *aspects of local regulation of* ~~motorized scooters and commercial~~
23 ~~scooter share programs and operators, shared mobility devices and~~
24 *providers* address a matter of statewide concern rather than a
25 municipal affair as that term is used in Section 5 of Article XI of
26 the California Constitution. Therefore, this division applies to all
27 cities and counties, including charter cities and counties.

28 ~~SEC. 2. The Legislature finds and declares that Section 1 of~~
29 ~~this act, which adds Section 39056 to the Vehicle Code, imposes~~
30 ~~a limitation on the public's right of access to the meetings of public~~
31 ~~bodies or the writings of public officials and agencies within the~~
32 ~~meaning of Section 3 of Article I of the California Constitution.~~
33 ~~Pursuant to that constitutional provision, the Legislature makes~~
34 ~~the following findings to demonstrate the interest protected by this~~
35 ~~limitation and the need for protecting that interest:~~

36 ~~The interest in protecting the personal information of people~~
37 ~~who use scooter share programs outweighs the public interest in~~
38 ~~having access to this information.~~

O

RESOLUTION RULES, ELECTIONS, OFFICE OF THE CITY CLERK

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, the emergence of shared electric mobility devices provides a low-carbon alternative to driving with the potential to help achieve State, regional, and City congestion and greenhouse gas reduction goals; and

WHEREAS, on February 21, 2019, Assembly Member Friedman introduced AB 1112 to promote the use of shared electric scooters and bikes throughout California; and

WHEREAS, the City of Los Angeles is responsible for developing and operating a safe and sustainable transportation system for the people who live, work, and visit Los Angeles through appropriate regulation of the public right of way; and

WHEREAS, existing law allows local authorities to regulate the registration, parking, and operation of bicycles and motorized scooters in a manner that does not conflict with state law; and

WHEREAS, under this authority, the City Council approved a Dockless On-Demand Personal Mobility Pilot Program on September, 28, 2018, which has since become the largest such program in California and a national model for smart regulation of emerging transportation technology; and

WHEREAS, in its role as regulator, the City of Los Angeles must receive individual vehicle trip data in order to enforce provisions of the Pilot Program that protect vulnerable populations, including pedestrians, people with disabilities, older adults, and low-income communities; and

WHEREAS, the City of Los Angeles has taken appropriate steps to classify individual vehicle trip data as confidential and establish data protection principles that protect consumer privacy; and

WHEREAS, the City of Los Angeles was named the Number 1 Digital City three years in a row for its Cybersecurity, Data Protection, and Consumer Privacy Practices; and

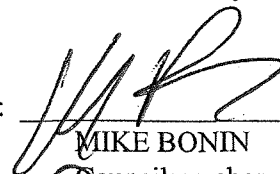
WHEREAS, on May 7, 2019, AB 1112 was amended to limit a local authority from imposing various requirements on shared mobility device providers that are essential provisions of the City's Pilot Program, including compliance with individual trip data requirements and social equity requirements, and expand these regulatory limitations to all shared personal mobility devices; and

WHEREAS, the City of Los Angeles, as a regulator, must not be made to rely on a regulated entity, including shared mobility device providers, to provide filtered data to the City, in order to carry out its duty as regulator; and

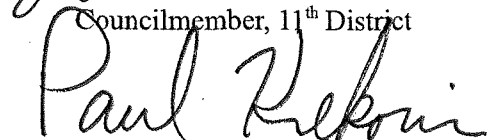
WHEREAS, without access to digital management tools that utilize individual vehicle trip data, the City of Los Angeles will not be able to continue to safely and equitably regulate shared electric mobility devices under the provisions of the approved Pilot Program;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this, Resolution, the City of Los Angeles hereby includes in its 2019-2020 State Legislative Program OPPOSITION to AB 1112 (Friedman) that would limit a local authority from imposing restrictions on shared mobility device providers.

PRESENTED BY:


MIKE BONIN
Councilmember, 11th District

SECONDED BY:



MAY 21 2019