SPONSOR: Rep. Kamela Smith & Sen. Poore
Reps. Griffith, Harris, Heffernan, Hilovsky, Osienski, Romer, Gorman; Sens. Hoffner, Lockman, Sokola, Wilson

HOUSE OF REPRESENTATIVES
153rd GENERAL ASSEMBLY

HOUSE BILL NO. 439

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO THE SALE OF ELECTRIC MOPEDS AND ELECTRIC MOTORCYCLES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 1, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 101. Words and phrases [For application of this section, see 85 Del. Laws, c. 40, § 15].

For the purposes of this title, unless the context otherwise clearly indicates:

(40) "Moped" means a pedal or nonpedal ~~bicycle~~ motor vehicle having 2 tandem wheels, either of which is 10 inches or more in maximum diameter, and having an internal combustion engine characterized in that the maximum piston displacement is less than 55cc, or an electric motor that produces less than 2,000 watts that may be used exclusively to propel the ~~bicycle~~ vehicle at a speed of more than 20 miles per hour or, if the rider is pedaling, continues to provide assistance even when the ~~bicycle~~ vehicle reaches a speed of more than 28 miles per hour. "Moped" does not include an electric bicycle.

(41) "Motorcycle" includes every motor vehicle designed to travel on not more than 3 wheels in contact with the ground, except any such vehicle as may be included within the definition of ~~"autocycle"~~ "autocycle," "moped," or "tractor" and excepting electric personal assistive mobility device (EPAMD) and electric bicycle.

(44) "Motor vehicle" includes every vehicle, as defined in this section, which is self-propelled, except farm tractors, electric bicycles, electric personal assistive mobility devices, and OHVs.

(50) "Off-highway vehicle" or "OHV" means a motor driven off-road vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland or other natural terrain. It includes, but is not limited to, a multi-wheel drive or low pressure tire vehicle, a moped, a motorcycle or related 2-wheel vehicle, an amphibious machine, a ground effect air-cushion vehicle or other means of transportation deriving motive power from a source other than muscle or wind. "OHV" does not include a farm vehicle being used for farming, a vehicle used for military, fire, emergency or law-enforcement purposes, a construction or logging vehicle

used in performance of its common function, electric bicycle, electric personal assistive mobility device or a registered aircraft. However, nothing in this chapter shall be construed to include snowmobiles.

(51) "OHV dealer" includes every person engaged in the business of buying, selling or exchanging off-highway vehicles in that portion of this State located north of the Chesapeake and Delaware Canal. Persons offering OHVs for final delivery in that portion of this State located north of the Chesapeake and Delaware Canal through direct-mail ~~order or~~ order, through a catalog-order facility, or through a website, social media platform, or other online means for delivery in this State regardless of where located, are considered to be OHV dealers and subject to this chapter.

Section 2. Amend § 313, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 313. Accident statistics and reports; evidence.

(e) The State shall make some de-identified data public through press releases, publication, or a state-managed website. The Department of Safety and Homeland Security has the sole discretion to determine what data may be disclosed under this subsection, except that the data on the state-managed website must include all of the following:

(1) Accident ~~classification.~~ classification, including whether a pedestrian, bicycle, electric bicycle, moped, or motorcycle was involved in the crash.

(2) Manner of impact.

(3) Alcohol or drug involvement.

(4) Date and time of accident.

(5) Conditions regarding road surface, lighting, and weather.

(6) Seat belt or helmet use.

(7) Geographic location.

(8) Primary contributing circumstances.

Section 3. Amend Chapter 63, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 6309A. Advertising and sale of electrically powered mopeds and motorcycles.

(a) For purposes of this section, "advertisement" means as defined in § 2511 of Title 6.

(b) A dealer or an agent of a dealer may not sell, offer for sale, rent, or lease a moped or motorcycle using the terms "bicycle," "electric bicycle," "electric bike," "e-bike," or other similar term.

(c) A dealer or an agent of a dealer may not sell, offer for sale, rent, or lease a moped or motorcycle with a label that identifies the device as a class 1, class 2, or class 3 electric bicycle, as defined under § 101 of Title 21.

(d) A dealer or an agent of a dealer may not represent in any advertisement that it is legal to operate a moped or motorcycle on a public pathway or bike lane.

(e) In any advertisement for a moped or motorcycle, a dealer or agent of a dealer must disclose clearly and conspicuously and in a manner designed to attract the attention of a consumer all of the following:

(1) The legal classification and name of the vehicle as defined by Delaware law.

(2) The maximum power of the vehicle's electric motor in both watts and brake horsepower.

(3) The top speed of the vehicle when powered by the electric motor.

(4) The following statement: "This vehicle is a motor vehicle and subject to applicable motor vehicle laws including registration, operator license, and insurance requirements if used on public roads. Your insurance policies might not provide coverage for crashes involving the use of this vehicle. To determine coverage, you should contact your insurance company or agent."

(f) Prior to completing a sales transaction for a moped or motorcycle powered by an electric motor, including a transaction conducted through any online website or other electronic means, a dealer or the agent of a dealer must provide the buyer with a written disclosure statement which has been approved by the Division of Motor Vehicles containing at least the information required by subsection (e) of this section. The buyer must acknowledge the disclosure as described in this subsection by signing the disclosure statement provided by the dealer. A copy of the disclosure statement must be provided to the Delaware Division of Motor Vehicles with the title application.

(g) A violation of this section shall be deemed an unlawful practice under § 2513 of Title 6 and a violation of subchapter II of Chapter 25 of Title 6.

Section 4. Amend § 4198M, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4198M. Mopeds and tripeds.

(a) Mopeds and tripeds shall not be operated upon interstate and limited access highways, even to cross such highways, nor shall they be operated on the right-of-way of an operating railroad, except to cross such railroad, nor shall they be operated on any ~~path set aside for the exclusive use of bicycles unless the helper motor has been turned off.~~ bike lane, sidewalk, or pathway closed to motor vehicle traffic.

(b) No person shall drive a moped or triped without having been licensed as an operator of a motor vehicle under this title. The licensee shall have such license in the licensee's immediate possession at all times when operating a moped or triped. The licensee does not need a motorcycle endorsement to operate a moped or triped.

(c) Regulations applicable to bicycles shall apply whenever a moped or triped is operated upon any public ~~road or upon any path set aside for the exclusive use of bicycles.~~ road.

Section 5. Amend § 6813, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 6813. Specific OHV dealer responsibilities for rented or leased OHVs.

(a) A dealer shall maintain in safe operating condition an OHV offered for rent or lease by the dealer. The dealer, the dealer's agents or employees shall explain the operation of the OHV being rented or leased and if the dealer, the dealer's agent or employee believes that person to whom the OHV is to be rented or leased is not competent to operate the OHV with personal safety or safety to others, the dealer shall refuse to rent or lease such OHV.

(b) The Department shall require such insurance and compliance with such additional rules and regulations regarding rental or lease of OHVs as it may deem necessary.

(c) A dealer who sells, rents, or leases an off-highway electric moped or electric motorcycle must comply with § 6309A of this title.

SYNOPSIS

The Truth in E-Bike Marketing Act protects Delaware consumers from purchasing an electric moped or electric motorcycle with the belief that the device may be used in the same way as an electric bicycle, addressing a growing area of market confusion. It prohibits dealers from advertising high-powered motor vehicles using terms like "electric bicycle" or "e-bike" and also requires that sellers provide clear, written disclosures regarding the vehicle's legal classification, maximum power, and the necessity for registration, licensing, and insurance. The bill classifies failure to provide these disclosures as an unlawful business practice. Finally, the bill clarifies that mopeds may not be operated on public pathways, bike lanes, or sidewalks and that crashes involving electric bicycles or mopeds must be identified on the state's crash reporting website.