

“Watt” A Ride: Navigating the Regulatory Landscape of E-Bikes and E-Scooters



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Presentation Objectives

- (1) Analyzing legal authority to regulate low-speed electric bicycles (“e-bikes”) and low-speed electric scooters (“e-scooters”) on roads and other property;
- (2) examining regulatory options for e-bikes and e-scooters;
- (3) describing liability considerations regarding e-bikes and e-scooters.

E-Bike Classifications

- Three Classifications (625 ILCS 5/1-140.10)
- “Class 1” - low-speed electric bicycles that are equipped with a motor that provides assistance *only when the rider is actively pedaling*, and ceases to provide assistance when the E-Bike reaches a speed of 20 miles per hour.
- “Class 2” - low-speed electric bicycles that are equipped with a motor that *may be used exclusively to propel the E-Bike* and that is not capable of providing assistance when the E-Bike reaches a speed of 20 miles per hour.
- “Class 3” low-speed electric bicycles that are equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the E-Bike reaches a speed of 28 miles per hour.

E-Bike – State Law Default Rules

- The Illinois Vehicle Code generally authorizes operating e-bikes upon any highways, streets, or roadways that are authorized for use by bicycles, including, but not limited to, bicycle lanes. 625 ILCS 5/11-1517(e).

E-Bike – State Law Default Rules

Continued

- With respect to streets and highways under its jurisdiction, a local government is permitted to regulate the operation of e-bikes, including imposing registration and licensing requirements for e-bikes. 625 ILCS 5/11-208(a)(8).

E-Bike – State Law Default Rules

Continued

- However, a local government is preempted from enacting or enforcing e-bike regulations inconsistent with Chapter 11 of the Vehicle Code, unless expressly authorized by the Vehicle Code. See 625 ILCS 5/11-207; 625 ILCS 5/11-208.1; 625 ILCS 5/11-208.2; see also *People ex rel. Ryan v. Village of Hanover Park*, 311 Ill. App. 3d 515, 525; *Chicago v. Hertz Commercial Leasing Corp.*, 71 Ill. 2d 333, 351.
- Example: Because the Vehicle Code expressly authorizes people to operate e-bikes where normal bicycles are allowed to operate, subject to the restrictions in Section 11-1517, a local government cannot completely ban or prohibit people from operating e-bikes where normal bicycles are allowed to operate.

E-Bike Regulatory Options – Least to Most Restrictive



Least Restrictive (State Law Default)

- State law does not require local governments to adopt e-bike regulations. Rather, a community may simply choose to enforce existing state law regarding e-bikes.
- Most municipalities have adopted the Illinois Vehicle Code by reference, which includes the state's regulations governing e-bikes.

Least Restrictive (State Law Default) – Continued

- By default, e-bikes are generally allowed upon any highway, street, or roadway authorized for use by bicycles (625 ILCS 5/11-1517(e)), subject to the restrictions established by state law.
 - Example: All Class-3 E-Bike operators must be at least 16 years old. 625 ILCS 5/11-1517(h).

Least Restrictive (State Law Default) – Continued

- The Vehicle Code's Rules of the Road that apply to bicycles generally also apply to e-bikes, including requirements that:
 - cyclists ride e-bikes using a permanent and regular seat (625 ILCS 11-1503(a))
 - prohibit using e-bikes to carry more persons than for which it is designed and equipped (625 ILCS 11-1503(b));
 - prohibit persons from attaching e-bikes to any vehicle upon the roadway (625 ILCS 5/11-1504);
 - prohibit carrying any material or article while operating an e-bike (625 ILCS 5/11-1506); and
 - e-bikes must be equipped with a lamp on the front with a red reflector on the rear that is visible from certain distances (625 ILCS 5/11-1507).

Least Restrictive (State Law Default) – Continued

- Additionally, state law:
 - allows a person to operate an e-bike upon any bicycle path in the Village unless the Village prohibits the use of e-bikes or a specific class of e-bike on that path (625 ILCS 5/11-1517(f));
 - prohibits e-bikes on sidewalks (625 ILCS 5/11-1517(g)); and
 - requires persons to be 16 years old to operate a Class 3 E-Bike; however, a person younger than 16 years old may ride as a passenger on a Class 3 E-Bike that is designed to accommodate passengers (625 ILCS 5/11-1517(h)).

Moderately Restrictive (Licensing and Registration)

- Together with enforcing state law default requirements and restrictions for e-bikes, a local government may further regulate and license e-bikes (625 ILCS 5/11-208).
- Examples:
 - (Hinsdale) Require e-bike operators to complete and submit an application to in order to receive a license and/or registration tag that authorizes the applicant to operate an e-bike.
 - Charge applicants an application processing fee, a licensure fee, and/or a registration fee.

Most Restrictive



Most Restrictive – Continued

- A local government cannot completely ban e-bikes everywhere
 - 625 ILCS 5/11-1517(e): A person may operate a low-speed e-bike upon any highway, street, or roadway authorized for use by bicycles.
 - 625 ILCS 5/11-207: Chapter 11 of the IVC is applicable and uniform throughout Illinois and in all political subdivisions and municipalities therein, and no local authority shall enact or enforce any ordinance rule or regulation in conflict with the provisions of Chapter 11 of the IVC unless expressly authorized herein.
 - 625 ILCS 5/11-208.1: The provisions of Chapter 11 of the IVC, and the rules and regulations promulgated thereunder by any State Officer, Office, Agency, Department or Commission, shall be applicable and uniformly applied and enforced throughout this State, in all other political subdivisions and in all units of local government.

Most Restrictive – Continued



- BUT...
- A local government may regulate e-bikes more stringently than the state law.
- Example: a local gov may regulate
 - who can operate e-bikes;
 - where e-bikes may be operated; and
 - impose other conditions on operating e-bikes.
- When adopting e-bike regulations, communities should post appropriate signage along trails or at entries to public property, where feasible, to promote compliance and enforcement.

Most Restrictive Continued – Who Can Operate E-Bikes

- State law only requires operators of Class 3 E-Bikes to be at least 16 years old.
- However, a community may prohibit any person from operating any class of e-bike in the Village unless that person is at least 16 years old.
- A community may also require a parent or legal guardian to co-sign a minor's application to use an e-bike, and hold the minor's parents or legal guardian responsible for the minor's violations of community e-bike regulations.

Most Restrictive Continued – Where E-Bikes May Be Operated

- In accordance with state law (625 ILCS 5/11-1517(f)), a community may prohibit operating e-bikes (or a specific class of E-Bike) on certain bicycle paths.
- Additionally, e-bikes are prohibited from using any highway, street, or roadway where bicycles are prohibited. 625 ILCS 5/11-1517(e).
- E-bikes cannot operate on a sidewalk. 625 ILCS 5/11-1517(g).
- A community may also restrict e-bikes from operating on streets with high vehicular and pedestrian traffic for public safety reasons, if normal bicycles are also prohibited from operating thereon.

Most Restrictive Continued – Other Conditions on Operating E-Bikes

- A community may prohibit:
 - operating e-bikes at a speed greater than reasonable and prudent under then existing conditions, or from operating on any highway with posted speed limit of 30 miles per hour or greater.
 - persons from operating e-bikes in a reckless manner that endangers or injures the operator, or other persons, property, or animals.
- A community may impose safety requirements:
 - Examples:
 - require cyclists to walk their e-bikes in all areas where riding is prohibited;
 - require cyclists to ride e-bikes single-file in designated lanes;
 - restrict e-bike parking to specifically designated locations; or
 - prohibit the operation of e-bikes if the operator is distracted or under the influence of alcohol or drugs.

Prohibited E-Bike Regulations

- State law prohibits a community from enacting or enforcing e-bike regulations inconsistent with Chapter 11 of the IVC. 625 ILCS 5/11-207; 625 ILCS 5/11-208.1.
- Examples
 - Cannot completely prohibit operating Class 2 and Class 3 e-bikes (because state law generally authorizes all classes of e-bikes to operate on a street or roadway);
 - Cannot require Class 3 E-Bikes to have a max speed of 20 mph (because state law authorizes Class 3 e-bikes to reach up to 28 mph).

E-Scooters



E-Scooters – Definition

- A “low-speed electric scooter” is defined as a device weighing less than 100 pounds, with 2 or 3 wheels, handlebars, and a floorboard that can be stood upon while riding, that is solely powered by an electric motor and human power, and whose maximum speed, with or without human propulsion, is no more than 10 miles per hour.”
625 ILCS 5/1-140.11.

E-Scooters – State Law Default Rules

- The state law default rule is that the operation of e-scooters within any municipality, park district, forest preserve district, or conservation district is allowed only if authorized by the municipality, park district, forest preserve district, or conservation district. 625 ILCS 5/11-1518(a).
- Therefore, if a community does not authorize the use of e-scooters therein (e.g., by ordinance or resolution), the use of e-scooters is prohibited.
- If a community elects to authorize the use of e-scooters, that community may regulate the operation of e-scooters on any or all highways within its jurisdiction, including sidewalks, trails, or other public rights-of-way where bicycles are permitted to operate. 625 ILCS 5/11-1518(a).

E-Scooter Regulatory Options – Least to Most Restrictive

Least Restrictive Approach

- A community does not have to adopt its own regulations, but may simply enforce existing state law e-scooters requirements, including:
 - E-Scooters cannot be operated on a road with a posted speed limit of greater than 35 mph. 625 ILCS 5/11-1518(b).
 - A person may not operate an E-Scooter unless they are at least 18 years old. 625 ILCS 5/11-1518(c).
 - A person may not operate an E-Scooter while carrying a package or other item that prevents them from keeping at least one hand upon the handlebars. 625 ILCS 5/11-1518(h).
 - E-Scooters may not be operated to carry more than one person at a time. 625 ILCS 5/11-1518(i).
 - A person may not operate an E-Scooter while under the influence of drugs or alcohol. 625 ILCS 5/11-1518(j).

Least Restrictive Approach – Continued

- When used at night, E-Scooters must be equipped with sufficient minimum lighting on the front and rear of the E-Scooter. 625 ILCS 5/11-1518(e).
- E-scooters must be equipped with a brake that will adequately control and stop the movement of the E-Scooter. 625 ILCS 5/11-1518(g).
- Except for E-Scooters used as a police or fire department vehicle, E-Scooters cannot be equipped with a siren. 625 ILCS 5/11-1518(f).
- A person operating an E-Scooter may not attach themselves or the E-Scooter to any other vehicle being operated on the public right-of-way. 625 ILCS 5/11-1518(i).
- A person is prohibited from operating E-Scooters on State highways. 625 ILCS 5/11-1518(k).
- E-scooters must be well-maintained and in good operating condition. 625 ILCS 5/11-1518(l).

Moderately Restrictive Approach

- Together with enforcing state law default rules for e-scooters (625 ILCS 5/11-1518), a community may further regulate and license e-scooters pursuant to Section 11-1518 of the IVC or as otherwise authorized by law (see, e.g., 625 ILCS 5/11-208(a); 65 ILCS 5/11-80-2; 65 ILCS 5/11-80-20), as long as those regulations are consistent with Chapter 11 of the IVC (625 ILCS 5/11-207; 625 ILCS 5/11-208.1.)

Moderately Restrictive Approach – Continued

- For example, a community may:
 - Prohibit the operation of e-scooters on certain roads, trails, sidewalks, or rights-of-way where bicycles are prohibited. 625 ILCS 5/11-1518(a) .
 - Prohibit persons under 18 years old from operating e-scooters. 625 ILCS 5/11-1518(c).
 - Restrict the operation of e-scooters to specific zoning district in the Village.
 - Require submitting an application in order to receive a license and/or registration tag that authorizes operating an e-scooter, and charge applicants an application processing fee, a licensure fee, and/or a registration fee.
 - Restrict e-scooter parking to specifically designated locations.
 - Impose reasonable speed restrictions on operating e-scooters.
 - Prohibit operating e-scooters if the operator is distracted or under the influence.
 - Hold a minor's parents or legal guardian responsible for the minor's violations of e-scooter regulations.

Moderately Restrictive Approach – Continued

- Short of a complete ban, Oak Forest authorizes people to operate e-scooters on private property only. Frankfort also authorizes people to operate e-scooters on private property, but only after receiving the private property owner's consent.

Moderately Restrictive Approach – Continued

- If a community elects to regulate e-scooters, its advisable to post appropriate signage along areas where e-scooters can operate, where feasible, to promote compliance and enforcement.

Most Restrictive – Complete Ban

- The IVC default rule is that persons may not operate e-scooters unless a community expressly authorizes their use. 625 ILCS 5/11-1518(a). Therefore, a community may either take no action, or pass an ordinance or resolution expressly banning the use of e-scooters on its roads and property.



Prohibited E-Scooter Regulations

- State law prohibits enacting or enforcing e-scooter regulations inconsistent with Chapter 11 of the IVC. 625 ILCS 5/11-207; 625 ILCS 5/11-208.1.
- For example, the Village cannot authorize persons younger than 18 to operate e-scooters (625 ILCS 5/11-1518(c)), or require e-scooter operators to obtain a driver's license, registration, or certificate of title (625 ILCS 5/3-102; 625 ILCS 5/3-402; 625 ILCS 5/6-102).

Enforcement

- If a community incorporates e-bike and/or e-scooter regulations into its municipal code, it can enforce those regulations through administrative adjudications or circuit court.



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Liability Considerations

- In deciding whether to allow e-bikes and e-scooters on its property, a community should be mindful of its general duty to maintain its property in a reasonably safe condition for intended and permitted users of property. 745 ILCS 10/3-102.
- In other words, a community's indication that e-bike and e-scooter users are both "permitted" and "intended" users could impact personal injury claims against the community.



Liability Consideration – Continued

- Operators of e-Bikes and e-Scooters are generally understood to be “permitted” users of the road unless there is an express prohibition.
- However, they are not necessarily “intended” users of the road without an express manifestation of the local authority’s intent.
- Some ways to express a community’s intent is to designate its roads as E-Bike and/or E-Scooter routes or cause or allow affirmative manifestations to be placed on the roads (e.g., signs or painted bike lanes), which express that E-Bikes and E-Scooters are intended users of the road.

ADA Considerations

- E-scooter and e-bike regulations must comply with Title II of the Americans with Disabilities Act (“ADA”), which prohibits units of local government from excluding or denying benefits to people with disabilities who seek participate in services, programs, or activities offered by a local government.
- Some communities that have undertaken to regulate the use of E-Bikes or E-Scooters have provided an express exemption from their regulations for vehicles and equipment (e.g., micro mobility devices) that are necessary for individuals with disabilities as an accommodation to use public property.
- Because of local government obligations to comply with the ADA, any regulations regarding E-Bikes or E-Scooters must be drafted in a sufficiently inclusive manner to allow for the appropriate use of mobility devices by individuals with disabilities.

E-Bike/E-Scooter Regulations NOT Applicable to Other Types of “Vehicles”

- The IVC’s E-Bike and E-Scooter regulations do not apply to other types of vehicles and devices, which are subject to separate regulations in the Vehicle Code and other laws.
- For example, the following non-exhaustive types of vehicles and devices are separately defined and regulated by the IVC: motor driven cycles (625 ILCS 5/1-145.001), low-speed vehicle (625 ILCS 5/1-140.10), low-speed gas bicycle (625 ILCS 5/1-140.15); motor vehicles (625 ILCS 5/1-146); motorcycles (625 ILCS 5/1-147); mopeds (625 ILCS 5/1-148.2).

The End



Questions



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