



## *Bill Analysis*

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*Legislative Service Commission*

### **Sub. S.B. 231\***

124th General Assembly  
(As Reported by H. State Government)

**Sens. Goodman, White, Ryan, Mallory, Spada, Carnes, Austria, Brady, Randy Gardner, Hagan, Harris, Mumper, Nein, Wachtmann, Armbruster, Robert Gardner, DiDonato**

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### **BILL SUMMARY**

- Exempts electric personal assistive mobility devices from the definitions of "vehicle" or "vehicles" applicable to the state Traffic Law generally and to the Operation of Motor Vehicles Law, the Equipment and Load Limitations Law, and the Financial Responsibility Law specifically.
- Permits the operation of these devices on public sidewalks, paths, bikeways, highways, and streets, subject to certain restrictions and limitations.
- Allows a local authority to regulate or prohibit the operation of these devices on public sidewalks, paths, bikeways, highways, and streets under its jurisdiction.
- Prohibits the operation of these devices by persons under 14, regulates the operation of these devices by persons under 16, and requires operators of these devices who are under 18 to wear a protective helmet.
- Establishes other prohibitions relative to the operation of these devices, and to their distribution or sale without a specified protective equipment use warning.
- Amends a statute in the Secured Transactions Law to specify that the sale, pledge, assignment, or granting of a security interest in all or any

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*\* This analysis was prepared before the report of the House State Government Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

part of a lottery prize award for consideration is subject to (1) the State Lottery Law's *prohibition* against a lottery prize award being the subject of a security interest or being used as collateral and (2) the provisions of a pending act (Sub. S.B. 226) that, if it becomes law, will permit certain transfers of lottery prize awards pursuant to a transfer agreement and upon the prior approval of a court of competent jurisdiction.

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## CONTENT AND OPERATION

### *Electric personal assistive mobility devices*

#### *Operation: in general*

The bill *excludes* an electric personal assistive mobility device from the definition of "vehicle" that applies to the laws governing the operation of motor vehicles and motor vehicle equipment and load limitations, from the definition of "vehicles" that generally applies to the entire state Traffic Law, and from the definition of "vehicle" that specifically applies to the Financial Responsibility Law (secs. 4501.01(A), 4509.01(H), and 4511.01(A)).

The general effect of these exclusions is to remove electric personal assistive mobility devices from the routine application of the general traffic laws, the laws governing registration and titling of motor vehicles, the financial responsibility laws, and the licensing of motor vehicle operators laws. The bill treats these devices as unique machines and defines them as self-balancing two non-tandem wheeled devices that are designed to transport only one person, have an electric propulsion system of an average of 750 watts, and, when ridden on a paved level surface by an operator who weighs 170 pounds, have a maximum speed of less than 20 miles per hour (sec. 4501.01(TT)).

The bill specifically authorizes the operation of electric personal assistive mobility devices on public streets, highways, sidewalks, and paths and portions of roadways set aside for the exclusive use of bicycles. However, the bill contains a number of specific limitations and regulations related to this operation. First, it subjects the devices to those provisions of the law governing the operation of motor vehicles (R.C. Chapter 4511.) that "by their nature are applicable" (see **COMMENT**) to a device and a person operating a device upon any public street, highway, sidewalk, or path or any portion of a roadway set aside for the exclusive use of bicycles. Effectively, then, when these devices are operated on streets and highways, they are subject to traffic control devices such as stop signs. (Sec. 4511.512(A)(1) and (2).)

Second, the bill allows a local authority to regulate or prohibit the operation of these devices on public streets, highways, sidewalks, and paths, and portions of roadways set aside for the exclusive use of bicycles, under its jurisdiction (sec. 4511.512(A)(3)).<sup>1</sup> And, the bill does not affect and cannot be construed to affect any rule of the Director of Natural Resources or a board of park district commissioners governing the operation of vehicles on lands under the control of the Director or board (sec. 4511.512(E)).

Third, the bill contains specific criminal prohibitions related to the operation, distribution, or sale of the devices, as discussed below (sec. 4511.512(B), (C), and (D)).

### **Criminal prohibitions and penalties**

**Operation.** The bill prohibits the operation of an electric personal assistive mobility device as follows (sec. 4511.512(B)(5), (6), and (7) and (C)):

- (1) By any person under age 14;
- (2) By any person under age 16, unless the person is under the direct visual and audible supervision of another person who is 18 years of age or older and is responsible for the immediate care of the person under age 16;
- (3) By a person under age 18, unless the person is wearing a protective helmet on the person's head with the chin strap properly fastened;
- (4) Upon any path set aside for the exclusive use of pedestrians or other specialized use when an appropriate sign giving notice of the specialized use is posted on the path.

Additionally, the bill prohibits the operator of an electric personal assistive mobility device from (1) failing to yield the right-of-way to all pedestrians and human-powered vehicles at all times, (2) failing to give an audible signal before overtaking and passing a pedestrian, (3) operating the device at night unless the device or its operator is equipped with or wearing (a) a lamp pointing to the front that emits a white light visible from a distance of not less than 500 feet *and* (b) a red reflector facing the rear that is visible from all distances from 100 to 600 feet when directly in front of lawful lower beams of head lamps on a motor vehicle, or (4) operating the device on any portion of a street or highway that has an

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<sup>1</sup> Under sec. 4511.01(AA), "local authorities" are defined as every county, municipal, and other local board or body having authority to adopt police regulations under the Ohio Constitution or Ohio statutes.

established speed limit of 55 miles per hour or more (sec. 4511.512(B)(1), (2), (3), and (4)).

An operator of an electric personal assistive mobility device who violates any of these prohibitions in any manner is guilty of a minor misdemeanor and must be fined \$10 (sec. 4511.99(Q)(1)(a)). If the offender previously has been convicted of or pleaded guilty to a violation of any of these prohibitions or a substantially similar municipal ordinance, the court, in addition to imposing the \$10 fine, must do one of the following (sec. 4511.99(Q)(1)(b)):

- Order the impoundment for not less than one day but not more than 30 days of the device that was involved in the current violation. The court must order the device to be impounded at a safe indoor location it designates and may assess *storage fees* of not more than \$5 per day. The court apparently also may impose *processing and release fees* against the offender or the device in connection with the device's impoundment or subsequent release, but the total of those fees plus the storage fees must not exceed \$50.
- If the court does not issue an impoundment order, issue an order prohibiting the offender from operating any electric personal assistive mobility device on the public streets, highways, sidewalks, and paths and portions of roadways set aside for the exclusive use of bicycles, for not less than one day but not more than 30 days.

**Distribution or sale.** The bill also prohibits any person from distributing or selling an electric personal assistive mobility device unless the device is accompanied by a written statement that is substantially equivalent to the following: "WARNING: TO REDUCE THE RISK OF SERIOUS INJURY, USE ONLY WHILE WEARING FULL PROTECTIVE EQUIPMENT-HELMET, WRIST GUARDS, ELBOW PADS, AND KNEE PADS" (sec. 4511.512(D)). A person who violates this prohibition is guilty of a minor misdemeanor (sec. 4511.99(Q)(2)).

### **Lottery prize award being the subject of a security interest or used as collateral**

#### **Existing and pending law**

The State Lottery Law currently *prohibits* the right of a person to a lottery prize award from being the subject of a security interest or being used as collateral (sec. 3770.07(A)(3)--not in the bill). Sub. S.B. 226 of the 124th General Assembly, an act recently passed by the General Assembly and awaiting action by the Governor, would enact a new range of statutes within the State Lottery Law that permits certain types of transfers of lottery prize awards pursuant to a transfer

agreement and upon the prior approval of a court of competent jurisdiction. That act does *not* affect the State Lottery Law's current prohibition against the right of a person to a lottery prize award being the subject of a security interest or being used as collateral and does *not* specifically include as a "transfer" under the act's provisions either the granting of a security interest in a lottery prize award or the use of a lottery prize award as collateral.<sup>2</sup>

### **Change made by the bill**

The bill amends the Secured Transactions Law to specify that the sale, pledge, assignment, or granting of a security interest in all or any part of a lottery prize award for consideration is subject to certain laws in addition to the Secured Transactions Law--those laws being (1) the State Lottery Law's above-mentioned *prohibition* against a lottery prize award being the subject of a security interest or being used as collateral and (2) Sub. S.B. 226's provisions permitting, if they become law, certain transfers of lottery prize awards pursuant to a transfer agreement and upon the prior approval of a court of competent jurisdiction (sec. 1309.109(E)).<sup>3</sup>

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## **COMMENT**

Two other sections of the law governing the operation of motor vehicles use similar terminology in establishing the applicability of provisions of that law to particular individuals or vehicles: sec. 4511.491, governing the operation of motorized wheelchairs, and sec. 4511.52, governing the operation of bicycles upon highways and paths set aside for their exclusive use.

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<sup>2</sup> *The act defines a "transfer" as any form of sale, assignment, or redirection of payment of all or any part of a lottery prize award for consideration (sec. 3770.10(E)).*

<sup>3</sup> *The bill refers to Sub. S.B. 226's provisions by the phrase "sections . . . 3770.10 to 3770.15 of the Revised Code." However, the act only proposes to enact sections 3370.10 to 3770.14. In addition to this technical inaccuracy, it is unclear how the courts will substantively construe section 1309.109(E) because Sub. S.B. 226 does not amend current section 3770.07(A)(3)'s prohibition against a lottery prize award being the subject of a security interest or being used as collateral; section 1309.109(E)'s language possibly could create problems of construction for the courts by, on the one hand, cross-referencing the current prohibition and, on the other hand, cross-referencing Sub. S.B. 226's provisions, thereby implying that a security interest in a lottery prize award is a type of "transfer" covered by that act's provisions.*

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-06-02	p. 1427
Reported, S. Highways & Transportation	05-29-02	pp. 1840-1841
Passed Senate (33-0)	05-29-02	p. 1847
Reported, H. State Gov't	---	---

