

State of South Dakota

NINETY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2019

915B0716

SENATE LOCAL GOVERNMENT

ENGROSSED NO. **SB 187** - 2/20/2019

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Senators White and Novstrup and Representative Diedrich

1 FOR AN ACT ENTITLED, An Act to define electric bicycles and to provide for the regulation
2 of electric bicycles.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 32-20B be amended by adding a NEW SECTION to read:

5 For purposes of this chapter, the term, electric bicycle, means a bicycle or a tricycle that is
6 equipped with a seat or saddle, with operable pedals for propulsion, and with an electric motor
7 of seven hundred fifty watts or less.

8 An electric bicycle is a Class I electric bicycle if the motor provides assistance only when
9 the person is pedaling and ceases to provide assistance when a speed of twenty miles per hour
10 is achieved.

11 An electric bicycle is a Class II electric bicycle if the motor is capable of propelling the
12 bicycle without the person pedaling and ceases to provide assistance when a speed of twenty
13 miles per hour is achieved.

14 An electric bicycle is a Class III electric bicycle if the motor provides assistance only when



1 the person is pedaling and ceases to provide assistance when a speed of twenty-eight miles per
2 hour is achieved.

3 Section 2. That chapter 32-20B be amended by adding a NEW SECTION to read:

4 Beginning January 1, 2020, any person who manufacturers or distributes an electric bicycle
5 in this state shall permanently affix to the electric bicycle a label that contains the following
6 information:

- 7 (1) The designated class of the electric bicycle;
- 8 (2) The maximum assisted speed of the electric bicycle; and
- 9 (3) The wattage of the electric bicycle's motor.

10 If a person makes a modification to the electric bicycle that affects the bicycle's maximum
11 speed, or manner of propulsion, the person shall amend the label required by this section to
12 accurately reflect the required information.

13 Any person who violates this section is guilty of a Class 2 misdemeanor.

14 Section 3. That chapter 32-20B be amended by adding a NEW SECTION to read:

15 An electric bicycle shall be equipped so that the electric motor is disengaged or ceases to
16 function when the person stops peddling or when the brakes are applied.

17 Section 4. That chapter 32-20B be amended by adding a NEW SECTION to read:

18 Unless otherwise prohibited by a governmental entity having jurisdiction, a person may
19 operate a Class I or Class II electric bicycle on any bicycle path or multi-use path in this state.

20 A person may not operate a Class III electric bicycle on a bicycle path or multi-use path in
21 this state unless:

- 22 (1) The bicycle path or multi-use path is within or adjacent to a highway or roadway; or
- 23 (2) The governmental entity having jurisdiction over the bicycle path or multi-use path
24 expressly permits the use.

1 A person may operate a Class III electric bicycle on a trail that has been designated as
2 nonmotorized, if the trail was constructed only by clearing or grading the native soil and without
3 the installation or placement of any additional surface material and if the governmental entity
4 having jurisdiction over the trail has not otherwise prohibited or restricted the operation.

5 Section 5. That chapter 32-20B be amended by adding a NEW SECTION to read:

6 To operate a Class III electric bicycle in this state, a person shall be at least sixteen years of
7 age. This section does not prohibit a person younger than sixteen years of age from riding as a
8 passenger on a Class III electric bicycle, if the bicycle is designed to accommodate a passenger.

9 Section 6. That chapter 32-20B be amended by adding a NEW SECTION to read:

10 Any person who is less than eighteen years of age and operating a Class III electric bicycle
11 and any person who is a passenger on a Class III electric bicycle, regardless of age, shall wear
12 a properly fitted and fastened bicycle helmet.

13 Section 7. That chapter 32-20B be amended by adding a NEW SECTION to read:

14 Any person operating a Class III electric bicycle shall ensure that the bicycle is equipped
15 with a functioning speedometer.

16 Section 8. That § 32-3-1 be amended to read:

17 32-3-1. Terms used in chapters 32-3 to 32-5B, inclusive, mean:

18 (1) "Commercial motor vehicle," any motor vehicle used or maintained for the
19 transportation of persons or property for hire, compensation, or profit, or designed,
20 used, or maintained primarily for the transportation of property, and not specifically
21 excluded under § 32-9-3;

22 (2) "Component part," any part of a motor vehicle, trailer, or semitrailer other than a tire,
23 having a vehicle identification number;

24 (3) "Dealer," any person who, for commission or with intent to make a profit or gain,

1 sells, exchanges, rents with option to purchase, offers or attempts to negotiate a sale
2 or exchange of new, or new and used vehicles, or who is engaged wholly or in part
3 in the business of selling new, or new and used vehicles, whether or not such vehicles
4 are owned by that person;

5 (4) "Department," Department of Revenue;

6 (4A) "Electric bicycle," as that term is defined in section 1 of this Act;

7 (4B) "Gross vehicle weight rating," the value specified by the manufacturer as the loaded
8 weight of a single vehicle;

9 (5) "Junking certificate," a certificate of ownership, which may not be restored to a title
10 document which allows highway use, issued by the department to the owner of a
11 vehicle which is going to be dismantled and sold for parts;

12 (5A) "Low-speed vehicle," a four-wheeled motor vehicle whose speed attainable in one
13 mile is more than twenty miles per hour and not more than twenty-five miles per hour
14 on a paved level surface.

15 (6) "Manufactured home," a structure, transportable in one or more sections, which is
16 eight body feet or more in width or forty body feet or more in length in the traveling
17 mode, or is three hundred twenty or more square feet when erected on a site; which
18 is built on a permanent chassis and designed to be used as a dwelling, with or without
19 a permanent foundation, when connected to the required utilities; and which contains
20 the plumbing, heating, air conditioning, and electrical systems therein. The term
21 includes any structure which meets all the requirements of this subdivision and any
22 other structure which has been certified by the secretary of housing and urban
23 development. The term does not include a recreational park trailer;

24 (7) "Manufacturer," any person, firm, corporation, limited liability company, or

1 association engaged in the manufacture of new motor vehicles as a regular business;

2 (8) "Mobile home," a movable or portable unit, designed and constructed to be towed on
3 its own chassis (comprised of frame and wheels), and designed to be connected to
4 utilities for year-round occupancy. The term includes:

5 (a) Units containing parts that may be folded, collapsed, or telescoped when being
6 towed and that may be expanded to provide additional cubic capacity; and

7 (b) Units composed of two or more separately towable components designed to
8 be joined into one integral unit capable of being separated again into the
9 components for repeated towing.

10 The term does not include a recreational park trailer;

11 (9) "Moped," a motor driven cycle equipped with two or three wheels. If a combustion
12 engine is used, the maximum piston or rotor displacement shall be fifty cubic
13 centimeters regardless of the number of chambers in such power source. The power
14 source shall be equipped with a power drive system that functions directly or
15 automatically only, not requiring clutching or shifting by the operator after the drive
16 system is engaged. The term does not include an electric bicycle;

17 (10) "Motorcycle," includes motorcycles, motorbikes, mopeds, bicycles with motor
18 attached, and all motor operated vehicles of the bicycle or tricycle type, whether the
19 motive power be a part thereof or attached thereto, and having a saddle or seat with
20 the driver sitting astride or upon it, or a platform on which the driver stands, but
21 excluding a tractor. The term does not include an electric bicycle;

22 (11) "Motor vehicle," automobiles, motor trucks, motorcycles, house trailers, trailers, and
23 all vehicles propelled by power other than muscular power, except traction engines,
24 road rollers, farm wagons, freight trailers, vehicles that run only on rails or tracks,

1 electric bicycles, and off-road vehicles as defined in § 32-20-1;

2 (12) "New motor vehicle," any motor vehicle to which a manufacturer's statement of
3 origin has not been transferred, or is a motor vehicle on which title was issued from
4 the manufacturer's statement of origin or manufacturer's certificate of origin and is
5 still in the name of the first person who took title to the vehicle;

6 (13) "Noncommercial motor vehicle," any motor vehicle not classified as a commercial
7 motor vehicle;

8 (14) "Noncommercial trailer or semitrailer," any trailer or semitrailer not used or
9 maintained for the transportation of persons or property for hire, compensation, or
10 profit;

11 (14A) "Notation," a physical or electronic process of recording a lien on a certificate of title,
12 a manufacturer's statement of origin, or a manufacturer's certificate of origin;

13 (15) "Off-road vehicle," any self-propelled, two or more wheeled vehicle designed
14 primarily to be operated on land other than a highway and includes all terrain
15 vehicles, dune buggies, and any vehicle whose manufacturer's statement of origin
16 (MSO) or manufacturer's certificate of origin (MCO) states that the vehicle is not for
17 highway use. The term does not include a farm vehicle or an electric bicycle as
18 defined in this section;

19 (16) "Owner," any person, firm, association, or corporation renting a motor vehicle or
20 having the exclusive use thereof, under a lease or otherwise, for a period greater than
21 thirty days; as between contract vendor and contract vendee, the term, owner, shall
22 refer to the contract vendee, unless the contrary clearly appears from the context of
23 chapters 32-3 to 32-5B, inclusive, or a person having legal possession or title;

24 (17) "Rebuilt vehicle," any motor vehicle, trailer, or semitrailer that has been rebuilt by

1 the addition or deletion of assemblies, subassemblies, parts, or component parts so
2 that upon gross visual examination it does not appear to be the vehicle described in
3 the certificate of title last issued for the vehicle, or whose title has been marked as
4 rebuilt by this state or another state or jurisdiction;

5 (17A) "Recreational park trailer," a vehicle that is primarily designed to provide temporary
6 living quarters for recreational, camping, or seasonal use and which:

7 (a) Is built on a single chassis mounted on wheels;

8 (b) Has a gross trailer area not exceeding four hundred square feet in the setup
9 mode;

10 (c) Is certified by the manufacturer as complying with American National
11 Standards Institute Standard No. A119.5 in effect on January 1, 2008; and

12 (d) Has at least a seventeen digit identification number and the manufacturer has
13 designated the vehicle as a recreational park model on the manufacturer
14 statement of origin;

15 (18) "Recreational vehicle," a vehicular portable structure built on a chassis designed to
16 be used as a temporary dwelling for travel, recreational, vacation, or seasonal uses,
17 permanently identified as a travel trailer or a recreational park trailer by the
18 manufacturer of the trailer;

19 (19) "Road tractor," any motor vehicle designed and used for drawing other vehicles,
20 except farm or logging tractors used exclusively for farming or logging, and not so
21 constructed as to carry any load thereon either independently or any part of the
22 weight of a vehicle or load so drawn;

23 (20) "Secretary," secretary of revenue;

24 (21) "Semitrailer," any vehicle of the trailer type, equipped with a kingpin assembly,

1 designed and used in conjunction with a fifth wheel connecting device on a motor
2 vehicle constructed so that some part of its weight and that of its load rests upon or
3 is carried by another vehicle;

4 (22) "State," includes the territories and the federal districts of the United States;

5 (23) "Trailer," any vehicle without motive power designed for carrying property or
6 passengers wholly on its own structure and for being drawn by a motor vehicle;

7 (24) "Truck tractor," any motor vehicle designed and used primarily for drawing other
8 vehicles and not so constructed as to carry a load other than a part of the weight of
9 the vehicle and load so drawn;

10 (25) "Used vehicle," any motor vehicle to which title has been issued to someone other
11 than the first person who took title to the motor vehicle from the manufacturer's
12 statement of origin or manufacturer's certificate of origin; and

13 (26) "Vehicle identification number," the number assigned by the manufacturer or by the
14 department for the purpose of identifying the vehicle. The term includes any number
15 or letters assigned by the manufacturer for the purpose of identifying a component
16 part and any such number stamped on a vehicle or part according to law or the rules
17 promulgated by the department for the purpose of identifying the vehicle or part.

18 Section 9. That chapter 32-3 be amended by adding a NEW SECTION to read:

19 An electric bicycle, as defined in section 1 of this Act, is exempt from this chapter.

20 Section 10. That chapter 32-5 be amended by adding a NEW SECTION to read:

21 An electric bicycle, as defined in section 1 of this Act, is exempt from this chapter.

22 Section 11. That subdivision (5) of § 32-6D-1 be amended to read:

23 (5) "Motor vehicle," every vehicle intended primarily for use and operation on the public
24 highways which is self-propelled. The term does not ~~apply to~~ include any electric

1 bicycle as defined in section 1 of this Act, any motor home or to any motor vehicle
2 having a manufacturer's gross vehicle weight rating of fifteen thousand pounds or
3 more;

4 Section 12. That subdivision (7) of § 32-9-1 be amended to read:

5 (7) "Motor vehicle," all vehicles or machines propelled by any power other than
6 muscular used upon the public highways for the transportation of persons or property
7 or both. The term does not include an electric bicycle as defined in section 1 of this
8 Act;

9 Section 13. That § 32-14-1 be amended to read:

10 32-14-1. Terms used in chapters 32-14 to 32-19, inclusive, 32-12 and 32-22 to 32-34,
11 inclusive, mean:

- 12 (1) "Alcoholic beverage," as that term is defined by subdivision 35-1-1(1);
- 13 (2) "Authorized emergency vehicle," a vehicle of a fire department, a police vehicle, an
14 ambulance or emergency vehicle of a municipal department or public service
15 corporation that is designated or authorized by the department or the Department of
16 Health, and an emergency vehicle titled to a local organization for emergency
17 management created pursuant to chapter 34-48A;
- 18 (3) "Automobile transporter," a vehicle combination designed or modified to be used
19 specifically for the transport of assembled highway vehicles;
- 20 (4) "Boat transporter," a vehicle combination designed or modified to be used
21 specifically for the transport of assembled or partially disassembled boats and boat
22 hulls;
- 23 (5) "Business district," the territory contiguous to a highway when fifty percent or more
24 of the frontage thereon for a distance of three hundred feet or more is occupied by

- 1 buildings in use for business;
- 2 (6) "Commission," the Public Utilities Commission;
- 3 (7) "Controlled drug or substance," as that term is defined in § 34-20B-3;
- 4 (8) "Crosswalk," that part of a roadway at an intersection included within the
5 connections of the lateral lines of the sidewalks on opposite sides of the highway
6 measured from the curbs or, in the absence of curbs, from the edges of the traversable
7 roadway; or any portion of a roadway at an intersection or elsewhere distinctly
8 indicated for pedestrian crossing by lines or other markings on the surface;
- 9 (9) "Department," the Department of Public Safety of this state acting directly or through
10 its duly authorized officers and agents;
- 11 (9A) "Electric bicycle," as that term is defined in section 1 of this Act;
- 12 (10) "Farm tractor," a motor vehicle designed and used primarily as a farm implement for
13 drawing plows, mowing machines, and other implements of husbandry;
- 14 (11) "Highway," the entire width between the boundary lines of every way publicly
15 maintained when any part thereof is open to the use of the public as a matter of right
16 for purposes of vehicular travel;
- 17 (12) "Intersection," the area embraced within the prolongation of the lateral curb lines or,
18 if none, then of the lateral boundary lines of two or more highways which join one
19 another at an angle, whether or not one such highway crosses the other. However,
20 such area, in the case of the point where an alley and a street meet within a
21 municipality, is not an intersection;
- 22 (13) "Law enforcement officer," as that term is defined in § 23-3-27;
- 23 (14) "Local authorities," a county, municipal, township, road district, and other local
24 board or body having authority to adopt local police regulations under the

1 Constitution and laws of this state;

2 (15) "Metal tires," a tire the surface of which in contact with the highway is wholly or
3 partly of metal or other hard, nonresilient material;

4 (16) "Motorcycle," a motor vehicle designed to travel on not more than three wheels in
5 contact with the ground, except any vehicle as may be included within the term,
6 tractor, ~~as herein defined~~;

7 (17) "Motor vehicle," a vehicle, ~~as herein defined, which~~ that is self-propelled. The term
8 does not include an electric bicycle;

9 (18) "Official traffic control device," a sign, signal, marking, and device not inconsistent
10 with the law placed or erected by authority of a public body or official having
11 jurisdiction, for the purpose of regulating, warning, or guiding traffic. The term also
12 includes a flagman or a sign, signal, marking, or other device temporarily placed or
13 erected by a person working upon, along, above, or under a highway installing or
14 maintaining a public service facility and which is necessary or required to warn,
15 direct, or otherwise control traffic during the time of work or when a hazard exists;

16 (19) "Owner," a person who holds the legal title of a vehicle or in the event a vehicle is
17 the subject of an agreement for the conditional sale or lease thereof with the right of
18 purchase upon performance of the conditions stated in the agreement and with an
19 immediate right of possession vested in the conditional vendee or lessee, or in the
20 event a mortgagor of a vehicle is entitled to possession, then the conditional vendee
21 or lessee or mortgagor is the owner for the purpose of said chapters;

22 (20) "Park or parking," the standing of a vehicle, whether occupied or not, otherwise than
23 temporarily for the purpose of and while actually engaged in loading or unloading
24 merchandise or passengers;

- 1 (21) "Pneumatic tire," a tire inflated with compressed air;
- 2 (22) "Private road or driveway," a road or driveway not open to the use of the public for
3 purposes of vehicular travel;
- 4 (23) "Recreation vehicle," a self-propelled or towed vehicle equipped to serve as
5 temporary living quarters for recreational, camping, or travel purposes and used
6 solely as a family or personal conveyance and in no way used for a commercial
7 purpose;
- 8 (24) "Residence district," the territory contiguous to a highway not comprising a business
9 district when the frontage on the highway for a distance of three hundred feet or more
10 is mainly occupied by dwellings or by dwellings and buildings in use for business;
- 11 (25) "Right-of-way," the right of one vehicle or pedestrian to proceed in a lawful manner
12 in preference to another vehicle or pedestrian approaching under such circumstances
13 of direction, speed, and proximity as to give rise to danger of collision unless one
14 grants precedence to the other;
- 15 (26) "Road tractor," a motor vehicle designed and used for drawing other vehicles and not
16 so constructed as to carry any load thereon either independently or any part of the
17 weight of a vehicle or load so drawn;
- 18 (27) "Roadway," that portion of a highway improved, designed, or ordinarily used for
19 vehicular travel, exclusive of the berm or shoulder. If a highway includes two or
20 more separate roadways, the term, roadway, refers to any such roadway separately but
21 not to all such roadways collectively;
- 22 (28) "Safety zone," the area or space officially set aside within a highway for the exclusive
23 use of pedestrians and which is so plainly marked or indicated by proper signs as to
24 be plainly visible at all times while set apart as a safety zone;

- 1 (29) "Semitrailer," any vehicle of the trailer type equipped with a kingpin assembly,
2 designed and used in conjunction with a fifth wheel connecting device on a motor
3 vehicle and constructed so that some part of its weight and that of its load rests upon
4 or is carried by another vehicle;
- 5 (30) "Sidewalk," that portion of a street between the curb lines, or the lateral lines of a
6 roadway, and the adjacent property lines intended for use of pedestrians;
- 7 (31) "Single axle" or "one axle," one or more consecutive axles whose centers may be
8 included between two transverse vertical planes spaced forty inches or less apart,
9 extending across the full width of the vehicle;
- 10 (32) "Solid rubber tire," a tire made of rubber other than a pneumatic tire;
- 11 (33) "Steering axle," any axle on the front of a motor vehicle that is activated by the
12 operator to directly accomplish guidance or steering of the motor vehicle or
13 combination of vehicles;
- 14 (34) "Stinger-steered transporter combination," a truck tractor semitrailer combination
15 with a fifth wheel located on a drop frame which is located behind and below the
16 rearmost axle of the power unit;
- 17 (35) "Tandem axle," two or more consecutive axles whose centers may be included
18 between parallel transverse vertical planes spaced more than forty inches and not
19 more than ninety-six inches apart, extending across the full width of the vehicle;
- 20 (36) "Trailer," a vehicle without motive power designed for carrying property or
21 passengers on its own structure and for being drawn by a motor vehicle;
- 22 (37) "Truck tractor," a motor vehicle designed and used primarily for drawing other
23 vehicles and not so constructed as to carry a load other than a part of the weight of
24 the vehicle and load so drawn;

1 (38) "Urban district," the territory contiguous to and including any street which is built up
2 with structures devoted to business, industry, or dwelling houses situated at intervals
3 of less than one hundred feet for a distance of a quarter of a mile or more;

4 (39) "Vehicle," a device in, upon, or by which any person or property is or may be
5 transported or drawn upon a public highway, except devices moved by human power
6 or used exclusively upon stationary rails or tracks; including bicycles, electric
7 bicycles, and ridden animals;

8 (40) "Wireless communication device," any wireless electronic communication device
9 that provides for voice or data communication between two or more parties,
10 including a mobile or cellular telephone, a text messaging device, a personal digital
11 assistant that sends or receives messages, an audio-video player that sends or receives
12 messages, or a laptop computer. A wireless communication device does not include
13 a global positioning or navigation system (GPS) used to receive driving directions.

14 Section 14. That § 32-20-1 be amended to read:

15 32-20-1. ~~As Terms used in this chapter, the following words shall mean:~~

16 (1) "Department" the Department of Public Safety.

17 (2) "Moped" a motor driven cycle equipped with two or three wheels. If a combustion
18 engine is used, the maximum piston or rotor displacement shall be fifty cubic
19 centimeters regardless of the number of chambers in such power source. The power
20 source shall be equipped with a power drive system that functions directly or
21 automatically only, not requiring clutching or shifting by the operator after the drive
22 system is engaged. The term does not include an electric bicycle as defined in section
23 1 of this Act.

24 (3) "Motorcycle" includes motorcycles, motorbikes, mopeds, bicycles with motor

1 attached, and all motor operated vehicles of the bicycle or tricycle type, whether the
 2 motive power be a part thereof or attached thereto, and having a saddle or seat with
 3 the driver sitting astride or upon it, or a platform on which the driver stands, but
 4 excluding a tractor. The term does not include an electric bicycle as defined in
 5 section 1 of this Act.

6 (4) "Off-road vehicle," any self-propelled, two or more wheeled vehicle designed
 7 primarily to be operated on land other than a highway and includes, ~~but is not limited~~
 8 ~~to,~~ all terrain vehicles, dune buggies and any vehicle whose manufacturer's statement
 9 of origin (~~MSO~~) or manufacturer's certificate of origin (~~MCO~~) states that the vehicle
 10 is not for highway use. ~~Off-road vehicle~~ The term does not include a farm vehicle as
 11 defined in § 32-3-2.4 or an electric bicycle as defined in section 1 of this Act.

12 Section 15. That subdivision (6) of § 32-35-1 be amended to read:

13 (6) "Motor vehicle," ~~every a vehicle which that~~ is self-propelled and ~~every a vehicle~~
 14 ~~which that~~ is propelled by electric power obtained from overhead trolley wires, but
 15 not operated upon rails. The term does not include an electric bicycle as defined in
 16 section 1 of this Act;

17 Section 16. That § 32-38-2 be amended to read:

18 32-38-2. For the purposes of this chapter, a passenger vehicle is any self-propelled vehicle
 19 intended primarily for use and operation on the public highways including ~~passenger cars,~~
 20 ~~station wagons, vans, taxicabs, emergency vehicles, motor homes, trucks, and pickups~~ any
 21 passenger car, station wagon, van, taxicab, emergency vehicle, motor home, truck, or pickup.
 22 The term does not include ~~motorcycles, motor scooters, motor bicycles, motorized bicycles,~~
 23 ~~passenger buses, and school buses~~ any motorcycle, motor scooter, motor bicycle, electric
 24 bicycle, passenger bus, or school bus. The term also does not include any farm tractors and

- 1 ~~implements~~ tractor or implement of husbandry designed primarily or exclusively for use in
- 2 agricultural operations.