

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

### **House Bill 2753**

By Delegate Steele

[Introduced January 18, 2023; Referred to the  
Committee on Economic Development and Tourism  
then the Judiciary]

1 A BILL to amend and reenact §17C-1-70 of the Code of West Virginia, 1931, as amended; and to  
 2 amend and reenact §17C-11-8 of said code, all relating to modifying e-bike regulations to  
 3 more closely comport to federal law; creating new definitions of e-bikes in West Virginia;  
 4 permitting Class 2 e-bikes to use throttles; allowing e-bikes to be operated on public lands  
 5 so as to increase their usage and accessibility; and stating that e-bike users will not be  
 6 given special privileges not otherwise given to similarly situated riders.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 1. WORDS AND PHRASES DEFINED.**

### **§17C-1-70. Electric bicycles; definitions.**

1 ~~"Class 1 electric bicycle" means every electric bicycle equipped with a motor that provides~~  
 2 ~~assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle~~  
 3 ~~reaches the speed of 20 miles per hour.~~

4 ~~"Class 3 electric bicycle" means every bicycle equipped with a motor that provides~~  
 5 ~~assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle~~  
 6 ~~reaches the speed of 28 miles per hour.~~

7 ~~"Electric bicycle" means every two-wheel or three-wheel bicycle equipped with fully~~  
 8 ~~operable pedals and an electric motor of less than 750 watts that is a Class 1 electric bicycle or a~~  
 9 ~~Class 3 electric bicycle.~~

10 For the purpose of this chapter, the term "electric bicycle" means a two or three wheeled  
 11 vehicle with fully operable pedals and an electric motor of fewer than 750 watts (1.005  
 12 horsepower). There is a "three-class system" to differentiate between the models and top-assisted  
 13 speeds of electric bicycles.

14 "Class 1" electric bicycles have a motor that provides assistance only when the rider is  
 15 pedaling, and that ceases to provide assistance when the e-bike reaches 20 mph.

16 "Class 2" electric bicycles have a motor that may be used exclusively to propel the bicycle,  
 17 and that is not capable of providing assistance when the e-bike reaches the speed of 20 mph.

18 "Class 3" electric bicycles have a motor that provides assistance only when the rider is  
19 pedaling, and that ceases to provide assistance when the e-bike reaches the speed of 28 mph.

20 "Throttle" refers to a device that controls the flow of power to the electric motor on an  
21 electric bicycle for the purpose of propelling the electric bicycle.

## **ARTICLE 11. OPERATION OF BICYCLES AND PLAY VEHICLES.**

### **§17C-11-8. Electric bicycles; requirements; exclusions; age restrictions.**

1 (a) The operator of an electric bicycle has all of the rights and privileges and is subject to all  
2 of the duties applicable to the driver of a vehicle subject to this chapter, except as otherwise  
3 provided by this section and except as to those provisions of this chapter which by their nature can  
4 have no application.

5 (b) A person owning or operating an electric bicycle is not subject to the provisions of  
6 §17A-1-1 *et seq.*, §17B-1-1 *et seq.*, or §17D-1-1 *et seq.* of this code, relating to registration, title,  
7 driver's license, and financial responsibility requirements.

8 (c) A person may not tamper with or modify an electric bicycle so as to change the motor-  
9 powered speed capability or motor engagement between pedal-assist and throttle-assist types of  
10 engagement. If a motor on an electric bicycle is modified so that a limit established in §17C-1-70  
11 of this code is exceeded, that vehicle is no longer an electric bicycle. The provisions of this  
12 subsection are not applicable to a modified electric bicycle operated solely and exclusively on a  
13 person's own property.

14 (d) An electric bicycle must comply with the equipment and manufacturing requirements  
15 for bicycles adopted by the United States Consumer Product Safety Commission (16 C.F.R. Part  
16 1512).

17 ~~(e) The motor on an electric bicycle must disengage or cease to propel the electric bicycle~~  
18 ~~when the operator stops pedaling, or when the operator applies the brakes and stops pedaling~~

19 (e) Class 2 electric bicycles are permitted to use a throttle to propel the bicycle and must be  
20 equipped with a speedometer that displays the speed of the electric bicycle in miles per hour.

21 ~~(f) A Class 3 electric bicycle must be equipped with a speedometer that displays the speed~~  
22 ~~the electric bicycle is traveling in miles per hour. When an operator stops pedaling an electric~~  
23 ~~bicycle the motor pedal assist must disengage and cease to power, or assist in powering, the~~  
24 ~~electric bicycle.~~

25 (g) Electric bicycles operated on public roadways, public bicycle paths, public multiuse  
26 paths, and other public rights-of-way where bicycles are permitted to travel are subject to the  
27 following restrictions:

28 ~~(1) A Class 1 electric bicycle may be used in places where bicycles are permitted to travel,~~  
29 ~~including, but not limited to, public roadways, public bicycle paths, public multiuse trails, and public~~  
30 ~~single-use trails.~~

31 ~~(2) A Class 3 electric bicycle may not be operated on a bicycle path, multiuse trail, or~~  
32 ~~single-use trail unless it is within a highway or roadway: *Provided*, That the provisions of this~~  
33 ~~subdivision are not applicable to a bicycle path, multiuse trail, or single-use trail if the municipality,~~  
34 ~~local authority, or governing body of a state agency that has jurisdiction over the bicycle path,~~  
35 ~~multiuse trail, or single-use trail expressly permits that operation~~

36 (1) Class 1 and Class 2 electric bicycles may be used on roads and trails where traditional,  
37 non-electronic bicycle use is allowed will be given the same rights and privileges of a traditional,  
38 non-electric bicycle and will be subject to all of the responsibilities and duties of a traditional, non-  
39 electric bicycle. This subsection is intended to facilitate increased access to public lands that may  
40 otherwise be inaccessible to those with disabilities, health issues, or age-related limitations.

41 (2) A Class 3 electric bicycle may not be operated on a bicycle path, multiuse trail, or  
42 single-use trail unless it is within a highway or roadway: *Provided*, That the provisions of this  
43 subdivision are not applicable to a bicycle path, multiuse trail, or single-use trail if the municipality,  
44 local authority, or governing body of a state agency that has jurisdiction over the bicycle path,  
45 multiuse trail, or single-use trail expressly permits that operation.

46 (3) Electric bicycles will not be given special access beyond what traditional or non-electric

47 bicycles are allowed. For example, electric bicycles will not be allowed on roads or trails or in areas  
48 where traditional, non-electric bicycle travel is prohibited.

49 ~~(3)~~ (4) This subsection may not be construed to limit the authority of the owner of a private  
50 way or the owner of private property to restrict or allow the operation of electric bicycles on the way  
51 or property.

52 (5) The Director of the Division of Natural Resources shall promulgate, pursuant to the  
53 provisions of §29A-1-1 et seq. of this code, all rules necessary to effectuate the purposes of this  
54 section and these rules must be approved by the commission. The Division of Natural Resources  
55 shall enforce the provisions of this section and rules promulgated pursuant to this section and shall  
56 provide necessary staff and support services to the commission to effectuate the purposes of this  
57 section.

58 (h) Age restrictions related to the operation of electric bicycles are as follows:

59 (1) A person under 16 years of age may not operate a Class 3 electric bicycle;

60 (2) A person under 15 years of age may only be a passenger on a Class 3 electric bicycle,  
61 including as a passenger within any attachment to the vehicle designed to transport an additional  
62 person, including a child, provided the operator of the electric bicycle is 18 years of age or older;  
63 and

64 (3) A person under 15 years of age who is an operator or passenger on an electric bicycle  
65 shall wear a properly fitted and fastened bicycle helmet, pursuant to the Child Bicycle Safety Act,  
66 §17C-11A-1 et seq. of this code.

67 (i) A person under the influence of alcohol or controlled substances shall not operate a  
68 Class 1, Class 2 or Class 3 electric bicycle.

NOTE: The purpose of this bill is to update the laws on e-bikes in West Virginia to more closely comport to federal law.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.