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TESTIMONY

# EMBRACING INNOVATION IN MICROMOBILITY TRANSPORTATION

**Jennifer Huddleston**
*Research Fellow, Mercatus Center at George Mason University*

House Committee on Environment and Transportation

February 28, 2019

Dear Chair Barve, Vice Chair Stein, and members of the House Committee on Environment and Transportation:

My name is Jennifer Huddleston and I am a research fellow at the Mercatus Center at George Mason University. My research focuses on the intersections of technology and law. Thank you for the opportunity today to provide informational testimony regarding HB 748 (introduced on February 8, 2019) and the future of micromobility.

Micromobility is commonly understood as the various portable modes of transportation, typically enabled by apps, that provide short-distance movement. A number of different devices including dockless bikes and e-scooters are the most common, but the category also includes other options like dockless mopeds and tricycle-like electric cars.

In the transportation sector, state and local governments have often taken the lead by implementing policies that encourage entrepreneurs to pursue solutions to transportation problems and create safer, cleaner, and more enjoyable transportation options. As policymakers continue this tradition, they must be cautious not to create rules that foreclose future innovation.

Most recently, micromobility options, including electric scooters and bicycles, have been solving the "last mile" problem in cities around the country. (This problem is the gap between a rider's final destination and the area served by traditional public transit options such as buses and trains.) Yet some jurisdictions have introduced regulations that send the message to transportation innovators to focus their talents elsewhere. As discussed in my previous work, including the attached piece, states should consider the following policy elements when looking to encourage transportation innovation and welcoming micromobility:

- Provide clarity about the legality of such devices state wide.
- Ensure that definitions are flexible and adaptive to accommodate various future possibilities of micromobility innovation.
- Pursue education as appropriate for pedestrians, micromobility riders, and drivers to encourage a positive and safe experience while embracing a multimodal transportation future.

The most innovation-friendly approach would provide a broad definition for this sort of means of transportation in order to allow the development of new micromobility options without requiring

For more information or to meet with the scholar, contact
Mercatus Outreach, 703-993-4930, mercatusoutreach@mercatus.gmu.edu
Mercatus Center at George Mason University, 3434 Washington Blvd., 4th Floor, Arlington, Virginia 22201

regulatory updates from policymakers. Such a governance approach would encourage innovators to think even more creatively and would send a clear message to the public that the state legislature is inclined to embrace in the future all potential solutions in the area of transportation.

Thank you for your time and consideration.

Sincerely,

Jennifer Huddleston
Research Fellow, Mercatus Center at George Mason University

## ATTACHMENT

Jennifer Huddleston, "The Future of Micromobility May Require States to Rethink Old Laws," *The Bridge*, January 22, 2019.

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# The Future of Micromobility May Require States to Rethink Old Laws

Tuesday, January 22, 2019

**Authors:** Jennifer Huddleston

Dockless electric scooters have quickly emerged as a popular form of transportation in many cities across the country. Within the last two years, entrepreneurial companies such as Bird, Lime, and Lyft have dropped hundreds of scooters in cities across the country and around the globe (often without consulting cities officials first). But in some areas, outdated regulations at the state level may get in the way of cities that want to embrace new micromobility options.

Many cities are faced with growing transportation problems and evolving views on how we get from place to place. Traffic is stressful and can have serious consequences [1] for many commuters, while at the same time fewer millennials [2] are choosing to own cars and are looking for cities with multimodal transportation options [3]. Scooters and other micromobility options provide a cheap and efficient alternative to car trips for those that are only going a short distance. In fact, when Uber launched dockless electric bikes in San Francisco [4] and allowed riders to book them through the app, the company saw a ten percent reduction in short rides and a fifteen percent increase in bike usage.

In the past, cities have tried to alleviate their traffic woes by deploying city-run bikeshares or costly expansions of public transit, but these efforts still leave a gap between the current transportation options and the end destination. Dockless scooters and other forms of micromobility provide a solution to this gap, often called the last mile problem [5], and provide a convenient, clean, and enjoyable option for short distance travel. In fact, according to data released by Lime, one in five riders [6] were using such options to travel to public transit in urban areas. In general, micromobility options serve as a complement to existing transportation options and provide a solution for many problems that cities and states have spent years and millions of dollars trying to solve.

While some cities have clamped down [7] on these new transportation options with bans, others [8] are excited to work with transportation innovators. But in many states, existing laws designed to regulate traditional transportation options like motorcyles and cars may get in the way. For example, under current Alabama law [9], scooters need to be registered with the state's Department of Revenue, meet the safety requirements of motorcycles, and each display a license plate. Riders would need to have a motorcycle endorsement on their license to ride these scooters. Other states including [10] Pennsylvania, Michigan, and New Jersey have similar definitional issues that would prevent the convenience of an innovative and safe transportation option. Meanwhile, in Massachusetts, scooters are considered illegal [11] because they lack turn signals.

This tension highlights some of the issues that arise as emerging technologies challenges well-intentioned, old definitions of transportation. If states narrowly construct a regulatory regime that focuses on controlling what already exist, then they may not only suffer the impact of those regulations on existing technologies, but prevent their citizens from benefitting from newer technologies.

Some states are seeking to be proactive and make it clear that new forms of micromobility like scooters are legal. For example, in a recent Wall Street Journal article [10] a Florida State Senator suggested introducing legislation that would clarify any confusion regarding the legality of scooters under state law. Such potential

state-level legislation could also consider statewide norms for issues such as helmets and age requirements for operating new transportation options. For example, California's scooter legislation removed helmet requirements [12] for adults that many cities were attempting to impose. State action clarifying the legality of these new devices would likely preempt cities from banning new options altogether and allow innovators to come to any city in a state without fear of their product later being declared illegal.

While it may seem silly that states need to consider laws governing scooters, what these actions actually show is how states can rethink regulation during the ongoing transportation renaissance. Nearly a decade ago, these issues began with conversations around ride-sharing apps like Uber and Lyft (which in some cases remain unsettled). Following their initial disruption, states and cities were able to use parity provisions to deregulate [13] existing taxi industries and encourage new entrepreneurs and innovation in that space. This also signals a broader openness to innovation more generally. A focus on parity and entrepreneurship will not only encourage innovation in existing bike and scooter sharing, but it will also encourage entrepreneurs to think about new ways they can solve a city or state's unique transit woes.

With an ever-growing number of exciting transportation technologies on the horizon, states will have to be careful not to prevent innovation with regulations designed for 20th Century technologies. 21st Century transportation [14] will likely embody a number of modes, such as driving to a commuter lot, taking public transit into the city, and then riding a scooter or dockless bike to your final destination. In this rapidly evolving space, states that want to encourage innovation must look beyond the impact regulations have on existing technologies and ensure that they are not inadvertently preventing a safer and more enjoyable transit future.

Overly specialized laws risk undermining general legal principles and norms that are able to adapt to new technologies. Common law is typically able to evolve and adapt to innovation, and as Judge Easterbrook famously explained in *Cyberspace and the Law of the Horse [15]*, "the law applicable to specialized endeavors is to study general rules."

But sometimes disruptive technology needs to disrupt regulation as well as industries, because of the specialized rules that have been set in the past. So while we might not need to have considered a specialized Law of the Horse, perhaps states ought to consider when existing laws necessitate a Law of the Scooter.

*Photo credit: Justin Sullivan/Getty Images*

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**Links**
[1] https://www.cnn.com/2012/11/19/health/driving-traffic-commute-consequences/index.html
[2] https://www.mcall.com/business/mc-biz-cars-millennials-20181112-story.html
[3] http://www.governing.com/blogs/view/gov-transportation-choices-millennials-multi-modal.html
[4] https://www.curbed.com/2018/7/24/17604772/uber-lime-jump-bikes-scooters
[5] https://marketurbanismreport.com/private-transit-first-mile-last-mile-problem/
[6] https://www.li.me/blog/lime-year-end-report-2018
[7] https://www.sacbee.com/news/nation-world/national/article216596135.html
[8] https://www.commercialappeal.com/story/news/local/the-901/2018/06/15/memphis-bird-electric-scooter-craze-and-penny-hardaway-gets-his-schedule/691777002/
[9] https://www.al.com/news/birmingham/index.ssf/2018/09/are_bird_electric_scooters_str.html
[10] https://www.wsj.com/articles/states-race-to-catch-up-with-electric-scooters-11545051600
[11] https://boston.curbed.com/2018/9/19/17875344/electric-scooters-massachusetts-legal
[12] https://la.curbed.com/2018/9/21/17884220/bird-lime-scooters-rules-helmets-california
[13] https://www.mercatus.org/publications/ridesharing-vs-taxis-rethinking-regulations-allow-innovation
[14] https://www.mercatus.org/bridge/commentary/transportation-30

[15] http://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=2147&context=journal_articles