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**THE COUNCIL OF THE CITY OF NEW YORK**

**COMMITTEE REPORT OF THE INFRASTRUCTURE DIVISION**

Jeffrey Baker, Director, Legislative Division

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**COMMITTEE ON TRANSPORTATION**

Hon. Ydanis Rodriguez, Chair

**June 25, 2020**

**PROPOSED INT. NO. 1250-A:**

By Council Members Cabrera, Rodriguez, Salamanca, Ulrich, Levine, Koslowitz, Richards, Torres, Cornegy, Constantinides, Ampry-Samuel, Brannan, Maisel, Cumbo, Gjonaj, the Public Advocate (Mr. Williams), Rivera, Van Bramer, Adams, Reynoso and Borelli

**TITLE:**

A Local Law to amend the administrative code of the city of New York, in relation to the operation of certain electric scooters

**ADMINISTRATIVE CODE:**

Amends section 19-176.2

**PROPOSED INT. NO. 1264-A:**

By Council Members Cabrera, Rodriguez, Salamanca, Chin, Rivera, Levine, Cumbo, Cornegy, Reynoso, Menchaca, Van Bramer, Lander, Lancman, Richards, Brannan, Constantinides, Torres, Gjonaj, Perkins, Grodenchik, Eugene, Ayala, Barron, Maisel, Rose, Adams, Ampry-Samuel, Koo, Borelli, Ulrich and the Public Advocate (Mr. Williams)

**TITLE:**

A Local Law to amend the administrative code of the city of New York, in relation to the operation of certain electric bicycles

**ADMINISTRATIVE CODE:**

Amends sections 19-176.2

**PROPOSED INT. NO. 1266-A:**

By Council Members Cabrera, Rodriguez, Salamanca, Levine, Cumbo, Cornegy, Koslowitz, Ampry-Samuel, Vallone, Brannan, Maisel, Constantinides, the Public Advocate (Mr. Williams), Grodenchik, Torres, Richards, Van Bramer, Kallos, Gibson, Reynoso, Rosenthal, Perkins, Eugene, Adams, Chin, Gjonaj, Levin, Barron, Rivera, Treyger, Ayala, Powers, Menchaca, Ulrich and Borelli

**TITLE:**

A Local Law in relation to a pilot program for shared electric scooters

## **INTRODUCTION**

On June 25, 2020, the Committee on Transportation, chaired by Council Member Ydanis Rodriguez, will conduct a hearing on the following legislation: Proposed Int. No. 1250-A, a local law to amend the administrative code of the city of New York, in relation to the operation of certain electric scooters; Proposed Int. No. 1264-A, a local law to amend the administrative code of the city of New York, in relation to the operation of certain electric bicycles; and Proposed Int. No. 1266-A, a local law in relation to a pilot program for shared electric scooters.

The Committee previously held a hearing on these pieces of legislation on January 23, 2019. At that hearing, the committee heard testimony from representatives of the New York City (NYC) Department of Transportation (DOT), and the NYC Police Department (NYPD), cycling advocates, and members of the public.

## **BACKGROUND**

### **E-bikes and E-scooters**

In April 2020, New York State (NYS) acted to legalize certain e-bikes and e-scooters as part of the budget agreement for Fiscal Year 2021.<sup>1</sup> The budget legislation is similar to a bill that had passed the NYS Legislature in 2019, but then ultimately vetoed by Governor Andrew Cuomo, yet provides localities, like NYC, some ability to decide whether to allow and how to regulate such vehicles.<sup>2</sup>

The State budget language allows for the creation of three classes of e-bikes: Class 1, pedal-assisted without throttle; Class 2, throttle-assisted with a maximum speed of 20 mph; and Class 3, throttle-powered with a maximum speed of 25 mph.<sup>3</sup> Under the State law, Class 3 e-bikes may only be operated in NYC, and cyclists riding Class 3 e-bikes are required to wear

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<sup>1</sup> Andrew J. Hawkins, *New York finally legalizes electric bikes and scooters*, The Verge (April 2, 2020) available at <https://www.theverge.com/2020/4/2/21204232/new-york-legalizes-electric-bikes-scooters>

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

helmets.<sup>4</sup> The State law allows for the operation of e-scooters incapable of exceeding 20 mph, but provides that scooters may not be operated at speeds in excess of 15 mph. E-scooters may not be used by riders under the age of 16, and riders between the ages of 16 and 18 are required to wear a helmet.<sup>5</sup>

As per the NYS Department of Motor Vehicles (DMV), effective April 2020, State Law allows people to operate e-bikes on some streets and highways within the State,<sup>6</sup> with the provisions that: these devices are only operated on highways with a posted speed limit of 30 mph or less; municipalities can further regulate the time, place and manner of operation of these devices; and these devices cannot operate on a sidewalk except as authorized by local law or ordinance.<sup>7</sup> In NYS, electric motorized devices cannot be registered with the DMV.

The NYC Administrative Code contains provisions against the operation of “motorized scooters,” which encompass e-bikes and e-scooters, including penalties and means of enforcement.<sup>8</sup> Proposed Int. No. 1250-A and Proposed Int. No. 1264-A would amend this section to allow for the use of certain e-bikes and e-scooters currently allowed under NYS Law. These include Class 1, Class 2 and Class 3 e-bikes, which Class 3 bikes, as indicated earlier, have top speeds capped at 25 mph, and e-scooters up to 20 mph (not to be operated in excess of 15 mph). The Administrative Code would still prohibit the use of other types of e-bikes, e-scooters and other motorized devices that remain illegal under State law. For devices that remain illegal, fines that could be imposed pursuant to the Administrative Code have been reduced from \$500 to

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<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> New York State, Department of Motor Vehicles, Registration: Electric Scooters and Bicycles and Other Unregistered Vehicles, available at <https://dmv.ny.gov/registration/electric-scooters-and-bicycles-and-other-unregistered-vehicles#:~:text=Effective%20August%202020%20%2D%20the,highways%20in%20New%20York%20State>

<sup>7</sup> *Id.*

<sup>8</sup> Adm. Code § 19-176.2.

\$250, and impoundment may now only be used for prohibited devices that have been operated in a manner that endangers the safety of the operator or safety or property of another. In the past, the conversation around expanding legal micromobility<sup>9</sup> options in NYC has centered on e-bikes, which are used primarily by commercial cyclists.<sup>10</sup> In 2018 and 2019, the debate about legal operation of these transportation devices evolved to also include e-scooters and the adoption of e-bikes more broadly as a mode of transportation.<sup>11</sup>

Private companies have advocated, for NYC and NYS to legalize e-bikes and e-scooters so they can create shared networks, similar to Citi Bike.<sup>12</sup> However, unlike Citi Bike, these companies predominantly use a “dockless” model, which does not require a user to dock a bike or scooter at a specific fixed location. In recent years, e-scooter companies have increased operation in cities throughout the country.<sup>13</sup> Many cities allow dockless scooter companies to operate predominantly as small fleets on a more limited scale.<sup>14</sup> This arrangement had raised questions about not only legalizing e-bikes and e-scooters, but also the feasibility of allowing dockless shared networks to operate in NYC. Additionally, questions remain regarding the safety of these devices considering that little data is available on their use.

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<sup>9</sup> *Micromobility* refers to the use of electronic scooters and bikes to travel shorter distances around cities, often to or from another mode of transportation (bus, train, or car). Users typically rent such a scooter or bike for a short period of time using an app. See: Dictionary, Tech and Science Dictionary, *Micromobility*, available at <https://www.dictionary.com/e/tech-science/micromobility/>

<sup>10</sup> Vicky Gan, *The Murky Legality of E-Bikes*, CityLab (February 17, 2016) available at <https://www.citylab.com/equity/2016/02/the-murky-legality-of-e-bikes/426969/>

<sup>11</sup> Joshua Brustein and Nate Lanxon, *How Electric Scooters are Reshaping Cities*, Bloomberg, (September 7, 2018) available at <https://www.bloomberg.com/news/articles/2018-09-07/are-electric-scooters-the-future-of-urban-transport-quicktake>

<sup>12</sup> Jim Faber, *Electric Bikes are About to Go Mainstream*, NYTIMES, (October 9, 2018) available at <https://www.nytimes.com/2018/10/09/nyregion/are-electric-bikes-about-to-take-over-new-york.html>

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at 3.

## Previous Regulations for E-bikes and E-scooters

Over the years, e-bikes and e-scooters have been an area highly regulated by NYC. As previously mentioned, the NYC Administrative Code prohibits the use of “motorized scooters,” which are defined as wheeled devices that have handle bars, can be operated by a standing or sitting user, have an electric motor or gas motor that can operate the device without human power, and cannot be registered with the DMV.<sup>15</sup> This prohibition applies to e-scooters and throttle e-bikes, which can operate without a person pedaling or propelling the device.<sup>16</sup> Individuals who use these devices faced a penalty of \$500, a traffic infraction and confiscation.<sup>17</sup> Businesses that sell and rent electric vehicles, can face a penalty of \$1,000 for the first offense and \$2,000 for the second offense.<sup>18</sup>

In addition, the Council passed Local Law 41 of 2013 (“Local Law 41”), which clarified, that for enforcement purposes, a business would be liable for the \$500 penalty for having a commercial cyclist operate an e-bike in the course of business.<sup>19</sup> Although Local Law 41 was generally enforced based on raids conducted by the NYPD, the fine was often left unpaid by businesses or passed on to commercial cyclists.<sup>20</sup>

In October of 2017, Mayor Bill de Blasio announced a major crackdown against e-bikes.<sup>21</sup><sup>22</sup> However, instead of ensuring that the businesses were paying the fines, the burden of

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<sup>15</sup> Adm. Code § 19-176.2.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> Adm. Code § 20-762.

<sup>19</sup> Local Law 41 of 2013/Adm. Code § 10-157(k).

<sup>20</sup> *Id.* at 2.

<sup>21</sup> Press Release: *Mayor de Blasio and NYPD Announce Plans to Crack Down on Improper Use of Electric Bikes* (October 19, 2017) available at <https://www1.nyc.gov/office-of-the-mayor/news/666-17/mayor-de-blasio-nypd-plans-crack-down-improper-use-electric-bikes#/0>

<sup>22</sup> Note: In 2018, the NYPD confiscated 1,215 e-bikes and issued 1,154 e-bike summonses to individuals. Although NYC law states that employers are “liable” for the e-bike fines their workers receive, only 167 e-bike summonses were given to commercial businesses in 2018. In January 2019, the NYPD issued officers to fine businesses not workers. See: Christopher Robbins, *De Blasio's 2018 War On E-Bikes Targeted Riders, Not Businesses*, Gothamist, (January 18, 2019) available at [http://gothamist.com/2019/01/18/nypd\\_e-bike\\_cyc\\_crackdown.php](http://gothamist.com/2019/01/18/nypd_e-bike_cyc_crackdown.php) and Kristin

the increased enforcement fell upon many commercial cyclists.<sup>23</sup> In May of 2018, after backlash from delivery workers and advocates, DOT amended its rules to clarify that “pedal assist” e-bikes are permitted in the City so long as they do not exceed 20 miles per hour.<sup>24</sup> Unlike throttle e-bikes, pedal assist e-bikes have motors that are activated as the operator pedals, and shut off after the operator reaches a certain speed. The amendment to the rules did not solve the problem for commercial cyclists, who do not use pedal assist bikes, but use throttle e-bikes that often exceed 20 mph and still received fines.<sup>25</sup> In March of 2020, Mayor de Blasio suspended NYPD enforcement on throttle-powered e-bikes in an effort to ease the burdens of COVID-19 for NYC’s roughly 40,000 delivery cyclists who are considered frontline workers during this pandemic.<sup>26</sup> However, hours after the announcement, an NYPD spokesperson reported to the Gothamist that the department would not stop enforcement against riders of throttle-powered e-bikes.<sup>27</sup>

### The City Tests E-Bikes

In August of 2018, not long after pedal-assist bikes were considered legal in NYC, DOT approved 200 pedal-assist e-bikes for use that would be dispersed throughout Citi Bike’s 750

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Toussaint, *NYPD directs officers to fine businesses, not delivery workers, for e-bike violations*, Metro (January 3, 2019) available at <https://www.metro.us/news/local-news/new-york/nypd-fine-businesses-not-delivery-workers-e-bike>

<sup>23</sup> Christopher Robbins and Jeffery E. Singer, *NYC’s War on E-Bikes Takes a Toll on Immigrant Delivery Workers*, Gothamist, April 26, 2018) available at [http://gothamist.com/2018/04/26/e-bike\\_immigrants\\_nypd\\_nyc.php#photo-1](http://gothamist.com/2018/04/26/e-bike_immigrants_nypd_nyc.php#photo-1)

<sup>24</sup> 34 CRR-NY 4.1; See New York City Department of Transportation, *Notice of Adoption – Traffic Rules Amendment Relating to Pedal-Assist Bicycles*, available at <http://rules.cityofnewyork.us/content/dot-notice-adoption-traffic-rules-amendment-relating-pedal-assist-bicycles>

<sup>25</sup> David Meyer, *Delivery Workers Say de Blasio’s Proposed E-bike Rules Won’t Help Them*, Streetsblog (May 14, 2018) available at <https://nyc.streetsblog.org/2018/05/14/delivery-workers-say-de-blasios-proposed-e-bike-rules-wont-help-them/>

<sup>26</sup> Jake Offenhardt, *De Blasio Pauses Crackdown on E-Bikes, As Delivery Cyclists Become “Frontline Workers” In Coronavirus Crisis*, Gothamist (March 16, 2020) available at <https://gothamist.com/news/de-blasio-pauses-crackdown-e-bikes-covid-19>

<sup>27</sup> *Id.*

docks.<sup>28</sup> Additionally, e-bikes were included in DOT's dockless bike share pilot program, which was assessing the feasibility of operating a bikeshare network without docking stations. During this time, Jump, which is owned by Uber, and Lime included pedal assist bikes in Staten Island and the Bronx.<sup>29</sup> Results from the pilot may be able to provide information on whether or not it is feasible for dockless companies to operate in the City and will help to provide a better understanding of whether or not electric devices could be used in the City.<sup>30</sup>

More recently, in December 2019, Mayor de Blasio announced that NYC would launch the Commercial Cargo Bike Program, which would encourage freight companies to reduce delivery-related congestion through the use of pedal-assist cargo e-bicycles.<sup>31</sup> The program would bring an estimated 100 cargo e-bikes from major delivery companies, such as UPS, Amazon and DHL, to NYC's most congested streets in Manhattan south of 60<sup>th</sup> Street-the same area to be covered by Central Business District Tolling starting in 2021.<sup>32</sup> Any freight company is allowed and encouraged to participate in the program, with certain rules, including: size limits for sidewalk parking; walkways being kept clear in compliance with the Americans with Disabilities Act; requirements for contact information and identification on the cargo bikes; requirements that the bikes not exceed speeds of 12 mph; safety training for operators; and

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<sup>28</sup>Jim Faber, *Electric Bikes are About to Go Mainstream*, NYTIMES, (October 9,2018) available at <https://www.nytimes.com/2018/10/09/nyregion/are-electric-bikes-about-to-take-over-new-york.html> and Gersh Kuntzman, *CitiBike's New Electric Bike is Exciting for Riders (if they live near CitiBike, of course) Yet no help to Deliverymen*, Streetsblog,(August 20, 2018) available at <https://nyc.streetsblog.org/2018/08/20/citi-bikes-new-electric-bike-is-a-bolt-of-excitement-for-riders-if-they-live-in-a-citi-bike-area-of-course/>

<sup>29</sup> Jim Faber, *Electric Bikes are About to Go Mainstream*, NY TIMES, (October 9,2018) available at <https://www.nytimes.com/2018/10/09/nyregion/are-electric-bikes-about-to-take-over-new-york.html>

<sup>30</sup> Amenna Walker, *NYC Gives Dockless Bike Share Pilot a 90-Day Extension*, Curbed, (November 16,2018) available at <https://ny.curbed.com/2018/11/16/18098764/nyc-dockless-bike-share-pilot-extended-citi-bike-lime-jump>

<sup>31</sup> New York City, Office of the Mayor, *Mayor de Blasio Announces Commercial Cargo Bike Program to Reduce Delivery Congestion* (December 4, 2019) available at <https://www1.nyc.gov/office-of-the-mayor/news/594-19/mayor-de-blasio-commercial-cargo-bike-program-reduce-delivery-congestion>

<sup>32</sup> *Id.*



requirements that the bikes be stored overnight inside company facilities.<sup>33</sup> The program’s goal would be to better understand whether cargo bicycles can successfully be implemented into NYC, with companies monitoring and sending data to DOT about the speed, parking, use of bike lanes, and the size of the cargo bikes.<sup>34</sup> If the 6-month pilot is deemed successful, it may be extended for an additional 6 months, and then further evaluated.<sup>35</sup>

### E-Scooter Pilot Programs in Other Cities

The operating approach for e-scooter programs has differed in cities throughout the country. In some cases, e-scooter companies started operating without local authorization, figuring that the shared vehicles would prove useful and that cities would naturally just accept them.<sup>36</sup> In other cases, companies are operating under pilot programs and specific permits authorized by the local municipality.<sup>37</sup> Generally, e-scooters have been embraced by different cities, in some cases becoming “an entrenched feature of urban life;” however, with the COVID-19 pandemic and its impacts on local transportation regulations, for 2020, there are indications that changes to the current and future climate and general acceptance around e-scooters maybe occurring in other cities.<sup>38</sup>

#### *San Francisco, California*

In April 2018, the San Francisco Board of Supervisors passed legislation to allow the San Francisco Municipal Transportation Agency (SFMTA) to create a new pilot program to regulate

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<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> David Zipper, *The Frenzied Era of E-Scooters Is Over*, Slate (February 27, 2020), available at <https://slate.com/business/2020/02/e-scooters-regulations-bird-lyft-lime-cities.html>

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

Powered Scooter Share.<sup>39</sup> After its application process, permits for the pilot program were offered to two companies, Scoot and Skip.<sup>40</sup> Through the receipt of these permits, these companies would be allowed to operate a maximum of 625 scooters each in the first six months, with the potential to increase their number of scooters in months seven to 12 to a cap of 2,500 upon meeting certain criteria based on equity.<sup>41</sup> As of July 2019, Scoot and Skip were authorized to operate up to 625 and 800 scooter respectively, although actual deployment has varied.<sup>42</sup>

After a successful pilot program, the SFMTA implemented a “Powered Scooter Share Permit Program,” which allows permitted operators to implement an e-scooter share program in the city.<sup>43</sup> San Francisco planned to authorize five companies to operate a shared total of up to 2,500 e-scooters during the pilot, during which the city would collect data and assess whether further increases in scooters would serve the public interest.<sup>44</sup> The permit application placed the onus on e-scooter companies to create plans for service areas and ensure users operate the scooters lawfully. Operators would need to do a host of things, including: provide user education; be insured; share data with the city; safeguard user information; offer a low-income plan; provide accessible customer interface technology for persons with disabilities; submit a proposed service area plan for city approval; have a plan in place to address sidewalk riding and

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<sup>39</sup> San Francisco Municipal Transportation Agency, *SFMTA Powered Scooter Share Permit and Pilot Program*, available at <https://www.sfmta.com/projects/powered-scooter-share-permit-and-pilot-program>

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> San Francisco Municipal Transportation Agency, *SFMTA Powered Scooter Share Program Permit Application*, available at [https://www.sfmta.com/sites/default/files/reports-and-documents/2018/05/powered\\_scooter\\_share\\_program\\_permit\\_application.pdf](https://www.sfmta.com/sites/default/files/reports-and-documents/2018/05/powered_scooter_share_program_permit_application.pdf)

<sup>44</sup> *Id.*

sidewalk parking; and ensure that their customers comply with the rules of the road in order to receive a permit and be authorized to operate as a permitted company.<sup>45</sup>

As of October 2019, Uber's JUMP, Lime, Ford's Spin and Scoot were granted permits to operate the shared e-scooter services in San Francisco.<sup>46</sup> The program allowed Scoot to operate 1,000 scooters, down from the 1,250, while JUMP, Spin and Lime would be able to deploy 500 each, with the cap for new providers having increased to 750 on December 15, 2019, and 1,000 on February 15, 2020.<sup>47</sup> Although slated for expansion in October 2019, currently, due to the COVID-19 pandemic, e-scooter sharing services have grinded to a halt, with companies like Bird pausing its service.<sup>48</sup>

#### *Santa Monica, California*

The city of Santa Monica launched a 16-month Shared Mobility Pilot Program, which includes e-scooters, allowing four private companies (Bird, Jump, Lime, and Lyft) to provide shared mobility services in the public-right-of-way.<sup>49</sup> The goals of the program included: developing a new area of policy, regulation and enforcement through firsthand experience; adapting quickly to a changing industry; testing new devices and service providers in this industry; exploring data capabilities; and allowing the city time to experiment with different management tools, such as geo-fencing.<sup>50</sup> Initially, the companies were approved to operate an

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<sup>45</sup> Tom Maguire, *A New Permit and Pilot Program for San Francisco's Scooters*, Street Talk, San Francisco Municipal Transportation Agency (May 1, 2018) available at <https://www.sfmta.com/blog/new-permit-and-pilot-program-san-franciscos-scooters>

<sup>46</sup> Megan Rose Dickey, *Uber, Lime and Spin scooters are now legal in SF*, TechCrunch (October 15, 2019) available at <https://techcrunch.com/2019/10/15/uber-lime-and-spin-scooters-are-now-legal-in-sf/>

<sup>47</sup> *Id.*

<sup>48</sup> Andrew J. Hawkins, *Electric scooter-sharing grinds to a halt in response to the COVID-19 pandemic*, The Verge (March 20, 2020), available at <https://www.theverge.com/2020/3/20/21188119/electric-scooter-coronavirus-bird-lime-spin-suspend-bikes>

<sup>49</sup> City of Santa Monica, Planning and Community Development, *Scooter and Bike Share Services*, available at <https://www.smgov.net/Departments/PCD/Transportation/Shared-Mobility-Services/>

<sup>50</sup> *Id.*

initial fleet of 2,500 devices-2,000 e-scooters and 500 e-bikes, however, in September 2019, under the city’s dynamic fleet cap, this number rose to 3,250 devices.<sup>51</sup>

During the pilot, Santa Monica has pioneered scooter parking “drop zones” on sidewalks and in streets, of which they are the first in the nation, installing 107 e-scooter/e-bike drop zones in the 8.5 mile square city, as of November 2019.<sup>52</sup> In addition, they have become one of the first cities to enforce geofencing and digital policy tools to remedy parking, safety and oversaturation problems.<sup>53</sup> Notably, the results of the pilot have proved positive, with the city becoming an effective leader in shared mobility, particularly e-scooters, however, due to uncertainty caused by the COVID-19 pandemic, in April and May of 2020, Lime and Jump discontinued operations in the city.<sup>54</sup> As a result of the COVID-19 pandemic and its impacts on the city and program, on May 26, 2020, the Santa Monica City Council voted to extend the first Pilot Program through April 30, 2021, and postponed a previously approved second shared mobility pilot program with intensified regulations until May 2021.<sup>55</sup> Currently, due to low rider demand, permitted fleet sizes for Bird and Lyft have been reduced to 350 devices per operator, with Jump and Lime permanently discontinuing service in the city.<sup>56</sup>

### *Denver, Colorado*

Denver also had a year-long pilot program that was similar to San Francisco’s pilot, but included the possibility for e-scooter companies to add up to 40% more scooters to their fleets if

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<sup>51</sup> Joe Linton, *Santa Monica Extends Pioneering E-Scooter Pilot Program*, (November 15, 2019) available at <https://la.streetsblog.org/2019/11/15/santa-monica-extends-pioneering-e-scooter-pilot-program/>

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> City of Santa Monica, Planning and Community Development, *Scooter and Bike Share Services*, available at <https://www.smgov.net/Departments/PCD/Transportation/Shared-Mobility-Services/>

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

they target designated “opportunity areas” such as low-income neighborhoods.<sup>57</sup> Additionally, Denver’s program required fleet operators to “rebalance” the scooters back to transit stations, bus stops and opportunity areas on a daily basis.<sup>58</sup> Participating companies were responsible for creating and maintaining painted dockless parking zones to be used by dockless e-scooters, bikes and e-bikes.<sup>59</sup>

### **Bike Infrastructure and Bike Safety**

The popularity of cycling has increased in NYC. From 2006 to 2015, annual bicycle trips rose from 66 million trips to 164 million trips, an increase of approximately 150%.<sup>60</sup> The most recent available data shows that about 24% of adult New Yorkers, nearly 1.6 million people, have rode a bike at least once in the past year, with 793,000 of those New Yorkers riding a bike at least several times a month.<sup>61</sup> Tens of thousands rely on bikes to commute to work, with the most recently available data indicating that, in 2017, there were 48,800 bike commuters to work, with a total of 97,600 bike commute trips to work.<sup>62</sup> Contributing to the rise in cycling has been the introduction of bike sharing programs like Citi Bike.<sup>63</sup> Launched in May 2013, Citi Bike was a joint venture between DOT and Motivate International (now Lyft), providing convenient bike sharing services to New Yorkers.<sup>64</sup> As of November 2019, Citi Bike had a total annual membership of 152,465, with Citi Bike having an average of 50,329 rides per day, meaning each

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<sup>57</sup> Jon Murray, *Denver Gives Scooter Companies Bird, Lime a Roadmap to Get Legal*, The Denver Post (June 29, 2018) available at <https://www.denverpost.com/2018/06/29/denver-scooter-bird-lime-legal/>

<sup>58</sup> Department of Public Works, City of Denver, *Dockless Mobility Vehicle Pilot Permit Program Overview* (June 2018), available at [https://www.denvergov.org/content/dam/denvergov/Portals/705/documents/permits/Dockless-Mobility-Pilot-Permit-Program-Overview\\_June2018.pdf](https://www.denvergov.org/content/dam/denvergov/Portals/705/documents/permits/Dockless-Mobility-Pilot-Permit-Program-Overview_June2018.pdf)

<sup>59</sup> *Id.*

<sup>60</sup> NYC, *Safer Cycling: Bicycle Ridership and Safety in New York City*, 2017, available for download at <http://www.nyc.gov/html/dot/downloads/pdf/bike-safety-study-fullreport2017.pdf>

<sup>61</sup> *Cycling in the City, Cycling Trends in NYC May 2019*, available for download at <https://www1.nyc.gov/html/dot/downloads/pdf/cycling-in-the-city.pdf>

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

bike was being used 3.41 times per day.<sup>65</sup> Notably, as of April 2020, average Citi Bike use has dramatically decreased by more than half, with average rides per day at 23,071 in April 2020, with each bike being used only 1.61 times per day.<sup>66</sup> This decrease in use is most likely due to the COVID-19 pandemic, however, nonetheless, Citi Bike ridership has seen some surges throughout these past months, with Citi Bike ridership increasing by 67% between March 1 and March 11, compared to the same period a year earlier.<sup>67</sup> This is most likely due to COVID-related fears of mass transit options.

Over the last several years, the City has made efforts to accommodate the growth in cycling by increasing bicycle safety. Currently, there are more than 1,200 miles of bike lanes in the city, the most of any major city in the nation.<sup>68</sup> As of 2018, 1,240 miles of bike lanes have been installed in NYC, with 66.1 miles installed in 2018 alone.<sup>69</sup> In addition, 480 lane miles of protected bike lanes have been installed in the City as of 2018, with 20.4 protected bike lane miles installed in 2018 alone.<sup>70</sup> Per year, the City has added an average of 62 bike lane miles per year, including over 20 protected bike lane miles.<sup>71</sup>

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<sup>65</sup> Citi Bike, *November 2019 Monthly Report*, (November 2019) available at <https://d21xlh2maitm24.cloudfront.net/nyc/November-2019-Citi-Bike-Monthly-Report.pdf?mtime=20191215143007>

<sup>66</sup> Citi Bike, *April 2020 Monthly Report*, (April 2020) available at <https://d21xlh2maitm24.cloudfront.net/nyc/April-2020-Citi-Bike-Monthly-Report.pdf?mtime=20200519145703>

<sup>67</sup> Gersh Juntzman, *Citi Bike Ridership is Back to "Normal"-Even as Millions are Not Commuting*, (March 19, 2020) available at <https://nyc.streetsblog.org/2020/03/19/citi-bike-ridership-is-back-to-normal-even-as-millions-are-not-commuting/>

<sup>68</sup> Press Release, Office the Mayor, *Vision Zero: Mayor de Blasio Announces New York City Added Over Twenty Miles of Protected Bicycle Lanes in 2018*, December 19, 2018, available at <https://www1.nyc.gov/office-of-the-mayor/news/604-18/vision-zero-mayor-de-blasio-new-york-city-added-twenty-miles-protected-bicycle>

<sup>69</sup> NYC, *Cycling in the City, Cycling Trends in NYC May 2019*, available for download at <https://www1.nyc.gov/html/dot/downloads/pdf/cycling-in-the-city.pdf>

<sup>70</sup> *Id.*

<sup>71</sup> New York City, Department of Transportation, *Bicyclists*, available at <https://www1.nyc.gov/html/dot/html/bicyclists/bikestats.shtml>.

According to DOT, at the end of 2018, the City had 480 protected bike lane miles.<sup>72</sup> In 2019, the city installed an additional 21.4 of protected bike lane miles.<sup>73</sup> On January 29, 2020, the city announced plans to create an additional thirty miles of protected bike lanes throughout this year, with at least ten of those miles being installed in Brooklyn due to the high number of cycling fatalities that occurred in the borough in 2019.<sup>74</sup>

In October of 2019, the City Council passed a \$1.7 billion plan that would drastically expand protected bike lanes as part of an effort to overhaul the City's streetscape.<sup>75</sup> The legislation requires the city to build 250 miles of protected bike lanes and 150 miles of dedicated bus lanes over a five-year period.<sup>76</sup> The bill requires the DOT to release a plan every five years to make street safety improvements and to prioritize public transit.<sup>77</sup>

The City has increased its efforts to ensure bicycle safety, however, there have been mixed results. In 2017, there were 4,397 cyclists injured with 24 cyclist fatalities.<sup>78</sup> In 2018, there were 4,688 cyclists injured with 10 cyclist fatalities, a record low and the lowest number of deaths since 2013.<sup>79</sup> However, in 2019, although cyclist injuries did not increase dramatically-

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<sup>72</sup> NYC, *Cycling in the City, Cycling Trends in NYC May 2019*, available for download at <https://www1.nyc.gov/html/dot/downloads/pdf/cycling-in-the-city.pdf>

<sup>73</sup> New York City Office of the Mayor, *Mayor de Blasio Announces Major Progress on Green Wave Plan to Make Streets Safer for Cyclists*, The Official Website of the City of New York, (February 19, 2020), available at <https://www1.nyc.gov/office-of-the-mayor/news/087-20/mayor-de-blasio-major-progress-green-wave-plan-make-streets-safer-cyclists>

<sup>74</sup> New York City Office of the Mayor, *Vision Zero: De Blasio Administration Announces 2020 Major Projected Bicycle Lane Projects in Brooklyn*, The Official Website of the City of New York, (January 29, 2020), available at <https://www1.nyc.gov/office-of-the-mayor/news/049-20/vision-zero-de-blasio-administration-2020-major-projected-bicycle-lane-projects-in#0>

<sup>75</sup> Caroline Splvack, *City Council passes \$1.7B plan to "revolutionize" NYC streets*, CurbedNY (October 30, 2019), available at <https://ny.curbed.com/2019/10/30/20940184/city-council-passes-master-street-safety-plan>.

<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

<sup>78</sup> NYC, Department of Transportation, *Bicycle Crash Data Report 2017*, available for download at <http://www.nyc.gov/html/dot/downloads/pdf/bicycle-crash-data-report-2017.pdf>

<sup>79</sup> NYC, Department of Transportation, *Bicycle Crash Data Report 2018*, available for download at <https://www1.nyc.gov/html/dot/downloads/pdf/bicycle-crash-data-report-2018.pdf>

4,632 cyclists were injured,<sup>80</sup> there were 29 cyclist fatalities, an increase of almost 190%.<sup>81</sup> If the City wants to encourage the low numbers seen in 2018, additional steps must be taken to ensure that both cyclists and pedestrians are kept safe, especially if the City is serious about allowing and increasing the use of alternative modes of transportation like e-bikes and e-scooters.

Opponents of legalizing e-bikes argue that the bikes go too fast and their riders often drive erratically.<sup>82</sup> However, there is very little evidence that suggests e-bikes are more dangerous than regular bikes in the U.S. In fact, there has been research done that asserts that electric bikes may be just as safe to ride as traditional bikes. For example, a Dutch organization, VeiligheidNL has released research indicating that e-bikes, when analyzing data on cycle-related accidents, were not more dangerous than traditional bikes.<sup>83</sup> Data on cycle-related accidents from hospital accident and emergency departments shows that although e-bike users still have a greater risk of ending up at the accident and emergency department, this was related to the age of the users and the distance traveled, not to the type or bike that was used.<sup>84</sup> More pertinent to NYC, according to the city's NYPD Motor Vehicle Collisions database, just 31 of the reported 45,775 motor vehicle collisions in 2018 resulting in injuries were caused by e-bikes, roughly 0.7%, while only 32 people were injured by e-bikes-just .05% of the total 61,939 people injured from motor vehicle collisions.<sup>85</sup> In addition, in 2018, in total, 11,115 pedestrians were

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<sup>80</sup> Vision Zero View, Cyclists Injuries and Fatalities: 2019, available at <https://vzv.nyc/>

<sup>81</sup> Clarisa Diaz and Emma Whitford, *Infographic: The 29 Cyclists Who Died in 2019*, Gothamist (December 17, 2019) available at <https://gothamist.com/news/infographic-28-cyclists-who-died-2019>

<sup>82</sup> Katie Pyzyk, *NYC council members move to legalize e-bikes, scooters, November 29, 2018*, Smart Cities Dive, available at <https://www.smartcitiesdive.com/news/nyc-council-members-move-to-legalize-e-bikes-scooters/543189/>

<sup>83</sup> John Styles, *E-bikes just as safe as traditional bikes says Dutch Study*, Cycling Industry (October 22, 2018), available at <https://cyclingindustry.news/e-bikes-just-as-safe-as-traditional-bikes-says-dutch-study/>

<sup>84</sup> *Id.*

<sup>85</sup> Julianne Cuba, *Damn Lies and Statistics: The Numbers Don't Back Up de Blasio's Reason for E-Bike Crackdown*, Streetsblog NYC (April 18, 2019), available at <https://nyc.streetsblog.org/2019/04/18/damn-lies-and-statistics-the-numbers-dont-back-up-de-blasios-reason-for-e-bike-crackdown/>



injured, yet only nine of them were caused by an e-bike, of which is roughly a fraction on one percent.<sup>86</sup>

### **ANALYSIS OF PROPOSED INT. NO. 1250-A**

Section one of Proposed Int. No. 1250-A amends section 19-176.2 of the Administrative Code. Subdivision a would be amended to exclude electric scooters as defined in the Vehicle and Traffic law from the definition of motorized scooter, a class of devices prohibited under local law. Subdivision b would be amended to clarify that motorized scooters may not be operated on streets, in parks or other public places. Subdivision c would be amended to reduce the civil penalty for operation of a motorized scooter from \$500 to \$250. Subdivision d of such section would be amended to require that motorized scooters may only be impounded if operated in a manner that endangers the safety of the operator or the safety or property of another. Subdivision e of such section would be added to establish that electric scooters as defined in the vehicle and traffic law shall be subject to the same rights and responsibilities attributed to operators of bicycles pursuant to the vehicle and traffic law, the administrative code and the rules of the city of New York and any additional applicable provisions of such.

Section two of Proposed Int. No. 1250-A would provide that this local law takes effect 120 days after it becomes law, except that the Commissioner of Transportation shall take such measures as are necessary for the implementation of this local law, including the promulgation of rules, before such date.

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<sup>86</sup> *Id.*

### **ANALYSIS OF PROPSOED INT. NO. 1264-A**

Section one of Proposed Int. No. 1264-A would amend section 19-176.2 of the Administrative Code. Subdivision a would be amended to exclude bicycles with electric assist as defined in the Vehicle and Traffic law from the definition of motorized scooters, a class of devices prohibited under local law.

Section two of the legislation would amend subdivision e of section 19-176.2 of the Administrative Code to establish that bicycles with electric assist as defined in the Vehicle and Traffic law would be subject to the same rights and responsibilities attributed to operators of bicycles pursuant to the Vehicle and Traffic law, the Administrative Code and the Rules of the City of New York and any additional applicable provisions of such.

Section three of the legislation would provide that this local law takes effect 120 days after it becomes law, except that the Commissioner of Transportation shall take such measures as are necessary for the implementation of this local law, including the promulgation of rules, before such date.

### **ANALYSIS OF PROPOSED INT. NO. 1266-A**

Subdivision a of section one of Proposed Int. No. 1266-A would establish certain definitions for use in this local law. The term “electric scooter” would be defined as having the same meaning as provided in section 114-e of the vehicle and traffic law. The term “shared electric scooter organization” would be defined as a natural person, organization or entity that operates a fleet of shared, private electric scooters available for rent to the public on a short-term basis. The term “shared electric scooter system” would be defined as network of self-service and publicly available electric scooters and related infrastructure.

Subdivision b of this section would require the Department of Transportation (DOT) to establish a shared electric scooter pilot program that allows qualified shared electric scooter organizations to operate publicly available shared electric scooter fleets. DOT would be required to issue a solicitation for the pilot by October 15, 2020, and determine an organization or organizations to offer shared electric scooter systems to the public by March 1, 2021. The pilot would be required to be of a scope and scale suitable for evaluating the efficacy of shared electric scooter systems. DOT would be required to determine the geographic boundaries of such pilot program, with priority given to neighborhoods currently unserved by existing dock-based bike share programs. Shared electric scooter organizations would be required to provide any information requested by DOT relating to their participation in such pilot program. Organizations participating in the pilot would be required to implement protocols to keep paths of travel, curb ramps, and other accessibility features unobstructed for people with disabilities, and to ensure that accessible electric scooter options are available for use by people with disabilities as part of the pilot program.

Subdivision c of this section would provide that the pilot program exist for a duration of no less than one year and no more than two years, unless DOT terminates or suspends the program on an earlier date; provided, however, that DOT would be required to notify the Speaker of the Council in writing of such termination or suspension within seven days of taking such action and the reasons for such action.

Subdivision d of such section would prohibit shared electric scooter organizations from operating any electric scooter in the city without the prior written approval of the DOT. Any such electric scooter parked or operated on a public street without Department approval, would be subject to impoundment and not be released until any and all removal charges and storage

fees have been paid or a bond has been posted in an amount satisfactory to the commissioner of the agency that impounded such electric scooter.

Subdivision e of this new section would require the DOT to submit a report to the Speaker of the Council regarding the progress of the pilot program, including a determination as to whether DOT recommends the implementation of a permanent shared electric scooter program along with any recommendations as to changes in the laws, rules, regulations and policies governing the use of such electric scooters, where appropriate.

Section two of Proposed Int. No. 1266-A would provide that this local law takes effect immediately.

Proposed Int. No. 1250-A

By Council Members Cabrera, Rodriguez, Salamanca, Ulrich, Levine, Koslowitz, Richards, Torres, Cornegy, Constantinides, Ampry-Samuel, Brannan, Maisel, Cumbo, Gjonaj, the Public Advocate (Mr. Williams), Rivera, Van Bramer, Adams, Reynoso and Borelli

A Local Law to amend the administrative code of the city of New York, in relation to the operation of certain electric scooters

Be it enacted by the Council as follows:

Section 1. Section 19-176.2 of the administrative code of the city of New York, subdivisions a and d of such section as amended by local law number 40 for the year 2013 and subdivisions b and c of such section as added by local law number 51 for the year 2004, is amended to read as follows:

§ 19-176.2. Motorized scooters. a. For purposes of this section, the term “motorized scooter” shall mean any wheeled device that has handlebars that is designed to be stood or sat upon by the operator, is powered by an electric motor or by a gasoline motor that is capable of propelling the device without human power and is not capable of being registered with the New York State Department of Motor Vehicles. For the purposes of this section, the term motorized scooter shall not include wheelchairs or other mobility [aids] devices designed for use by [disabled] persons with disabilities; or an electric scooter as such term is defined in section 114-e of the vehicle and traffic law or successor provision.

b. No person shall operate a motorized scooter on streets or in parks and other public places in the city of New York.

c. Any person who violates subdivision b of this section shall be liable for a civil penalty in the amount of [five hundred dollars] \$250. Authorized employees of the police department and department of parks and recreation shall have the authority to enforce the provisions of this section. Such penalties shall be recovered in a civil action or in a proceeding commenced by the

service of a notice of violation that shall be returnable before the environmental control board. In addition, such violation shall be a traffic infraction and shall be punishable in accordance with section eighteen hundred of the New York state vehicle and traffic law.

d. Any motorized scooter that has been used or is being used in violation of the provisions of this section that has been operated in a manner that endangers the safety of the operator or the safety or property of another may be impounded and shall not be released until any and all removal charges and storage fees and the applicable fines and civil penalties have been paid or a bond has been posted in an amount satisfactory to the commissioner of the agency that impounded such [vehicle] device.

e. Operators of electric scooters as defined in section 114-e of the vehicle and traffic law shall be subject to the same rights and responsibilities attributed to operators of bicycles pursuant to the vehicle and traffic law, this code and the rules of the department, and shall be subject to any additional applicable provisions of the vehicle and traffic law, this code and rules of the department.

§ 2. This local law takes effect 120 days after it becomes law, except that the commissioner of transportation shall take such measures as are necessary for the implementation of this local law, including the promulgation of rules, before such date.

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Proposed Int. No. 1264-A

By Council Members Cabrera, Rodriguez, Salamanca, Chin, Rivera, Levine, Cumbo, Cornegy, Reynoso, Menchaca, Van Bramer, Lander, Lancman, Richards, Brannan, Constantinides, Torres, Gjonaj, Perkins, Grodenchik, Eugene, Ayala, Barron, Maisel, Rose, Adams, Ampry-Samuel, Koo, Borelli, Ulrich and the Public Advocate (Mr. Williams)

A Local Law to amend the administrative code of the city of New York, in relation to the operation of certain electric bicycles

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 19-176.2 of the administrative code of the city of New York, as amended by local law number 40 for the year 2013, and as amended by a local law for the year 2020 amending the administrative code of the city of New York, relating to the operation of certain electric scooters, as proposed in introduction number 1250-A, is amended to read as follows:

a. For purposes of this section, the term “motorized scooter” shall mean any wheeled device that has handlebars that is designed to be stood or sat upon by the operator, is powered by an electric motor or by a gasoline motor that is capable of propelling the device without human power and is not capable of being registered with the New York State Department of Motor Vehicles. For the purposes of this section, the term motorized scooter shall not include wheelchairs or other mobility devices designed for use by persons with disabilities; or an electric scooter as such term is defined in section 114-e of the vehicle and traffic law or successor provision; or a bicycle with electric assist as defined in section 102-c of the vehicle and traffic law or successor provision.

§ 2. Subdivision e of section 19-176.2 of the administrative code of the city of New York, as amended by a local law for the year 2020 amending the administrative code of the city of New

York, relating to the operation of certain electric scooters, as proposed in introduction number 1250-A, is amended to read as follows:

e. Operators of electric scooters as defined in section 114-e of the vehicle and traffic law, and operators of bicycles with electric assist as defined in section 102-c of the vehicle and traffic law, or successor provisions, shall be subject to the same rights and responsibilities attributed to operators of bicycles pursuant to the vehicle and traffic law, this code and the rules of the department, and shall be subject to any additional applicable provisions of the vehicle and traffic law, this code and rules of the department.

§ 3. This local law takes effect 120 days after it becomes law, except that the commissioner of transportation shall take such measures as are necessary for the implementation of this local law, including the promulgation of rules, before such date.

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Proposed Int. No. 1266-A

By Council Members Cabrera, Rodriguez, Salamanca, Levine, Cumbo, Cornegy, Koslowitz, Ampry-Samuel, Vallone, Brannan, Maisel, Constantinides, the Public Advocate (Mr. Williams), Grodenchik, Torres, Richards, Van Bramer, Kallos, Gibson, Reynoso, Rosenthal, Perkins, Eugene, Adams, Chin, Gjonaj, Levin, Barron, Rivera, Treyger, Ayala, Powers, Menchaca, Ulrich and Borelli

A Local Law in relation to a pilot program for shared electric scooters

Be it enacted by the Council as follows:

Section 1. Shared electric scooter pilot program. a. Definitions. For the purposes of this section, the following terms have the following meanings:

Electric scooter. The term “electric scooter” has the same meaning as provided in section 114-e of the vehicle and traffic law or any successor provision.

Shared electric scooter organizations. The term “shared electric scooter organization” means a natural person, organization or entity that operates a fleet of shared electric scooters available for rent to the public on a short-term basis.

Shared electric scooter system. The term “shared electric scooter system” means a network of self-service and publicly available electric scooters and related infrastructure.

b. Pilot program. The department of transportation shall establish a shared electric scooter pilot program that allows shared electric scooter organizations, determined by the department, to operate shared electric scooter systems. The department will issue a solicitation for such pilot no later than October 15, 2020. As part of such pilot program, the department shall determine a shared electric scooter organization or organizations to offer shared electric scooter systems to the public by March 1, 2021. Such pilot shall be of a scope and scale suitable for evaluating the efficacy of shared electric scooter systems. The department shall determine the standards and geographic boundaries of such pilot program, with priority given to neighborhoods currently

unserved by existing dock-based bike share programs. Shared electric scooter organizations shall provide any information requested by the department relating to their participation in such pilot program. Any shared electric scooter organizations participating in such pilot program shall be required to have in place and implement a protocol to keep paths of travel, curb ramps, and other accessibility features unobstructed for people with disabilities. Such shared electric scooter organizations shall work with the department, other relevant organizations and city agencies, and members of the disability community to ensure that accessible electric scooter options are available for use by people with disabilities as part of the pilot program.

c. Duration of pilot program. The shared electric scooter pilot program described in subdivision b of this section shall exist for a duration of no less than one year and no more than two years, unless the department of transportation terminates or suspends the program on an earlier date; provided, however, the department shall notify the speaker of the council in writing of such termination or suspension within seven days of taking such action and the reasons for such action.

d. No shared electric scooter organization shall operate any electric scooter in the city without the prior written approval of the department of transportation. If any shared electric scooter is parked or operated on a public street without such approval, it may be impounded and shall not be released until any and all removal charges and storage fees have been paid or a bond has been posted in an amount satisfactory to the commissioner of the agency that impounded such electric scooter. Such agency shall notify the owner of such impounded electric scooter, if known, of such impoundment and the method for claiming the electric scooter. Any such electric scooter not claimed may be disposed of in accordance with applicable law relating to the disposal of abandoned property.

e. Report. Prior to the completion of such pilot, the department of transportation shall submit a report to the speaker of the council regarding the progress of the pilot program. Such report shall include, but need not be limited to, a determination as to whether the department recommends the implementation of a permanent shared electric scooter program, along with any recommendations as to changes in the laws, rules, regulations and policies governing the use of such electric scooters, where appropriate.

§ 2. This local law takes effect immediately.

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