Shared Mobility: Ins and Outs

Prepared for the League of California Cities 2020 Planning Commissioners Academy
March 5, 2020

Presented by: Zach Heinselman
Agenda

- Introduction
- Benefits & Problems
- Examples of Regulations
- Vehicle Code
- Legislation
- Liability Issues
- ADA
What are Shared Mobility Devices ("SMD")?
What are Shared Mobility Devices?
SMD Users: Anyone with a Smartphone

- Complete Your Lime Profile
- $1 to unlock, $0.23 / 1 min
- $1 to unlock, $0.15 per min
- No Riding on Sidewalks
  Please do not ride on sidewalks, and instead stay on bike paths or the road. Thank you for helping to keep the sidewalks safe!
Even those making the rules!

What good are L.A.’s new rules for scooters if even a city councilman can’t obey them?
Who provides SMDs?

- Bird
- Bolt
- Lime
- Skip
- Spin (Ford)
- Scoot
- Lyft
- Jump (Uber)
- Uscooters
- Hopr
- Ofo
- Razor
- Ridecell
- Wheels

... and more.
Benefits

- Rider experience
- First/last mile transportation options
- Help cities meet mobility needs
- Convenient to use
Problems

- Blocked sidewalks
- Injury potential
- ADA compliance
- Aesthetics
Sidewalk Problems

- **Vehicle Code § 21235**
  - No operation on sidewalk
  - No leaving/parking on sidewalk
Unsafe Operation

- Vehicle Code § 21235
  - Helmet required if under 18
    - New state law exempts 18+
  - No doubled-up riders
  - Need a valid driver's license or instruction permit
8 Deaths Now Tied to E-Scooters

The reports come as a CR survey finds riders confused about where to use scooters, and some cities consider banning them.
Injuries: Making Headlines

The CDC is studying the rise in e-scooter injuries for the first time as start-ups expand to more cities

Head injuries make up 40% of e-scooter ER visits: Study

Head injuries are 40 percent of e-scooter-related ER visits, a UCLA study says.
Result = Public Animosity
Examples of City Regulations: Balancing mobility needs with safety. Where does risk belong?

Bans, Permit Systems, License Agreements, and No Regulations
Bans on SMDs

- E.g., Beverly Hills
  - July 2018 urgency ordinance
  - Followed by regular ordinances to continue the prohibition of certain SMDs until January 2021
  - Unlawful to park/leave in right of way, operate in right of way, or offer for use in the City
  - Bird sued the City (settled)
## Permit Systems

<table>
<thead>
<tr>
<th>Examples</th>
<th>Common Provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Los Angeles</td>
<td>Selection or open permits</td>
</tr>
<tr>
<td>Oakland</td>
<td>Device caps</td>
</tr>
<tr>
<td>Sacramento</td>
<td>Fees</td>
</tr>
<tr>
<td>Santa Monica</td>
<td>Device safety requirements</td>
</tr>
<tr>
<td>San Francisco</td>
<td>Speed limits &amp; restricted areas</td>
</tr>
<tr>
<td>San Jose</td>
<td>Insurance &amp; Indemnification</td>
</tr>
<tr>
<td></td>
<td>Customer service</td>
</tr>
<tr>
<td></td>
<td>Data</td>
</tr>
<tr>
<td></td>
<td>Equity</td>
</tr>
</tbody>
</table>
Safe Parking Solutions

Examples

- Los Angeles - designated shared mobility parking or “drop zones.”
- Santa Monica - installed in-street shared mobility parking corrals throughout the City.

Parking Corral
Parking Solutions

Furniture Zone

App Assistance

Designated Parking Zones
Please park your Lime vehicle in one of these blue areas to keep our city beautiful.

No-Parking Zones
Repeatedly parking here may lead to a fine or suspension of your account.
Geo-fencing

- The use of GPS or RFID technology to create a virtual geographic boundary, enabling software to trigger a response when a mobile device enters or leaves a particular area.
- Speed reduction zones
- Restrictions on parking, locking devices, ending rides
## Data

<table>
<thead>
<tr>
<th>Data Cities Seek</th>
<th>Privacy Concerns</th>
</tr>
</thead>
</table>
| **Mobility Data Specification**  
  - Trips starting, & ending in, & pass through the jurisdiction |
| **Use rates** |
| **Complaint and incident reports** |
| **If cities have the individual trip data, re-identification will be possible—by city transportation agencies, law enforcement, or any other third parties that receive data from cities.** |
License Agreement

- E.g., South Lake Tahoe

- Some provisions included in agreement:
  - Allows the use of scooters
  - Fleet cap
  - 5 cent per trip fee
  - Speed limit
  - Requires Lime to remove improperly parked scooters within 4 hours
  - Enables the City to remove scooters parked in unsafe locations and recover City costs (via a new $35 fee per scooter removed by City staff)
No Regulations

- Nearly all cities when scooters first arrive
- May rely on state law to enforce prohibitions like riding on sidewalks

Bird CEO: ‘The Places Where There Are No Laws, That’s Where We Go In’

By Andrew Nasca  October 9, 2018
Vehicle Code & Crafting Regulations

**Preliminary Issue: Defining Shared Mobility Devices**

- No definition in Vehicle Code for Shared Mobility Device
- But, Vehicle Code defines devices that are used:
  - Motorized Scooters (§ 407.5)
  - Electrically Motorized Boards (§ 313.5)
- Definitions overlap and scooters presently offered meet both definitions
Shared Mobility Devices
Vehicle Code: Scope of Regulation

- **§21**: express preemption of local regulation in field of motor vehicle traffic
- **§21225**: “regulate” registration, parking & operation of motorized scooters
- **§21230**: “prohibit” motorized scooter on bike paths
- **§21967**: “prohibit[] or restrict[] persons from riding… electrically motorized boards, on highways, sidewalks, or roadways”
Legislation

AB 1112 & AB 1286
AB 1112 (Friedman)

- Defines “shared mobility device” and “shared mobility device service provider”
- Local authority can enact “reasonable regulations”
  - But previously stated that cities can not impose “unduly restrictive” requirements or penalties more restrictive on those on private scooter or bikes
- Clarifies that local jurisdictions may ban SMDs
- Ensure that local authorities receive only aggregated or non-identifiable trip data
Shared Mobility Device Definition

Before distribution, SMD company must enter into agreement/obtain permit from jurisdiction

Requires cities and counties to adopt operation, parking, maintenance, and safety rules

Prohibits any waiver of user’s legal rights

$1 million / occurrence, $5 million aggregate liability insurance
Liability Issues

When a scooter is involved in an accident, who will be held responsible?
Dangerous Condition of Public Property

- Government Code § 835: city may be liable for injury caused by a dangerous condition of its property

Man sues city over scooter crash injuries

By City News Service - March 5, 2019

LOS ANGELES (CNS) – A man is suing the city of Los Angeles, alleging a large pothole on Wilshire Boulevard caused him to crash the electric scooter he was riding and suffer serious injuries in 2018.
ADA

Cities must keep sidewalks accessible
California Scooter Lawsuits

- Pedestrians with disabilities have filed at least 4 lawsuits against cities in California (alongside scooter providers) alleging violations of the ADA & other laws:
  - **San Diego** (Montoya et al v. City of San Diego et al, United States District Court, Southern District Case No. 3:19-cv-00054-JM-BGS, filed Jan. 9, 2019)
  - **Los Angeles, Santa Monica, Beverly Hills** (Mia Labowitz v. Bird Rides, Inc. et al, United States District Court, Central District Case No. 2:18-cv-09329-MWF-SK, filed Oct. 31, 2018)
  - **Oakland, Piedmont, Santa Clara, San Jose, Mountain View, San Mateo, Burlingame, Walnut Creek, Richmond** (Dee Ann Evans et al v. Bird Rides, Inc. et al, United States District Court, Northern District Case No. 3:19-cv-01207-VC, filed Mar. 5, 2019)
  - **Culver City, Long Beach, Santa Ana, Irvine, Riverside, Anaheim, Garden Grove** (Amber Machowski et al v. Bird Rides, Inc. et al, United States District Court, Central District Case No. 2:19-cv-01014-JAK-MRW, filed Feb. 11, 2019)
Takeaways

- Consider needs of jurisdiction when balancing safety and mobility

- Allocate risk to the appropriate party; for now, cities can try to mitigate risk that should arguably be factored into the cost of doing business
Thank you!

Zach Heinselman
zheinselman@rwglaw.com