



# Eastern Regional Conference

**Testimony before the**

**Pennsylvania House of Representatives Transportation Committee**

Presented by  
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## **Introduction**

My name is Don Hannon and I am a Transportation Policy Consultant with the Council of State Governments-Eastern Regional Conference.

On behalf of the Council of State Governments-Eastern Regional Conference thank you for this opportunity to appear before the Committee to discuss electric scooter or e-scooter legislation.

Since 1937 the Council of State Governments-Eastern Regional Conference (CSG-ERC) has helped facilitate the exchange of ideas among state policy makers, business leaders and the academic community in our 18 member jurisdictions. These jurisdictions include Pennsylvania and the other 10 northeastern states, from Maine to Maryland, along with Puerto Rico, the U.S. Virgin Islands, and the Eastern Canadian Provinces of Quebec, New Brunswick, Ontario, Nova Scotia, and Prince Edward Island.

For more than 80 years, CSG-ERC has sought to educate public officials regarding the unique problems and challenges facing the Region. By facilitating cooperation among its member jurisdictions, CSG-ERC promotes multi-state or region-wide solutions to those problems. In pursuit of its mission, staff conducts public policy research and analysis, holds seminars and conferences, and publishes various electronic newsletters relating to agriculture, environment/energy, health, transportation and regional trends. CSG-ERC provides these services to all three branches of state government.

Finally, of special note is that the Commonwealth of Pennsylvania will be hosting the largest gathering of state officials in the East at the CSG-ERC 2019 Annual Meeting & Regional Policy Forum in Pittsburgh from July 29<sup>th</sup> through July 31<sup>st</sup>.

## **Background**

CSG-ERC was invited to report on what actions Pennsylvania's neighboring Northeastern states have taken or are planned with respect to dockless electric scooters or e-scooters, as well as providing details on city-administered pilot programs.

In just the past two years e-scooters have been introduced in over 100 cities across the country. Consequently, many states and cities have enacted or are considering legislation and regulations to establish parameters concerning their use. The primary focus of e-scooter companies has been on high density, overwhelmingly urban cities and college campuses.

As for states' position on e-scooters, Pennsylvania was not alone for nearly all of your state-level colleagues from across the Nation did not have anything in their state's law that accurately defined e-scooters. That has been changing quite rapidly, and we are witnessing a flurry of e-scooter bills making their way through the State Houses.

Realistically, whereas the States were in charge of ride-sharing/ride-hailing regulations for entities like Lyft and Uber – cities will now have a much greater role in enabling e-scooter usage. However, most states are still establishing the baseline regulations such as the users age, maximum allowable speed, and e-scooter weight in their legislation - just as this Committee is considering today.

As we have seen in many northeastern states, there are many cities that utilize fixed docking stations for shared bike programs. However, fixed docking stations can be expensive, have a limited number of spaces, and tend to be located in areas with the most foot traffic leaving wide swaths of neighborhoods without the option to utilize the bikes. While there are e-scooter entrepreneurs advancing business models that have a fixed docking station for e-scooters, they have not yet garnered significant market share. On the other hand, dockless e-scooters can be located and unlocked by the user on their smartphone via the e-scooter company's app and can be parked on the sidewalk near the curb when the rider reaches their destination.

Pennsylvania's deliberate actions in considering passing legislation gives city officials in places like Philadelphia, Pittsburgh, Erie, State College, Harrisburg, and perhaps others the opportunity to examine the experience of other American cities - in a sense, to learn from their best practices and also from their not-so-successful practices, and I will speak to these pilot cities' experiences later in my testimony.

### **Northeastern States**

The focus of much of my comments is directed to those Northeastern States where there has been significant legislative attention. However, there are some regional states where we witness little activity or attention on e-scooters.

Quite honestly, in the three most northern states in our region; those being **Maine**, **New Hampshire**, and **Vermont**, there has not been significant legislative activity or demand for e-scooters in these largely rural states. One can understand this since these three states do not have urban centers with higher population density.

**Maine's** largest city is Portland with about 8,000 residents less than in the City of Bethlehem. **New Hampshire's** most populated city, Manchester, has just under 110,000 citizens making it about the same size as Erie. While **Vermont's** largest city, Burlington, has 8,000 less people than here in the City of Harrisburg.

This is not to say that e-scooter companies will not enter these markets; however, we have not witnessed much activity related to the e-scooters up north.

Additionally, one of your neighboring states, **Delaware**, is basically in the same situation that Pennsylvania is today, for Delaware State law does not allow e-scooters to be operated on

streets or sidewalks. However, while you are considering legislation, currently there is no e-scooter enabling legislation pending in Delaware to amend that State's laws.

I'd like to focus more attention on the remaining regional states; **Rhode Island, Massachusetts, Connecticut, New Jersey, Maryland**, and finally to my home state of **New York**.

While **Rhode Island** may be small in geographic size it does boast the third largest city in terms of population in New England, behind Boston and Worcester, Massachusetts. The City of Providence, with its 180,000 residents – would rank third in Pennsylvania behind Philadelphia and Pittsburgh; but, much closer in population to Allentown. The city of Providence is engaged in a pilot program for the placement and operation of no more than 300 e-scooters. One of most interesting aspects of Providence's program is that e-scooters are allowed almost everywhere, including sidewalks. However, as the pilot program has progressed Providence officials are considering options to limit e-scooter usage on sidewalks due to e-scooter/pedestrian conflict.

Under current **Massachusetts** state law e-scooters are treated the same as mopeds, requiring them to have brake lights and turn signals. The State Legislature is currently taking up several e-scooter related bills. The primary piece of legislation refers to the e-scooters as "electric foot scooters" and it would closely match the parameters that this Committee is considering (Senate Bill No. 2034). Additionally, it would enable e-scooters to operate everywhere human-powered bicycles are permitted to travel and be required to have lights visible from the front and rear if used at night. Also, it would require those under the age of 16 to wear a helmet. The legislation is expected to be signed by Governor Baker since he had previously filed a bill to exempt the e-scooters from the brake lights and turn signal requirements.

While the City of Boston would be the largest market for e-scooters in New England, Boston's City Councilors advanced legislation proposed by Boston's mayor to grant regulatory power to the City's Transportation Department to establish guidelines. However, Boston is waiting to allow e-scooters in the City until the state laws noted earlier are enacted into law.

Just ten days ago the **Connecticut** House Transportation Committee favorably reported out a bill (with no dissent) that amends State Statute to treat e-scooters like bicycles and e-bikes (House Bill No. 7141). This bill defines "electric foot scooters" and generally gives e-scooter riders the same rights, privileges, and duties as existing law provides for bicycle riders. It would allow municipalities to govern and control the use of e-scooters with local ordinances. E-scooter users would not be allowed to travel on sidewalks; but, can park them on sidewalks, unless prohibited by local governments.

The bill requires e-scooter riders under the age of 16 to wear helmets that comply with certain standards, which the bill also extends to e-bike riders. If enacted, it will go into effect on October 1<sup>st</sup> of this year.

In another neighboring state, **New Jersey**, both the State's Assembly and Senate passed, almost unanimously, legislation (Senate Bill No. 731) that would enable e-scooters to operate on streets and paved bike paths; but, not on sidewalks. Additionally, e-scooters can have a maximum speed of no more than 19 miles per hour. The bill awaits New Jersey Governor Murphy's signature.

As this legislation is close to enactment the New Jersey City of Hoboken, which lies along the shores of the Hudson River across from New York City is primed and ready to go with a pilot program after having already adopted a city ordinance allowing e-scooters on the streets, but not on sidewalks. Interestingly, Hoboken's unofficial nickname is the "Mile Square City" since it really is just a bit over one square mile in size. It has nearly 55,000 inhabitants and the pilot project would bring 400 scooters to the City.

Earlier this month **Maryland's** legislature overwhelmingly approved a bill that equates e-scooters to bicycles (Senate Bill No. 770). When signed into law it will bestow upon local governments the ability to regulate e-scooters similar to bicycles, including the option of requiring them to be registered and imposing registration fees.

**New York** ultimately may be viewed as one of the top prizes in the e-scooter sweepstakes. However, currently e-scooters are not legal for operation across New York State and the attempt by the legislature just last month to make them legal failed. New York State's budget year runs from April 1<sup>st</sup> to March 31<sup>st</sup>. As such last month was a busy time in Albany as the State's Senate and Assembly worked to finalize the State's new fiscal year budget. As part of Governor Cuomo's budget submission, he proposed permitting localities to authorize e-scooters, as well as e-bikes, with a variety of minimum safety requirements and limitations on their use. It would have allowed localities to further restrict e-scooter maximum speeds and their time, manner, and place of use.

However, the enacting legislation for both e-scooters and e-bikes did not make it through the legislative process as it was not included by either the State Assembly or State Senate in their final budget proposals. One reason given why it didn't make the final cut was that the legalization of e-scooters did not have any state fiscal impact and could instead be considered outside of the budget process. The current New York legislative session continues until June 19<sup>th</sup> so it is still possible that separate e-scooter enabling legislation could pass both New York legislative chambers and make their way to Governor Cuomo's desk. I will address later in my testimony what implications this lack of legal authority has for New York City.

As you are very much aware under **Pennsylvania's** current Vehicle Code, e-scooters are banned from all state highways, streets, sidewalks, and bike lanes and are the equivalent of a motor vehicle, including the requirement for registration and equipment inspections. As I have noted earlier there are many similarities between how other regional states and how Pennsylvania are approaching e-scooters on the state level.

What is not in Pennsylvania's legislation but is found in other states - such as the State of Washington's Senate Bill (House Bill No. 1772) - is a requirement that "scooter share operators" carry insurance coverage for the operation of their e-scooters.

However, where states have not set any insurance parameters in the event of accidents or injuries, most cities include clauses in their agreements with e-scooter providers to indemnify the cities from liability claims and to have the companies carry insurance policies.

### **Pilot Projects**

In the past year and a half many cities across the nation have sought to regulate the introduction of e-scooters by establishing pilot programs and then assessing the results. The National Association of City Transportation Officials cites that nationally, 39 of the 100 largest cities have e-scooter rental services, and of those 39 cities, 32 have some oversight in place.

Additionally, others are just now approaching pilot project efforts and there are many others that are delaying permitting of the e-scooters to give cities time to develop policies, procedures, and regulations. All these methodical approaches will help determine how cities and shared mobility devices can co-exist while ensuring both safety and public access to this newest transportation mode. E-scooters can potentially provide an affordable mode of transportation to those who need it most. To help encourage equitable distribution and usage of the e-scooters many cities have stipulations in their agreements requiring e-scooter companies distribute them across a variety of neighborhoods.

There were reports of similar challenges found in the various city pilot programs that we have examined. That list of challenges includes riders illegally operating them on sidewalks; residents expressing concerns over improper ridership and the lack of enforcement of the rules; and finally, e-scooters being improperly parked adversely affecting pedestrian movement and ADA access. Even with these issues city pilot programs have been expanded or renewed – often with tweaks to the agreements to reflect lessons learned; such as, using geofencing technology to restrict vehicle speeds in designated areas or to notify riders that they are entering "no ride zones."

Many cities have issued regulations that include requiring a set operating fee on each scooter, annual fees, caps on fleet sizes and that a portion of the fees collected are targeted to improve and maintain their roads and bikeway infrastructure.

### **Baltimore**

In the view of many, including its city officials, Baltimore's pilot program has proven to be a success. More than 5,000 residents recently responded to a city transportation department survey on the e-scooter program. Two-thirds of those who responded said they had used e-scooters and more than four in five of those polled said they supported continuing the

program. Regrettably, nearly only 20 percent of those surveyed acknowledged wearing a helmet when they ride.

Last week, Baltimore's City Council gave preliminary approval to legislation that makes the pilot program permanent, for both e-scooters and e-bikes. The legislation would give the Baltimore Department of Transportation the ability to issue permits to e-scooter companies, impose fines on both e-scooter providers and users and collect taxes on each ride – proposed at 10 cents for every ride, and the ability to impose a \$20 fine on anyone who exceeds the 15 mile per hour speed limit, rides on sidewalks, or parks an e-scooter unlawfully.

Much larger penalties of \$1,000 could be placed upon the e-scooter companies for violations, such as, having more vehicles than allowed, operating without a permit, failing to provide required data or reports, failing to notify the city of a data breach, displaying advertisements on e-scooters, failing to maintain a 24-hour customer service phone support, failing to adhere to national safety standards, failing to provide equitable access and failing to comply with other requirements established by the city.

E-scooter companies could see additional penalties of \$500 assessed for failing to remove the dockless vehicles from the streets between dusk and dawn, failing to ensure they are parked according to the rules and failing to move improperly parked scooters or bikes in a timely manner.

Baltimore officials see the fiscal benefits of extending the pilot program. During the pilot program the City coffers were enhanced by approximately \$126,000. Baltimore fiscal analysts calculate that its combined e-scooter/e-bike program could bring in over \$1.0 million in revenue from permitting fees, fines, and taxes.

One final note on Baltimore's proposed legislation is that riders under the age of 16 would now be allowed to use both the e-scooters and e-bikes as long as they wear a helmet.

### **New York City**

As noted earlier in this testimony e-scooters are still considered illegal in New York State. Nonetheless, New York City officials are gearing up to pass enabling legislation that would include launching a pilot program. Some e-scooter proponents believe that New York City may already have a legal footing to introduce e-scooters; but the City's leadership currently is deferring to the State on the legal status.

America's largest city presents opportunities for both the traveling public and e-scooter rental companies. Consider the following, it has been reported that on the streets of Austin, Texas, there are over 15,300 permits for dockless e-scooters. Austin has a population just under 1 million people and is actually larger in geographic size than New York City. However, New York City's population is over 8 times greater than Austin's. If we were to extrapolate Austin's scooter-to-citizen ratio to New York City, we could witness nearly 125,000 e-scooters spread

across NYC's five boroughs. While that seems somewhat unlikely you can imagine the desire of e-scooter companies to enter this untapped market.

### **Brookline, Massachusetts**

Earlier this month the Town of Brookline initiated an e-scooter pilot project that will run through November 15<sup>th</sup>. Brookline has just about 60,000 residents, about the same as Lancaster, and shares its border with the City of Boston. The pilot project is being implemented as a complement to the pending state legislation in Massachusetts.

One may question how a municipality like Brookline can host an e-scooter program when the current Massachusetts' state law addressing outstanding legal questions on their usage has not yet been enacted. Currently, e-scooters fall under the state's "motorized scooter" law and requires that they be equipped with brake lights and turning signals (most models have neither). The state has indicated that they will not enforce the rules during this new pilot program and will defer to the Town's police force and Department of Public Works' office to enforce the Town's pilot program rules including that helmet use is required, sidewalk riding is prohibited, that riders must be 18 or older, and that the e-scooters may only operate from 6am until 9pm.

### **Philadelphia**

Philadelphia is primed and ready to go based upon its enacting an ordinance last June establishing the components of regulating e-scooters including permits, safety restrictions, and parking standards. They are just waiting for them to be made legal to operate in the State.

### **Portland, Oregon**

I will conclude my city-level testimony highlighting a city that is not within our Northeast Region but where a significant amount of analysis of its pilot e-scooter program has been published. That city is Portland, Oregon. E-scooters were introduced in Portland last summer during a pilot program. A citywide poll was conducted at the conclusion of the initial pilot. Of significance is that in the citywide poll a full one third (34%) of Portlanders said they used e-scooters in place of driving or ride-sharing (e.g., UBER or LYFT)

While the e-scooters were pulled from Portland's streets last November they are set to return as soon as next week. Their return comes with a few new conditions, including that users wear helmets and the imposition of harsher penalties on those that abuse the e-scooter program, including possible suspension of their e-scooter accounts.

Portland's pilot study also highlights the critical issue of the impact of e-scooters on safety matters. Consumer Reports reported this past February that about 1,500 people have been injured in e-scooter crashes since 2017. And, tragically, five individuals have died in crashes in the U.S. over the past year compared to just two deaths using bike share programs since they

started in 2010. The Portland study found a higher rate of injuries per mile traveled for e-scooters than for either motorcycle or bike-share participants. However, from the very limited number of reported injury statistics it appears that the injury rate from e-scooter usage was comparable to the rate of bicycle injuries.

Also, from the Portland study e-scooter users were observed illegally riding both on sidewalks and within Portland's park system. Additionally, Portland's survey workers witnessed that less than 10% of the observed parked e-scooters were illegally parked and, consequently, could adversely impact pedestrian right-of-way and ADA access.

There are also cities across the nation where e-scooters were either introduced or were being considered for introduction where the local governments have effectively banned their operation. Some localities that have banned them include West Hollywood, CA, Winston-Salem, NC, South Carolina's capitol city of Columbia, and Asheville, NC - with a population slightly less than in Reading. There are many reasons for the bans; but most have cited safety concerns over blocked sidewalks, the breaking of traffic ordinances, and incidences of accidents.

### **Concluding Remarks**

The legislation before the Committee deals with amending the State's Motor Vehicle laws and regulations to enable local entities at the county and municipal level to weigh the pros and cons for those seeking additional mobility options to address congestion in their jurisdictions.

If enacted, the challenge for Pennsylvania's cities will be to strike a balance between imposing order to ensure the safety of all and not holding back on the micro-mobility opportunities for e-scooter users. Clearly, Pennsylvania's cities can learn from the experiences of other cities on how to best manage the ongoing, e-scooter phenomenon.

On behalf of the Council of State Governments – Eastern Regional Conference and myself, I would like to thank you for this opportunity to speak on House Bill 631 and I look forward to any questions you may have.