

9-1-2003

MOTOR VEHICLES AND TRAFFIC General Provisions: Provide for Regulation of Electric Personal Assistive Mobility Devices

John Giannini

Follow this and additional works at: <https://readingroom.law.gsu.edu/gsulr>

 Part of the [Law Commons](#)

Recommended Citation

John Giannini, *MOTOR VEHICLES AND TRAFFIC General Provisions: Provide for Regulation of Electric Personal Assistive Mobility Devices*, 20 GA. ST. U. L. REV. (2003).

Available at: <https://readingroom.law.gsu.edu/gsulr/vol20/iss1/14>

This Peach Sheet is brought to you for free and open access by the Publications at Reading Room. It has been accepted for inclusion in Georgia State University Law Review by an authorized editor of Reading Room. For more information, please contact mbutler@gsu.edu.

MOTOR VEHICLES AND TRAFFIC

General Provisions: Provide for Regulation of Electric Personal Assistive Mobility Devices

CODE SECTIONS: O.C.G.A. §§ 40-1-1 (amended), 40-6-320 to -327 (new), -371 (amended)

BILL NUMBER: SB 37

ACT NUMBER: 56

GEORGIA LAWS: 2003 Ga. Laws 308

SUMMARY: The Act, known as the “Segway Bill,” creates rules of the road for Electric Personal Assistive Mobility Devices (“EPAMD” or “Segway”). The Act gives EPAMD riders a hybrid status of rights, including the rights of pedestrians (to operate on sidewalks), bicyclists (to operate on bike lanes), and motorists (to operate on roadways where the speed limit is 35 miles per hour or less). The Act provides for safety regulations, restricts the use of the EPAMDs by children under the age of 16, and provides penalties for violations. The Act allows local authorities to regulate the operation of the EPAMDs, provided the local regulations are no less restrictive than the state law. Also, the Act redefines “moped” to include motor-driven cycles that do not have foot pedals permitting muscular propulsion but still meet all of the other parts of the existing definition of “moped.”

EFFECTIVE DATE: May 29, 2003

History

The press and the Internet were awash in a frenzy of speculation in January 2001 when word leaked out of a proposed book on a soon-to-be-released invention that would transform modern life with an impact equal to that of the personal computer.¹ The invention went by the code names “Ginger” and “IT,” and some venture capitalists predicted it would bring its developer wealth greater than that of Bill Gates, founder of Microsoft Corporation.² Both Apple’s Steve Jobs and venture capitalist John Doerr vouched for Ginger’s significance.³

The speculation ended on December 2, 2001, when Ginger was introduced to the world as a “two-wheeled, self-propelled, scooter”-like vehicle, capable of carrying a person 12 miles per hour on five cents’ worth of electricity per day.⁴ Dean Kamen unveiled his invention under the name Segway HT and predicted that cities in the future would be designed around usage of the new machine.⁵ While some complained that the Segway did not meet the expectations of Ginger’s pre-unveiling hype (speculation of anti-gravity devices and hydrogen-powered hovercraft abounded), governments and large corporations showed interest in the Segway nevertheless.⁶ The City of Atlanta’s Ambassador Force purchased six Segway units for use by its patrol officers, and Georgia Power purchased two for use at power plant sites.⁷

Georgia became one of the first states in the country to consider Segway-related legislation in 2002 when Senator Steve Thompson of the 33rd district introduced SB 397, attempting to create the rules of

1. See Josh Tyrangiel, *Beckett Would Love IT*, TIME, Jan. 22, 2001, at 89, available at 2001 WL 5489048; John Heilemann, *Reinventing the Wheel; Here “IT” Is: The Inside Story of the Secret Invention That So Many Are Buzzing About. Could This Thing Really Change the World?*, TIME, Dec. 10, 2001, at 76, available at 2001 WL 29385632.

2. See Tyrangiel, *supra* note 1, at 89.

3. Joseph P. Shapiro et al., *The Ginger Riddle: What Is This Greatest Thing Since Sliced Bread*, U.S. NEWS & WORLD REP., Jan. 22, 2001, at 45, available at 2001 WL 6319523.

4. Heilemann, *supra* note 1, at 76; *Scooter ‘Ginger’ Like a Pair of Magic Sneakers*, CNN.COM, Dec. 3, 2001, at <http://www.cnn.com/2001/TECH/ptech/12/03/scooter.unveiling/>.

5. Heilemann, *supra* note 1, at 76; *Atlanta Segways Human Transport*, BATTERY & EV TECH., May 1, 2002, available at 2002 WL 13432665. The invention is named “Segway” because it promised to segue into the future; “HT” for human transporter. Jeffrey Scott, *Scooter Ready to Ride the Walks*, ATLANTA J. CONST., Apr. 23, 2002, available at 2002 WL 3719748.

6. Heilemann, *supra* note 1, at 76.

7. *Atlanta Segways Human Transport*, *supra* note 5.

the road for the Segway.⁸ In keeping with the Segway's unique characteristics, Senator Thompson's bill created a hybrid status for Segway riders, granting some privileges of pedestrians, of bicyclists, and of motorists, while stipulating special speed limits for the Segway and requiring Segway riders to yield to pedestrians.⁹ Before the Senate passed the amended bill, SB 397 picked up an unrelated House floor amendment requiring strobe lights on garbage trucks.¹⁰

The House State Planning and Community Affairs Committee made an additional change, reducing the protective headgear requirement to only encompass riders under the age of 16.¹¹ The House Committee version also prohibited riders under the age of 16 from operating the EPAMDs on roadways.¹²

When the amended SB 397 went back to the Senate for approval on the last day of the 2002 legislative session, the reader of the bill, Senator Doug Haynes of the 46th district, mistakenly read a previous version of the motion regarding the bill.¹³ The Senators, including the sponsors of the bill, believed that they were voting to agree to SB 397, as amended by the House, only to discover after the legislative session ended that a technical error in the motion violated procedural rules and prevented the Secretary of the Senate from presenting the bill to the Governor.¹⁴ The sponsors appealed to Lieutenant Governor Mark Taylor, but he deferred to the Secretary of the Senate's decision.¹⁵

8. See SB 397, as introduced, 2002 Ga. Gen. Assem.; State of Georgia Final Composite Status Sheet, SB 397, Apr. 12, 2002; Telephone Interview with David Abercrombie, assistant to Senator Steve Thompson (Apr. 11, 2003).

9. See SB 397, as introduced, 2002 Ga. Gen. Assem.

10. See SB 397 (SCS), 2002 Ga. Gen. Assem.; State of Georgia Final Composite Status Sheet, SB 397, Apr. 12, 2002.

11. See SB 397 (HCS), 2002 Ga. Gen. Assem.; State of Georgia Final Composite Status Sheet, SB 397, Apr. 12, 2002.

12. See SB 397 (HCS), 2002 Ga. Gen. Assem.

13. See Telephone Interview with Daniel R. Baskerville, Consultant, McKenna, Long & Aldridge (May 15, 2003) [hereinafter Baskerville Interview].

14. See *id.*

15. See *id.*

*SB 37**Introduction*

Senators Steve Thompson, Eric Johnson, George Hooks, and Charles Clay of the 33rd, 1st, 14th, and 37th districts, respectively, sponsored SB 37.¹⁶ The bill was introduced on January 29, 2003, in nearly the same form as the final 2002 version of SB 397.¹⁷ SB 37 and the final 2002 version of SB 397 differed only in their proposed changes to Code section 40-6-325.¹⁸ SB 37 required all riders to wear protective headgear; SB 397 required all children under 16 to wear protective headgear.¹⁹ This difference resulted from an error by legislative counsel when asked to draft a bill based on the final version of SB 397 in 2002.²⁰

Consideration in the Senate

The bill was assigned to the Senate Transportation Committee, which amended the bill to adopt the headgear language from the 2002 final version of SB 397.²¹ As amended, the bill prohibited children under the age of 16 from operating an EPAMD unless they wore protective headgear and operated the EPAMD on a sidewalk.²² The Senate Committee substitute did not require persons 16 years or older to wear protective headgear.²³

The Senate Committee also deleted the language amending Code section 40-8-36 to require garbage trucks to display strobe lights.²⁴ The Senate Committee favorably reported the bill on February 11, 2003.²⁵

16. See SB 37, as introduced, 2003 Ga. Gen. Assem.

17. See *id.*; State of Georgia Final Composite Status Sheet, SB 37, Apr. 25, 2003. Compare SB 397 (SCS), 2002 Ga. Gen. Assem., with SB 37, as introduced, 2003 Ga. Gen. Assem.

18. Compare SB 397 (SCS), 2002 Ga. Gen. Assem., with SB 37, as introduced, 2003 Ga. Gen. Assem.

19. Compare SB 397 (SCS), 2002 Ga. Gen. Assem., with SB 37, as introduced, 2003 Ga. Gen. Assem.

20. See Baskerville Interview, *supra* note 13.

21. Compare SB 397 (SCS), 2002 Ga. Gen. Assem., with SB 37 (SCS), 2003 Ga. Gen. Assem.

22. See SB 37 (SCS), 2003 Ga. Gen. Assem.

23. See *id.*

24. See *id.*

25. See State of Georgia Final Composite Status Sheet, SB 37, Apr. 25, 2003.

Senator Thompson addressed the Senate on February 26, 2003.²⁶ He noted that a technicality prevented the passage of the bill in 2002 and gave an overview of the bill.²⁷

Senator Don Cheeks of the 23rd district rose to voice his concerns regarding the bill.²⁸ He read an excerpt from Legislative Counsel Wayne Allen's letter addressing the right of local governments to restrict the usage of the EPAMDs.²⁹ Mr. Allen's letter concluded that Code section 40-6-371, as amended by the bill, would not authorize local governments to prohibit the use of the EPAMDs.³⁰ Senator Cheeks also expressed concern about the safety of the EPAMDs and the practicality of enforcing EPAMD speed limits.³¹

Senator Thompson responded to Senator Cheek's comments by stressing the potential positive impact the EPAMDs could have on air quality.³² He also stated that the police have the discretion to enforce laws such as those provided for by the bill.³³ Senator Thompson further stated that lay counsel had informed him that local governments could prohibit the EPAMDs under this bill.³⁴ The Senate passed the bill by a 40-to-8 vote on February 26, 2003.³⁵

Consideration in the House

On February 27, 2003, the Speaker assigned the bill to the Motor Vehicles Committee.³⁶ The House Committee favorably reported the bill on April 7, 2003, without amendment.³⁷

Representative Alan Powell of the 23rd district addressed the House on April 10, 2003.³⁸ He briefly described the bill before

26. Audio Recording of Senate Proceedings, Feb. 26, 2003 (remarks by Sen. Steve Thompson), at <http://www.state.ga.us/services/leg/audio/2003archive.html> [hereinafter Senate Audio].

27. *See id.*

28. *See id.* (remarks by Sen. Don Cheeks).

29. *See id.*

30. *See id.*

31. *See id.*

32. *See* Senate Audio, *supra* note 26 (remarks by Sen. Steve Thompson).

33. *See id.*

34. *See id.*

35. *See* State of Georgia Final Composite Status Sheet, SB 37, Apr. 25, 2003; Georgia Senate Voting Record, SB 37 (Feb. 26, 2003).

36. *See* State of Georgia Final Composite Status Sheet, SB 37, Apr. 25, 2003.

37. *See id.*

38. Audio Recording of House Proceedings, Apr. 10, 2003 (remarks by Rep. Alan Powell), at <http://www.state.ga.us/services/leg/audio/2003archive.html>.

yielding to Representative Burke Day of the 126th district.³⁹ Representative Day proposed an amendment to change the definition of “moped” in Code subsection 40-1-1(28).⁴⁰ He stated that law enforcement uncertainty in distinguishing between a motorcycle and moped necessitated this amendment.⁴¹ In response to a question from Representative Doug Teper of the 42nd district, Representative Day stated that a “number of companies” that want to locate in Georgia to sell motor scooters have been reluctant to do so “because of the vagueness in the Georgia law.”⁴²

The House adopted Representative Day’s amendment by a floor vote⁴³ and then passed the amended bill by a vote of 152 to 4.⁴⁴

Return to the Senate

The Senate voted on the House amended version of SB 37 on April 25, 2003, the final day of the session.⁴⁵ Senator Thompson addressed the Senate and explained that the House added language to clarify the definition of “moped.”⁴⁶ The Senate passed the bill, as amended, by a 48-to-3 vote.⁴⁷

The Act

The Act amends two Code sections and adds eight new sections to Title 40, relating to motor vehicles.⁴⁸

39. *See id.*

40. *See id.*

41. *See id.*

42. *See id.*

43. *See id.*

44. *See State of Georgia Final Composite Status Sheet, SB 37, Apr. 25, 2003; Georgia House of Representatives Voting Record, SB 37 (Apr. 10, 2003).*

45. *See State of Georgia Final Composite Status Sheet, SB 37, Apr. 25, 2003.*

46. *See Audio Recording of Senate Proceedings, Apr. 25, 2003, at <http://www.state.ga.us/services/leg/audio/2003archive.html>.*

47. *See State of Georgia Final Composite Status Sheet, SB 37, Apr. 25, 2003; Georgia Senate Voting Record, SB 37 (Apr. 25, 2003).*

48. *See 2003 Ga. Laws 308.*

Code Section 40-1-1

The Act amends Code section 40-1-1 to define “electric personal assistive mobility device.”⁴⁹ The Act also modifies the definition of “motor vehicle” to specifically exclude the EPAMDs from the category of motor vehicles.⁵⁰

The Act modifies the definition of “moped” to include motor-driven cycles that do not have foot pedals permitting muscular propulsion but otherwise meet the existing definition of “moped.”⁵¹

Code Section 40-6-320

The Act creates new Code section 40-6-320, which permits operating the EPAMDs on roadways or on “sidewalks where a 48-inch clear path is maintained for” disabled persons.⁵² The section prohibits the use of the EPAMDs on roadways where the speed limit is greater than 35 miles per hour unless there is a “separately striped bicycle lane.”⁵³ In that case, the Act permits operating the EPAMDs in the bicycle lane.⁵⁴ The section also provides that when operating on a roadway, the EPAMDs should travel on the same side of the road as motor vehicle traffic traveling in the same direction as the EPAMD.⁵⁵

Code Section 40-6-321

The Act creates new Code section 40-6-321, which requires persons operating the EPAMDs on a roadway or sidewalk to comply with the provisions of the Act as well as local regulations.⁵⁶ The Act

49. Compare 2002 Ga. Laws 1378, § 1, at 1378 (formerly found at O.C.G.A. § 40-1-1 (2001)), with O.C.G.A. § 40-1-1 (Supp. 2003).

50. Compare 2002 Ga. Laws 1378, § 1, at 1378 (formerly found at O.C.G.A. § 40-1-1 (2001)), with O.C.G.A. § 40-1-1 (Supp. 2003).

51. Compare 2002 Ga. Laws 1378, § 1, at 1378 (formerly found at O.C.G.A. § 40-1-1 (2001)), with O.C.G.A. § 40-1-1 (Supp. 2003).

52. See O.C.G.A. § 40-6-320 (Supp. 2003).

53. See *id.*

54. See *id.*

55. See *id.*

56. See O.C.G.A. § 40-6-321 (Supp. 2003).

also requires EPAMD operators to exercise caution around, and yield the right of way to, pedestrians.⁵⁷

Code Section 40-6-322

The Act creates new Code section 40-6-322, which prohibits the operation of the EPAMDs at a speed greater than 7 miles per hour on a sidewalk or 15 miles per hour on a roadway.⁵⁸ The section expressly empowers local governments to further restrict EPAMD speed limits “where pedestrian traffic is congested and . . . a significant speed differential between pedestrians” and EPAMD operators exist.⁵⁹

Code Section 40-6-323

The Act creates new Code section 40-6-323, which allows operators to park the EPAMDs on sidewalks, provided the parking does not restrict wheelchair movement and provided no local restrictions preventing parking of the EPAMDs exists.⁶⁰ The section prohibits parking the EPAMDs on roadways in a manner that would “prevent the movement of a legally parked motor vehicle.”⁶¹

The section also subjects EPAMD operators “to the same parking restrictions as . . . motor vehicles.”⁶² EPAMD owners are presumed to be in control of the EPAMD for the purposes of parking restrictions, and the state need not prove evidence of actual control as an element of a parking offense.⁶³

Code Section 40-6-324

The Act creates new Code section 40-6-324, which prohibits the transportation of hazardous materials on an EPAMD.⁶⁴ This section

57. *See id.*

58. *See* O.C.G.A. § 40-6-322 (Supp. 2003).

59. *See id.*

60. *See* O.C.G.A. § 40-6-323 (Supp. 2003).

61. *See id.*

62. *See id.*

63. *See id.*

64. *See* O.C.G.A. § 40-6-324 (Supp. 2003).

also exempts from the prohibition “oxygen carried for personal medical reasons.”⁶⁵

Code Section 40-6-325

The Act creates new Code section 40-6-325, which provides several safety features and rules.⁶⁶ Subsection (a) requires the EPAMDs operated on roadways or sidewalks to “be equipped with front, rear, and side reflectors.”⁶⁷ The EPAMDs operated at night must have a headlight capable of “illuminat[ing an] area in front of the operator for a distance of 300 feet.”⁶⁸ Further, the EPAMDs must have a system that will enable the operator to bring the EPAMD to a controlled stop.⁶⁹

Subsection (b) provides that persons under the age of 16 years old may only operate an EPAMD on a sidewalk while wearing protective headgear.⁷⁰

Code Section 40-6-326

The Act creates new Code section 40-6-326, which prohibits a person from operating an EPAMD on a roadway or sidewalk while “under the influence of any intoxicating liquor or any drug to a degree which renders him or her a hazard.”⁷¹ The Act makes the violation of this section a misdemeanor, punishable by a fine not to exceed \$500.00.⁷²

Code Section 40-6-327

The Act creates new Code section 40-6-327, which provides that a person in violation of any part of the Act, other than Code section 40-6-326, “shall not be guilty of a criminal offense or a moving traffic

65. *See id.*

66. *See* O.C.G.A. § 40-6-325 (Supp. 2003).

67. *See id.*

68. *See id.*

69. *See id.*

70. *See id.*

71. *See* O.C.G.A. § 40-6-326 (Supp. 2003).

72. *See id.*

violation for purposes of Code section 40-5-57, but shall be subject to a civil penalty not to exceed \$500.00.”⁷³

Code Section 40-6-371

The Act amends Code section 40-6-371 to specifically permit local authorities to regulate the operation of the EPAMDs, “provided that such regulations are no less restrictive than” the regulations provided by the Act.⁷⁴

John Giannini

73. See O.C.G.A. § 40-6-326 (Supp. 2003).

74. Compare 2001 Ga. Laws 770, § 3, at 774 (formerly found at O.C.G.A. § 40-6-373 (2001)), with O.C.G.A. § 40-6-373 (2001).