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**AB-371 Shared mobility devices: insurance and tracking.** (2021-2022)

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**Assembly Bill No. 371**

**CHAPTER 740**

An act to amend Section 2505 of, to add Section 2506 to, and to add and repeal Section 2505.5 of, the Civil Code, relating to mobility devices.

[ Approved by Governor September 29, 2022. Filed with Secretary of State September 29, 2022. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 371, Jones-Sawyer. Shared mobility devices: insurance and tracking.

Existing law requires a shared mobility service provider, as defined, to enter into an agreement with, or obtain a permit from, the city or county with jurisdiction over the area of use. Existing law defines shared mobility device to mean an electrically motorized board, motorized scooter, electric bicycle, bicycle, or other similar personal transportation device, except as provided. Existing law requires a city or county that authorizes a shared mobility device provider to operate within its jurisdiction to adopt operation, parking, and maintenance rules, as provided, regarding the use of the shared mobility devices in its jurisdiction before the provider may offer shared mobility devices for rent or use.

This bill would require a shared mobility service provider to affix to each shared mobility device a tactile sign containing raised characters and accompanying Braille, as specified, to identify the device for the purpose of reporting illegal or negligent activity.

Existing law requires that the shared mobility provider maintain a specified amount of commercial general liability insurance that, among other things, must be with a carrier doing business in California, in a user agreement before distributing a shared mobility device within that jurisdiction.

This bill, rather than require the shared mobility service provider to maintain commercial general liability insurance with a carrier doing business in California, would require the coverage to be with an admitted insurer or a nonadmitted insurer, as specified.

Starting July 1, 2023, this bill would require a shared mobility service provider or user of a shared mobility device to offer or make available, or to confirm a user of a shared mobility device maintains, \$10,000 of coverage for any bodily injury or death suffered by a pedestrian in any one accident when the injury or death involves, in whole or in part, the negligent conduct of the shared mobility device user, and \$1,000 of coverage for any property damage to an assistive technology device, as defined. The bill would prohibit a shared mobility service provider from allowing a user or individual to operate or utilize a shared mobility device without the coverage, and would exempt bicycles propelled exclusively by human power and specified electric bicycles from these requirements. The bill would authorize a provider to partner with an insurer to provide coverage that meets or exceeds those requirements to its users via its digital application or other electronic or digital platform, and fund the cost of providing coverage in its standard fee or through a separate charge to users. The bill would require the shared mobility service provider to maintain coverage if a user does not maintain the required insurance coverage. The bill would authorize a provider to enter into agreements with users that maintain their own coverage that meets or exceeds the above requirements to exclude the user from the provider's coverage. The bill would also require a provider to keep an up-to-date list of its users that maintain their own

coverage and transmit annually, to the Department of Insurance, information on the percentage of total users in the state that maintain their own coverage and the total number of users, as specified.

The bill would specify that it does not prohibit a provider from requiring a user to enter into an indemnity contract, and would specify certain requirements that the indemnity contract would be required to meet. The bill would prohibit parties from waiving or modifying any of its provisions by contractual agreement, act, or omission. The bill would require a shared mobility service provider to disclose, in a specified manner, prior to allowing the user to initiate their first use of a device, that the customer's existing homeowner's, renter's, or automobile insurance policies might not provide coverage for liability resulting from the use of shared mobility devices and that the customer should contact their insurance company or insurance agent to determine if coverage is provided.

This bill would require, no later than December 31, 2026, the Department of Insurance to submit to the Legislature and insurance committees, as specified, a study that includes, among other things, recommendations to update shared mobility device insurance coverage requirements, how to strengthen the market for individual mobility device liability coverage, and whether there is a need for insurance coverage for injuries involving bicycles propelled exclusively by human power and specified electric bicycles.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

### **SECTION 1.** Section 2505 of the Civil Code is amended to read:

#### **2505.** (a) For purposes of this title:

(1) "Assistive technology device" has the same meaning as in Section 7002 of Title 9 of the California Code of Regulations.

(2) "Shared mobility device" means an electrically motorized board as defined in Section 313.5 of the Vehicle Code, motorized scooter as defined in Section 407.5 of the Vehicle Code, electric bicycle as defined in Section 312.5 of the Vehicle Code, bicycle as defined in Section 231 of the Vehicle Code, or other similar personal transportation device, except as provided in subdivision (b) of Section 415 of the Vehicle Code, that is made available to the public by a shared mobility service provider for shared use and transportation in exchange for financial compensation via a digital application or other electronic or digital platform.

(3) "Shared mobility service provider" or "provider" means a person or entity that offers, makes available, or provides a shared mobility device in exchange for financial compensation or membership via a digital application or other electronic or digital platform.

(b) (1) Before distribution of a shared mobility device, a shared mobility service provider shall enter into an agreement with, or obtain a permit from, the city or county with jurisdiction over the area of use. The agreement or permit shall, at a minimum, require that the shared mobility service provider maintain commercial general liability insurance coverage with an admitted insurer, or a nonadmitted insurer that is eligible to insure a home state insured under Chapter 6 (commencing with Section 1760) of Part 2 of Division 1 of the Insurance Code, with limits not less than one million dollars (\$1,000,000) for each occurrence for bodily injury or property damage, including contractual liability, personal injury, and product liability and completed operations, and not less than five million dollars (\$5,000,000) aggregate for all occurrences during the policy period. The insurance shall not exclude coverage for injuries or damages caused by the shared mobility service provider to the shared mobility device user.

(2) (A) (i) Notwithstanding any other law, effective July 1, 2023, the agreement or permit required pursuant to paragraph (1) shall require, in addition to the coverage required by paragraph (1), a shared mobility service provider to offer or make available, or to confirm the user of a shared mobility device maintains, insurance coverage for bodily injury or death suffered by a pedestrian when the injury or death involves, in whole or in part, the negligent conduct of the shared mobility device user, of ten thousand dollars (\$10,000) for each occurrence of bodily injury to, or death of, one pedestrian in any one accident, and for property damage to an assistive technology device, of one thousand dollars (\$1,000), for each occurrence.

(ii) Notwithstanding clause (i) or any other law, a shared mobility service provider or user of a shared mobility device is not required to maintain insurance coverage, as described in clause (i), for injuries of, or death to, a pedestrian or property damage involving the following devices:

(I) A bicycle propelled exclusively by human power, as described in Section 231 of the Vehicle Code. For purposes of this paragraph, "bicycle" shall not include an electric bicycle.

(II) A class 1 electric bicycle as defined in paragraph (1) of subdivision (a) of Section 312.5 of the Vehicle Code.

(III) A class 2 electric bicycle as defined in paragraph (2) of subdivision (a) of Section 312.5 of the Vehicle Code.

(iii) The Legislature finds and declares that bicycles may be recognized as safer than motorized devices when in use, and recognizes there may remain a propensity for pedestrian injuries or death resulting from shared mobility bicycles and shared mobility electric bicycles being left negligently abandoned on pedestrian walkways.

(B) A shared mobility service provider may partner with an insurer to provide an option to its users via its digital application or other electronic platform where the user may purchase insurance coverage that meets or exceeds the requirements of subparagraph (A). The shared mobility service provider shall disclose via its digital application or other electronic platform the name, contact information, and location to make a claim with the insurer they chose to partner with. The shared mobility service provider may fund the cost of providing this coverage itself and pass the cost on in its standard fee to users, or through a separate charge to users. If a user of a shared mobility device does not maintain their own insurance policy, then that coverage shall be offered or made available by the shared mobility service provider. A shared mobility service provider shall not allow a user or individual to operate or utilize a shared mobility device without the coverage identified in subparagraph (A). If a user or individual gains access to a shared mobility device without obtaining coverage through the options outlined in this subparagraph or subparagraph (C), and uses or operates it uninsured, the shared mobility service provider shall be required to provide the insurance coverage identified in subparagraph (A).

(C) (i) A shared mobility service provider may enter into separate individual agreements with users maintaining their own liability insurance coverage that meets or exceeds the requirements of subparagraph (A), to exclude the user from the provider's insurance coverage required in subparagraph (A) when, in consideration for such an agreement, the user shall not pay a separate charge for the coverage or shall be refunded the portion of the provider's fee that pays for the provider's coverage. The agreement shall be null and void upon lapse, cancellation, or expiration of the user's policy. If a shared mobility device user entering into an agreement under this subparagraph misrepresents their maintenance of a policy or through an error or act of omission does not provide coverage, the shared mobility service provider shall be required to maintain the insurance to cover any claims resulting in injury, death, or property damage described in subparagraph (A).

(ii) It is the intent of the Legislature that, in enacting this subparagraph, shared mobility service providers have the flexibility to offer or make available insurance options to their users, while also ensuring the shared mobility service providers' insurance serves as the backstop to cover any pedestrian injuries or death, or property damage, should there be any unintended gaps in coverage as a result of users misrepresenting or not maintaining the insurance.

(D) A shared mobility service provider shall keep an up-to-date list of its users that maintain their own liability insurance coverage that meets or exceeds the requirements of subparagraph (A). The provider shall annually transmit information on the percentage of its total users in the state that maintain their own insurance coverage, in the same manner as proscribed in subdivision (b) of Section 2505.5 of the Civil Code, to the Department of Insurance.

(3) Effective July 1, 2023, nothing in this section shall prohibit a provider from requiring a user to enter into an indemnity contract whereby the user will indemnify the provider for the user's proportionate share of liability. The indemnity contract shall not require the user to defend or indemnify the provider for the provider's negligence or willful misconduct. This section shall not be waived or modified by contractual agreement, act, or omission of the parties.

(c) (1) A city or county that authorizes a provider to operate within its jurisdiction on or after January 1, 2021, shall adopt rules for the operation, parking, and maintenance of shared mobility devices before a provider may offer any shared mobility device for rent or use in the city or county by any of the following:

(A) Ordinance.

(B) Agreement.

(C) Permit terms.

(2) A city or county that authorized a provider to operate within its jurisdiction before January 1, 2021, and continues to provide that authorization shall adopt rules for the operation, parking, and maintenance of shared mobility devices by January 1, 2022, by any of the following:

(A) Ordinance.

(B) Agreement.

(C) Permit terms.

(3) A provider shall comply with all applicable rules, agreements, and permit terms established pursuant to this subdivision.

(d) Nothing in this section shall prohibit a city or county from adopting any ordinance or regulation that is not inconsistent with this title.

(e) On or before July 1, 2023, a shared mobility service provider shall disclose to its customers that the customer's existing homeowner's, renter's, or automobile insurance policies might not provide coverage for liability resulting from the use of shared mobility devices and that the customer should contact their insurance company or insurance agent to determine if coverage is provided, prior to allowing a user to initiate their first use of a device.

(1) The disclosure shall be made to, and acknowledged by, the customer via the provider's digital application or electronic platform and posted on the provider's internet website.

(2) The disclosure shall include the following language in capital letters:

"YOUR HOMEOWNER'S, RENTER'S, OR AUTOMOBILE INSURANCE POLICIES MIGHT NOT PROVIDE COVERAGE FOR ACCIDENTS INVOLVING THE USE OF THIS DEVICE. TO DETERMINE IF COVERAGE IS PROVIDED YOU SHOULD CONTACT YOUR INSURANCE COMPANY OR AGENT."

**SEC. 2.** Section 2505.5 is added to the Civil Code, to read:

**2505.5.** (a) The Department of Insurance shall conduct a study and report the findings to the Legislature and the insurance committees of both houses no later than December 31, 2026, that does all of the following:

(1) In collaboration with a city or county with jurisdiction over areas of shared mobility device use and shared mobility device insurers and operators, assesses whether coverage requirements for shared mobility devices are appropriate to the risk of shared mobility device services and provide recommendations to update coverage requirements, if found to be necessary. The Department of Insurance may specify by bulletin the time periods and elements of data to be provided by admitted and nonadmitted insurers writing coverage pursuant to subdivision (b) of Section 2505.

(2) With input from shared mobility device providers, analyzes the process by which providers give users an option to purchase their own insurance coverage, and make recommendations, if necessary, on how to strengthen the market for individual mobility device liability coverage, including on ensuring agreements between a provider and user to remove the user from the provider's policy do not result in circumstances where there is a gap in coverage providing recovery for injured pedestrians.

(3) (A) In collaboration with a city or county with jurisdiction over areas of shared mobility device use and shared mobility device insurers and operators, assesses whether there is a need for insurance coverage for injuries to, or death of, a pedestrian or property damage to assistive technology devices when the injury, death, or property damage involves, in whole or in part, the following devices:

(i) A bicycle propelled exclusively by human power, as described in Section 231 of the Vehicle Code. For purposes of this paragraph, "bicycle" shall not include an electric bicycle.

(ii) A class 1 electric bicycle as defined in paragraph (1) of subdivision (a) of Section 312.5 of the Vehicle Code.

(iii) A class 2 electric bicycle as defined in paragraph (2) of subdivision (a) of Section 312.5 of the Vehicle Code.

(B) It is the intent of the Legislature that the assessment in subparagraph (A) of this section will provide data on the prevalence of injuries, death, or property damage resulting from the devices described in clauses (i), (ii), and (iii) of subparagraph (A), including, but not limited to, resulting from such devices being negligently abandoned on pedestrian walkways, and determine whether additional insurance coverage is necessary to account for such pedestrian injuries or death and property damage.

(b) Data collected by the Department of Insurance pursuant to this section shall not include information that identifies or describes an individual, including, but not limited to, an individual's name, social security number, home address, home telephone number, education, financial matters, medical or employment history, geolocation, or statements made by, or attributed to, the individual, or that may otherwise compromise the privacy of the individual under existing law.

(c) (1) A report to be submitted pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.

(2) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2027.

**SEC. 3.** Section 2506 is added to the Civil Code, to read:

**2506.** A shared mobility service provider shall affix to each shared mobility device a readily accessible, single, and clearly displayed tactile sign containing raised characters and accompanying Braille, complying with Section 11B-703 of the Building

Code, to identify the device for the purpose of reporting illegal or negligent activity. The sign shall minimally consist of the company name, phone number, and email address of the service provider that is visible a minimum of five feet and not obfuscated by branding or other markings.