

OFFICE OF THE
COUNTY EXECUTIVE



Derek Johnson
COUNTY EXECUTIVE

Daniel Eilerman
ASSISTANT COUNTY
EXECUTIVE

Ariel Espiritu Santo
ASSISTANT COUNTY
EXECUTIVE

July 16, 2024

Marin County Board of Supervisors
3501 Civic Center Drive
San Rafael, CA 94903

SUBJECT: Response to 2022-23 Grand Jury Report : *"With Power Comes Responsibility Youths Under Age 16 Operating Class 2 E-Bikes: A Safety Risk"* (April 26, 2024)

Dear Supervisors,

RECOMMENDATION: Concur in and adopt the attached proposed response to the FY 2023-24 Marin County Civil Grand Jury Report regarding Class 2 electric bicycles and authorize the Board President to forward the response to the Presiding Judge of the Marin County Superior Court.

SUMMARY: The 2022-23 Civil Grand Jury Report published a report entitled *"With Power Comes Responsibility Youths Under Age 16 Operating Class 2 E-Bikes: A Safety Risk"* (April 26, 2024). The report included a request for response from your Board. Attached for your consideration, in accordance with §933 of the California Penal Code, is a proposed response. A copy of the Grand Jury report is also attached for your information.

FISCAL/STAFFING IMPACT: None.

ALTERNATIVE TO RECOMMENDED ACTION(S): The Board may amend any suggested response.

REVIEWED BY: (These boxes must be checked)

☐ Department of Finance	☒ N/A
☒ County Counsel	☐ N/A
☐ Human Resources	☒ N/A

SUBMITTED BY:

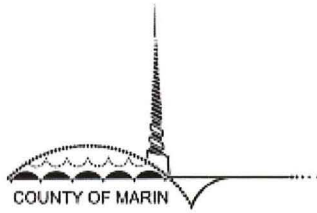
Gary Besser
Strategic Projects Manager

REVIEWED BY:

Daniel Eilerman
Assistant County Executive

Attachments: April 26, 2024, Grand Jury Report
Cc: Dr. Lisa Warhuus, Niccore Tyler, Matt Willis - HHS

Marin County Civic Center
3501 Civic Center Drive
Suite 325
San Rafael, CA 94903
415 473 6358 T
415 473 4104 F
CRS Dial 711
MarinCounty.gov/executive



RESPONSE TO GRAND JURY REPORT FINDINGS AND RECOMMENDATIONS

REPORT TITLE: "With Power Comes Responsibility - Youths Under Age 16 Operating Class 2 E-Bikes: A Safety Risk"
REPORT DATE: April 26, 2024
RESPONSE BY: County of Marin Board of Supervisors

GRAND JURY FINDINGS

- We agree with the findings numbered: **F1, F2**
- We disagree wholly or partially with the findings numbered: **F3 – F6**

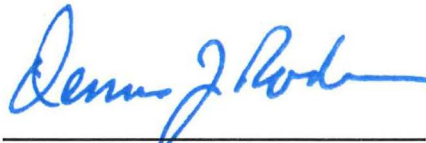
GRAND JURY RECOMMENDATIONS

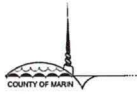
- Recommendations numbered **R1 - R3** have not yet been implemented, but will be implemented presuming adoption of AB 1776.
- Recommendation numbered **R4** require further analysis.

Date:

7/16/2024

Signed:


President, Board of Supervisors



County of Marin Response to Grand Jury Report Findings and Recommendations
"With Power Comes Responsibility - Youths Under Age 16 Operating Class 2 E-Bikes: A Safety Risk" (April 26, 2024)

RESPONSE TO GRAND JURY FINDINGS

F1. The increasing number of e-bike accidents involving youths under the age of 16 presents a public health and safety danger in Marin.

Response: Agree

The Marin County Public Health [Bicycle Safety Dashboard](#) displays ambulance responses to bike accidents countywide (distinguished by e-bikes and conventional bicycles), and is updated weekly. Since the County began collecting this data in October 2023, we have seen that riders aged 10-15 years are five times more likely to have an e-bike accident compared to any other age group. The accident rate for conventional bicycles is similar across all age groups.

F2. The operation of class 2 e-bikes by operators under the age of 16 poses a significant risk to the safety of e-bike operators, other bike riders, passengers, and pedestrians on sidewalks, streets, multi-use paths, and trails in Marin.

Response: Agree

Class 2 e-bikes allow rapid acceleration via a throttle without the need to pedal. Class 2 e-bikes are functionally similar to a motorcycle but are operable by young people with no licensing or training requirements – and therefore are presumed to pose a greater risk to younger riders. Additionally, class 2 e-bikes may be modified by users with after-market technology to go beyond their manufacturer-set top speed of 20 mph.

Class 1 e-bikes require pedaling for the electric motor to assist with propulsion, which means the bike takes longer to accelerate, and there is greater stabilization for the rider. Because class 1 electric motors require pedaling to activate, these e-bikes cannot be as easily modified with after-market technology to increase top speed.

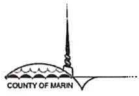
It is important to note that while Marin County tracks e-bike vs. conventional bike injuries, e-bike class is not currently incorporated into this data. More data is needed to definitively determine the greater risk that class 2 e-bikes pose to youth riders as opposed to class 1 e-bikes.

F3. The emerging and increasing safety issues related to class 2 e-bike use by operators under the age of 16 has not been addressed by Marin County or the municipalities in a uniform manner.

Response: Partially Disagree

State Law currently requires class 3 e-bikes riders to be 16 years and older. However, State Law does not currently require an age limit for class 1 and 2 e-bike riders. The current State Vehicle Code does not allow local jurisdictions to impose age limits for riders of Class 1 or 2 e-bikes, as that would supersede existing state law. Therefore, local jurisdictions and schools across the state are faced with limited enforcement and legal tools to regulate the use of class 2 e-bikes by riders under the age of 16. For this reason, youth e-bike safety regulations are inherently inconsistent across Marin and across the state.

However, the County of Marin has taken proactive measures to inform residents of the safety risks e-bikes pose to young riders, as seen in local injury data. In [November 2023](#), Marin County



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Public Health issued a [Public Health Advisory](#) to inform the community that e-bike accident rates for youths 10-19 years old was nine times higher than for other age groups. The Advisory, timed before the holidays, encouraged parents to properly research the risks of e-bikes and recommended that only class 1 e-bikes should be purchased for school-age children.

Furthermore, the County of Marin sponsored and supports [California Assembly Bill 1778](#) (Connolly, 2024), which would address e-bike safety by amending Section 21214.5 of the State Vehicle Code to allow, on a pilot basis, local jurisdictions within Marin County to adopt a local ordinance limiting the age of class 2 e-bike riders and impose helmet requirements for riders of all ages. Specifically, the ordinance would *“establish the Marin Electric Bicycle Safety Pilot Program that would, until January 1, 2029, authorize a local authority within the County of Marin, or the County of Marin in unincorporated areas, to adopt an ordinance or resolution that would prohibit a person under 16 years of age from operating a class 2 electric bicycle.”*

Adoption of this bill by the State Legislature would be a first step in developing meaningful and uniform e-bike regulations in Marin, as it would allow the County and municipalities to adopt enforceable age-limits for class 2 e-bikes riders. However, it is important to note that, at the state and local level, the only legal tools to improve safety for young riders are age-limits regulated by law enforcement, and safety requirements on e-bikes manufactured in California. The most impactful e-bike safety regulation must come from the federal government. The Consumer Product Safety Commission (CPSC) has the authority to impose nationwide safety regulations for e-bikes – including those specifically to protect children – under the Federal Hazardous Substance Act and the Consumer Product Safety Act. Some examples of federal regulation that would improve e-bike safety include:

- Requirements for national data collection of e-bike injury by age and by e-bike class;
- Product safety advertising and labeling requirements for all e-bikes sold in the U.S;
- Required, not recommended, appropriate age limits for e-bikes, supported by data on the risk of injury.

In January 2024, District 1 Supervisor Mary Sackett met with commissioners from the federal CPSC to discuss Marin’s local e-bike safety data and to urge the commission to impose new, stronger federal safety regulations on e-bikes, especially for young riders. On May 8, 2024, Supervisor Sackett, along with California Assembly Member Damon Connolly and Marin County Public Health Officer Matt Willis, [testified at the CPSC Agenda and Priorities Hearing](#) to petition the commission to take up e-bike safety as a high-priority consumer protection issue. Also in May 2024, the Board of Supervisors and Dr. Willis submitted comments to the CPSC’s [Advanced Notice of Proposed Rulemaking](#) regarding development of a federal rule to address the risk of injury associated with electric bicycles.

F4. For all practical purposes, the state of California has abdicated its responsibility to regulate the use of class 2 e-bikes, leaving it up to the County of Marin and the Marin municipalities to create their own regulations.

Response: Wholly Disagree

There has been a significant amount of legislation introduced in recent years targeting e-bike safety and ridership. However, it is important to note that the State, as well as municipalities, must balance more stringent e-bike regulations with the fact that e-bikes play an important role



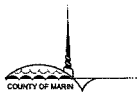
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“With Power Comes Responsibility - Youths Under Age 16 Operating Class 2 E-Bikes: A Safety Risk” (April 26, 2024)

in advancing California climate and emission reduction goals. Additionally, it is important to note that Marin County is far ahead of other jurisdictions in addressing e-bike safety.

Several bills introduced in recent years targeting e-bikes include, but are not limited to:

- [State Assembly Bill 1096](#) (Chiu, 2015) currently regulates class 2 and other e-bikes. Among its provisions is a requirement that all riders under age 17 wear a helmet on any type of bicycle; that the maximum speed for a class 2 e-bike be established at 20 mph; and that all e-bikes in California be equipped with an identifying sticker for use by traffic enforcement.
- [State Senate Bill 381](#) (Min, 2023) requires the Mineta Transportation Institute at San Jose State University to conduct a study to inform efforts to improve the safety of e-bikes and to submit a report of the findings from the study to the Legislature by January 2026. The bill would require the study to examine, identify, and analyze available information regarding, among other things, data on injuries, crashes, emergency room visits, and deaths related to bicycles and electric bicycles and best practices for policy to promote safe use of electric bicycles.
- [Proposed State Assembly Bill 2234](#) (Boerner, 2024) would authorize the San Diego Electric Bicycle Safety Pilot Program, authorizing a local authority within the County of San Diego, or the County of San Diego in unincorporated areas, to adopt an ordinance or resolution that would prohibit a person under 12 years of age from operating a class 1 or 2 electric bicycle. When first introduced, AB 2234 proposed to prohibit children under 12 from operating e-bikes of any class statewide, and would also require all e-bike riders to either possess a driver's license or pass an e-bike safety course. The bill was later modified to be limited to San Diego County. This bill was introduced in the previous session as AB 530.
- [Proposed State Assembly Bill 2259](#) (Boerner, 2024) would require the California State Transportation Agency (DMV) to develop and distribute, on or before September 1, 2025, a bicycle safety handbook that includes information on, among other things, existing laws regulating bicycles and e-bikes.
- [Proposed State Assembly Bill 1774](#) (Dixon, 2024) aims to curb the sales of e-bike modification devices which can increase the speed of e-bikes through after-market modifications. The bill would prohibit the sale of any product or device that can modify the speed capability of an electric bicycle such that it no longer meets the definition of an electric bicycle.
- [Proposed Assembly Bill 1778](#) (Connolly, 2024) would allow Marin County, or any municipality in Marin County, to adopt ordinances limiting the age of class 2 e-bike riders to 16 and older, and would require all class-2 e-bike riders to wear a helmet. When first introduced, AB 1778 proposed to prohibit youth under 16 from operating class 2 e-bikes statewide, but was later modified to be limited to Marin County.

As stated in our response to F3 above, the most effective regulations in this area would be federal in nature, with national guidelines on e-bike speed and accurate labeling of e-bike classes.



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F5. The funding to continue the e-bike specific safety and training program (E-bike Smart Marin) provided by the Marin Bicycle Safety Coalition is not sustainable without new sources of funding.

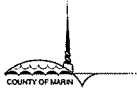
Response: Partially Disagree

We cannot agree or wholly disagree with this finding, as the Marin Bicycle Safety Coalition is best suited to opine regarding its funding model.

F6. Marin County public schools are not currently able to implement additional bicycle safety training programs for students, beyond what has been offered by Safe Routes to Schools for many years.

Response: Partially Disagree

We cannot agree or wholly disagree with this finding, as Marin County public schools are best suited to opine regarding school districts' capacity or funding opportunities for bicycle safety funding.



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RESPONSE TO GRAND JURY RECOMMENDATIONS

The Marin County Civil Grand Jury recommends the following:

R1. By December 31, 2024, the Board of Supervisors, and each municipality in Marin should take all steps necessary to adopt an ordinance with regard to class 2 e-bikes with, at minimum, the following provisions:

- (a) Only people aged 16 or older may operate class 2 e-bikes.**
- (b) Operators of class 2 e-bikes must wear helmets.**
- (c) All passengers on class 2 e-bikes must wear helmets.**

This recommendation has not yet been implemented, but will be implemented presuming adoption of AB 1778 (Damon Connolly, 2024) subject to California public noticing and hearing requirements and the continued discretion of the Board after fully evaluating any further public comments on any introduced ordinance or other required County Code changes.

Absent federal regulation, we believe Assembly Bill 1778 is the best initial step toward local regulation of class 2 e-bikes in Marin County. The County’s May 2024 Letter of Support and sponsorship of AB 1778 welcomes uniform adoption of the Marin Electric Bicycle Safety Pilot Program in both incorporated and unincorporated areas. Presuming AB 1778 is signed by the Governor, it is the intent of the Board of Supervisors to adopt an ordinance affecting unincorporated Marin County to limit Class 2 e-bikes to age 16 and over and to require helmet use – which could be also adopted by cities and towns in Marin. These efforts will extend beyond the Grand Jury’s recommended timeframe given that any law signed by the Governor becomes effective January 1, 2025.

Challenges to multi-jurisdictional enforcement include how to properly assess an e-bike user’s age in the absence of photo ID; the difficulty of identifying an e-bike class in the absence of federal labeling guidelines and needing to rely on state labeling standards; and equity considerations regarding uniform enforcement. The County will continue its convening and leadership efforts with an emphasis on education, including advocacy for state and/or federal regulation regarding the increase in “e-motorcycles” beyond the current conception of class 2 or class 3 e-bikes. E-bikes which are more akin to motorcycles should not be regulated as electric bicycles. We urge adoption of AB 1778.

R2. By December 31, 2024, the County of Marin and each municipality in Marin should take all steps necessary to establish a joint task force or committee to investigate and consider coordination among the county and municipalities about adopting a county-wide uniform set of regulations regarding e-bike use within the County of Marin.

This recommendation has not yet been implemented, but will be implemented presuming adoption of AB 1778.

Although the County of Marin is unable to enact or enforce e-bike regulations that supersede State Law, the County has used its role to keep cities, towns, schools, and residents countywide informed of relevant information regarding e-bike safety and in opportunities to weigh in on regulatory processes, including but not limited to the following:



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- In October 2023, the County Department of Public Health worked with all emergency responders and hospitals in Marin County to begin tracking injuries related to e-bikes.
- In November 2023, the Public Health Officer issued a Public Health Advisory warning parents and schools of the significantly heightened injury risk e-bikes posed for school age riders, versus conventional bikes.
- In April 2024, the County Public Information Officer issued a [news release](#) informing the public of the opportunity to submit a comment to the Consumer Product Safety Commission (CPSC) on their “Advanced Notice of Proposed Rulemaking” on e-bike safety, and to testify at the May 8 CPSC Hearing regarding their policy priorities for the upcoming 2025 and 2026 fiscal years.

Emerging awareness of the risks and injury rates has prompted different jurisdictions toward varying actions. The County has made progress in bringing stakeholders together from schools, law enforcement, Parks, youth, Public Health, elected leaders, The Transportation Authority of Marin, and Safe Routes to School, to discuss countywide education, messaging and an e-bike strategy. The County welcomes continued joint efforts with municipal and community partners, and the Board of Supervisors intends to form a subcommittee to consider next steps.

R3. Any task force or committee as described in Recommendation 2, above, should consider inviting representatives from Marin County schools, law enforcement, public health officials, and bicycle advocates to provide their input.

This recommendation has not yet been implemented, but will be implemented presuming adoption of AB 1778.

We agree that the best possible local solution for e-bike safety will come with a partnership among all stakeholders, including schools, law enforcement, municipal and county agencies, and the bike community.

Using AB 1778 as a framework, and in the absence of federal regulation, the County would welcome efforts with municipal, law enforcement, school, and community partners to consider a countywide strategy for e-bike safety. The County has made progress in addressing e-bike safety from a cross-jurisdictional perspective. As one example, Marin County Parks has addressed bike speed and safety issues with a joint enforcement approach with the Marin Sheriff’s Office, Mill Valley Police Department, and the California Highway Patrol along County-maintained trails and bikeways.

R4. By December 31, 2024, the Board of Supervisors should explore options for additional funding for student and public education in Marin County about e-bike safety.

This recommendation requires further analysis.

We agree that additional public education, particularly in schools, is one effective tool in combating e-bike injuries. In October 2023 the County launched the [Bicycle Safety Dashboard](#) to provide weekly updates on bicycle accidents in the county. This data is aggregated by age, and by type of bicycle (e-bikes vs. traditional bicycles). Other initiatives in the county include the [Safe Routes to Schools](#) program, the [Marin Bicycle Coalition](#) E-bike Smart Marin Program (which has received \$40,000 in County funding through the Nonprofit Community Partnership



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Grant Program from 2022 - 2024), and [Corey's Ride](#) (a Marin County Bicycle Coalition program providing free bikes to low-income students as well as traffic safety education).

Other measures may also be effective in combatting e-bike accidents. For example, some California colleges and universities have [banned all or some e-bikes](#) from campus. While the County cannot speak for the Marin County Office of Education, we are aware of new [pilot e-bike registration programs](#) in Marin middle and high schools in response to the increase in youth injuries. Ultimately, the best protection for young riders with e-bikes will come from the Federal government, with regulations regarding labeling which conveys the risk of injury of e-bikes, appropriate age-limits, and maximum speeds determined by verified data on injury rates, and preventative measures taken by e-bike manufacturers, to ensure that e-bike speeds cannot be modified using after-market adaptations.

Marin County Public Health will continue to inform the public on e-bike safety and is in conversation with the Marin County Office of Education, the Marin County Sheriff's Office, the Transportation Authority of Marin, and other stakeholders.