

LEGAL WORK-PRODUCT MEMORANDUM

TO: Counsel for New Jersey E-Bike Operators

FROM: Legal Analyst via Client

DATE: July 19, 2026

SUBJECT: Constitutional and Statutory Framework for Challenging New Jersey's E-Bike Overhaul (P.L. 2025, c. 285 / Bills S4834 & A6235)

I. Executive Summary

This memorandum outlines the strategic legal arguments available to challenge New Jersey's newly enforced electric bicycle regulatory framework. Effective today, July 19, 2026, the state mandates registration, licensing, and—for throttle-equipped or 28 mph units—compulsory liability insurance for adult e-bike operators, while leaving traditional bicycle operators completely unregulated.

This memorandum details a dual-pronged attack for use in traffic defense and affirmative civil rights litigation:

1. **Federal Express Preemption** under the Consumer Product Safety Act (15 U.S.C. § 2085), establishing that New Jersey is impermissibly rewriting a federal consumer product benchmark.

2. **An Equal Protection Challenge** under the Fourteenth Amendment and New Jersey precedent, utilizing the Rational Basis Test augmented by the "unconstitutional animus" doctrine to expose the legislature's arbitrary and fear-based classification of adult e-bike riders and tied to New Jersey's own unique constitutional analysis.

II. The Preemption Baseline: 15 U.S.C. § 2085

The threshold defense against state enforcement is federal express preemption. Under 15 U.S.C. § 2085(a), "low-speed electric bicycles" are explicitly categorized as *consumer products* subject to the Consumer Product Safety Commission (CPSC) rather than motor vehicles governed by the Department of Transportation (DOT/NHTSA). New Jersey is interfering with clearly preempting federal law governing interstate commerce of consumer products. New Jersey is not free to do so by declaring electric bicycles a motor vehicle.

A. The True Nature of the Federal Benchmark

Crucially, 15 U.S.C. § 2085(b) defines a low-speed electric bicycle as a vehicle with fully operable pedals via two prongs: The first is a clear cut power standard of “less than 750 watts (1 h.p.)” (clearly tying the 750 watts reference to mechanical watts, not continuous electrical watts); the second is an engineering benchmark, *not* a static speed limit. The statute specifies a vehicle incapable of achieving over 20 m.p.h. when operated by a 170 pound rider on a level surface. In the reality of consumer retail, the *same e-bike* has to meet a *safety* standard whether the rider weighs 100 pounds and can get 25 m.p.h. while the 300 lb rider can only get it up to 16 m.p.h.. Kinetic bicycles work the same way; lighter more fit people can get more out of a bicycle than overweight and out-of-shape riders can.

Technical Note for Counsel: While § 2085(b) references “less than 750 watts,” this is an output measurement, 1 h.p.. Because of standard electrical and mechanical inefficiencies, a 750-watt motor producing 1 h.p. requires approximately **900 to 1,000 continuous electrical input watts** from the battery to achieve that 1 horsepower benchmark. This a variable of motor efficiency and ultimately electrical system efficiency, and can even differ slightly among the same model of electric bicycle; “continuous” ratings should not be the touchstone of power output discussion, mechanical watts should be. Further, “continuous” is a thermal rating—it is supposed to mean the maximum power the motor can withstand for an indefinite amount of time without thermal damage eventually destroying the motor. Much confusion and manipulation is in the marketplace as a result. Market and consumer discussion of “peak” watts power is a misnomer disguising under-rated continuous while they should be talking about mechanical as a matter of legal consumer product clarity. Much confusion is caused by making it about *system performance* rather than *motor performance*.

The subsequent phrase—“whose maximum speed... is less than 20 mph... when ridden by an operator who weighs 170 pounds”—is a physical manufacturing design specification used to test the consumer product at the factory. It is not a mandated operational speed limit governing the rider on the street.

B. The Anti-Stringency Clause and Consumer Law Double Duty

The core of the preemption argument lies in 15 U.S.C. § 2085(d):

"This section shall supersede any State law or requirement with respect to low-speed electric bicycles to the extent that such State law or requirement is more stringent than the Federal law or requirements referred to in subsection (a)."

The federal statutory text explicitly states that a state may be *less* stringent than federal parameters, but it may never be more stringent.

Oddly, even though rebranding the 3 class system (in use by 45 states to a great extent) and calling it its own 3 "tier" system, New Jersey illustrates with stark distinction how the 3 class system is both more stringent and less stringent than federal law—the 300 pound rider has a motor that is powerful enough to *still* get him up to 20 m.p.h., and that is less stringent under New Jersey Law, because that much motor power is not available under federal law. However, it is more stringent for the 100 pound rider who is entitled to a consumer product that could get him above 20 m.p.h. and still be federally compliant.

Crucially, New Jersey still makes use of a three-class classification system within its amended statutory framework under R.S. 39:1-1, rather than abandoning it entirely. However, by taking federal-standard low-speed electric consumer products, forcing them into the Motor Vehicle Commission (NJ MVC) ecosystem, and demanding registration and licensing, New Jersey has passed a state requirement "with respect to low-speed electric bicycles" that is vastly more stringent than the federal framework and utterly abandons treating the two consumer products alike as 15 U.S.C. § 2085(a) compels.

To highlight this conflict, counsel should note that federal consumer law is doing double duty here. Because the product is classified as a federally protected consumer product under subsection (a), New Jersey's sudden imposition of motor-vehicle-style administrative burdens directly disrupts the consumer market and frustrates the purpose of the federal safety standard. While New Jersey will argue this is a valid exercise of its 10th Amendment police power to regulate "traffic safety," counsel should counter that the sheer stringency of the law effectively bans or heavily restricts the use of a federally sanctioned consumer product.

III. The Equal Protection Argument: As-Applied to Adults

If the state sidesteps preemption by convincing a court that registration is purely an operational traffic rule, or to prevent this misstep in the first place by foreclosing it, the law must be attacked under the Equal Protection Clause of the Fourteenth Amendment and under comparable and more protective New Jersey constitutional standards.

Because e-bike riders do not constitute a suspect class, and courts may not readily recognize fundamental constitutional rights involved due to anemic Ninth Amendment jurisprudence, courts will utilize the Rational Basis Test when under federal constitutional review. However, New Jersey's law creates an entirely arbitrary classification that fails even this highly deferential standard when applied to adults.

A. The Arbitrary Classification: Consumer Class A vs. Kinetic Equivalents

The law creates a severe, legally indefensible divide between, and creating, two consumer classes of adult road users:

1. **Consumer Class A:** Adult operators of traditional kinetic bicycles.
2. **Consumer Class B:** Adult operators of low-speed electric bicycles (specifically Class 1, Class 2, and Class 3 devices as defined under the statutory umbrella of the NJ framework).

By framing the issue around Consumer Class A, counsel can explicitly anchor the text in the broader reality of consumer law, forcing the court to see that identical consumer activities are being treated with blatant disparity.

The state's purported legislative interests are public safety, reducing traffic accidents, and ensuring operator competence. Yet, the statutory mechanisms applied to Consumer Class B (licensing, registration, decals, mandatory insurance) are completely absent for Consumer Class A, despite identical physical footprints on public roads.

• **The Velocity Fallacy:** The state argues e-bikes are uniquely dangerous because they can reach speeds of 20 to 28 mph. However, an adult cyclist in Consumer Class A on a standard, lightweight road bicycle can easily achieve and maintain speeds of 20 to 30 mph through human muscle power alone. Under the law, the traditional cyclist may ride with unfettered road access, no license, no registration, and no insurance, while an adult on an e-bike traveling at the exact same speed faces severe fines or vehicle impoundment without an MVC-issued license and active liability insurance.

• **The Weight Discrepancy:** While e-bikes are somewhat heavier due to batteries and motors, the total gross vehicle weight (vehicle + adult rider) differs minimally from a standard bicycle. A 180-lb adult on a 70-lb e-bike presents a similar kinetic energy profile at 20 mph as a 210-lb adult in Consumer Class A on a 25-lb traditional bicycle, which, for a tall person, can still render a fit rider with maximum human power available.

To penalize one adult and exempt the other based entirely on the *source of propulsion* (muscular vs. electro-muscular), when the real-world road behavior and kinetic risk are near identical is the very definition of an arbitrary classification.

IV. Unconstitutional Animus and the Fear of New Technology

Where a law lacks a true rational basis, counsel should aggressively argue that the statutory classification is driven by a legally impermissible motive when such a motive is readily discernible and evident: technological animus disguised as a safety concern.

A. The Federal Cleburne Standard: Fear and Bias Are Not Rational

That is exactly what happened in ***City of Cleburne v. Cleburne Living Center, Inc.***, 473 U.S. 432 (1985). There, the city of Cleburne had denied zoning to a group home for those less fortunate than us able-bodied and minded people, and there was a popular local uproar about living near such undesirables. The Supreme Court held that even under rational basis review, a legislature cannot base a discriminatory classification on "irrational prejudice," "fear," or a desire to harm a politically unpopular or unfamiliar group. The Court made clear that popular discomfort or institutional aversion is never a legitimate state interest.

New Jersey's legislative record is saturated with anecdotal panic regarding delivery workers and "silent" vehicles zipping through cities. This is a classic manifestation of technological animus—the historical tendency of institutional systems to react to disruptive, democratizing technologies with irrational, overreaching bans.

B. The New Jersey Portal: Sovereign Constitutional Protections

While *Cleburne* establishes the baseline under the Federal Fourteenth Amendment, counsel should immediately pivot to New Jersey's independent—and fundamentally more protective—state constitutional doctrine. In ***Sojourner A. v. New Jersey Department of Human Services***, 177 N.J. 318 (2003), the New Jersey Supreme Court explicitly integrated *Cleburne's* anti-animus principles into its state constitutional analysis under Article I, Paragraph 1.

Importantly, *Sojourner* affirms that New Jersey rejects the rigid federal "tiers of review" (strict scrutiny vs. rational basis) in favor of a flexible balancing test that weighs the nature of the affected right against the government's actual justification. Under *Sojourner's* application of *Cleburne*, a state classification built on naked institutional aversion or unexamined fear cannot survive. The state's more demanding framework provides local counsel a distinct advantage: it forces the state to demonstrate a genuine, data-driven public need rather than

merely relying on a federal court's habit of rubber-stamping legislative behavior under standard rational basis review. Counsel should thoroughly explore New Jersey case law in this area and that of the Federal Circuit Courts of Appeal.

C. The Sony Analogy: Protecting Technological Innovation

To ground this in technological jurisprudence, look to *Sony Corp. of America v. Universal City Studios, Inc.*, 464 U.S. 417 (1984). Universal had sought to ban the VCR because *it could be used* to record copyrighted material. Sony prevailed and countless 80s jokes about only kids being able to set the clocks ensued. While *Sony* is a copyright case, its core philosophical holding is directly applicable: the Supreme Court fiercely protected a disruptive new consumer technology (the VCR) against an entrenched industry's attempt to regulate it out of existence based on fear of how consumers *might* use it. The Court recognized that blocking a technology with substantial non-infringing, beneficial uses is economically and socially irrational.

Similarly, e-bikes represent a massive, environmentally critical technological leap forward in micro-transportation, heavily utilized by low-income commuters and delivery workers who cannot afford or maintain automobiles. New Jersey's reaction—creating a regulatory barrier so high that standard auto and homeowners' insurance policies explicitly refuse to cover it, thereby forcing riders to find niche specialty insurers—reflects an irrational institutional panic. It is an effort to clear the roads for traditional automobiles by targeting a new technology it simply refuses to understand.

Under *Cleburne* and *Sojourner*, because this fear-driven classification serves no actual, unique safety goal that traditional bicycles do not also trigger, the law fails rational basis.

V. Strategic Recommendations for Litigation

When representing an adult client cited under the new statute, or when drafting a complaint for declaratory relief, counsel should execute the following strategy:

- 1. Move to Dismiss/Demur on Preemption:** Argue that under 15 U.S.C. § 2085, the client's vehicle is a federally defined consumer product. Establish that New Jersey's mandate for registration and license plates on a consumer product directly violates the federal anti-stringency clause.
- 2. Evidentiary Hearing on Kinetic Parity:** Force the state to produce data showing that an adult in Consumer Class B traveling 20 mph on an electric-assist bicycle poses a

statistically distinct public safety hazard compared to an adult in Consumer Class A traveling 20 mph on a traditional road bike.

3.Plead the Adult Exemption: Concede that while the state may have a legitimate, un-preempted interest in regulating *minors* (under 17) via youth permits or age limits due to developmental inexperience, that exact logic collapses when applied to an adult who already possesses a baseline understanding of traffic flows. Assert that the law is unconstitutionally overinclusive by trapping adults under rules designed to curb teenage behavior.

VI. Conclusion

New Jersey has broken ranks with the rest of the United States by contorting the standard three-class framework, in itself legally flawed, into an untested, highly restrictive vehicle code overhaul. By exposing the statutory conflict with 15 U.S.C. § 2085, utilizing the dual duty of federal consumer product designations, and framing the adult restrictions as an arbitrary, animus-driven assault on a new technology under both federal standards and New Jersey's specialized *Sojourner* doctrine, defense counsel possess an incredibly robust toolkit to challenge the constitutional validity of this law.