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Aaron Locker, Esquire
Aberman, Greene & Locker
540 Madison Avenue
New York, New York 10022

Dear Mr. Locker:

This is in response to your letter dated August 15, 1974, in which you requested an advisory opinion about the application of 16 CFR 1512.5 Requirements for braking system, to sidewalk bicycles.

Specifically, you asked if the provisions of 16 CFR 1512.5(c)(1), (2), and (3) are applicable to sidewalk bicycles.

Section 1512.5(e) establishes requirements for brakes for sidewalk bicycles. Paragraph 1512.5(e)(2) states:

> Sidewalk bicycles with a seat height of 0.56m (22 in.) or greater (with seat height adjusted to its lowest position) shall be equipped with a footbrake meeting all the footbrake requirements of 1512.5(c), including the specified tests, except that the braking force transmitted to the rear wheel shall be in accordance with the Sidewalk Bicycle Footbrake Force Test sec. 1512.18(f). [emphasis added]

Section 1512.5(c) consists of three sections which are titled (1) Stopping distance; (2) Operating force; and (3) Crank differential.

When the bicycle regulations were proposed in the Federal Register notice of May 10, 1973, sidewalk bicycles were exempted from the requirements for brake performance, including stopping distance, specified in proposed 21 CFR 191c.8, and were subject to a different set of requirements for brakes which appeared in proposed sec. 191c.9(e).

Proposed sec. 191c.9(e) contained no requirement for stopping distance, and the Commission did not intend that the requirements for stopping distance should be applicable to sidewalk bicycles when it issued the final regulations, notwithstanding the language of 1512.5(e)(2) quoted above. In the near future, the Commission will publish a notice in the Federal Register revising sec. 1512.5(e) to state that the requirements of sec. 1512.5(c)(1) are not applicable to sidewalk bicycles.

Section 1512.5(c)(2) requires that footbrakes shall be actuated by applying a force to the pedal in a direction opposite to that of the drive force. When the Commission issued the final regulations, it was aware that some sidewalk bicycles are manufactured with brake pedals which are separate from the drive pedals and have actuating forces applied in the same direction as the drive force. In paragraph 27 of the preamble, the Commission stated that it did not desire to limit the design of footbrakes used on sidewalk bicycles to coaster brakes. The Commission did not intend that sec. 1512.5(c)(2) should be applicable to sidewalk bicycles equipped with footbrakes other than coaster brakes, providing that such footbrakes meet the footbrake force test specified in sec. 1512.18(f). A notice to correct sec. 1512.5(e) to reflect the Commission's intent will be published in the near future.

In your letter, you also asked if the words "and not equipped with a brake" had been inadvertently omitted from the first sentence of sec. 1512.5(e)(3). Such an ommission did occur in the publication of the bicycle regulations, and was corrected by a notice published in the Federal Register on September 12, 1974 (39 FR 32903).

Sincerely,

Original signed by
Michael A. Brown

Michael A. Brown
General Counsel

Enclosures

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August 15, 1974

Sadye E. Dunn,
Secretary
Consumer Product Safety Commission
1750 K Street, N. W.
Washington, D. C. 20207

RECEIVED
AUG 19 1974
TECHNICAL ANALYSIS DIVISION

Dear Secretary Dunn:

We represent the Hedstrom Company, the largest manufacturer of sidewalk bicycles in the United States.

We hereby request an advisory opinion concerning the interpretation and application of 16CFR §1512.5 to sidewalk bicycles.

The final regulation entitled Requirements For Bicycles was published as 16CFR Part 1512 at 39FR 26100, on July 16, 1974.

Paragraph 27 of the preamble to the regulation reads in part as follows:

> "27. Qualifications for sidewalk bicycles. A manufacturer of sidewalk bicycles objects to proposed §191c.9(e), which described the brake performance required for sidewalk bicycles. The commenter requests that the footbrake not be restricted to the coaster type and has demonstrated that an alternative footbrake is available and effective for use by children.
>
> The Commission encourages innovation that does not increase hazards and therefore agrees to deletion of the restriction. Accordingly, §1512.18 (f) below contains no requirement for the type of footbrake used on sidewalk bicycles; it requires <u>only</u> that a specified braking force be maintained." (Emphasis supplied).

Sadye E. Dunn,
Secretary

Moreover, the proposed regulation which appeared in 38 FR 123 on May 10, 1973 (see proposed 191 c.9 (e) in conformance with the foregoing preamble sought to apply only a brake force requirement to sidewalk bicycles with a seat to ground dimension of 22 inches or greater.

The original proposed section read as follows:

> "(e) The following shall be substituted for §191c.8 regarding brake performance: A sidewalk bicycle with a seat-to-ground dimension of 22 inches or greater, with seat in lowest position according to adjustment provided, shall be equipped with a foot-actuated brake: A bicycle less than the 22-inch dimension and not equipped with a brake shall not have a coasting or free-wheeling feature. A bicycle not equipped with brake shall be so labeled on the chain guard in legend visible from a 10-foot distance in daylight conditions, and the words "NO BRAKE" shall appear on the carton. A sidewalk bicycle shall not have hand-operated brakes as the primary braking system. The brake system shall transmit braking force to the rear wheel in proportion to actuation forces of 10 to 50 pounds in the ratio of 1 pound of wheel braking force for 2 pounds of pedal actuating force. The wheel braking force shall be measured tangentially at the tread of the tire."

Consistent with the foregoing, it would appear that 16 CFR 1512.5(e)(2) and (3) of the final regulation were intended to specify only the brake force requirement of 1512.5 (c) for sidewalk bicycles in accordance with the Sidewalk Bicycle Foot Brake Force Test set forth in §1512.18(f) and that all other foot brake tests were to be excluded. I refer specifically to the additional tests set forth in §1512 (c)(1) Stopping Distance (2) Operating Force and (3) Crank Differential.

Sadye E. Dunn,
Secretary

Would you be good enough to confirm that this interpretation is correct and that the provisions of §1512.5 (c) (1) (2) (3) are not applicable to sidewalk bicycles.

Paragraph 1512.5 (e) (3) seems to suggest that sidewalk bicycles with a seat height less than 22 inches

"shall not have a free wheel feature."

This language is inconsistent with the proposal cited above by virtue of the apparent inadvertent omission of the additional qualifying phrase:

"and not equipped with a brake."

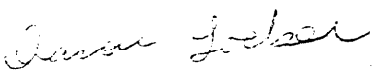
The proposal set forth above originally read:

> "A bicycle less than the 22 inch dimension and <u>not equipped with a brake</u> shall not have a coasting or free wheeling feature." (Emphasis supplied).

Any reading of 1512.5(e)(3) in its present form suggests that such sidewalk bicycles may not be equipped with a coaster brake. We are confident that this was not the intention of the Commission when it promulgated the final regulation and that omission of the foregoing underscored language was inadvertent.

Would you please be good enough to let me have an advisory opinion with reference to these points as soon as possible since the matter is of extreme importance to our client.

Very truly yours,



AL:dd
cc: David Schmeltzer, Esq.
Edward Finch, Esq.
Charles Laughlin
William Menza