

118TH CONGRESS
1ST SESSION

S. 881

To amend the Internal Revenue Code of 1986 to provide a credit for the purchase of certain new electric bicycles.

IN THE SENATE OF THE UNITED STATES

MARCH 21, 2023

Mr. SCHATZ (for himself and Mr. MARKEY) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide a credit for the purchase of certain new electric bicycles.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Electric Bicycle Incen-
5 tive Kickstart for the Environment Act” or as the “E-
6 BIKE Act”.

7 **SEC. 2. CREDIT FOR CERTAIN NEW ELECTRIC BICYCLES.**

8 (a) IN GENERAL.—Subpart C of part IV of sub-
9 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 is amended by inserting after section 36B the fol-
 2 lowing new section:

3 **“SEC. 36C. ELECTRIC BICYCLES.**

4 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
 5 dividual, there shall be allowed as a credit against the tax
 6 imposed by this chapter for the taxable year an amount
 7 equal to 30 percent of the cost of each qualified electric
 8 bicycle placed in service by the taxpayer during such tax-
 9 able year.

10 “(b) LIMITATIONS.—

11 “(1) LIMITATION ON COST PER BICYCLE TAKEN
 12 INTO ACCOUNT.—The amount taken into account
 13 under subsection (a) as the cost of any qualified
 14 electric bicycle shall not exceed \$5,000.

15 “(2) LIMITATION ON NUMBER OF BICYCLES.—

16 In the case of any taxpayer for any taxable year, the
 17 number of qualified electric bicycles taken into ac-
 18 count under subsection (a) shall not exceed the ex-
 19 cess (if any) of—

20 “(A) 1 (2 in the case of a joint return), re-
 21 duced by

22 “(B) the aggregate number of qualified
 23 electric bicycles taken into account by the tax-
 24 payer under subsection (a) for the 2 preceding
 25 taxable years.

1 “(3) PHASEOUT BASED ON INCOME.—

2 “(A) PHASEOUT BASED ON MODIFIED AD-
3 JUSTED GROSS INCOME.—The credit allowed
4 under subsection (a) shall be reduced by \$100
5 for each \$1,000 (or fraction thereof) by which
6 the taxpayer’s modified adjusted gross income
7 exceeds—

8 “(i) \$300,000 in the case of a joint
9 return or a surviving spouse (as defined in
10 section 2(a)),

11 “(ii) \$225,000 in the case of a head
12 of household (as defined in section 2(b)),
13 and

14 “(iii) \$150,000 in the case of a tax-
15 payer not described in clause (i) or (ii).

16 “(B) SPECIAL RULE FOR MODIFIED AD-
17 JUSTED GROSS INCOME TAKEN INTO AC-
18 COUNT.—The modified adjusted gross income
19 of the taxpayer that is taken into account for
20 purposes of subparagraph (A) shall be the less-
21 er of—

22 “(i) the modified adjusted gross in-
23 come for the taxable year with respect to
24 which the credit is claimed, or

1 “(ii) the modified adjusted gross in-
2 come for the immediately preceding taxable
3 year.

4 “(C) MODIFIED ADJUSTED GROSS IN-
5 COME.—For purposes of subparagraph (A), the
6 term ‘modified adjusted gross income’ means
7 adjusted gross income increased by any amount
8 excluded from gross income under section 911,
9 931, or 933.

10 “(c) QUALIFIED ELECTRIC BICYCLE.—For purposes
11 of this section—

12 “(1) IN GENERAL.—The term ‘qualified electric
13 bicycle’ means a bicycle or tricycle—

14 “(A) the original use of which commences
15 with the taxpayer,

16 “(B) which is acquired for use by the tax-
17 payer and not for resale,

18 “(C) which is not property of a character
19 subject to an allowance for depreciation or am-
20 ortization in the hands of the taxpayer,

21 “(D) which is made by a qualified manu-
22 facturer and is labeled with the qualified vehicle
23 identification number assigned to such bicycle
24 or tricycle by such manufacturer,

1 “(E) with respect to which the aggregate
2 amount paid for such acquisition does not ex-
3 ceed \$8,000,

4 “(F) which is a class 1 electric bicycle or
5 tricycle, a class 2 electric bicycle or tricycle, or
6 a class 3 electric bicycle or tricycle,

7 “(G) which is equipped with—

8 “(i) fully operable pedals,

9 “(ii) a saddle or seat for the rider,

10 and

11 “(iii) an electric motor of less than
12 750 watts which is designed to provide as-
13 sistance in propelling the bicycle or tricycle
14 and—

15 “(I) does not provide such assist-
16 ance if the bicycle or tricycle is mov-
17 ing in excess of 20 miler per hour, or

18 “(II) if such motor only provides
19 such assistance when the rider is ped-
20 aling, does not provide such assistance
21 if the bicycle or tricycle is moving in
22 excess of 28 miles per hour,

23 “(H) which is not equipped with any motor
24 other than the motor described in subparagraph
25 (G)(iii),

1 “(I) which is not capable of exceeding the
2 speed limitation in paragraph (2) by means of
3 any electronic switch, setting or software modi-
4 fication provided or made available by the man-
5 ufacturer, and

6 “(J) which has a drive system that has
7 been certified by an accredited laboratory to
8 Underwriters Laboratory (UL) standard UL
9 2849, or a battery that has been certified to
10 any of the battery safety standards listed in
11 such standard UL 2849 or such other drive sys-
12 tem or battery safety standard as may be recog-
13 nized by the United States Consumer Product
14 Safety Commission.

15 “(2) CLASS 1 ELECTRIC BICYCLE OR TRI-
16 CYCLE.—The term ‘class 1 electric bicycle or tri-
17 cycle’ means a two- or three-wheeled vehicle
18 equipped with an electric motor that provides assist-
19 ance only when the rider is pedaling, that is not ca-
20 pable of providing assistance when the speed of the
21 vehicle exceeds 20 miles per hour, and that is not a
22 class 3 electric bicycle or tricycle.

23 “(3) CLASS 2 ELECTRIC BICYCLE OR TRI-
24 CYCLE.—The term ‘class 2 electric bicycle or tri-
25 cycle’ means a two- or three-wheeled vehicle

1 equipped with an electric motor that may be used to
2 propel the vehicle without the need of any additional
3 assistance, and that is not capable of providing as-
4 sistance when the speed of the vehicle exceeds 20
5 miles per hour.

6 “(4) CLASS 3 ELECTRIC BICYCLE OR TRI-
7 CYCLE.—The term ‘class 3 electric bicycle or tri-
8 cycle’ means a two- or three-wheeled vehicle
9 equipped with an electric motor that provides assist-
10 ance only when the rider is pedaling, and that is not
11 capable of providing assistance when the speed of
12 the vehicle exceeds 28 miles per hour.

13 “(d) SPECIAL RULE FOR BICYCLES USED BY AN IN-
14 DIVIDUAL IN A TRADE OR BUSINESS.—In the case of any
15 bicycle or tricycle with respect to which the taxpayer elects
16 (at such time and in such manner as the Secretary may
17 provide) the application of this subsection—

18 “(1) subsections (e)(1)(C) and (f)(2) shall not
19 apply with respect to such bicycle or tricycle, and

20 “(2) no deduction (including any deduction for
21 depreciation or amortization) or credit (other than
22 the credit allowed under this section) shall be al-
23 lowed for the cost of such bicycle or tricycle.

24 “(e) VIN NUMBER REQUIREMENT.—

1 “(1) IN GENERAL.—No credit shall be allowed
2 under subsection (a) with respect to any qualified
3 electric bicycle unless the taxpayer includes the
4 qualified vehicle identification number of such bicy-
5 cle on the return of tax for the taxable year.

6 “(2) QUALIFIED VEHICLE IDENTIFICATION
7 NUMBER.—For purposes of this section, the term
8 ‘qualified vehicle identification number’ means, with
9 respect to any qualified electric bicycle, the vehicle
10 identification number assigned to such bicycle by a
11 qualified manufacturer pursuant to the methodology
12 referred to in paragraph (3)(A).

13 “(3) QUALIFIED MANUFACTURER.—For pur-
14 poses of this section, the term ‘qualified manufac-
15 turer’ means any manufacturer of qualified electric
16 bicycles which enters into an agreement with the
17 Secretary which provides that such manufacturer
18 will—

19 “(A) assign a vehicle identification number
20 to each qualified electric bicycle produced by
21 such manufacturer utilizing a methodology that
22 will ensure that such number (including any al-
23 phanumeric) is unique to such bicycle (by uti-
24 lizing numbers or letters which are unique to

1 such manufacturer or by such other method as
2 the Secretary may provide),

3 “(B) label such bicycle with such number
4 in such manner as the Secretary may provide,
5 and

6 “(C) make periodic written reports to the
7 Secretary (at such times and in such manner as
8 the Secretary may provide) of the vehicle identi-
9 fication numbers so assigned and including
10 such information as the Secretary may require
11 with respect to the qualified electric bicycle to
12 which such number was so assigned.

13 “(f) SPECIAL RULES.—

14 “(1) BASIS REDUCTION.—For purposes of this
15 subtitle, the basis of any property for which a credit
16 is allowable under subsection (a) shall be reduced by
17 the amount of such credit so allowed.

18 “(2) NO DOUBLE BENEFIT.—The amount of
19 any deduction or other credit allowable under this
20 chapter for a qualified electric bicycle for which a
21 credit is allowable under subsection (a) shall be re-
22 duced by the amount of credit allowed under such
23 subsection for such bicycle.

24 “(3) PROPERTY USED OUTSIDE UNITED STATES
25 NOT QUALIFIED.—No credit shall be allowable under

1 subsection (a) with respect to any property referred
2 to in section 50(b)(1).

3 “(4) RECAPTURE.—The Secretary shall, by reg-
4 ulations or other guidance, provide for recapturing
5 the benefit of any credit allowable under subsection
6 (a) with respect to any property which ceases to be
7 property eligible for such credit.

8 “(5) ELECTION NOT TO TAKE CREDIT.—No
9 credit shall be allowed under subsection (a) for any
10 qualified electric bicycle if the taxpayer elects to not
11 have this section apply to such bicycle.

12 “(g) TREATMENT OF CERTAIN POSSESSIONS.—

13 “(1) PAYMENTS TO POSSESSIONS WITH MIRROR
14 CODE TAX SYSTEMS.—The Secretary shall pay to
15 each possession of the United States which has a
16 mirror code tax system amounts equal to the loss (if
17 any) to that possession by reason of the application
18 of the provisions of this section (determined without
19 regard to this subsection). Such amounts shall be
20 determined by the Secretary based on information
21 provided by the government of the respective posses-
22 sion.

23 “(2) PAYMENTS TO OTHER POSSESSIONS.—The
24 Secretary shall pay to each possession of the United
25 States which does not have a mirror code tax system

1 amounts estimated by the Secretary as being equal
2 to the aggregate benefits (if any) that would have
3 been provided to residents of such possession by rea-
4 son of the provisions of this section if a mirror code
5 tax system had been in effect in such possession.
6 The preceding sentence shall not apply unless the re-
7 spective possession has a plan which has been ap-
8 proved by the Secretary under which such possession
9 will promptly distribute such payments to its resi-
10 dents.

11 “(3) MIRROR CODE TAX SYSTEM; TREATMENT
12 OF PAYMENTS.—Rules similar to the rules of para-
13 graphs (3), (4), and (5) of section 21(h) shall apply
14 for purposes of this section.

15 “(h) TRANSFER OF CREDIT.—

16 “(1) IN GENERAL.—Subject to such regulations
17 or other guidance as the Secretary determines nec-
18 essary or appropriate, if the taxpayer who acquires
19 a qualified electric bicycle is an individual and elects
20 the application of this subsection with respect to
21 such qualified electric bicycle, the credit which would
22 (but for this subsection) be allowed to such taxpayer
23 with respect to such qualified electric bicycle shall be
24 allowed to the eligible entity specified in such elec-
25 tion (and not to such taxpayer).

1 “(2) ELIGIBLE ENTITY.—For purposes of this
2 paragraph, the term ‘eligible entity’ means, with re-
3 spect to the qualified electric bicycle for which the
4 credit is allowed under subsection (a), the retailer
5 which sold such qualified electric bicycle to the tax-
6 payer and has—

7 “(A) subject to paragraph (4), registered
8 with the Secretary for purposes of this para-
9 graph, at such time, and in such form and
10 manner, as the Secretary may prescribe,

11 “(B) prior to the election described in
12 paragraph (1) and no later than at the time of
13 such sale, disclosed to the taxpayer purchasing
14 such qualified electric bicycle—

15 “(i) the retail price,

16 “(ii) the value of the credit allowed or
17 other incentive available for the purchase
18 of such qualified electric bicycle,

19 “(iii) all fees associated with the pur-
20 chase of such qualified electric bicycle, and

21 “(iv) the amount provided by the re-
22 tailer to such taxpayer as a condition of
23 the election described in paragraph (1),

24 “(C) made payment to such taxpayer
25 (whether in cash or in the form of a partial

1 payment or down payment for the purchase of
2 such qualified electric bicycle) in an amount
3 equal to the credit otherwise allowable to such
4 taxpayer, and

5 “(D) with respect to any incentive other-
6 wise available for the purchase of a qualified
7 electric bicycle for which a credit is allowed
8 under this section, including any incentive in
9 the form of a rebate or discount provided by the
10 retailer or manufacturer, ensured that—

11 “(i) the availability or use of such in-
12 centive shall not limit the ability of a tax-
13 payer to make an election described in
14 paragraph (1), and

15 “(ii) such election shall not limit the
16 value or use of such incentive.

17 “(3) TIMING.—An election described in para-
18 graph (1) shall be made by the taxpayer not later
19 than the date on which the qualified electric bicycle
20 for which the credit is allowed under subsection (a)
21 is purchased.

22 “(4) REVOCATION OF REGISTRATION.—Upon
23 determination by the Secretary that a retailer has
24 failed to comply with the requirements described in
25 paragraph (2), the Secretary may revoke the reg-

1 istration (as described in subparagraph (A) of such
2 paragraph) of such retailer.

3 “(5) TAX TREATMENT OF PAYMENTS.—With
4 respect to any payment described in paragraph
5 (2)(C), such payment—

6 “(A) shall not be includible in the gross in-
7 come of the taxpayer, and

8 “(B) with respect to the retailer, shall not
9 be deductible under this title.

10 “(6) APPLICATION OF CERTAIN OTHER RE-
11 QUIREMENTS.—In the case of any election under
12 paragraph (1) with respect to any qualified electric
13 bicycle—

14 “(A) the amount of the reduction under
15 subsection (b) shall be determined with respect
16 to the modified adjusted gross income of the
17 taxpayer for the taxable year preceding the tax-
18 able year in which such qualified electric bicycle
19 was acquired (and not with respect to such in-
20 come for the taxable year in which such quali-
21 fied electric bicycle was acquired),

22 “(B) the requirements of paragraphs (1)
23 and (2) of subsection (f) shall apply to the tax-
24 payer who acquired the qualified electric bicycle
25 in the same manner as if the credit determined

1 under this section with respect to such qualified
2 electric bicycle were allowed to such taxpayer,
3 and

4 “(C) subsection (f)(5) shall not apply.

5 “(7) ADVANCE PAYMENT TO REGISTERED RE-
6 TAILERS.—

7 “(A) IN GENERAL.—The Secretary shall
8 establish a program to make advance payments
9 to any eligible entity in an amount equal to the
10 cumulative amount of the credits allowed under
11 subsection (a) with respect to any qualified elec-
12 tric bicycles sold by such entity for which an
13 election described in paragraph (1) has been
14 made.

15 “(B) EXCESSIVE PAYMENTS.—Rules simi-
16 lar to the rules of section 6417(c)(6) shall apply
17 for purposes of this paragraph.

18 “(8) RETAILER.—For purposes of this sub-
19 section, the term ‘retailer’ means a person engaged
20 in the trade or business of selling qualified electric
21 bicycles in a State, the District of Columbia, the
22 Commonwealth of Puerto Rico, or any other terri-
23 tory or possession of the United States.”.

24 (b) CONFORMING AMENDMENTS.—

1 (1) Section 1016(a) of the Internal Revenue
2 Code of 1986 is amended by striking “and” at the
3 end of paragraph (37), by striking the period at the
4 end of paragraph (38) and inserting “, and”, and by
5 adding at the end the following new paragraph:

6 “(39) to the extent provided in section
7 36C(f)(1).”.

8 (2) Section 6211(b)(4)(A) of such Code is
9 amended by inserting “36C,” after “36B,”.

10 (3) Section 6213(g)(2) of such Code is amend-
11 ed—

12 (A) in subparagraph (U), by striking
13 “and” at the end,

14 (B) in subparagraph (V), by striking the
15 period at the end and inserting “, and”, and

16 (C) by adding at the end the following:

17 “(W) an omission of a correct vehicle iden-
18 tification number required under section 36C(e)
19 (relating to electric bicycles credit) to be in-
20 cluded on a return.”.

21 (4) Section 6501(m) of such Code is amended
22 by inserting “36C(f)(5),” after “35(g)(11),”.

23 (5) Section 1324(b)(2) of title 31, United
24 States Code, is amended by inserting “36C,” after
25 “36B,”.

1 (c) CLERICAL AMENDMENT.—The table of sections
2 for subpart C of part IV of subchapter A of chapter 1
3 of the Internal Revenue Code of 1986 is amended by add-
4 ing at the end the following new item:

“Sec. 36C. Electric bicycles.”.

5 (d) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to property placed in service after
7 the date of the enactment of this Act, in taxable years
8 ending after such date.

9 (e) TREASURY REPORT.—Not later than 3 years
10 after the date of the enactment of this Act, the Secretary
11 of the Treasury (or the Secretary’s delegate) shall make
12 publicly available a written report specifying the number
13 of taxpayers claiming the credit allowed under section 36C
14 of the Internal Revenue Code of 1986 (as added by this
15 section) and the aggregate dollar amount of such credits
16 so allowed. Such information shall be stated separately for
17 taxable years beginning in 2023 and 2024, and shall be
18 stated separately with respect to each such years with re-
19 spect to taxpayers in each of the income brackets to which
20 section 1 of such Code applies.

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