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| FRENCH REPUBLIC | | |
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| Ministry of the Ecological and Inclusive Transition | | |

Decree No 2020-[...] of [...] 2020

on the identification of bicycles

NOR: TRET2007448D

***Public concerned****: vendors of new or second-hand bicycles, organisations responsible for the destruction or reuse of bicycles, bicycle owners, bicycle purchasers, bicycle identification operators, police and gendarmerie forces, municipal police, lost and found services.*

***Subject:*** *determines the procedures for applying Title VII, Chapter 1, Section 2, Articles L. 1271-2 to 5 of the Transport Code concerning the identification of bicycles.*

***Entry into force:*** *the text shall enter into force on the day after its publication*

***Notice:*** *This decree is being issued to combat the theft of bicycles and bicycles with pedal assistance, which presents a hindrance to the use of bicycles. It determines the obligations imposed on traders, owners of bicycles and professionals involved in destruction activities or preparation for the recovery or reuse of bicycles; the conditions for approval by the State of legal entities suitable to implement bicycle identification systems. It specifies the conditions under which data are collected and recorded by approved bicycle identification operators and by the manager of the single national file of identified bicycles. It was referred to the National Data Protection Commission for consultation.*

***References:*** *This decree is issued pursuant to Articles L. 1271-2 to 5 of the transport code. It may be consulted on the Légifrance website (http://www.legifrance.gouv.fr).*

**The Prime Minister,**

On the basis of the report by the Minister for the Ecological and Inclusive Transition;

Having regard to Directive 2006/123/EC on services in the internal market, particularly Article 15 thereof;

Having regard to Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (codified text), and in particular Notification No year/[XXX]/F;

Having regard to Law No 78-17 of 6 January 1978 on data processing, data files and individual liberties;

Having regard to the French Transport Code, in particular Articles L. 1271-2 to L. 1271-5 thereof;

Having regard to the opinion of the Commission nationale de l’informatique et des libertés [CNIL – French Data Protection Authority], dated XXX;

Having heard the Council of State (public works division);

Hereby decrees:

**Article 1**

Book II of the first part of the Transport Code (regulatory part) is supplemented by Title VII worded as follows:

“TITLE VII

“ACTIVE MOBILITY AND INTERMODALITY

“CHAPTER I

“Active mobility

Section 1 – Identification of bicycles

*“Article R. 1271-1. -* The term ‘bicycle’ in this decree designates the vehicles described in 6.10 (bicycle) and 6.11 (bicycle with pedal assistance) of Article R. 311-1 of the Transport Code.

“An ‘approved bicycle identification operator’ is an operator approved by the State within the meaning of Article L. 1271-5 of the Transport Code, under the conditions provided for in Article R. 1271-10.

*“Article R. 1271-2. -* The purpose of the single national file of identified bicycles provided for in Article L. 1271-3 of the Transport Code is to combat the theft, fencing and illegal resale of bicycles. It enables bicycles to be returned to their owners.

“It is created from the databases of approved bicycle identification operators as provided for in Article R. 1271-5.

*“Article R. 1271-3. -* From 1 January 2021 for sales of new bicycles and from 1 July 2021 for second-hand bicycle sales, all bicycles sold by a trader will have an identifier provided by an approved bicycle identification operator affixed to the bicycle, with the exception of those mentioned in Article R. 1271-4. Sales between bicycle traders are not affected by the obligations of this article.

The trader ensuring the sale of an identified bicycle is required to transmit the information provided for in Article R. 1271-5(2) to the approved bicycle identification operator responsible for the identification affixed to the bicycle.

The trader shall give the purchaser proof of purchase showing the identifier of the bicycle. S/he shall also provide the necessary information provided so that owners can directly exercise their right to access and rectify the data concerning them.

Any trader within the meaning of Article L. 121-1 of the Commercial Code shall be bound by the obligations of this article.

Any breach by the trader of the obligation to identify a bicycle or to transmit the identifier and the status of a bicycle to the approved operator is punishable by the fine provided for category one offences.

“*Article R. 1271-4. -* Children’s bicycles with wheels less than or equal to 16 inches in diameter are not affected by the obligations set out in Article R. 1271-3.

“A vehicle as described in 6.14 (personal transport equipment) of Article R.311-1 of the Transport Code, as well as bicycle trailers, may be entered in the single national file of identified bicycles, at the request of the owner.

“*Article R. 1271-5. –* Each approved bicycle identification operator is responsible for processing a database of identified bicycles which includes, for each bicycle identifier:

“1° personal data making it possible to identify and contact the owner of the bicycle (surname and first name or company name, telephone, email address), the description of the bicycle (type of machine, brand, model, colour), and the bicycle status;

“2° optional personal data (postal address, date of birth, surname and first name of the co-owners);

“3° optional bicycle description data (bicycle serial number, engine serial number, battery serial number).

“These databases of approved operators of identified bicycles serve the same purposes as the single national file of identified bicycles provided for in Article R. 1271-2.

“The single national file of identified bicycles is made up of the information mentioned in this article and available in the databases of approved bicycle identification operators, who are required to make it available. The parameters for supplying these data are defined by the manager of the single national file of identified bicycles referred to in Article R. 1271-12. They may be the subject of a joint order of the Ministers of Transport and the Interior.

“The format of the identifier and different statuses of bicycles shall be specified by joint decree of the Ministers of Transport and the Interior.

**“***Article R. 1271-6.* The rights of owners of identified bicycles to access and rectify [their personal data] shall be exercised with the approved identification operator for the bicycle concerned. Amendments shall be directly taken into account by the manager of the single national file of identified bicycles. The right of opposition does not apply to the processing of databases of identified bicycles of approved operators or to the processing of the single national file of identified bicycles.

*“Article R. 1271-7.* - The personal data mentioned in Article R. 1271-5 relating to an identified bicycle shall be erased in a secure manner by the approved bicycle identification operator and the manager of the single national file of identified bicycles mentioned in Article R.1271-12 if the owner is no longer in possession of the bicycle, upon declaration thereof to the approved operator concerned.

“*Article R. 1271-8. -* The following can be recipients of data from the single national file of identified bicycles, within the scope of their respective remits and for the sole purposes provided for in Article L. 1271-3 of the Transport Code:

“- the persons, services or organisations which contribute to the identification of bicycles;

“- the police, gendarmerie and customs services;

“- the director of central administration responsible for transport and mobility or his/her deputies;

“- vehicle pounds;

“- municipal police officers, wildlife rangers, as well as municipal officers assigned to the lost and found service, empowered by the mayors of their municipality.

“The status of the bicycle is freely accessible from its identifier.

“The data appearing in the single national file of identified bicycles cannot be used for commercial purposes but may be used for anonymous statistical analysis.

“*Article R. 1271-9. -* In the event of a change in bicycle status, in particular after theft, return after theft, scrapping or destruction, the owner of an identified bicycle is required to inform the relevant approved bicycle identification operator.

When transferring an identified bicycle, the transferor, if s/he is not a trader or a professional involved in preparation for recovery or reuse, is required to declare the change of owner to the relevant approved bicycle identification operator. During the transfer, s/he shall communicate the information necessary to access the file of said approved operator, so that the transferee can enter the data concerning him/her.

*“Article R. 1271-10. -* Bicycle identification operators shall be approved by the Minister of Transport, after consulting the Minister of the Interior and the manager of the single national file of identified bicycles mentioned in Article R. 1271-12, for a period of one year renewable by tacit agreement for 6 years, if it is established that they have the guarantees of solvency, competence and reliability defined by joint decree of the ministers responsible for transport and the interior.

“If the approved operator does not comply with the rules set out in the above-mentioned decree or if it does not comply with the provisions of Articles R. 1271-5 and R. 1271-11, the approval may be suspended for no more than one year or withdrawn. The operator concerned shall be informed beforehand of the reasons and the nature of the measures envisaged and afforded the opportunity to submit written and, if necessary, oral comments.

“During the period of suspension, the operator shall retain the data relating to the identified bicycles and record the registrations or modifications which are transmitted to it.

“*Article R. 1271-11.* - An approved bicycle identification operator shall have a technical process which must be permanent, cannot be altered without destruction, and affixed as a priority on the frame of the bicycle. The identifier, which must be easy to read on a parked bicycle, shall only be provided by the manager of the single national file of identified bicycles, mentioned in Article R. 1271-12.

“The technical process used to identify bicycles can be subject to prescriptions defined by decree of the ministers responsible for transport and the interior.

“*Article R. 1271-12.* - The management of the single national file of identified bicycles shall be entrusted to an organisation that meets the conditions of aptitude, experience and technical skills necessary for the reliable and secure maintenance of a national identification file containing personal information. This organisation shall be chosen based on its expertise in the area of bicycles. It shall be the data controller of the single national file of identified bicycles.

“The Minister responsible for transport shall appoint this body for a period of six years. This appointment can be renewed.

“This decision may be withdrawn at any time by the Minister responsible for transport:

“1° If the designated organisation ceases to fulfil the criteria on the basis of which it has been appointed;

“2° If the organisation does not respect the prescriptions of Article R. 1271-13;

“3° In the event of serious or repeated failure by this organisation to fulfil its obligations;

“4° For reasons of general interest.

“In the first and second cases, the Minister shall give the organisation prior notice to comply with its obligations within a specified time limit.

“*Article R. 1271-13. -* If an approved bicycle identification operator ceases its activity or has its accreditation withdrawn, the management of data relating to bicycles identified by this operator shall be taken over by the manager of the single national file of identified bicycles. This manager shall use all of the essential functions to monitor the identification of bicycles, including the rights of access and rectification of owners of the bicycles identified.

“The conditions for accessing the single national file of identified bicycles by the various recipients mentioned in Article R. 1271-8 may be defined by joint decree of the ministers responsible for transport and the interior.

“*Article R. 1271-14. -* All professionals involved in destruction activities or preparation for the recovery or reuse of bicycles are required to register with the single national file manager of identified bicycles mentioned in Article R. 1271-12.

“As provided for in Article L. 1271-4 of the Transport Code, when an identified bicycle is returned to a professional, s/he shall contact the manager of the single national file of identified bicycles mentioned in Article R. 1271-12, which shall make the necessary arrangements with the approved bicycle identification operator to notify the owner.

“If the owner is not known, or if s/he has not responded within three months after being notified, the manager of the single national file of identified bicycles shall erase and make the necessary arrangements with the relevant approved bicycle identification to erase any personal data associated with the bicycle. It shall communicate to the professional the information necessary to access the file of the relevant approved bicycle identification operator.

“When he assigns an identified bicycle, the professional shall be bound by the obligations provided for in Article R. 1271-3. Any breach by the professional of the obligation to transmit the identifier and the status of a bicycle to the approved operator is punishable by the fine provided for category one offences.

**Article 2** – Implementation

The Keeper of the Seals, Minister for Justice, Minister for the Ecological and Inclusive Transition, the Minister for the Interior, and the Secretary of State attached to the Minister for the Ecological and Inclusive Transition shall be responsible, each within the scope of their remit, for the implementation of this decree, which shall be published in the Official Journal of the French Republic.

Done on

Edouard Philippe

By the Prime Minister:

The Keeper of the Seals, Minister for Justice,

Nicole Belloubet

The Minister for the Ecological and Inclusive Transition,

Elisabeth Borne

The Minister for the Interior,

Christophe Castaner

The Secretary of State attached to the Minister for the Ecological and Inclusive Transition

Jean-Baptiste Djebbari