

Regulation of Bicycle-sharing in China

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Abstract: the rise of bicycle-sharing is another result of the development of Internet, with which car-hailing service is growing. Bicycle-sharing brings people much convenience and economic benefits several times than the cost. However, due to unlimited investments and lack of regulation of related legislation, which causes confusion in the industry. The result is that calls from various departments for legislation on bicycle-sharing are rising day by day. Based on existing normative documents of bicycle-sharing, this paper is aimed to study present situation and problems of sharing bicycle's legislation in China with analyzing the necessity of legislative regulation of sharing bicycle. And some reasonable suggestions of legislative subjects, forms and contents and son on are put forward for the way to legislation of bicycle-sharing.

1. Development of Bicycle-sharing

Bike-sharing service originated in western countries. At the beginning of the 20th century, pile-less bicycle-sharing appeared in a small town called "button" in Britain. Due to many of Britain's company in this small town owned a large number of factories, the emergence of bicycles-sharing was warmly welcomed by employees, which made the first batch of bicycle-sharing service has a stable customer base and promoted the development of bicycle-sharing service. At 1967, bicycle-sharing service was further developed, and a large group painted 50 bicycles in white and left them in the central city of Amsterdam for free use, which greatly improved the social recognition of bicycle-sharing. After seven years, La rochelle in French launched a free bike-sharing project called Velos Jaunes(yellow bikes), which was used by citizens for free. This project was considered one of the first truly successful bike-sharing programs in terms of public use and acceptance, and it had continued to this day. After experienced a large development, bicycle-sharing service also encountered more resistances. For example, In 1993, Cambridge launched a green bicycle project, which released about 300 bicycles for free use by the public. As a result, most of the bikes were stolen or disappeared within a year of the program's introduction, and the green-bike program was halted.

So far, the development of bike-sharing services has gone through four stages. The first stage: the white bike project (free bikes, early 20th - early 21st century); The second stage: deposit system (paid use system, the beginning of the 21st century -- now); The third stage: bicycle-sharing based on information technology system (bicycle-sharing, 2014 -- present); Stage 4: rapid development of science and technology promotes the emergence of the fourth generation of bikes-sharing (intelligent bikes-sharing, 2017-present).

2. Current Situation of Bicycle-sharing in China

2.1 Situation of Practice

Since 2007, the bike-sharing service has been introduced into China. After more than ten years' development, China's bike-sharing service is in the third stage--bicycle-sharing which is dominated by enterprises and relays on information technology systems. The emergence of bicycle-sharing in our country not only makes people's daily travel more convenient, but also bring our society huge economic benefit and social benefit. However, the rapid development of bicycle-sharing inevitably

causes some problems, such as low threshold of shared bicycle's market admittance, which leads to chaos in this industry. What's more, insufficient supervision of Shared bikes' parking by relevant departments, insufficient supervision of users' funds (deposit), lack of reasonable credit system, and unclear division of responsibilities among users, enterprises and governments, all the above are the problems of bicycles-sharing in China.

2.2 Situation of legislation

In order to promote bicycle-sharing service more healthy, normative and sustainable. China's Ministry of Transportation and Communications drafted a document-- "guidance about encourage and regulate the development of the Internet bicycle (draft)" with other departments in May 2017, and solicited public opinions. At the same time, some cities, according to their actual situations of local bicycle-sharing, also issued drafts about regulating the development of bicycle-sharing. Such as Beijing, Shanghai, Hangzhou, Wuhan, Chengdu, Shenzhen, Shandong, Xi an and Hefei has issued drafts about regulating the development of bicycle-sharing one by one. These drafts do play a positive role in promoting the development of bicycle-sharing service healthily and steadily, but they are not laws and regulations after all, they are only documents, whose effect is lower than that of laws.

In addition, China has a wide geographical area and many cities, and there are many differences in the development of different cities. Which causes local regulations on bicycle-sharing service is not exactly the same. Due to the lack of a unified standard to regulate bicycle-sharing service, the above-mentioned problems in bicycle-sharing industry may occur, and disputes may easily arise when solving problems of bicycle-sharing service. In order to solve the problem of regulation of bicycle-sharing service in China, it is necessary for our country to formulate a general standard -- unified law, which serves as the guideline of bicycle-sharing service to unify and regulate bicycle-sharing service.

There is not yet a unified law to regulate bicycle-sharing service in China, and drafts released from city to city are normative documents, besides, local legislation is not yet in place. Therefore, it is urgent to study the legislative regulation of bicycle-sharing service in China.

3. Problems of Bicycle-sharing

3.1 Enterprises of Bicycle-sharing are numerous and uneven

Currently, the market entry of bicycle-sharing service is very low. It seems that if an APP is developed or there are several bikes are placed on the roadside, enterprise can compete in this industry. As a result, there is an inevitable phenomenon that the operation is not standardized, management is not scientific, security is not in place, service is not careful of enterprise. Finally, it can bring much harm to consumers.

It is because of the government's entry of bicycle-sharing platform to enter into market's standard setting is not high, the lack of rigorous regulatory policy, which makes enterprises of bicycle-sharing are not standard in operating mode, and they neglect the management of bikes, users rights' protection and relevant service's supporting, thus, this industry is in chaos. At the beginning, the emergency of bicycle-sharing is warmly welcomed by most of people, but now, it has become a "trouble" in the modern society, and all kinds of complaints against bicycle-sharing have never stopped. For example, statistics from the Shanghai Consumer Rights Protection Commission show that in 2016, it dealt with 184 complaints related to bicycle-sharing. Up to now, the number of related complaints has reached ten thousand, exceeding the total number of complaints in previous years combined. The problems of complaints mainly exist in the process of finding a car, riding a bike and changing a car, as well as the return of deposit, or complaint handling and expense deduction and so on.

3.2 Lack of relevant supporting facilities, systems and supervision

The frequent incidents of municipal authorities forcibly cleaning up bicycle-sharing in large

quantities and many improper or even illegal behaviors for the use of bicycle-sharing are the true portrayal of the conflicts between municipal administrative departments, bicycle-sharing enterprises and users of bicycle-sharing, which are basically due to the lack of relevant supporting facilities, systems and supervision.

The drafts from many local cities are not perfect, there are still some defects in the form and content of legislation.





Low effectiveness and inconsistency

As a normative document, the drafts issued by the Ministry of Transportation and local governments are not laws or regulations after all. Its effect level is relatively low, and it cannot be used as a legal basis for court judgments. What's more, China has many cities, there are many differences in them, so, Even if drafts are issued in many cities, they cannot be applied at the same time.

Lack of concrete content

As a new means of transportation formed in the era of Internet economy, the existing national road and traffic laws and regulations have very few provisions about it. For instance, Some provisions lag behind The Times, while others cannot effectively restrain these new means of transportation. In addition, according to the normative documents released at present, most of them are principles and not specific in content. For example, the ministry's drafts on regulating the parking of bicycle-sharing does not specify how to define parking areas.

Table 1 Partial death lists of bicycle-sharing

Brand	Trademark	The collapse of the time	Deposit	Reason for failure
Wukong Bike		On June 13, 2017	99RMB	Capital chain rupture
Dingding Bike		On August 2, 2017	199RMB	Illegal fund-raising; Capital chain rupture
Xiaoming Bike		In July 2017	199RMB	Capital chain rupture
Kuqi Bike		In September 2017	298RMB	Capital chain rupture
Bluegogo		In November 2017	99RMB	Capital chain rupture
Ofo Bicycle		In February 2019	199RMB; 99RMB(for students)	Illegal fund-raising; Capital chain rupture

4. Suggestions of Regulating Bicycle-sharing

The author thinks that the legislation on bicycle-sharing should form a supervision system from the central government to the local government. When it comes to legislation on bicycle-sharing, we have to mention the legislation on ride-sharing in 2016. Although bicycle-sharing appeared later than ride-sharing, its development speed and scale cannot be ignored. We can see that, currently, the number of bicycle-sharing in major central cities has far exceeded the number of ride-sharing. Bicycle-sharing and ride-hailing are emerging things based on the development of Internet. They share a high degree of similarity, and they have similar problems in market regulation.

That is to say, the central government should formulate unified legal and normative documents to regulate bike-sharing, and all regions should formulate local government regulations according to local conditions. The reasons are as follows:

4.1 Formulate unified laws and documents

Firstly, in the period of rapid development of ride-sharing, many local governments have

realized the importance of ride-sharing legislation. At that time, local governments such as Nanjing, Shenyang and other cities had issued local laws and regulations to regulate the operation mechanism of “online ride-sharing”. However, through careful study of these local laws and regulations, the author found that the provisions of each local law and regulation were inconsistent or even in conflict. There is a phenomenon of regulatory confusion, not only lead to the development of ride-sharing chaos, but also hindered the progress of the industry. Similarly, if only formulates local laws and regulations according to the actual situation of each region, there will also be confusion in the regulation of online ride-hailing. Therefore, the state needs to formulate a unified law for unified management.

Secondly, laws are mandatory by the state to regulate the development of bicycle-sharing. The function of law is to provide a feasible conduct code for social development that is in line with interests of the majority of people. Therefore, it is necessary to carry out a unified legislation for bicycle-sharing, which is in line with the needs of public and the requirements of social development and it is conducive to the development of bicycle-sharing. Bicycle-sharing is a project that is developing and will continue to develop. It will develop rapidly in the next few years. At present, Chinese bicycle-sharing has gone abroad, and appeared in many European and American cities. We can expect that sharing bikes will create great economic benefits for the growth of national economy in the future. Therefore, the author believes that a unified law must be formulated to regulate the operation of bicycle-sharing.

4.2 Making local government regulations

Due to the different place has different actual situation, it is necessary for local governments to formulate specific rules and regulations according to the local actual situation under the unified law formulated by the central government to regulate the chaos of bicycle-sharing industry. We can draw lessons from the practice of online car hailing. However, it should be noted that online ride-hailing and bicycle-sharing are not the exactly same thing after all. Therefore, when referring to the legislative content of online ride-hailing, we should also pay attention to the differences between themselves. so as to avoid copying the regulations of online ride-hailing, and avoid resulting in unreasonable legislation and random law enforcement. For example, ride-hailing places more emphasis on the main responsibility of the platform, on the contrary, bicycle-sharing, which is different from the operating mode of ride-hailing, should consider more about the responsibilities of users, enterprises and governments. Compared with online ride-hailing, bicycle-sharing has more users with greater randomness. Therefore, more emphasis should be put on the education of users, the regulation of users' driving behaviors and the punishment of improper behaviors.

In addition, compared with ride-hailing, bicycle-sharing should focus on protecting users' rights and interests. Therefore, the design of regulatory mechanism of bicycle-sharing should also take the modification and improvement of relevant regulations of online ride-hailing into consider. Of course, the regulations of online ride-hailing can be applied to the similar parts of bicycle-sharing, such as the qualification examination of platforms and inspection of vehicles' repairing.

4.3 Standardize operational service of enterprises

Enterprises play an important role in bike-sharing service, thus strictly standardize operational service of enterprises is conducive to promoting the healthy and steady development of bike-sharing.

Firstly, identify the qualifications of operators. In these cities where the drafts have been issued, only Hangzhou has made clear provisions about qualification for the main body of operators. Namely, enterprises with independent legal qualification and branch of an enterprise as a legal person holding a business license can become the operators. According to article 14 of the company law, “the branch does not have legal person qualification, and its civil liability shall be borne by the legal person to which it belongs.” It can be seen that although the branch of a legal person is a part of the legal person, its capacity to take legal responsibility is limited. While the legal person has the ability to take civil liability independently. Therefore, the author thinks that the operator should be an enterprise with independent legal person qualification.

Set entry and implement registration system of bicycle-sharing. In these cities where the drafts have been issued, such as Wuhan, Beijing, Shanghai, Shenzhen and Hangzhou, they all contend that enterprises shall register and record its business affairs, Among them, Wuhan and Hangzhou also stipulate the data that enterprises should submit for filing specifically, including a copy of business license, a copy of "Internet information service value-added telecom business operation license", electronic agreements between enterprises and users, and institutional text relating to service management and so on.

4.4 Learning from foreign practices

Forced by the entry of "little blue gogo" in China and the death of Pronto, a public bicycle project in Seattle, San Francisco and Seattle in the United States have incorporated the regulation of bicycle-sharing into legislation. Moreover, Seattle is the first European city to formulate specific management methods of bicycle-sharing, and it is likely to become a model for many European, American and even world cities. For city's managers, facing the challenges of bicycle-sharing in China, although our social context and legal background in China are quite different from that in the United States, Seattle's practices also has a lot of references for us.

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