



To: Edward Hudak, Chief of Police for the City of Coral Gables

From: Miriam Soler Ramos, City Attorney for the City of Coral Gables *MSR*

RE: Legal Opinion Regarding Operation of Motorized Scooters on Florida Roads, Sidewalks, Sidewalk Areas, and Bicycle Paths

Date: August 16, 2018

The City of Coral Gables Police Department has requested guidance as to the applicable laws regarding the operation of motorized scooters on Florida roads, sidewalks, sidewalk areas, and bicycle paths.

I. QUESTION PRESENTED

Can a person operate a motorized scooter on a Florida road, sidewalk, sidewalk area, or bicycle path?

II. SHORT ANSWER

A motorized scooter is: (1) prohibited from being driven on a Florida road under Florida Statutes Chapter 320, (2) prohibited from being driven on a bicycle path under Florida Statutes Chapter 316, and (3) generally prohibited from being driven on a sidewalk or sidewalk area unless expressly allowed by local ordinance under Chapter 316¹.

¹ At the July 2018 City Commission meeting, the City Commission adopted a Resolution authorizing the City to enter into a short pilot program with one shared motorized scooter provider in order to test the program and gain statistical information on use in order to evaluate the possibility of a longer pilot. Pursuant to the agreement, the scooters were deployed on August 6, 2018 and the pilot program will expire on August 28, 2018. For purposes of the short pilot program, the Commission's action is deemed to permit motorized scooters on sidewalks (except as detailed in the agreement). An Ordinance authorizing motorized scooters on sidewalks will be heard on First Reading at the August 28, 2018 City Commission meeting.

III. LEGAL ANALYSIS AND ANSWER TO THE QUESTION PRESENTED

a. Definition and Illustration of Motorized Scooter

Florida Statutes Section 316.003(44) (2018) defines a “motorized scooter” as “any vehicle not having a seat or saddle for the use of the rider, designed to travel on not more than three wheels, and not capable of propelling the vehicle at a speed greater than 30 miles per hour on level ground.” An illustration of a motorized scooter can be found in Exhibit A of the Motorcycle, Motor Scooter and Motorized Scooter Fact Sheet.²

b. Operation of a Motorized Scooter on a Florida Road Is Prohibited

Florida Statutes Chapter 320, Motor Vehicle Licenses, classifies a motorized scooter as a “motor vehicle”:

‘Motor vehicle’ means: An automobile, motorcycle, truck, trailer, semitrailer, truck tractor and semitrailer combination, or any other vehicle operated on the roads of this state, used to transport persons or property, and propelled by power other than muscular power, but the term does not include traction engines, road rollers, personal delivery devices and mobile carriers as defined in s. 316.003, special mobile equipment as defined in s. 316.003, vehicles that run only upon a track, bicycles, swamp buggies, or mopeds.

§ 320.01(1)(a), Fla. Stat. (2018). As a motor vehicle, a motorized scooter must be registered in the State of Florida: “Except as otherwise provided in this chapter, every owner or person in charge of a motor vehicle that is operated or driven on the roads of this state shall register the vehicle in this state.” § 320.02(1), Fla. Stat. (2018). However, it is impossible for a motorized scooter to be registered as a motor vehicle in Florida because Florida Statutes Section 320.08 does not provide a registration classification for motorized scooters. Therefore, without the ability to be registered, a motorized scooter cannot be lawfully operated or driven on Florida’s roads. Florida Attorney General Opinion 03-44, in consultation with the Florida Department of Highway Safety and Motor Vehicles, arrives at the same conclusion:

The Department of Highway Safety and Motor Vehicles, however, has stated that section 320.08, Florida Statutes, which provides for license taxes for the registration of motor vehicles, does not contain a classification for motorized scooters or go-peds. Thus, the department has stated that since section 320.02 requires that every motor vehicle operating on the roads of this state be registered and since such vehicles cannot be registered, they may not be operated on the roads of this state.

See also 4A Fla. Jur 2d Automobiles and Other Vehicles § 20 (“A vehicle that may not be

² The Motorcycle, Motor Scooter, and Motorized Scooter Fact Sheet, which is published by the Florida Department of Highway Safety and Motor Vehicles.

registered, such as a motorized scooter, may not be operated on the public streets and roads in Florida.”

Additionally, resources available from The Florida Department of Highway Safety and Motor Vehicles, arrive at a similar conclusion as Florida Attorney General Opinion 03-44. Exhibit 1, The Motorcycle, Motor Scooter, and Motorized Scooter Fact Sheet, states:

Question:

Can motorized scooters (Exhibit "A") as defined in section 316.003(82), Florida Statutes, be operated on the roadways of this state since they cannot be titled or registered?

Response:

No, since they are not titled or registered, they are not allowed to be operated on the roadways or any sidewalk of this state.

Section 3.2.5 of Exhibit 2, the 2013 Florida Motorcycle Handbook, states:

Motorized Scooter: (Not Legal on Public Streets or Sidewalks)

Though considered motor vehicles in section 322.01(26) Florida Statutes and tag/registration law, the registration laws do not provide for registration of these vehicles, thus they cannot be operated on public streets or highways. If operated on a public roadway anyway, regardless of a person's age, law enforcement officers can require the person to show at least a valid operator (Class E) license as per driver license law they are considered motor vehicles (Statute Ref: s. 322.03(1) and 322.01(26). F.S.)

Finally, the Florida Department of Highway Safety and Motor Vehicles website³ states:

Motorized scooters cannot be legally operated on public roadways nor may they be legally operated on sidewalks or bicycle paths.

c. Operation of a Motorized Scooter on Sidewalks, Sidewalk Areas, and Bicycle Paths

Florida Statutes Chapter 316, State Uniform Traffic Control, classifies a motorized scooter as a “vehicle”: “[e]very device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except personal delivery devices, mobile carriers, and devices used exclusively upon stationary rails or tracks.” § 316.003(99), Fla. Stat. (2018); *see Op. Att'y Gen. Fla. 03-44 (2003)*. As a vehicle, a motorized scooter is prohibited from being operated on a bicycle path and generally prohibited from being operated on a sidewalk or a sidewalk area: “a person may not drive any vehicle other than by human power upon a bicycle path, sidewalk, or sidewalk area, except upon a permanent or duly authorized

³ <https://www.flhsmv.gov/driver-licenses-id-cards/motorcycle-rider-education-endorsements/faqs/>

temporary driveway.” § 316.1995(1), Fla. Stat. (2018). However, Section 316.1995(1) does provide an exception to the sidewalk and sidewalk area prohibition under Section 316.008. Pursuant to Section 316.008(7)(a),

A county or municipality may enact an ordinance to permit, control, or regulate the operation of vehicles, golf carts, mopeds, motorized scooters, and electric personal assistive mobility devices on sidewalks or sidewalk areas when such use is permissible under federal law. The ordinance must restrict such vehicles or devices to a maximum speed of 15 miles per hour in such areas.

Therefore, when read together, a motorized scooter is not allowed on any sidewalk or sidewalk area unless a local ordinance is enacted that specifically allows for its operation on a sidewalk or sidewalk area. However, Section 316.008(7)(a) does not provide municipalities with the power to regulate motorized scooters on bicycle paths, and thus, motorized scooters are prohibited from operating upon a bicycle path under Section 316.1995(1).⁴

⁴ Furthermore, Florida Statutes Section 316.007 preempts uniform traffic control by local governments:

The provisions of this chapter shall be applicable and uniform throughout this state and in all political subdivisions and municipalities therein, and no local authority shall enact or enforce any ordinance on a matter covered by this chapter unless expressly authorized. However, this section shall not prevent any local authority from enacting an ordinance when such enactment is necessary to vest jurisdiction of violation of this chapter in the local court.

Therefore, unless expressly allowed, a municipality is prohibited from enacting an ordinance that would allow for the operation of a motorized scooter upon a bicycle path.

IV. CONCLUSION

Under Chapter 320, a motorized scooter is a “motor vehicle,” and Chapter 320 prohibits the operation of a motor vehicle on a Florida road unless the motor vehicle is registered. However, it is impossible to register a motorized scooter in Florida, and thus, without registration, a motorized scooter is prohibited from operating on a Florida road. Finally, under Chapter 316, a motorized scooter is a “vehicle” that is prohibited from operating upon a bicycle path and generally prohibited from operating on a sidewalk or sidewalk area. However, a municipality may allow a motorized scooter to operate on a sidewalk or sidewalk area, but the operation of a motorized scooter on a bicycle path remains prohibited. To summarize, a motorized scooter (1) is prohibited from being driven on a Florida road, (2) is prohibited from being driven on a bicycle path, and (3) is generally prohibited from being driven on a sidewalk or sidewalk area unless expressly allowed by ordinance.⁵

This opinion is issued in accordance with Section 2-252(e)(1) and (8) of the City of Coral Gables Code.

⁵ A similar summary of governing law over motorized scooters can be found in Florida Statutes Section 316.2128:

A person who engages in the business of, serves in the capacity of, or acts as a commercial seller of *motorized scooters* or miniature motorcycles in this state must prominently display at his or her place of business a notice that *such vehicles are not legal to operate on public roads, may not be registered as motor vehicles, and may not be operated on sidewalks unless authorized by an ordinance enacted pursuant to s. 316.008(7)(a) or s. 316.212(8)*.

(Emphasis added.)

CITY OF CORAL GABLES
CITY ATTORNEY'S OFFICE

**OPINION REGARDING OPERATION OF MOTORIZED SCOOTERS ON FLORIDA ROADS, SIDEWALKS,
SIDEWALK AREAS, AND BICYCLE PATHS**

To: Edward J. Hudak, Chief of Police

From: Miriam Soler Ramos, City Attorney
Israel U. Reyes and Christopher Reyes, Police Legal Advisors

C: Frank Fernandez, Assistant City Manager
Peter Iglesias, Assistant City Manager
Eduardo Santamaria, Director of Public Works Dept.
Jessica Keller, Assistant Director of Public Works Dept.

Date: August 16, 2018

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III. LEGAL ANALYSIS AND ANSWER TO THE QUESTION PRESENTED

a. Definition and Illustration of Motorized Scooter

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b. Operation of a Motorized Scooter on a Florida Road Is Prohibited

Florida Statutes Chapter 320, Motor Vehicle Licenses, classifies a motorized scooter as a “motor vehicle”:

‘Motor vehicle’ means: An automobile, motorcycle, truck, trailer, semitrailer, truck tractor and semitrailer combination, or any other vehicle operated on the roads of this state, used to transport persons or property, and propelled by power other than muscular power, but the term does not include traction engines, road rollers, personal delivery devices and mobile carriers as defined in s. 316.003, special mobile equipment as defined in s. 316.003, vehicles that run only upon a track, bicycles, swamp buggies, or mopeds.

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this state.” § 320.02(1), Fla. Stat. (2018). However, it is impossible for a motorized scooter to be registered as a motor vehicle in Florida because Florida Statutes Section 320.08 does not provide a registration classification for motorized scooters. Therefore, without the ability to be registered, a motorized scooter cannot be lawfully operated or driven on Florida’s roads. Florida Attorney General Opinion 03-44, in consultation with the Florida Department of Highway Safety and Motor Vehicles, arrives at the same conclusion:

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See also 4A Fla. Jur 2d Automobiles and Other Vehicles § 20 (“A vehicle that may not be registered, such as a motorized scooter, may not be operated on the public streets and roads in Florida.”)

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Therefore, when read together, a motorized scooter is not allowed on any sidewalk or sidewalk area unless a local ordinance is enacted that specifically allows for its operation on a sidewalk or sidewalk area. However, Section 316.008(7)(a) does not provide municipalities with the power to regulate motorized scooters on bicycle paths, and thus, motorized scooters are prohibited from operating upon a bicycle path under Section 316.1995(1).⁴

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(Emphasis added.)