

Scooter operator not required to wear helmet

Number: AGO 2001-11

Date: February 28, 2001

Subject:
Scooter operator not required to wear helmet

The Honorable Guy M. Tunnell
Sheriff, Bay County
3421 North Highway 77
Panama City, Florida 32405

SCOOTERS--BICYCLES--VEHICLE SAFETY--scooter operator not required to wear safety helmet. ss. 316.003(2) and 316.2065, Fla. Stat.

Dear Sheriff Tunnell:

You ask substantially the following question:

Must a person under the age of 16 wear a safety helmet while operating a non-motorized scooter in the same manner that helmets are required while riding a bicycle?

In sum:

The Florida Legislature has specifically exempted scooters from the definition of a bicycle and a person under 16 years of age would not, therefore, be subject to the requirement of wearing a safety helmet.

You state that the Bay County Sheriff's Office has implemented a bicycle safety and education unit whose primary goal is to educate citizens on the laws governing the operation of bicycles. With the rising popularity of scooters, questions have arisen as to whether a helmet must be used while riding a scooter.

Section 316.2065(3)(d), Florida Statutes, provides:

"A bicycle rider or passenger who is under 16 years of age must wear a bicycle helmet that is properly fitted and is fastened securely upon the passenger's head by a strap, and that meets the standards of the American National Standards Institute (ANSI Z 90.4 Bicycle Helmet Standards), the standards of the Snell Memorial Foundation (1984 Standard for Protective Headgear for Use in Bicycling), or any other nationally recognized standards for bicycle helmets adopted by the department. As used in this subsection, the term 'passenger' includes a child who is riding in a trailer or semitrailer attached to a bicycle."

For purposes of Chapter 316, Florida Statutes, a "bicycle" is defined as:

"Every vehicle propelled solely by human power, and every motorized bicycle propelled by a combination of human power and an electric helper motor capable of propelling the vehicle at a speed of not more than 20 miles per hour on level ground upon which any person may ride, having two tandem wheels, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels. The term *does not include* such a vehicle with a seat height of no more than 25 inches from the ground when the seat is adjusted to its highest position or a *scooter* or similar device. No person under the age of 16 may operate or ride upon a motorized bicycle." [1] (e.s.)

The law governing traffic control and bicycle regulations clearly excludes scooters from the definition of a bicycle. No other provisions of the Florida Uniform Traffic Control Law speak to non-motorized scooters, nor are there helmet requirements that the Legislature has enacted that may be interpreted to apply to such scooters. [2] Thus, at present there is no requirement that a person under the age of 16 wear a safety helmet while operating a non-motorized scooter.

While the United States Consumer Product Safety Commission (commission) has reported a dramatic increase in emergency room-treated injuries related to the use of lightweight scooters, [3] no apparent action has been contemplated or taken by the Legislature to address this matter. The commission has found that nearly ninety percent of the injuries from scooter accidents were to children under 15 years of age and recommends in its safety guidelines for the operation of a scooter that a person wear a helmet that meets commission standards, along with knee and elbow pads. [4]

Accordingly, scooters are specifically exempted from the definition of a bicycle such that there is no safety helmet requirement for their operation by persons under the age of 16. You may, however, wish to bring this matter to the attention of your legislative delegation, as it may be appropriate for the Legislature to address the safety concerns related to scooters.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tls

[1] Section 316.003(2), Fla. Stat.

[2] See Op. Att'y Gen. Fla. 93-45 (1993) (definition of bicycle excludes scooters from its terms).

[3] "CPSC Reports as Scooter Sales Skyrocket, Injuries Soar *Recommends Riders Wear Safety Gear*," (emphasis in the original) U.S. Consumer Product Safety Commission, Release #00-178, September 5, 2000.

[4] *Id.* The commission further advised that scooters be ridden on smooth, paved surfaces without any traffic, avoiding streets or surfaces with water, sand, gravel or dirt, and to not be

ridden at night.