

Traffic violations by operators of bicycles

Number: AGO 84-10

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Subject:
Traffic violations by operators of bicycles

Mr. A.I. Shuler
Chief, University Police Department
University of Florida
Gainesville, Florida 32611

RE: TRAFFIC CONTROL--Penalties applicable to noncriminal traffic violation by operators of bicycles

Dear Chief Shuler:

This is in response to your request for an opinion asking substantially the following question:

What is the appropriate statutory penalty for noncriminal traffic violations by the drivers or operators of bicycles under Ch. 316, F.S., as amended by Ch. 83-68, Laws of Florida?

Prior to the enactment of Ch. 83-68, Laws of Florida, Ch. 316, F.S., for the purposes of that statute, defined certain terms in s. 316.003, F.S., including:

"(10) DRIVER.--Any person who drives or is in actual physical control of a vehicle on a highway or who is exercising control of a *vehicle* or steering a vehicle being towed by a motor vehicle.

* * *

(58) TRAFFIC.--Pedestrians, ridden or herded animals, and *vehicles*, streetcars, and other conveyances either singly or together while using any street or highway for purposes of travel.

* * *

(64) VEHICLE.--Any device, in, upon, or by which any person or property is or may be transported or drawn upon a highway, *except bicycles* or mopeds as defined in subsection (2) or devices used exclusively upon stationary rails or tracks." (e.s.)

Additionally, before amendment by Ch. 83-68, Laws of Florida, s. 316.2065(1), F.S., provided:

"Every person riding a bicycle upon a roadway shall be granted all of the rights and be subject to all of the duties applicable to the driver of a vehicle by this chapter, except as to special regulations in this chapter, and except as to provisions of this chapter which by their nature can have no application."

Section 316.2065, F.S., also prescribed certain special regulations for the operation of bicycles. An examination of the provisions of Ch. 316, F.S., reveals that many sections thereof apply to and define offenses by drivers and operators of vehicles and vehicular traffic. Prior to its amendment in 1983, s. 316.003(64), excepted or excluded bicycles from the statutory definition of "vehicle" and therefore, from the operation of those provisions of Ch. 316, applicable to and governing the drivers and operators of vehicles and vehicular traffic.

By enacting Ch. 83-68, Laws of Florida, the Legislature amended s. 316.003(64), F.S., so that the definition of "vehicle" would include rather than exclude bicycles. Subsection (64) now provides:

"VEHICLE.--Every device, in, upon, or by which any person or property is or may be transported or drawn upon a highway excepting except bicycles or mopeds as defined in subsection (2) or devices used exclusively upon stationary rails or tracks."

Thus, the operators of bicycles are now subject to all the sections and provisions of Ch. 316, F.S., as amended, governing vehicles and vehicular traffic and the drivers and operators of vehicles as defined by the statute, as well as the special regulations prescribed for the operation of bicycles.

Chapter 83-68, *supra*, further amended s. 316.2065(1), F.S., to read:

"(1) Every person propelling a vehicle by human power shall have all of the rights and all of the duties applicable to the driver of any other vehicle under this chapter, except as to special regulations in this chapter, and except as to provisions of this chapter which by their nature can have no application."

Section 316.655, F.S., provides in relevant part:

"(1) A violation of any of the provisions of this chapter, except criminal offenses enumerated in subsection (4), shall be deemed an infraction, as defined in s. 318.13(3).

(2) Infractions of this chapter which do not result in a hearing shall be subject to the civil penalties provided in s. 318.18."

Section 318.18(1), F.S., provides that the penalty required for a noncriminal disposition shall be "[f]ive dollars for all infractions of bicycle regulations under s. 316.2065 and infractions of pedestrian regulations under s. 316.130." Subsections (2) and (3) prescribe the penalties for the noncriminal disposition of nonmoving and moving traffic violations respectively.

Therefore, by virtue of the redefinition of "vehicle" and the amendment of s. 316.2065(1), F.S., by Ch. 83-68, Laws of Florida, bicycles and the drivers and operators of bicycles are now included within and subject to all those provisions of Ch. 316, F.S., as amended, governing noncriminal traffic violations by vehicles (as defined by Ch. 83-68) and the drivers and operators of vehicles and vehicular traffic, and to the provisions of s. 318.18(2) and (3), F.S., where applicable. Of course, violators of the special regulations enumerated in s. 316.2065, as amended, are subject to the penalty prescribed in s. 318.18(1), F.S. (or the alternative penalty of

impoundment; see s. 316.207, F.S.).

In summary, then, unless and until judicially determined otherwise, I conclude that a violation of the special bicycle regulations enumerated in s. 316.2065, F.S., as amended, is subject to the five dollar penalty for infractions prescribed in s. 318.18(1), F.S. (or the alternative penalty of impoundment prescribed in s. 316.207, F.S.), but that a violation of any other provision of Ch. 316, F.S., as amended, applicable to and governing noncriminal traffic violations by the drivers or operators of vehicles, as defined by s. 316.003(64), F.S., as amended, or governing vehicles and vehicular traffic as defined in s. 316.003, F.S., as amended, is subject to the penalties prescribed in s. 318.18(2) and (3), F.S., for nonmoving and moving violations respectively.

Sincerely,

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Prepared by:

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