

Motorized Scooters

1.1 Motorized Scooters - Introduction

In the early part of the 21st century, a new type of motor vehicle began appearing on the streets of New Jersey. These so-called “pocket bikes” or motorized scooters are designed for children or young teenagers. Often they are gasoline powered and can be driven on the streets like miniature motorcycles.

The introduction of these transportation devices for children occurred without any pre-existing legislative foundation. From a technical legal standpoint, motorized scooters meet the statutory definition of a motor vehicle as set forth under N.J.S.A. 39:1-1. Like any other motor vehicle, they are not propelled by muscular power, do not run on tracks and do not meet the statutory definition of motorized bicycles. Accordingly, it would seem that motorized scooters would have to comply with all the requirements of law imposed upon motor vehicles, including, registration, inspection, insurance and the like. Moreover, the operators of such “motor vehicles” should be required to comply with the licensing regulations required of drivers and the rules of the road.

Of course, none of these things occurred. The reality of the situation was that children and young teens would operate their motorized scooters on highways without regard to any aspect of motor vehicle laws. The children operated without licenses. The scooters had no insurance because they are uninsurable. They had no registration because they do not meet the safety standards necessary for a vehicle to be registered. Moreover, the operators of the scooters often drove in a dangerous manner without helmets. The lack of legislation regulating the scooters left law enforcement without a means of controlling the operation of these vehicles.

Finally, in the summer of 2005, after several highly publicized accidents involving deaths and serious bodily injuries, the Legislature enacted a series of new laws to put a stop to the operation of motorized scooters on public roadways and to provide law enforcement and local governments the means to enforce the law.

1.2 Motorized Scooter – Defined

The first step the Legislature took in regulating motorized scooter was to provide a statutory definition that would distinguish them from the general definition of a motor vehicle. Under N.J.S.A. 39:1-1, a “motorized scooter” means a:

[m]iniature motor vehicle and includes, but is not limited to, pocket bikes, super pocket bikes, scooters, mini-scooters, sport scooters, mini choppers, mini motorcycles, motorized skateboards and other vehicles with motors not manufactured in compliance with Federal Motor Vehicle Safety Standards and which have no permanent Federal Safety Certification stickers affixed to the vehicle by the original manufacturer. This term shall not include: electric personal assistive mobility devices, motorized bicycles or low-speed vehicles; or motorized wheelchairs, mobility scooters or similar mobility assisting devices used by persons with physical disabilities, or persons whose ambulatory mobility has been impaired by age or illness.

It is important to note that the statutory definition carves out such devices as motorized wheelchairs, mobility scooters or other electronic mobility devices that are generally used for persons with physical disabilities.¹ Beyond this exception, the statutory definition of motorized scooters is extremely broad and includes other types of recreational-type children’s vehicles that are not manufactured in compliance with Federal motor vehicle safety standards and which have no Federal Safety Certification stickers affixed to the vehicle by the original manufacturer.

¹ The carving out of an exception for these types of devices from the general definition of “motor vehicle” under 39:1-1 eliminates the possibility that a person who has a revoked license or who is intoxicated could be prosecuted for operating his personal assistive mobility device while in his own home.

1.3 Motorized Scooters – Enforcement and Sanctions

The Legislature's primary tool in protecting the public from the operation of motorized scooters is to ban them from operation on public streets, sidewalks or highways and in most instances, from public and private property as well! N.J.S.A. 39:4-14.12 provides as follows:

- .39:4-14.12 a. No person shall operate a motorized scooter upon any public street, highway or sidewalk.**
- b. Except as otherwise provided in section 4 of P.L.2005, c.159 (C.39:4-14.14), no person shall operate a motorized scooter upon any public property or lands.**
- c. No person shall operate a motorized scooter on the property of another without the consent of the owner of that property or the person who has a contractual right to the use of that property.**

Sanctions for violations are graduated, based upon a prior record of offenses, with increasing levels of fines for repeat offenders. In order for the police and courts to properly administer the law, they must have accurate information about the defendant's prior record of scooter law violations. The authorized sanctions include fines for all offenders and mandatory community service for second or subsequent violators. The law also provides for seizure² of the scooter by the police and forfeiture for third offenders.³ The statute providing for these sanctions, N.J.S.A. 39:4-14.13, provides the following:

- 3. A person violating the provisions of section 2 of this act shall be subject:**
- a. For the first offense, to a fine of not less than \$100 nor more than \$200, and seizure of the motorized scooter. The seized scooter may only be retrieved from the police by the operator of the scooter or if the operator is under 18 years of age by the operator accompanied by the operator's parent or guardian.**
- b. For the second offense, to a fine of not less than \$200 nor more than \$500, and seizure of the motorized scooter. The seized scooter may only be retrieved from the police by the operator of the scooter or if the operator is under 18 years of age by the operator accompanied by the operator's parent or guardian, provided that the court adjudicating the matter approves the return of the scooter. In addition to the fine and seizure provided for in this subsection, the court shall order the violator to perform community service for a period of not greater than 25 hours.**
- c. For the third or subsequent offense, to a fine of not less than \$500 nor more than \$750, and seizure and forfeiture of the motorized scooter. In addition to the**

² Return of a seized motorized scooter may be accomplished administratively by the police for a first offense. Judicial approval for the return of the seized scooter is needed for second offenders. No return of the scooter is authorized for third or subsequent offenders.

³ Interestingly, the forfeiture is not a civil remedy but rather a component of the sentence that must be imposed in municipal court on every third offense.

fine, and seizure and forfeiture provided in this subsection, the court shall order the violator to perform community service for a period of not greater than 50 hours.

1.4 Motorized Scooters – Operation on Private or Public Property

Motorized scooters may be operated in private property, but only with the consent of the owner of the property or a person who has a contractual right to use the property, such as a tenant.⁴ As a practical matter, this prohibition dramatically narrows the areas where these vehicles can be operated and will, in most instances, preclude their operation in private parking lots, garages, fields, driveways and the like.

The Legislature did provide a means by which a county or municipal government may provide a safe area within its jurisdiction where motorized scooters may be legally operated on public property. Subject to numerous safety and age restrictions, N.J.S.A. 39:4-14.14 allows counties and municipalities to adopt ordinances or resolutions providing times and designated places on public property where motorized scooters may be lawfully operated.⁵

⁴ N.J.S.A. 39:4-14.12(b)

⁵ 39:4-14.14 Operation of motorized scooters permitted on designated municipal, county property, requirements.

4. The governing body of any municipality may, by ordinance, permit the operation of motorized scooters upon designated municipal property, other than the streets, highways and sidewalks under municipal jurisdiction. The governing body of any county may, by resolution, permit the operator of motorized scooters upon designated county property, other than the streets, highways and sidewalks under county jurisdiction.

Such an ordinance or resolution permitting the operation of motorized scooters upon designated municipal or county property shall include, but not be limited to, the following provisions:

- a. A designation of the municipal or county property upon which motorized scooters may be operated;
- b. The days and hours of the day during which motorized scooters may be operated upon that municipal or county property;
- c. A requirement that each motorized scooter operated upon the designated municipal or county property be registered with the municipality or county and receive a certificate of registration from the municipality or county. As a condition for such registration, the owner or operator shall produce or display appropriate proof that a policy of liability insurance is in effect for that motorized scooter. The municipality or county may impose a reasonable fee to cover the costs of registration;
- d. A requirement that no person under the age of 12 years or older if so determined by the municipality or county be permitted to operate a motorized scooter upon the designated municipal or county property;
- e. A requirement that every operator of a motorized scooter wear a properly fitted and fastened helmet which meets the standards of the American National Standards Institute (ANSI Z90.4 bicycle helmet), the Snell Memorial Foundation's 1990 Standard for Protective Headgear for Use in Bicycling, the American Society for Testing and Materials (ASTM) standard or such other standard, as appropriate;

f. A requirement that each motorized scooter operated upon the designated municipal or county property be equipped with a brake that will enable the operator to stop the scooter in a safe and effective manner;

g. A requirement that prior to operating a motorized scooter upon the designated municipal or county property, the prospective operator demonstrate, in a manner prescribed by a designated local authority, a capability to safely operate the scooter; and

h. A schedule setting forth the penalties for violating the provisions of the ordinance. The schedule shall be prominently posted upon the designated municipal or county property, along with a warning that operators may also be subject to applicable provisions and penalties set forth in chapter 4 of Title 39 of the Revised Statutes.