

Sheriff



Larry Ashley, Okaloosa County Sheriff

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Subject: Motorized Bicycles Inquiry by Northwest Florida Daily News:

On August 19th, 2011, the OCSO received the following request for information. The agency response is in **bold**.

Here are the questions I had for my story: What is the Sheriff's Office's stance on bicycles that have been modified with a small gas engine? Are cyclists riding these motorized bikes now being pulled over by sheriff's deputies and if so, what for? Jeff Arnett and several of his customers say they have been pulled over recently by Okaloosa County Sheriff's deputies who told them they could be taken to jail if they operate the bikes without a license or registration. Under what statute or law is the sheriff's office using to require a driver's license and registration operate these bikes? I have an Okaloosa County Sheriff's Office flyer that says bicycles with an electric motor are still considered a bike and do not need a driver's license or registration to operate. However, people being pulled over are being told that bike with a small gas powered engine is considered a moped. Is this accurate and if so how does the Sheriff's Office defend that classification?

OCSO Response to Inquiry:

Our agency is simply enforcing the existing state law regarding these gasoline powered bicycles.

F.S.S. 322.03(1) requires: "Except as otherwise authorized in this chapter, a person may not drive any motor vehicle upon a highway in this state unless such person has a valid driver's license issued under this chapter."

F.S.S. 322.01(27) defines a Motor Vehicle as: "any self-propelled vehicle, including a motor vehicle combination, not operated upon rails or guideway, excluding vehicles moved solely by human power, motorized wheelchairs, and motorized bicycles as defined in s. 316.003."

F.S.S. 316.003 defines a Motorized Bicycle as: "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."

These vehicles are gasoline powered and not electric powered.



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F.S.S. 320.01(28) defines a Moped as: "any vehicle with pedals to permit propulsion by human power, having a seat or saddle for the use of the rider and designed to travel on not more than three wheels, with a motor rated not in excess of 2 brake horsepower and not capable of propelling the vehicle at a speed greater than 30 miles per hour on level ground, and with a power-drive system that functions directly or automatically without clutching or shifting gears by the operator after the drive system is engaged. If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters."

F.S.S. 320.0803 requires Mopeds to be registered and display a moped license plate.

Any violations of F.S.S. 322 or F.S.S. 320 that are not otherwise specified are criminal violations.

F.S.S. 316.1995 states: "Except as provided in s. 316.008 or s. 316.212(8), 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 temporary driveway.

These motor vehicles cannot be legally operated on a roadway or a sidewalk under gasoline motor power.

A law enforcement officer who observed a violation of the above laws would be justified in stopping the vehicle and making an arrest for any criminal violation that occurred. Deputies have stopped the bikes for violations of F.S.S. 316 such as riding on the sidewalk, running stop signs etc... It has been my experience that most operators of these vehicles do not have valid driver's licenses to operate any other motor vehicle upon a roadway. I have stopped some of these vehicles being operated by persons with badly suspended or permanently revoked driver's licenses for DUI or Habitual Traffic Violator status.

In enforcing the state law regarding the bikes referenced in this article, the Okaloosa County Sheriff's Office sought guidance from the Florida Department of Highway Safety and Motor Vehicles Legal Staff. This is the guidance we have received from Judson M. Chapman, Sr. Asst. Gen. Counsel, Fl. DHSMV regarding the bikes Mr. Arnett has been building and offering for sale:

"Motorized bicycles that are exempt from the driver license requirements of Ch. 322 (see 322.01(27) are limited to those powered by electric helper motors per the definition in 316.003(2). Although there was an attempt to expand the 316 definition in the 2011 Legislature, it appears the bill did not pass and the definition remains unchanged. Our office has previously concluded that bicycles powered by gas helper motors are more properly



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considered to be mopeds. However, issues regarding the absence of VIN's made such classification impossible and resulted in the TL-10 language referenced in the web site you sent. Nevertheless, it is important to state that the TL-10 Exhibit F. language is primarily for registration issues and not driver licensing questions. An operator of a gas powered bicycle would still need a driver license under Ch. 322 because it constitutes a self-propelled vehicle. Thus, the information in the website is misleading in that respect. TL-10 also does not address where these type bicycles can be operated, but it would at least be limited to that of a regular bicycle under 316.2065."

Additionally, the below link to the flhsmv website provides the following information:

"According to Florida law, motorized scooters, go-peds, and pocket bikes are considered motor vehicles. However, because motorized scooters, go-peds, and pocket bikes are not manufactured to meet the required federal Motor Vehicle Safety Act, they cannot be registered for operation on public roadways, even if the operator has a valid driver's license. Mopeds can be registered for operation on public roadways, but an operator must have a valid driver's license to operate one. Operators of motorized bicycles do not need a valid driver's license and are not required to register them in order to operate them on public roadways."

<http://www.flhsmv.gov/courts/latestinfo/ScootersSegwaysMopedsandElectricBicycles.pdf>



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