

CORRESPONDENCE MEMORANDUM

DT1175 97

Wisconsin Department of Transportation

Date: May 31, 2005
From: John J. Sobotik and Paul E. Nilsen, Assistants General Counsel, WisDOT
Subject: **Motorized Scooters, Pocket Bikes and Low Speed Electric Bicycles**

I. INTRODUCTION

For the past few years, a wide variety of small, inexpensive motorized scooters have been distributed widely throughout the United States. We intend this memo to answer questions about their treatment under current Wisconsin law. This memo updates and replaces earlier memos on motorized scooters issued by this office¹.

This memo offers no opinion as to the public policy underlying the statutes applicable to motorized scooters, but only summarizes current law.

II. WHAT IS A MOTORIZED SCOOTER?

Wisconsin statutes do not define “motorized scooter.” In general, a “motorized scooter” is a vehicle that is designed to be stood or sat upon by the operator and that has two small-diameter wheels in tandem, upright t-shaped handlebars, and is powered by an internal-combustion engine or electric motor that is capable of propelling the device with or without human propulsion. Top speeds are generally 8-20 miles per hour. They can be “souped up” to run at up to 40 miles per hour.

Do not confuse motorized scooters with mopeds or “low-speed electric bicycles.” Mopeds, of course, can be operated lawfully on public roads. A “moped” is usually a Type 1 motorcycle that is incapable of speeds faster than 30 miles per hour, is equipped with an automatic transmission, an engine certified by the manufacturer at not more than 50 cubic centimeters or an equivalent power unit, and a seat for the operator. Section 340.01(29m), Wis. Stats. This definition includes models such as the Honda Spree, Honda Metropolitan, Yamaha Jog and Yamaha Vino (shown below left).



In December 2002, Congress created a new category of vehicle called “Low-speed electric bicycles.” (See above right) They are moped-like vehicles with a top speed of 20 m.p.h. that are equipped with functional pedals². Under federal law, low-speed electric bicycles are not considered “motor vehicles” and so are not

¹ This memo replaces earlier memos of May 7, 2004, and November 12, 2003.

² The federal definition for “low-speed electric bicycle” is “a two- or three-wheeled vehicle with fully operable pedals and an electric motor of less than 750 watts (1 h.p.), whose maximum speed on a paved

required to meet federal motor vehicle safety standards promulgated by the National Highway Traffic Safety Administration. Accordingly, they will not bear a manufacturer's certificate of conformity as required by 49 CFR 567.4(g). Instead, the Consumer Product Safety Commission regulates these vehicles like bicycles. This memo does not address titling or registration issues related to "low-speed electric bicycles."

Motorized scooters, in contrast, are typically designed to be operated by a person in the standing position, though some are equipped with a bicycle-type seat. None has working pedals. Wheels can be solid rubber or pneumatic. Most are equipped with a handbrake, but lighter models may be equipped with only a footbrake. Sizes vary, up to 42 inches high, up to 18 inches wide and up to 40 inches long. Gross weights vary from 16 to 65 pounds (battery-powered models are generally heaviest). Gas engines are generally smaller than 35cc displacement and are generally 1.5 hp or less. Electric motors typically produce 600W or less output. Retail prices vary from \$150-\$1,000. Some models are equipped with rudimentary lights, horns, and turn signals. The vehicles are sometimes called "go-peds" or "motorized foot scooters."



Other states have defined motorized scooters (and regulated their use) by statute, but Wisconsin statutes do not recognize them as a separate class of vehicle. (See, e.g. California Veh. Code § 407.5 (a); Maine Rev. Stat. Ann. Tit. 29, § 101(41-B); Florida Stat. ch. 316.003 (82).)³

level surface, when powered solely by such a motor while ridden by an operator who weighs 170 pounds, is less than 20 miles per hour." 15 USC 2085, as created by Public Law 107-319.

³ California Veh. Code § 407.5 (a). "Motorized scooter" means any two-wheeled device that has handlebars, is designed to be stood or sat upon by the operator, and is powered by an electric motor that is capable of propelling the device with or without human propulsion. For purposes of this section, a motorcycle, as defined in Section 400, a motor-driven cycle, as defined in Section 405, a motorized bicycle or moped, as defined in Section 406, or a toy, as defined in Section 108550 of the Health and Safety Code, is not a motorized scooter.

Maine Rev. Stat. Ann. Tit. 29, § 101(41-B). "Motorized scooter" means a scooter that is powered by a motor having a maximum piston displacement of less than 25 cubic centimeters or an electric driven motor and is capable of a maximum speed of no more than 25 miles per hour on a flat surface. "Motorized scooter" does not include an electric personal assistive mobility device.

Florida Stat. ch. 316.003 (82). "Motorized scooter" means 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.

III. MOTORIZED SCOOTERS ARE "MOTOR VEHICLES."

A motorized scooter is a "vehicle," because it is a "device in, upon, or by which any person or property is or may be transported or drawn upon a highway." Section 340.01 (74), Wis. Stats. A motorized scooter is a "motor vehicle," because it is a self-propelled vehicle that does not operate exclusively on rail. Section 340.01(35), Wis. Stats. Courts in at least two other states have found motorized scooters to be "motor vehicles" under statutes similar to Wisconsin's, and therefore found them to be subject to driver licensing and insurance requirements. State v. Riley, 698 So. 2d 374 (Fl. Dist. Ct. App. 1997); Reilley v. DMV, 240 A.D.2d 296 (N.Y. App. Div. 1997).

IV. MOTORIZED SCOOTERS CANNOT BE REGISTERED OR TITLED.

Federal law requires that all motor vehicles sold in the United States for on-road use meet federal motor vehicle safety standards and that manufacturers certify that their vehicles meet those standards. 49 USC 30115 and 49 CFR 571.7.

49 USC 30115. Certification of compliance. A manufacturer or distributor of a motor vehicle or motor vehicle equipment shall certify to the distributor or dealer at delivery that the vehicle or equipment complies with applicable motor vehicle safety standards prescribed under this chapter. [emphasis added].

49 USC 30102(a) (6) "motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line. [emphasis added]

49 USC 30112. A person may not manufacture for sale, sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States, any motor vehicle or motor vehicle equipment manufactured on or after the date an applicable motor vehicle safety standard prescribed under this chapter takes effect unless the vehicle or equipment complies with the standard and is covered by a certification issued under section 30115 of this title. [emphasis added]

For purposes of federal motor vehicle safety standards, a motorized scooter falls within the definition of a motorcycle, a motor-driven cycle, or perhaps a passenger car under 49 CFR 571.3:

"Motorcycle" means a motor vehicle with motive power having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground.

"Motor-driven cycle" means a motorcycle with a motor that produces 5-brake horsepower or less.

"Passenger car" means a motor vehicle with motive power, except a low-speed vehicle, multipurpose passenger vehicle, motorcycle, or trailer, designed for carrying 10 persons or less. 49 CFR 571.3

Accordingly, if motorized scooters were designed for on-road use, they would be subject to federal safety standards applicable to motorcycles, motor-driven cycles or passenger cars, including headlamps, turn signals, reflectors, rear view mirrors, brake lamps and mufflers. In addition, the manufacturer would certify that the motor vehicle meets all applicable safety standards by permanently affixing a decal to the vehicle stating, among other things, "This vehicle conforms to all applicable federal motor vehicle safety standards in effect on the date of manufacture." 49 CFR 567.4 (g) (5). The fact that the manufacturer has not certified a motorized scooter as complying with federal motor vehicle safety standards indicates that the manufacturer does not intend them to be used on public roads.

Because motorized scooters are not designed and manufactured for on-road use, and because they lack the equipment and certification needed to comply with federal motor vehicle safety standards, they cannot be registered for use on public roads in Wisconsin:

341.10 Grounds for refusing registration. The department shall refuse registration of a vehicle under any of the following circumstances:

...
(6) The vehicle is originally designed and manufactured for off-highway operation unless the vehicle meets the provisions of s. 114 of the national traffic and motor vehicle safety act of 1966, as amended, except as otherwise authorized by the statutes. *[emphasis added]*

Thus, motorized scooters are another addition to the long list of vehicles that are ineligible for registration and unrestricted operation on Wisconsin public roads, such as mini-bikes, go-carts, all-terrain vehicles, snowmobiles, lawn tractors, lightweight utility vehicles (such as the John Deere Gator and the Kawasaki Mule), battery powered kiddie cars, golf carts and neighborhood electric vehicles.

V. WHAT LAWS REGULATE USE OF MOTORIZED SCOOTERS IN WISCONSIN?

Because motorized scooters are considered “motor vehicles” under the law but are ineligible for registration, they cannot be legally operated on any public road in Wisconsin. In addition, because they are “motor vehicles,” a driver’s license is required to operate them on public roads, including most sidewalks along them.

A. Valid Registration is Required to Operate a Motor Vehicle on a Highway (including most sidewalks).

Wisconsin law has long prohibited the operation of unregistered motor vehicles on public roads:

341.04(1) It is unlawful for any person to operate or for an owner to consent to being operated on any highway of this state any motor vehicle... unless at the time of operation the vehicle in question either is registered in this state, or... a complete application for registration... has been delivered to the department...

The statutes exempt many vehicles from registration requirements, including farm equipment and bicycles, but none of the exceptions applies to motorized scooters. Section 341.05, Wis. Stats. Because motorized scooters cannot be registered and are not exempt from registration, they cannot be ridden upon Wisconsin highways⁴. Drivers operating motorized scooters on highways can be issued a citation for violating s. 341.04(1), Wis. Stats. The penalty for operating an unregistered motor vehicle on a highway is around \$150 (depending on court costs and other variables).

B. A Drivers License is Required to Operate a Motor Vehicle on a Highway (including most sidewalks).

For over 50 years, state law has required a person who operates a motor vehicle on a public road in Wisconsin to possess a driver’s license:

343.05(3)(a) No person may operate a motor vehicle which is not a commercial motor vehicle upon a highway in this state unless the person possesses a valid operator’s license issued to the person by the department which is not revoked, suspended, canceled or expired.

A person riding a motorized scooter on a public road without a driver’s license can be issued a citation for violating this statute, or a local ordinance conforming to the statute. The penalty for driving without a

⁴ “Highway” includes all public roads and streets. See section C for a discussion of what constitutes a “highway” under Wisconsin law.

license is approximately \$181, and earns three demerit points. This applies to motorized scooters ridden on most sidewalks (see section C. below).

C. Regulations Typically Apply to Sidewalks.

The term "highway" means "all public ways and thoroughfares and bridges on the same. It includes the entire width between the boundary lines of every way open to the use of the public as a matter of right for the purposes of vehicular travel." Section 340.01(22), Wis. Stats. Many highways are composed of a paved travel lane in the center, called a "roadway", with the remaining right-of-way width used as an unpaved shoulder or as an improved sidewalk. Sidewalks adjoining a highway typically lie within the highway right-of-way, which makes them a part of the "highway," and subject to laws regulating motor vehicle use in the highway. In Interest of E.J.H., 112 Wis. 2d 439, 334 N.W.2d 77 (1983). Therefore, the laws regulating operation of motor vehicles on a "highway" apply on sidewalks as well as on the roadway itself.

VI. ARE MOTORIZED SCOOTERS, "PLAY VEHICLES," UNDER WISCONSIN LAW?

A. Motorized Scooters Might be Considered "Play Vehicles."

Under Wisconsin law, play vehicles are subject to some regulations not applicable to other vehicles. Thus, determining whether a motorized scooter is a "play vehicle" has implications regarding the manner and locations in which the vehicles may be operated.

Whether a motorized scooter is a "play vehicle" at law depends on whether it is a "toy." Section 340.01(43m), Wis. Stats., defines "play vehicle":

340.01(43m) "Play vehicle":

- (a) Means a coaster, skate board, roller skates, sled, toboggan, unicycle or toy vehicle upon which a person may ride.
- (b) Does not include in-line skates.

Clearly, motorized scooters are not inline skates, coasters, skateboards, roller skates, sleds, or unicycles. Are they "toy vehicles?" This is debatable, as no court has yet examined motorized scooters to make this determination.

"Toy" is not defined in the statutes. The Wisconsin Supreme Court has found a bicycle having wheels smaller than the minimum size specified in the statutory definition of "bicycle" and ridden by two girls was a "toy bicycle", and treated it as a "play vehicle". Bey v. Transport Indem. Co., 23 Wis. 2d 182 (Wis., 1964). The Wisconsin Supreme Court described a Daisy BB gun used to shoot a child's eye out as a "toy," a mere "plaything." Harris v. Cameron, 51 N.W. 437, 81 Wis. 239, 29 Am.St.Rep. 891 (1892). This is consistent with the dictionary definition of "toy," which means "any article to play with, esp. a plaything for children." Webster's New World Dictionary, 2nd Ed. In Fleury v. Wentorf, 262 N.W.2d 68, 82 Wis.2d 105(1978) the Wisconsin Supreme Court described a homemade cannon used to shoot tennis balls 100 yards (and also to shoot out a child's eye) as a "toy." The fact that items as dangerous as BB guns and tennis ball cannons are considered "toys" by the court suggests that the age of the average user of the item is more important to the court in determining whether an item is a "toy" than whether the item is inherently dangerous. Because motorized scooters are most commonly ridden by children, it follows that a court could view them as toys.

Some have suggested that the fact that none of the other vehicles listed in the definition of "play vehicle" is self-propelled may be important. They postulate that a court might exclude all self-propelled vehicles from the class of "toy vehicles" because of that distinction. In fact, however, there are many self-propelled vehicles on the market today, such as battery powered self-propelled tractors, that are clearly intended only for children and are undoubtedly "toy vehicles." So the fact that motorized scooters are self-propelled is not especially telling and cannot be said to exclude them from the "play vehicle" category. We have encountered many police agencies that do consider motorized scooters to be "play vehicles" and issue citations to riders under the statutes applicable to play vehicles. Given the fact that most people riding

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these scooters are children, we concur with the opinion of the police agencies that consider that motorized scooters to be "toy vehicles."

B. Play Vehicles May Not Be Operated on a "Roadway."

If motorized scooters are play vehicles, a person riding a motorized scooter on a public road is subject to a citation under s. 346.78, Wis. Stats., which prohibits operation of play vehicles on roadways (the paved travel lanes of a highway):

346.78 Play vehicles not to be used on roadway. No person riding upon any play vehicle may attach the same or himself or herself to any vehicle upon a roadway or go upon any roadway except while crossing a roadway at a crosswalk. *[emphasis added]*

The parent or guardian of the child can be issued a citation for permitting the child to operate the vehicle in a roadway:

346.77 Responsibility of parent or guardian for violation of bicycle and play vehicle regulations. No parent or guardian of any child shall authorize or knowingly permit such child to violate any of the provisions of ss. 346.78 to 346.804 and 347.489.

VII. CAN A LOCAL MUNICIPALITY PERMIT OPERATION OF MOTORIZED SCOOTERS ON ROADS, SIDEWALKS OR BIKE PATHS?

A. Municipal Laws Must be Consistent With State Traffic Regulations.

In general, local authorities may not adopt ordinances that are inconsistent with state traffic laws. Section 349.03(1), Wis. Stats.⁵ Although the State of Wisconsin has preempted the field of traffic regulations, it nonetheless has chosen to share the field with local authorities. County of Walworth v. Rohner, 108 Wis.2d 713, 718, 324 N.W.2d 682,684 (1982); see City of Janesville v. Walker, 50 Wis.2d 35, 36-37, 183 N.W.2d 158, 159 (1971); Town of East Troy v. A-1 Service Co., Inc., 196 Wis.2d 120 ,537 N.W.2d 126 (Ct. App. 1995).

In Town of East Troy v. A-1 Service Co., Inc., 196 Wis.2d 120 ,537 N.W.2d 126 (Ct. App. 1995), the court of appeals summarized municipal authority to enact traffic regulations under this statute as follows:

In s. 349.06(1)(a), Wis. Stats., under a heading entitled "Express Regulatory Powers," the legislature affirmatively delegated to municipalities the power to enact and enforce traffic regulations which are "in strict conformity with one or more provisions of chs. 341 to 348 and 350 for which the penalty for violation thereof is a forfeiture." City of Janesville v. Walker, 50 Wis.2d 35, 36-37, 183 N.W.2d 158, 159 (1971) at 159-60. Additionally, under s. 349.03(1), Wis. Stats., a local authority may "enact or enforce any traffic regulation" that either under subsec. (a) "[i]s not contrary to or inconsistent with chs. 341 to 348 and 350" or under subsec. (b) "[i]s expressly authorized by ss. 349.06 to 349.25 or some other provision of the statutes."

In City of Janesville v. Garthwaite, 83 Wis.2d 866, 874-75, 266 N.W.2d 418, 423 (1978), our supreme court construed language in s. 349.03(1)(a), Wis. Stats., and held that where the local ordinance involves a matter which the legislature has not chosen to regulate, local authorities may enact ordinances that are not inconsistent with the traffic code. See also Steel v. Bach, 124 Wis.2d 250, 253, 369 N.W.2d 174, 175 (Ct. App. 1985). However, as we read the development of the case law in this area, in matters the legislature has chosen to regulate, the local ordinance must strictly comply with chs. 341

⁵ 349.03 Regulation by local authorities forbidden; exceptions.

(1) Chapters 341 to 348 and 350 shall be uniform in operation throughout the state. No local authority may enact or enforce any traffic regulation unless such regulation:

(a) Is not contrary to or inconsistent with chs. 341 to 348 and 350; or

(b) Is expressly authorized by ss. 349.06 to 349.25 or some other provision of the statutes.

to 348 and 350, Wis. Stats., and be expressly authorized by a statutory provision. See Garthwaite, 83 Wis.2d at 873-74, 266 N.W.2d at 422-23 (distinguishing Walker, 50 Wis.2d at 39-40, 183 N.W.2d at 160-61); City of Madison v. McManus, 44 Wis.2d 396, 401, 171 N.W.2d 426, 429(1969)); compare Walker, 50 Wis.2d at 37, 183 N.W.2d at 159-60, with ss. 349.03(1)(b) and 349.06(1), Wis. Stats.

Because the legislature regulates the use of motor vehicles in highways, under the logic of the Town of East Troy v. A-1 Service Co., Inc., Walker, and Garthwaite decisions, any local ordinance would have to be in strict conformity with state law on that issue. Therefore, a municipality may not adopt an ordinance that permits operation of motorized scooters in violation of the laws described above prohibiting unregistered or unlicensed operation of a motor vehicle on a highway, or any other provision of the traffic code.

B. Municipalities May Permit Operation of Vehicles on Sidewalks.

State law does permit local municipalities to permit operation of vehicles on sidewalks:

Section 346.94(1) Driving on sidewalk. The operator of a vehicle shall not drive upon any sidewalk area except at a permanent or temporarily established driveway unless permitted to do so by the local authorities.

This grant of authority does not permit municipalities to waive licensing and registration requirements applicable to operation of a motor vehicle within a highway, including upon sidewalks that are part of a highway. Such an ordinance would be inconsistent with ss. 343.05 and 341.04, Wis. Stats., and therefore impermissible under s. 349.03(1), Wis. Stats.

Thus, the scope of drivers and vehicle types municipalities may permit to operate on sidewalks is limited. Municipalities may not permit unlicensed drivers to operate motor vehicles on sidewalks within highways. Nor may municipalities permit unregistered motor vehicles to operate on sidewalks. Because all motorized scooters are unregistered motor vehicles, a municipality may not permit their operation on sidewalks that lie within highways. Municipalities may permit all types of unmotorized motor vehicles on sidewalks by ordinance, such as kiddie cars, coaster wagons, coasters, skateboards and bikes.

C. Municipalities May NOT Permit Operation of Motor Vehicles on Bicycle Ways.

Section 349.23, Wis. Stats., generally permits local authorities to establish bicycle ways and to designate what types of vehicles may operate on the bicycle way so long as the use is not inconsistent with bicycle safety. That authority is subject, however, to the general requirement that any municipal traffic ordinance not conflict with the traffic code. s. 349.03(1), Wis. Stats. In the case of bicycle ways, s. 346.94(12) explicitly prohibits motor vehicle operation. This prohibition extends to motorized scooters, which are motor vehicles:

346.94(12) Driving on bicycle lane or bicycle way. No operator of a motor vehicle may drive upon a bicycle lane or bicycle way except to enter a driveway, to merge into a bicycle lane before turning at an intersection, or to enter or leave a parking space located adjacent to the bicycle lane or bicycle way. Persons operating a motor vehicle upon a bicycle lane or bicycle way shall yield the right-of-way to all bicycles and electric personal assistive mobility devices within the bicycle lane or bicycle way.

VIII. WHERE CAN MOTORIZED SCOOTERS BE RIDDEN LEGALLY?

Motorized scooters, of course, can be operated with permission on private property, and on private roads and driveways:

340.01(46) "Private road or driveway" is every way or place in private ownership and used for vehicular travel only by the owner and those having express or implied permission from the owner and every road or driveway upon the grounds of public institutions other

than public schools, as defined in s. 115.01 (1), and institutions under the jurisdiction of the county board of supervisors.

In addition, motorized scooters may be operated on sidewalks that are neither bicycle ways nor highways within any municipality that has enacted an ordinance authorizing their use on sidewalks. They can, of course, be ridden in backyards, fields, and other off-road locations on private property.

Although roads on state university grounds (where motorized scooters are increasingly common) are considered private roads and driveways and are not technically "highways," under state law, the University of Wisconsin System has adopted the state statutes into their internal traffic code, so many of the restrictions discussed in this memo do apply to roads lying within state university grounds. Henkel v. Phillips, 82 Wis.2d 27 (1978). Section UWS 18.04, Wis. Admin Code.

IX. POCKET BIKES AND MINI-CHOPPERS

A "pocket bike" is a mini-motorcycle, usually about eighteen inches high, typically gas or electric powered, with a top speed ranging from thirty-five to forty-five miles per hour. Mini-choppers are pocket bikes that resemble choppers, or customized motorcycles. Pocket bikes are considered "motorcycles" under federal law and so must meet federal safety standards applicable to motorcycles if they are intended for use on highways. However, they do not meet those federal motor vehicle safety standards because, among other deficiencies, their small size puts the headlamp below the minimum 22" height. 49 CFR 571.108, table IV. Manufacturers cannot and do not certify that pocket bikes meet applicable federal safety standards. Therefore, pocket bikes cannot be registered under Wisconsin law and so cannot be operated lawfully on public roads in this state. All the prohibitions applicable to motorized scooters apply to these vehicles.



These are "pocket bikes," NOT "motorized scooters"

Moreover, under Wisconsin law, pocket bikes that can exceed 30 miles per hour fall into the statutory definition of "motorcycle" set forth in section 340.01(32), Wisconsin Statutes. Therefore, a person operating a pocket bike on a highway is also required to hold a motorcycle (Class M) license. A driver who possesses only a Class D, or regular, license (or who possesses no license) can be issued a citation for operating a motorcycle without a license. The penalty for riding a motorcycle without a Class M license is a forfeiture of about \$180, and results in the assessment of three demerit points.

Similarly, because a pocket bike is a "motorcycle" under state law, a person under age 18 is required to wear a helmet if operating or riding on a pocket bike on a highway. Section 347.485, Wisconsin Statutes.

X. WHAT IS A PARENT'S LIABILITY?

A juvenile aged 16 or over is treated as an adult for traffic offenses. For younger offenders, however, a court can require a parent or guardian to appear personally at court hearings involving a traffic citation issued to a child under 16. Sections 938.17(2) and 938.27(1), Wis. Stats. Parents and guardians can also

be required to pay forfeitures imposed for a child's traffic violations, including operating a motor vehicle with a driver's license or operating an unregistered motor vehicle, and for other post-adjudication services. Sections 938.275(1) and 938.45(1r), Wis. Stats. A parent or other adult who has sponsored a child aged 16-18 in obtaining driver's license can be held liable for any damages or injury caused by the child's negligent or willful misconduct operating a motor vehicle, including vehicles that cannot be registered or legally operated on a highway, such as motorized scooters and pocket bikes. Section 343.15, Wis. Stats.

Any person who lends a pocket bike to another must insure that the rider has required eyewear and, if the rider is under 18 years, a helmet. Section 347.485(3), Wis. Stats. As discussed above, parents can be issued citations for permitting their children to operate play vehicles on a roadway. Section 346.77, Wis. Stats. Finally regardless of responsibility for violations of the traffic laws committed by their children, parents should be especially concerned about potential civil liability for physical injuries resulting from crashes involving these vehicles. Whether accidents occur on or off a highway, the potential for injury and resulting litigation exist.

XI. PENDING LEGISLATION

There is currently legislation pending in the Wisconsin Legislature that would make low-speed electric bicycles legal for on-roadway use in Wisconsin. 2005 Assembly Bill 95. As discussed above, federal law will permit sales of these vehicles for on-highway use provided they meet the safety standards required for bicycles. Under the bill, a regular driver's license will be required to operate a low-speed electric bicycle. To date, no similar legislation is proposed for motorized scooters or pocket bikes.

XII. CONCLUSION

Motorized scooters, pocket bikes, and similar motorized vehicles are "motor vehicles" and are subject to driver licensing and vehicle registration requirements. Motorized scooters and pocket bikes do not meet federal safety standards and are designed for off-road use. State law accordingly largely restricts their use to private property and to "private roads and driveways." The University of Wisconsin System has prohibited their use on private roads and driveways under its jurisdiction. Local authorities can adopt ordinances permitting their operation on some sidewalks, but may not permit their operation on bicycle ways, their unregistered operation within a highway, or their operation by unlicensed drivers. Parents can be held responsible if their children violate any of the legal restrictions applicable to these vehicles.

Like ATV, snowmobile, golf cart, and a host of other off-highway vehicle owners, motorized scooter and pocket bike owners are best advised to operate these vehicles on private property and not on public roads.