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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

June 28, 2004

Captain Tim Foster
Spartanburg County Sheriff's Office
P. O. Box 771
Spartanburg, South Carolina 29304

Dear Captain Foster:

In a letter to this office you referenced the problem of children riding gasoline and electric powered scooters in your area. You have forwarded a proposed list of possible offenses to be cited for instances of children riding these types of powered scooters on the roadways.

I have reviewed your proposed list of offenses and am generally in agreement with your recommendations. Based upon my review, it does not appear that there are any statutes which cover the referenced scooters specifically. As a result, other statutory penalties must be construed as to their applicability to the situation. However, inasmuch as there is some arguable ambiguity as to a statute's applicability, until a court rules specifically on the issue, I cannot conclude that the issue is free from doubt.

You indicate that as to individuals sixteen years of age and up who drive a powered scooter on a roadway, you would issue the driver a warning and then, for subsequent incidents with the same driver, a citation would be issued. You indicated that you would first issue a warning pursuant to S.C. Code Ann. Section 56-1-440 (Supp. 2003) if that individual does not have a driver's license. Generally, pursuant to S.C. Code Ann. Section 56-1-20 (1991), no individual, unless otherwise exempted, shall drive a motor vehicle on a roadway in this State unless properly licensed. Section 56-1-440 provides that "a person who drives a motor vehicle on a public highway of this State without a license in violation of Section 56-1-20 is guilty of a misdemeanor...." The term "motor vehicle" for purposes of such statutes is defined by S.C. Code Ann. Section 56-1-10 (Supp. 2003) as "...every vehicle which is self-propelled, except 'moped' as defined in Article 9 of this chapter, and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails." Such definition would appear to include a gasoline or electric powered scooter. Therefore, Section 56-1-440 would appear to be applicable to the situation where an individual, required to be licensed, has no driver's license and drives a powered scooter on a highway.

You next indicated that you would issue a warning pursuant to S.C. Code Ann. Section 56-3-110 (1991) if the powered scooter had no license. Pursuant to such provision,

Every motor vehicle...driven, operated or moved upon a highway in this State shall be registered and licensed in accordance with the provisions of this chapter. It shall be a misdemeanor for any person to drive, operate or move upon a highway or for the owner knowingly to permit to be driven, operated or moved upon a highway any such vehicle which is not registered and licensed and the required fee paid as provided for in this chapter.

For purposes of such provision, the term "motor vehicle" is defined by S.C. Code Ann. Section 56-3-20 (Supp. 2003) as "every vehicle which is self-propelled, except mopeds, and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails." Again, such definition would appear to include a powered scooter and, therefore, the provisions of Section 56-3-110 would appear to be applicable. While it is my understanding that the Department of Public Safety does not presently register and license powered scooters, nevertheless the requirement of Section 56-3-110 for registration and licensing in order for a motor vehicle, which would include a powered scooter, to be operated on the highway would apparently remain.

You also indicated the consideration could be given to a charge if the vehicle was not insured. Pursuant to S.C. Code Ann. Section 56-10-10 (Supp. 2003), "every owner of a motor vehicle required to be registered in this State" shall maintain insurance. Again, such provision would appear to be applicable to a powered scooter inasmuch as it is within the definition of a "motor vehicle". Again, there is the issue of the Department of Public Safety not presently registering and licensing these types of scooters, but this apparently does not detract from the statutory requirement of requiring insurance for motor vehicles required to be registered.

As to individuals under sixteen years of age driving a powered scooter on a roadway, you indicated that you propose to issue a warning pursuant to S.C. Code Ann. Section 56-1-480 (1991) to the vehicle owner or parent for allowing the operation of the scooter. Such statute provides

No person shall authorize or knowingly permit a motor vehicle owned by him or under his control to be driven upon any highway by any person who is not authorized to do so by this article or in violation of the provisions of this article.

You also indicated that you would issue a warning to the vehicle owner or parent pursuant to S.C. Code Ann. Section 56-1-490 for allowing a minor to drive a powered scooter in such circumstances. Such provision states:

No person shall cause or knowingly permit his minor child or ward to drive a motor vehicle upon any highway when such minor child or ward is not authorized under this article or in violation of any of the provisions of this article.

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Again, a powered scooter would apparently be included within the definition of "motor vehicle" as defined by Section 56-1-10 for purposes of such provisions. As a result, I agree that such provisions could arguably be cited for such violations.

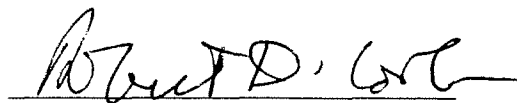
Consistent with my opening comments, this is an area that would best be served by legislative amendment specifically addressing powered scooters. However, pending such amendment, the statutes referenced above could be arguably be used to address the problems of gasoline or electric powered scooters being operated on highways in this State.

Sincerely,



Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Assistant Deputy Attorney General