

1975 WL 29706 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 14, 1975

**\*1 In Re: Bicycles with Helper Motors**

Honorable P. F. Thompson  
Commanding Officer  
State Highway Patrol  
P. O. Box 191  
Columbia, South Carolina

Dear Colonel Thompson:

You have inquired as to whether or not prosecution for DUI and DUS should be made against the operator of a bicycle equipped with helper motor which was being operated at the time of the alleged violation at a speed of 38 miles per hour.

Act No. 984 of 1974 states that the term 'bicycle' as defined in Sections 46-139 and 46-215 of the 1962 Code, as amended, 'shall include pedal bicycles with helper motors rated less than one brake horsepower which produce only ordinary pedaling speeds up to a maximum of twenty miles per hour.' Whether or not a particular bicycle with helper motor produces only ordinary pedaling speeds up to a maximum of twenty miles per hour is a question of fact to be decided by a judge or jury in light of all the facts and circumstances adduced as evidence in the case. For example, a judge or jury is not limited in such determination by the brochures and other information put out by the manufacturer. Such things may be considered. The fact that a particular bicycle was traveling at a rate of speed greater than twenty miles per hour at the time of an alleged violation may be the basis of a finding by a jury or a judge that the particular bicycle with helper motor involved is not limited to speeds under twenty miles per hour. If the jury or judge trying the case makes such a determination, the particular bicycle involved in the case would then be a motor vehicle and a defendant driving it while under the influence of intoxicating liquor or without a driver license would be subject to prosecution.

Very truly yours,

Joseph C. Coleman  
Deputy Attorney General

1975 WL 29706 (S.C.A.G.)

---

End of Document

© 2018 Thomson Reuters. No claim to original U.S. Government Works.