



# The Florida Senate

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Committee on Transportation

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## FLORIDA DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLE DEFINITIONS

### SUMMARY

A review of the key definitions within Florida's highway safety laws shows those definitions differ from chapter to chapter and, in some instances, have caused confusion and have required the courts and the Attorney General to opine on legislative intent. In addition, the key definitions were enacted prior to the recent development and marketing of certain vehicles. Therefore, legislative review is recommended in order to determine whether interpretations by the courts and the Attorney General are consistent with legislative intent; to determine highway safety policy on recently developed and emerging vehicles; and in order to decide whether uniform definitions of "vehicle" and "motor vehicle" would be appropriate.

### BACKGROUND

This report examines the laws and key definitions regarding highway safety and provides an overview of the responsibilities of the Department of Highway Safety and Motor Vehicles (DHSMV) in implementing the highway safety laws.

#### A. Overview of the Department of Highway Safety and Motor Vehicles

The Department's mission is to make highways safe through service, education and enforcement. The department has a budget of \$357 million and is authorized to employ 4,809 FTEs. This fiscal year, DHSMV will collect an estimated \$1.3 billion in revenue through its licensing and regulatory responsibilities. The Department is organized into five major units: the Florida Highway Patrol, the Division of Driver Licenses, the Division of Motor Vehicles, the Division of Administrative Services, and Information Systems Administration.

#### *Florida Highway Patrol-*

Through enforcement of laws and public education, the Florida Highway Patrol (FHP) works to reduce the number of deaths and injuries on Florida's roadways. The patrol is divided into the following six operational units:

- Traffic Enforcement enforces traffic laws and apprehends drivers who violate laws by engaging in illegal activities while on the highway;
- Traffic Homicide Investigations conducts investigations of fatal car crashes and provides evidence for the prosecution of offenders;
- Safety Education promotes driver safety and education through safety presentations, media contacts, and news releases;
- The FHP Academy provides law enforcement training to FHP recruits and in-service training to members of the patrol;
- Investigations conducts criminal investigations targeting auto theft rings, driver license odometer, and title fraud cases; and
- Administration provides support to the director in the oversight of the various patrol activities relating to accreditation, inspections, and special operations.

#### *Driver Licenses-*

The Division of Driver Licenses promotes safety on the highways by licensing qualified drivers, controlling and improving problem drivers, ensuring drivers are financially responsible for their actions, and maintaining records for driver evaluation. The division

provides services to the driving public through a network of field offices (including selected county tax collector offices) located throughout the state. The division's bureaus are organized into three functional areas: licensing services, educational services, and financial responsibility.

Licensing services include the following major activities:

- Issuing driver licenses, including the administration of knowledge (written) and skills (road) tests, and identification cards;
- Administering the Commercial Driver License, Organ Donor, and Motor Voter programs;
- Identifying and controlling problem drivers by revoking, canceling, or suspending driving privileges;
- Assisting customers by resolving questions pertaining to driver licenses, financial responsibility, suspensions and reinstatements; and
- Maintaining driver records and conducting administrative hearings involving hardship license reinstatements, suspension, medical competency, and financial responsibility.

The Bureau of Driver Education and DUI Programs is responsible for educational services which include monitoring driver improvement courses and commercial driving schools, training and licensing instructors, and monitoring motorcycle safety programs and instructors.

The Bureau of Financial Responsibility is responsible for ensuring drivers acquire and maintain adequate motor vehicle insurance and for identifying uninsured motorists.

#### *Motor Vehicles-*

The Division of Motor Vehicles protects Florida consumers through motor vehicle and vessel titling and registration services. The division also regulates motor vehicle and mobile home manufacturers and dealers. Most motor vehicle registration and title transactions are initiated through county tax collectors who serve as agents for DHSMV. The division's four bureaus are responsible for the following activities:

- The Bureau of Titling and Registration issues and cancels motor vehicle and vessel titles, records liens,

and maintains records of vehicle and vessel title transactions. In addition, this bureau issues, renews, transfers, and maintains inventory for license plates and registration decals;

- The Bureau of Field Operations enforces licensing regulations governing motor vehicle, mobile home, and recreational vehicle dealers. In addition, this bureau enforces titling, registration, and insurance laws;
- The Bureau of Mobile Home and Recreational Vehicle Construction is responsible for ensuring all mobile/manufactured homes sold in Florida meet federal and state construction standards; and
- The Bureau of Motor Carrier Services registers and audits Florida-based commercial motor carriers in connection with international agreements governing registration and fuel use taxes.

#### *Administrative Services-*

The Division of Administrative Services provides support services to each of the other divisions such as personnel administration, budgeting, purchasing, training, and accounting.

#### *Information Systems Administration-*

Information Systems Administration provides a wide range of data processing services through the Kirkman Data Center. This unit is responsible for all electronic records pertaining to driver licenses and motor vehicles.

### **B. Current Highway Safety Law**

Title XXIII, F.S. is entitled "Highway Safety" and includes chs. 316-325, F.S. These chapters set forth the laws relating to "State Uniform Traffic Control," "Off-Highway Vehicle Titling," "Disposition of Traffic Infractions," "Title Certificates," "Motor Vehicle Licenses," "Highway Patrol," "Drivers' Licenses," "Wrecker Operators," "Financial Responsibility," and "Motor Vehicle Refrigerants and Emissions" respectively.

#### Chapter 316, F.S., State Uniform Traffic Control-

Chapter 316, F.S., is known as the Florida Uniform Traffic Control Law. The purpose of this chapter is to make traffic laws uniform throughout the state to the maximum extent possible. The provisions of this chapter apply to the operation of vehicles and the

movement of pedestrians upon all state maintained highways, county maintained highways, municipal streets and alleys and wherever vehicles have the right to travel. See s. 316.072 (1), F.S. The key definitions used in this chapter are the definitions of “vehicle” and “motor vehicle.”

Section 316.003 (75), F.S., defines vehicle as: “every device, in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.” Electric personal assistive mobility devices are not vehicles for purposes of s. 316.003, F.S. See 316.003(83), F.S.

Section 316.003(21), F.S., defines motor vehicle as: “any self-propelled vehicle not operated upon rails or guideway, but not including any bicycle, motorized scooter, electric personal assistive mobility device, or moped.”

Because the definition of motor vehicle excludes any “bicycle,” “motorized scooter,” “electric personal assistive mobility device,” and “moped,” the definitions of these vehicles must also be understood.

Section 316.003(2), F.S., defines bicycle as “every vehicle propelled solely by human power, and every 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. The term does not include such a vehicle with a seat height of no more than 25 inches from the ground when the seat is adjusted to its highest position or a scooter or similar device. No person under the age of 16 may operate or ride upon a motorized bicycle.”

Section 316.003(82), F.S., defines motorized scooter as “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.”

Section 316.003(83), F.S., defines electric personal assistive mobility device as “any self-balancing, two-nontandem-wheeled device, designed to transport only one person, with an electric propulsion system with average power of 750 watts (1 horsepower), the maximum speed of which, on a paved level surface when powered solely by such a propulsion system

while being ridden by an operator who weighs 170 pounds, is less than 20 miles per hour. Electric personal assistive mobility devices are not vehicles as defined in this section.”

Section 316.003(77), F.S., defines 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.”

#### Chapter 317, F.S., Off-Highway Vehicle Titling-

Chapter 317, F.S., is known as the Florida Off-Highway Vehicle Titling Act. The purpose of this chapter is to require all off-highway vehicles operated on public lands and all off-highway vehicles purchased after July 1, 2002, to be titled and issued a certificate of title in order to allow for easy determination of ownership. Chapter 317, F.S., does not define “vehicle” or “motor vehicle.” The key definition used in this chapter is the definition of “off-highway vehicle.”

Section 317.0003(6), F.S., defines off-highway vehicle as: “any ATV or OHM that is used off the roads or highways of this state for recreational purposes and that is not registered and licensed for highway use pursuant to chapter 320.”

An ATV is defined as: “any motorized off-highway or all terrain vehicle 50 inches or less in width, having a dry weight of 900 pounds or less, designed to travel on three or more low-pressure tires, having a seat designed to be straddled by the operator and handle-bars for steering control, and intended for use by a single operator and with no passenger.” See s. 317.0003(1), F.S.

An OHM or off-highway motorcycle means: “any motor vehicle used off the roads or highways of this state that has a seat or saddle for the use of the rider and is designed to travel with not more than two wheels in contact with the ground, but excludes a tractor, or a moped.” See s. 317.0003(5), F.S.

#### Chapter 318, F.S., Disposition of Traffic Infractions-

Chapter 318, F.S., is known as the Florida Uniform Disposition of Traffic Infractions Act. The purpose of this chapter is to decriminalize certain violations of the highway safety laws and to facilitate a more uniform and expeditious system for the disposition of traffic infractions. The key definition used in this chapter is the definition of “infraction” which means: “a noncriminal violation that may require community service hours under s. 316.027(4), but is not punishable by incarceration and for which there is no right to a trial by jury or a right to court-appointed counsel.” See s. 318.13(3), F.S.

#### *Chapter 319, F.S., Title Certificates-*

The purpose of ch. 319, F.S., is to set forth the circumstances and conditions for the issuance of certificates of title by DHSMV. The provisions of this chapter apply to motor vehicles and mobile homes required to be licensed under ch. 320, F.S., but do not apply to any moped or to any trailer or semitrailer having a net weight of less than 2000 pounds. See s. 319.20, F.S. This chapter does not define “vehicle” or “motor vehicle.” The key definitions used in this chapter are the definitions of “new motor vehicle” and “used motor vehicle.”

Section 319.001(8), F.S., defines new motor vehicle as: “a motor vehicle the equitable or legal title to which has never been transferred by a manufacturer, distributor, importer, or dealer to an ultimate purchaser.” Section 319.001(11), F.S. defines used motor vehicle as “any motor vehicle that is not a “new motor vehicle” as defined in subsection (8).”

#### *Chapter 320, F.S., Motor Vehicle Licenses-*

The purpose of ch. 320, F.S., is to set forth the circumstances and conditions for the issuance of motor vehicle licenses (tags) by DHSMV. Section 320.08, F.S., levies and imposes annual license taxes for the operation of motor vehicles, mopeds, motorized bicycles and mobile homes. The key definitions used in this chapter are the definitions of “mobile home” (the definition is not discussed in this report), “motor vehicle,” “moped” and “bicycle” (same definition as s. 316.003(2), F.S.).

Section 320.01(1) defines motor vehicle as: “(a) an automobile, motorcycle, truck, trailer, semitrailer, truck tractor and semitrailer combination, or any other vehicle operated on the roads of this state, used to transport persons or property, and propelled by power

other than muscular power, but the term does not include traction engines, road rollers, such vehicles as run only upon a track, bicycles, or mopeds; and (b) a recreational vehicle-type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle.”

Section 320.01(27), F.S., defines motorcycle to mean: “any motor vehicle 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, but excluding a tractor or a moped.”

Section 320.01 (9) and (10), F.S., defines truck as “any motor vehicle with a net vehicle weight of 5,000 pounds or less and which is designed or used principally for the carriage of goods and includes a motor vehicle to which has been added a cabinet box, a platform, a rack, or other equipment for the purpose of carrying goods other than the personal effects of the passengers” and defines heavy truck as “any motor vehicle with a net vehicle weight of more than 5,000 pounds, which is registered on the basis of gross vehicle weight in accordance with s. 320.08(4) and which is designed or used for the carriage of goods or designed or equipped with a connecting device for the purpose of drawing a trailer that is attached or coupled thereto by means of such connecting device and includes any such motor vehicle to which has been added a cabinet box, a platform, a rack, or other equipment for the purpose of carrying goods other than the personal effects of the passengers.”

Section 320.01 (4) and (5), F.S., defines trailer as “any vehicle without motive power designed to be coupled to or drawn by a motor vehicle and constructed so that no part of its weight or that of its load rests upon the towing vehicle” and defines semitrailer to mean “any vehicle without motive power designed to be coupled to or drawn by a motor vehicle and constructed so that some part of its weight and that of its load rests upon or is carried by another vehicle.”

Section 320.01(11), F.S., defines truck tractor as: “a motor vehicle which has four or more wheels and is designed and equipped with a fifth wheel for the primary purpose of drawing a semitrailer that is attached or coupled thereto by means of such fifth wheel and which has no provision for carrying loads independently.”

Moped is defined to mean “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.” See 320.01(28), F.S.

In regulating motor vehicle dealers, the term motor vehicle means: “any motor vehicle of the type and kind required to be registered and titled under chapter 319 and this chapter, except a recreational vehicle, moped, motorcycle powered by a motor with a displacement of 50 cubic centimeters or less, or mobile home.” See s. 320.27(1) (b), F.S.

In regulating motor vehicle franchise agreements, the term motor vehicle means: “any new automobile, motorcycle, or truck, including all trucks, regardless of weight, including “heavy truck” as defined in s. 320.01(10) and “truck” as defined in s. 320.01(9) the equitable or legal title to which has never been transferred by a manufacturer, distributor, importer, or dealer to an ultimate purchaser; however, when legal title is not transferred but possession of a motor vehicle is transferred pursuant to a conditional sales contract or lease and the conditions are not satisfied and the vehicle is returned to the motor vehicle dealer, the motor vehicle may be resold by the motor vehicle dealer as a new motor vehicle, provided the selling motor vehicle dealer gives the following written notice to the purchaser: “THIS VEHICLE WAS DELIVERED TO A PREVIOUS PURCHASER.” The purchaser shall sign an acknowledgment, a copy of which is kept in the selling dealer's file.” See s. 320.60(10), F.S.

#### *Chapter 321, F.S., Highway Patrol-*

The purpose of ch. 321, F.S., is to set forth the powers, duties and functions of the Division of Highway Patrol within DHSMV. This chapter contains no definitions.

#### *Chapter 322, F.S., Drivers' Licenses-*

The purpose of ch. 322, F.S., is to set forth the circumstances and conditions for the issuance of drivers' licenses and identification cards in Florida. A person may not drive any motor vehicle upon a highway in this state unless such person has a valid driver's license. See s. 322.03(1), F.S. The key

definition used in this chapter is the definition of “motor vehicle.”

Section 322.01(26), F.S., defines 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.”

Section 322.01(42), F.S., defines vehicle to mean “every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway or operated upon rails or guideway, except a bicycle, motorized wheelchair, or motorized bicycle.”

A motor vehicle combination means a motor vehicle operated in conjunction with one or more other vehicles. See 322.01(27), F.S.

#### *Chapter 323, F.S., Wrecker Operators-*

The purpose of ch. 323, F.S., is to provide uniform regulations for wrecker operator systems. A wrecker operator system means “a system for the towing or removal of wrecked, disabled, or abandoned vehicles, similar to the Florida Highway Patrol wrecker operator system described in s. 321.051(2), F.S., under which a county or municipality contracts with one or more wrecker operators for the towing for removal of wrecked, disabled, or abandoned vehicles from accident scenes, streets, or highways. A wrecker operator system shall include using a method for apportioning the towing assignments among the eligible wrecker operators through the creation of geographic zones, a rotation schedule, or a combination of these methods.” See s. 323.002(1) (c), F.S.

#### *Chapter 324, F.S., Financial Responsibility-*

The purpose of ch. 324, F.S., is to promote safety and to provide financial security requirements for owners or operators of motor vehicles whose responsibility it is to recompense others for injury to person or property caused by the operation of a motor vehicle.

Section 324.021(1), F.S., defines motor vehicles as: “every self-propelled vehicle which is designed and required to be licensed for use upon a highway, including trailers and semitrailers designed for use with such vehicles, except traction engines, road rollers, farm tractors, power shovels, and well drillers, and every vehicle which is propelled by electric power

obtained from overhead wires but not operated upon rails, but not including any bicycle or moped. However, the term “motor vehicle” shall not include any motor vehicle as defined in s. 627.732(3) when the owner of such vehicle has complied with the requirements of ss. 627.730-627.7405, inclusive, unless the provisions of s. 324.051 apply; and, in such case, the applicable proof of insurance provisions of s. 320.02 apply.

Section 627.732(3), F.S., defines motor vehicle as: “any self-propelled vehicle with four or more wheels which is of a type both designed and required to be licensed for use on the highways of this state and any trailer or semitrailer designed for use with such vehicle and includes: (a) A “private passenger motor vehicle”, which is any motor vehicle which is a sedan, station wagon, or jeep-type vehicle and, if not used primarily for occupational, professional, or business purposes, a motor vehicle of the pickup, panel, van, camper, or motor home type. (b) A “commercial motor vehicle,” which is any motor vehicle which is not a private passenger motor vehicle. The term “motor vehicle” does not include a mobile home or any motor vehicle which is used in mass transit, other than public school transportation, and designed to transport more than five passengers exclusive of the operator of the motor vehicle and which is owned by a municipality, a transit authority, or a political subdivision of the state.”

#### *Chapter 325, F.S., Motor Vehicle Refrigerants and Emissions-*

The purpose of ch. 325, F.S., is to direct Florida to take appropriate steps toward reducing the emissions of chlorofluorocarbons and halons, to promote the use of alternative chemicals where technologically feasible, to advance the recovery and recycling of chlorofluorocarbons and halons wherever possible, eliminate the nonessential use of chlorofluorocarbons and halons, and to encourage the development of substitutes which are more environmentally sound and which do not contribute to the depletion of the stratospheric ozone layer.

In ch. 325, F.S., motor vehicle means: “any vehicle which is self-propelled and any vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.” See 403.415(2)(d), F.S. Vehicle means “any device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.” See 403.415(2) (h), F.S.

## METHODOLOGY

Committee staff reviewed existing highway safety law, conducted an extensive literature review of vehicles currently available and emerging in the near future, and interviewed state agency managers and private sector stakeholders.

## FINDINGS

Because of the unique subject matter in chs. 318, 321, 323 324 and 325, F.S., the definitions do not appear to create conflicts which need addressing. By reading the definitions of chs. 316, 317, 319, 320 and 322, F.S., one may quickly understand the definitions of “vehicle” and “motor vehicle” are not all encompassing and vary from chapter to chapter. In some instances this has caused confusion in implementing the laws. The following are some of the variances:

- Devices used exclusively upon stationary rails or tracks are excluded from the definition of vehicle in ch. 316, F.S., but are included in the definition of vehicle in ch. 322, F.S.
- Electronic personal assistive mobility devices are not vehicles in ch. 316, F.S., but are vehicles in ch. 322, F.S.
- Bicycles, motorized wheelchairs, and motorized bicycles are not vehicles in ch. 322, F.S., but are considered vehicles in ch. 316, F.S.
- Motorized scooters are not motor vehicles in ch. 316, F.S., but may be considered as motor vehicles in chs. 320 and 322, F.S.
- Motorized wheelchairs are not motor vehicles in ch. 322, F.S., but are not mentioned in chs. 316 and 320, F.S.

Some of these definitional variances have caused confusion.

### A. Definitional Confusion Amongst Chapters

#### *Motor Scooter/Go-Ped-*

In State of Florida v. Corrie Riley, 698 So.2d 374 (Fla. 2<sup>nd</sup> DCA 1995), Mr. Corrie Riley was issued a traffic citation for driving a motor vehicle while his driver’s license was suspended or revoked. At the time the

citation was issued, Mr. Riley was riding a go-ped which can be described as a two-wheel scooter with a gasoline-powered engine. The go-ped is designed to be operated by a person in the standing position, with the brake and throttle levers located on the upright handlebars. The go-ped has no seat and no pedals, its maximum speed generally does not exceed 30 miles per hour and the internal combustion engine displacement is approximately 22.5 cubic centimeters. In challenging the citation, Mr. Riley argued a go-ped is not a motor vehicle and, therefore, he did not need a driver's license. The Second District Court of Appeals held a go-ped is a motor vehicle and, therefore, a valid driver's license is required for its operation. *Id.* at 376

Section 67 of Chapter 2002-20, Laws of Florida, amended the definition of motor vehicle in ch. 316, F.S., to exclude motorized scooters. In AGO 2002-47, the Attorney General opined motorized scooters are excluded from the definition of motor vehicle for purposes of ch. 316, F.S., and, therefore are not subject to the equipment and safe driving requirements of a motor vehicle contained in ch. 316, F.S. The Attorney General noted, however, the definition of motor vehicle contained in s. 322.01(26), F.S., does not exclude motorized scooters from the requirements of a driver's license and suggests the Legislature may wish to readdress the motorized scooter issues in order to clarify its intent regarding the operation of motorized scooters in Florida.

In AGO 2003-44, the Attorney General opined the operator of a motorized scooter is required to have a driver's license and the motorized scooter is a motor vehicle for purposes of ch. 320, F.S., which requires registration of motor vehicles. Chapter 320, F.S., has no classification for motorized scooters; therefore, DHSMV has indicated motorized scooters may not be registered and may not be operated on public streets and roads. In AGO 2003-44, the Attorney General also opined motorized scooters are considered vehicles by ch. 316, F.S., and therefore are prohibited from operating on sidewalks. The Attorney General suggests the Legislature reexamine this area of the law. *Id.*

#### *Moped-*

A moped is generally described as a vehicle designed to travel on no more than three wheels with a seat for the rider, pedals to permit propulsion by human power, and a motor which allows the rider to travel up to 30 miles per hour. See ss. 316.003(77) and 320.01(28), F.S. Mopeds are excluded from the definition of motor vehicle in chs. 316 and 320, F.S. See ss. 316.003(21)

and 320.01(1), F.S. Mopeds are not specifically exempted from the definition of motor vehicles in ch. 322, F.S. In *Soto v. State*, 711 So.2d 1275 (Fla. 4<sup>th</sup> DCA 1998), a driver whose license had previously been suspended was given a ticket for driving a moped while the license was suspended. The driver alleged a driver's license was not required to operate a moped. The court held driving a moped requires a driver's license. *Id.* at 1277

#### *Motorized Disability Access Vehicle-*

A similar opinion to the aforementioned Attorney General's opinions may be applied to motorized disability access vehicles. Section 320.08035, F.S., allows the owner or lessee of a motorized disability access vehicle who meets qualifications for a person who has a disability and who applies for and pays the appropriate license tax and fees to be issued a license plate for the motorized disability access vehicle. In addition, s. 316.2124, F.S., states DHSMV is directed to provide, by rule, for the regulation of motorized disability access vehicles, requires these vehicles to be registered in the same manner as motorcycles, and requires these vehicles to be subject to the same safety requirements as motorcycles. However, a motorized disability access vehicle is not specifically referred to in ch. 322, F.S., but one may determine a motorized disability access vehicle is a motor vehicle for purposes of ch. 322, F.S., and, therefore, require the operator to have a driver's license.

#### *Motorized Skate Boards, Go-carts and other small gas or electric engine vehicles-*

A motorized skate board usually has a gas powered engine which may carry up to 300 pounds traveling at a maximum speed of 35 miles per hour (depending on rider weight and road condition) with a hand brake and with a range of approximately 14 miles. A go-cart is a 4-wheeled vehicle with up to two seats and with band or disc brakes, is usually gas powered and travels up to 32 miles per hour. A skate assistant is usually an electric powered vehicle which boosts the speed (up to 15 miles per hour) of inline skates. None of these vehicles are specifically mentioned in the statutes; therefore, each of these vehicles may be determined to be motor vehicles in chs. 316, 320 and 322, F.S. Thus, these vehicles may be required to operate solely on public highways by a licensed driver and to be titled and registered.

### **B. Recently Developed or Emerging Vehicles**

Vehicles are constantly being developed and marketed. The following is a discussion of some of those newly or recently developed and marketed vehicles which do not fit squarely within the statutory definitions.

#### *Two rider All Terrain Vehicle-*

Section 316.2074, F.S., sets forth the regulation of an ATV (one operator and no passengers) and generally prohibits the operation of an ATV on the public streets, roads and highways except in certain circumstances. As previously mentioned, ch. 317, F.S., requires the titling of ATVs (one operator and no passengers).

In 2002, the 2-seater ATV was introduced to the ATV market. These 4-wheeled ATVs have an extended wheelbase, a step-up driver/passenger seat, raised footboards and passenger hand-holds. Because the current definition of ATV allows for an operator and no passengers, the 2-seater ATV is not eligible for titling under the Florida Off-Highway Vehicle Titling Act, but may be considered a motor vehicle (thus being allowed to be operated on public highways, requiring registration and requiring a driver's license to operate) in chs. 316, 320 and 322, F.S. See Hinson v. State of Florida, 710 So.2d 678 (Fla. 1<sup>st</sup> DCA 1998).

As an additional note, ch. 317, F.S., differs significantly from the titling provisions established for motor vehicles, motor homes and vessels. Specifically, with regard to the handling of liens, transfers of ownership, and penalties for fraud this chapter is silent in most instances. The public may, therefore, be confused because of the lack of statutory and administrative uniformity between titling of off-highway vehicles and the titling of motor vehicles, motor homes and vessels

#### *Hydrocycle-*

The hydrocycle is a prototype fuel cell-powered bicycle. Riders have the option of using their own power to get around or switching to a small motor powered by fuel-cell technology. Fuel cells use only hydrogen and oxygen to create electricity. Water vapor is the only byproduct of the process, making the hydrocycle pollution-free. The top speed of a hydrocycle is 20 miles per hour with a range of up to 70 miles along a flat surface. Because the current definition of a motorized bicycle means a vehicle 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 (s. 316.003

(2), F.S.), the hydrocycle may be considered a motor vehicle for purposes of chs. 316, 320 and 322, F.S. (thus, requiring to be operated on public highways by a licensed driver and require titling and registration).

#### *A Scooter which is Motorized and has a Seat-*

At the time the motorized scooter was developed, another scooter was developed which is identical to the motorized scooter except it has a seat. Because this scooter has a seat, it is considered a motor vehicle in chs. 316, 320 and 322, F.S. (thus, requiring to be operated on public highways by a licensed driver and require titling and registration).

### **RECOMMENDATIONS**

Legislative review is recommended in order to determine whether interpretations by the courts and the Attorney General are consistent with legislative intent.

Legislative review is recommended in order to determine highway safety policy on recently developed and emerging vehicles.

Legislative review is recommended in order to decide whether uniform definitions of "vehicle" and "motor vehicle" would be appropriate in chs. 316, 317, 319, 320 and 322, F.S.

Legislative review is recommended in order to determine whether titling provisions of ATVs and OHMs should be expanded to provide uniformity with titling of motor vehicles, motor homes and vessels.