



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

January 3, 2023

Robert W. Wilkinson, Esq.
Attorney, City of Ocean Springs
Post Office Box 1618
Pascagoula, Mississippi 39568-1618

Re: Motor-Assisted Stand-Up Scooters

Dear Mr. Wilkinson:

The Office of the Attorney General has received your request for an official opinion.

Background

Your request asks about the operation of a motor-assisted stand-up scooter. The scooter has a flat base area where the rider places his feet. The front of the flat base has a vertical handle that extends to near waist-height, and at the top are located a throttle and brake controls. The base of the scooter has a wheel on the front end and another wheel on the back end, and a motor is attached for propulsion. The scooter does not have a seat.

Questions Presented

1. May a motor-assisted stand-up scooter be operated on a public road?
2. May a motor-assisted stand-up scooter be operated on a public sidewalk?

Brief Response

While we find no general law authorizing the operation of motor-assisted stand-up scooters on public roads or public sidewalks, if the governing authorities of Ocean Springs determine that such scooter qualifies as an electric personal assistive mobility device, then Mississippi Code Annotated Section 63-3-208 mandates where they may be operated.

Applicable Law and Discussion

Currently, there are no general statutes governing the operation of a motor-assisted stand-up scooter on public roads and sidewalks. While Senate Bill 2921 authorized the city of Vicksburg to

enact local ordinances allowing the use of motor-assisted scooters on certain public roads, sidewalks, and bicycle paths under certain conditions, the law was created by local and private legislation and by its language applies only to Vicksburg. S.B. 2921 Reg. Sess. (Miss. 2020).

The general statutes do, however, address the operation of two other motor-assisted devices: electric bicycles and electric personal assistive mobility devices. An electric bicycle is defined as a bicycle “equipped with fully operable pedals, a saddle or seat for the rider, and an electric motor of less than seven hundred fifty (750) watts” that falls within one of three classes. Miss. Code Ann. § 63-3-103(l). An electric assistive mobility device is defined as “a self-balancing two-tandem wheeled device, designed to transport only one (1) person, with an electric propulsion system that limits the maximum speed of the device to fifteen (15) miles per hour.” Miss. Code Ann. § 63-3-103(h). Electric personal assistive mobility devices and electric bicycles are both excluded from the definition of “motor vehicle” found in Section 63-3-103.

Whether the motor-assisted stand-up scooter that you describe falls within the definition of an electric personal assistive mobility device is a question of fact to be determined by the governing authorities of Ocean Springs. In addition to being a “two-tandem wheeled device,” in order to be classified as an electric personal assistive mobility device under Section 63-3-103(h), the motor scooter you describe must also be self-balancing with an electric propulsion system that goes no faster than fifteen miles per hour. *See MS AG Op., Hedglin* at *1 (Mar. 5, 2004) (opining that in order to meet the definition of an electric personal assistive mobility device, “a device must be able to stand on its own without the aid of a [kick] stand or other similar mechanic prop. . . .”) If the governing authorities of Ocean Springs determine that the motor-assisted stand-up scooter about which you ask meets the qualifications of an electric personal assistive mobility device, then such devices may be operated:

- (a) On a marked bicycle path;
- (b) On any street or road where bicycles are permitted; or
- (c) On a sidewalk, if the person operating the device yields the right-of-way to pedestrians and gives an audible signal before overtaking and passing a pedestrian.

Miss. Code Ann. § 63-3-208.

It is significant to note that the recently-enacted local and private legislation for Vicksburg uses the language from Section 63-3-208 in authorizing the city to enact ordinances related to the operation of motor-assisted stand-up scooters.

In conclusion, if the governing authorities of Ocean Springs determine that the motor-assisted stand-up scooters in question are in fact electric personal assistive mobility devices, then Section 63-3-208 controls where they may be operated. On the other hand, if such scooters cannot be classified as electric personal assistive mobility devices, there is no current general law specifically applicable to motor-assisted stand-up scooters, and like Vicksburg, Ocean Springs would need to pursue local and private legislation in order to enact ordinances regulating the operation of motor-assisted stand-up scooters.

Robert W. Wilkinson, Esq.

January 3, 2023

Page 3

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Misty Monroe*

Misty Monroe
Assistant Attorney General

OFFICIAL OPINION