

MOTORCYCLES, SCOOTERS, and MOPEDS EXCERPTS from KENTUCKY LAW

SUMMARY

There is a commonly held, but erroneous, belief by many that a "scooter" is exempt from registration and insurance laws, and that scooter operators are exempt from licensing laws. The following review of the applicable statutes and regulations provides an unambiguous guide in that regard. It does not provide legal advice, but is simply an "index" to the existing statutes which are available on-line for the reader's reference and verification.

Briefly,

1. **Scooter** is not defined in the Kentucky statutes with regard to licensing.
2. **Moped** is very specifically defined in the statutes and while **mopeds are exempt from registration and insurance requirements**, **moped operators are not exempt from licensing requirements**.
3. **Motorcycle** is any motor-driven vehicle having a seat or saddle for the use of the operator and designed to travel on not more than three (3) wheels in contact with the ground, which does not meet the narrow definition of a moped. Such **vehicle is subject to registration and insurance laws**, and **motorcycle operators are subject to specific licensing requirements**.

Kentucky Revised Statutes (KRS) are the codified, official statement of Kentucky Law. Kentucky Administrative Regulations are detailed refinements of the law issued by state agencies as provided for by authority specifically granted by statute. Every KAR references the KRS which provides its statutory authority. Of course, their enforcement and interpretation are ultimately up to the police and the court system but, for the most part, those which apply to motorcycles, scooters, and mopeds seem fairly straightforward. The KRS can be accessed on-line at <http://162.114.4.13/Statrev/frontpg.htm>. The KAR can be accessed on line at <http://www.lrc.ky.gov/kar/titles.htm>.

MOTORCYCLES, SCOOTERS, and MOPEDS DEFINED

The term "**Scooters**" appears only once in the entire text of the KRS ("scooter" does not appear at all). In KRS 151B.300, the phrase "motorized scooters" is included in the list of assistive devices for use by persons with disabilities. Such use clearly has no application as a motor vehicle as defined in Title XVI - Motor Vehicles [See KRS 186.010 (4) and KRS 186.010 (8)(a) & (b)].

The terms "**Scooter**" and "**Scooters**" appear a combined total of three times in the text of the KAR.

In 603 KAR 5:025, section 1 (4), a "motor scooter" is defined as a motor vehicle having a seat or saddle for the use of the driver and designed to travel on not more than three (3) wheels with a motor which produces five (5) horsepower or less. Section 7 indicates the use of "motor scooters" and "mopeds" on toll roads, interstate highways, and other fully controlled access highways is prohibited at all times. This KAR deals exclusively with fully-controlled access highways and likely has no application beyond that arena.

304 KAR 1:040 addresses traffic regulations in campgrounds. Section 1 (7) indicates (a) Motorbikes, motorcycles, motor scooters, and off-road vehicles in the campground shall be restricted to regular roadways for use in entering and exiting only and (b) Campers and visitors shall not joy ride four (4) wheelers, golf carts, mopeds, or similar vehicles within the campground. This KAR deals exclusively with campgrounds and likely has no application beyond that arena.

MOTORCYCLES, SCOOTERS, and MOPEDS EXCERPTS from KENTUCKY LAW

Per KRS 189.285(6)(b) a **"Moped"** is

either a motorized bicycle whose frame design may include one or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step-through type frame which may or may not have pedals

[and] rated no more than two brake horsepower,

[and] a cylinder capacity not exceeding fifty (50) cubic centimeters,

[and] an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged,

[and] capable of a maximum speed of not more than thirty (30) miles per hour.

Per KRS 189.285(6)(a) a **"Motorcycle"** is any motor-driven vehicle having a seat or saddle for the use of the operator and designed to travel on not more than three (3) wheels in contact with the ground, but excluding tractors and vehicles on which the operator and passengers ride in an enclosed cab and excluding a moped as defined in this subsection;

It's something of a stretch, but from the above one could deduce that the only road machine in Kentucky which is legally defined as a scooter would be one which does not meet the definition of a moped and does meet the definition of a motorcycle but has a motor of less than 5 horsepower. However, the KRS applicable to registration and licensing make no reference to the 603 KAR 5:025 definition of a "motor scooter" and therefore that definition is irrelevant to registration and licensing.

If your "scooter" does not meet all of the above the criteria for a moped it is, legally, a motorcycle. For the purposes of registration and licensing, it must either be a motorcycle or a moped. And, per KRS 186.010, a motorcycle is a motor vehicle. Also, KRS 186.010 (4) specifically excludes mopeds from the category of motor vehicle.

REGISTRATION, i.e. Vehicle License

Once you establish it's a motor vehicle (i.e., not a moped) ...

KRS 186.020 (1) requires the owner of a motor vehicle to apply for registration before permitting it to be operated on Ky highways.

KRS 309.39-080(5) requires insurance for a motor vehicle as follows: Except for entities described in subsections (3) and (4) of this section [governments], every owner or operator of a motor vehicle registered in this Commonwealth or operated in this Commonwealth with an owner's permission shall continuously provide with respect to the motor vehicle while it is either present or registered in this Commonwealth, and any other person may provide with respect to any motor vehicle, by a contract of insurance or by qualifying as a self-insurer, security for the payment of basic reparation benefits in accordance with this subtitle and security for payment of tort liabilities, arising from maintenance or use of the motor vehicle. The owner of a motor vehicle who fails to maintain security on a motor vehicle in accordance with this subsection shall have his or her motor vehicle registration revoked in accordance with KRS 186A.040 and shall be subject to the penalties in KRS 304.99-060. An owner who permits another person to operate a motor vehicle without security on the motor vehicle as required by this subtitle shall be subject to the penalties in KRS 304.99-060.

Bottom line on Registration ... unless your "scooter" meets the clear definition of a moped, it's a motorcycle. Get it Registered and Insured!

MOTORCYCLES, SCOOTERS, and MOPEDS EXCERPTS from KENTUCKY LAW

OPERATOR'S LICENSE – MOTORCYCLE, i.e., Driver's license

KRS 186.410 (1) - Every person except those exempted by KRS 186.420 [farm vehicle operators & military licensed operators] and 186.430 [non-residents with out of state licenses] **shall, before operating a motor vehicle, motorcycle, or moped upon a highway, secure an operator's license** as provided in this chapter.

KRS 189.285 (1) - A person shall not operate a motorcycle on a highway:

- (a) **Except when that person is in possession of a valid motorcycle operator's license;** and
- (b) **Unless that person uses an approved eye-protective device,** in the manner prescribed by the secretary of the Transportation Cabinet, at all times such vehicle is in motion; and
- (c) **Unless the motorcycle is equipped with a rear-view mirror** as required under KRS 189.130.

601 KAR 14:010 (Kentucky Administrative Regulation) - Section 4. Eye Protection Devices. An eye protection device shall:

- (1) Meet the Vehicle Equipment Safety Commission's Minimum Requirements for Motorcyclists Eye Protection, edition July 1980; and
- (2) Be permanently and legibly marked on each lens, in a manner that does not interfere with the vision of the wearer, with:
 - (a) "VESC-8"; or
 - (b) If space is limited, "V-8".

KRS 186.450 (1) - A person who is at least sixteen (16) years of age may apply for an instruction permit to operate a motor vehicle. A person who possesses a valid motor vehicle operator's license or a person who is at least eighteen (18) years of age may apply for an instruction permit to operate a motorcycle. A holder of either a motor vehicle or motorcycle instruction permit may also operate a moped under that permit ... [this part continues with more detail].

KRS 281A.170 (2) a.6 – defines a Class M license as Motorcycle and further states that licensees with an M classification may also operate class E vehicles (mopeds).

So, if you ride a "motorcycle" (see DEFINITIONS section above) you are required to have a motorcycle operator's license, approved eye protection, and a rear view mirror. You're also required to wear a DOT approved helmet if you are under 21, are using a motorcycle permit, or you've had your motorcycle operator's license for less than one year [KRS 189.285 (3)]. Also, if you have a permit you are not allowed to carry passengers [KRS 186.285 (4)].

Bottom Line ... if you ride a "motorcycle" ... Get a Motorcycle Operator's License!

OPERATOR LICENSING – MOPED, i.e., Driver's License

KRS 281A.170 (2) a.5 – defines a Class E license as "Moped only". Per KRS 186.450 (1), cited above, a holder of either a motor vehicle permit or a motorcycle instruction permit may operate a moped. So to legally operate a moped one must have passed the written portion of the vehicle or motorcycle drivers test, i.e., have a permit (or hold a valid vehicle or motorcycle operator's license).

Bottom Line ... if you ride a "moped" ... Get a Motor Vehicle Permit, a Motorcycle Instruction Permit, a Motorcycle Operator's License, or a Vehicle Operator's License! Insurance is highly recommended – it may not be required but if you cause damage or injury while on your moped, you will still be liable.

MOTORCYCLES, SCOOTERS, and MOPEDS EXCERPTS from KENTUCKY LAW

NOTES:

1. Use of the term "highway" in these statutes is as defined therein (don't think you can escape the law by not riding on "highways" – the legal definition pretty well covers every "road" you can think of):

KRS 186.010(2) - "Highway" every way or place of whatever nature when any part of it is open to the use of the public, as a matter of right, license, or privilege, for the purpose of vehicular traffic.

KRS 189.010(3) - "Highway" means any public road, street, avenue, alley or boulevard, bridge, viaduct, or trestle and the approaches to them and includes private residential roads and parking lots covered by an agreement under KRS 61.362, off-street parking facilities offered for public use, whether publicly or privately owned, except for-hire parking facilities listed in KRS 189.700.

2. For those who would ignore motorcycle licensing laws, the consequences may be severe. Looking at the following three statutes together suggests that someone convicted of operating a motorcycle without a motorcycle license must have their license suspended.

KRS 186.560 - (1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his conviction of any of the following offenses: ... (j) Conviction of operating a motor vehicle, motorcycle, or moped without an operator's license as required by KRS 186.410.

KRS 186.410 (1) - Every person except those exempted by KRS 186.420 and 186.430 shall, before operating a motor vehicle, motorcycle, or moped upon a highway, secure an operator's license as provided in this chapter. [but chapter 186 doesn't mention motorcycle licenses]

KRS 189.285 (1) - A person shall not operate a motorcycle on a highway: (a) Except when that person is in possession of a valid motorcycle operator's license.

Does this mean if you're convicted of driving a motorcycle without a motorcycle license, your motor vehicle license would be suspended? It's hard to know since 186.410 doesn't mention motorcycle licenses (that's in chapter 189). Perhaps having a valid motor vehicle license would save one from being convicted of operating without a license. Perhaps, absent other contributing circumstances, one could possibly resolve the issue by agreeing to get a motorcycle license. This is probably a good example of why our laws are so complex ... there are related bits and pieces spread across many titles, chapters, etc., and it usually ends up that a court has to decide how they apply in combination. Do you really want to find out the answer in court? At YOUR trial? The simple solution is GET YOUR MOTORCYCLE LICENSE before hitting the road on a motorcycle!