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September 22, 2003

OPINION NO. 03-0309

70 - MOTOR VEHICLES - Control and Regulation

Senator Gerald J. Theunissen
District 25
P. O. Box 287
Jennings, LA 70546

La. R.S. 32:1 - 399	La. R.S. 32:53
La. R.S. 32:1 (40)	La. R.S. 32:303
La. R.S. 32:51	La. R.S. 32:1(24)
La. R.S. 32:1301, et seq.	La. R.S. 32:1311

Mobility scooters are prohibited from being driven upon the highways of this state, but there is no prohibition for these scooters to be on sidewalks.

Dear Senator Theunissen:

Your request for an Attorney General's opinion has been forwarded to me for research and reply. Specifically, you ask whether it is legal for someone with physical disabilities to operate a battery-powered mobility scooter on a public roadway?

An analysis of the Louisiana Highway Regulatory Act (La. R.S. 32:1-399) indicates that it would prohibit the use of mobility scooters on the roads of Louisiana. The issue is whether a scooter can be classified as a "motor vehicle" under the Act. If so, a scooter would have to adhere to these laws. The Act defines "motor vehicle" in La. R.S. 32:1 (40):

'Motor vehicle' means every vehicle which is self-propelled, and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, but excluding a motorized bike.

It is the opinion of this office that mobility scooters meet the definition of motor vehicles as defined in the Act. Hence, all provisions in the Act which apply to motor vehicles also would apply to scooters. For instance, the Act requires that all motor vehicles be registered with the Office of Motor Vehicles. See: La. R.S. 32:51. However, the Office of Motor Vehicles has informed us that there is no method currently in effect to register mobility scooters. Also, once a motor vehicle is registered with the Office of Motor Vehicles, it must undergo an inspection and obtain an official certificate of inspection as regulated by La. R.S. 32:1301, et seq. Mobility scooters, however, do not possess the proper equipment needed to pass an inspection. The statute regulating this is La. R.S. 32:53 and is as follows:

§ 53. Proper equipment required on vehicles

A. No person shall drive or move, nor cause or knowingly permit any vehicle owned or controlled by him to be driven or moved, on any highway of this state, at any time, any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person or property, or which does not contain those parts or is not at all times equipped with such lamps and other equipment, in proper condition and adjustment, as required in this Chapter, or which is constructed or equipped in any manner in violation of this Chapter, and no person shall do any act forbidden or fail to perform any act required under this Chapter.

B. Nothing contained in this Chapter shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this Chapter.

C. The provisions of this Chapter with respect to equipment on vehicles shall not apply to implements of husbandry, nor to vehicles used solely in building highways when they are temporarily upon the highways, except as herein made applicable. These exceptions shall not exclude any vehicle or combination of vehicles not used primarily for this purpose, or ordinary commercial vehicles upon which are placed removable machinery for such purposes, or vehicles designed for the purpose of evading the limitation of this Chapter.

D. No person shall drive a vehicle upon highways within this state, or permit or allow any vehicle owned by him or under his control to be driven on said highways, unless and until such vehicle bears an inspection tag showing it to have been inspected and approved as required by the provisions of R.S. 32:1301-32:1310, if such vehicle is required to be so inspected.

As is apparent from this statute, mobility scooters are in a "Catch 22" because they do not have the equipment required to obtain an inspection tag, and are prohibited from being driven upon highways of this state if they can not pass an inspection, yet they fit the definition of a "motor vehicle" under the Louisiana Highway Regulatory Act. Please note that the term "highway" is synonymous with "street" according to La. R.S. 32:1 (25). Required inspection of this equipment includes, but is not limited to, brakes, emission control devices, windshields and wiper blades.

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The only exemptions to the inspection requirement are found in La. R.S. 32:1311 and are for farm equipment, antique cars, motor vehicles which already display a current safety inspection sticker and commercial motor vehicles which are subject to the Federal Motor Carrier Safety Regulations. Battery-powered mobility scooters do not fall into any of these categories and are required to meet inspection requirements before they can be legally driven on streets or highways.

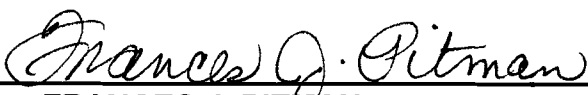
While we recognize the need for mobility scooters for persons with a physical disability, we can not find authority for them to be on the streets in Louisiana. We do not find any prohibition, however, for mobility scooters to be on sidewalks. Again, we believe that mobility scooters are in a "Catch 22" and that legislative attention to this issue would be beneficial.

Additionally, the types of two-wheel electric scooters being bought for children by parents for entertainment also fit the definition of "motor vehicle." Using the same reasoning, these are not authorized for use on the streets in Louisiana.

We trust that your question has been answered. However, if you should need anything further from this office do not hesitate to call.

Very truly yours,

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BY: 
**FRANCES J. PITMAN
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