

1977 Assembly Bill 713

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CHAPTER 288, Laws of 1977

AN ACT to amend 218.01 (1) (k), 340.01 (30) and (33), 341.25 (1) (b), 341.51 (6), 343.05 (1), 346.595 (1), (3) and (5), 346.80 (3) and (4), 347.245 (1) and 349.18 (1); and to create subchapter IX of chapter 218, 340.01 (29m), 346.54 (1) (e), 346.595 (intro.) and (6), 346.79 (5) and 347.488 of the statutes, relating to defining and regulating mopeds, placing mopeds for certain purposes under the laws regulating bicycles instead of motor-driven cycles, regulating moped dealers and providing penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 218.01 (1) (k) of the statutes is amended to read:

218.01 (1) (k) "Motor vehicle" means any motor driven or trailer type vehicle required to be registered under ch. 341 except mopeds, semitrailers or trailers designed for use in combination with truck or truck tractor, and except that mobile home dealers and ~~salesmen~~ salespersons and moped dealers and salespersons are not required to be licensed under s. 218.01 (2) (d) 1 and 5.

SECTION 2. Subchapter IX of chapter 218 of the statutes is created to read:

CHAPTER 218

SUBCHAPTER IX

MOPED DEALERS

218.40 Definitions. In this subchapter:

- (1) "Department" means the department of transportation.
- (2) "Moped" means a bicycle-type vehicle with fully operative pedals for propulsion by human power which has an engine certified by the manufacturer at not

more than 50 cubic centimeters, and an automatic transmission. The maximum design speed of a moped shall not exceed 30 miles per hour on level ground.

(3) "Moped dealer" means any person, firm or corporation, who is engaged wholly or in part in the business of selling mopeds. Provided, however, that a person, firm or corporation who is also a motor vehicle dealer under s. 218.01 shall be governed and regulated by the provisions of s. 218.01 and not this section.

218.41 Moped dealers regulated. (1) No person may engage in the business of selling mopeds in this state without a license therefor as provided in this section.

(2) (a) Application for license shall be made to the department at such time and in such form, and containing such information, as the department requires.

(b) The application shall be accompanied by the required fee, which shall not exceed \$50.

(c) The department may require in such application, or otherwise, information relating to the applicant's solvency, financial standing or other pertinent matter, commensurate with the safeguarding of the public interest in the locality in which the applicant proposes to engage in business, all of which may be considered by the department in determining the fitness of the applicant to engage in business as set forth in this section.

(d) All licenses shall be granted or refused within 30 days after application therefor, and shall expire, unless sooner revoked or suspended, on December 31 of the calendar year for which they are granted.

(e) Each license shall specify the location of the office or branch for which it is issued and must be available for inspection there. In case such location is changed, the department shall endorse the change of location on the license without charge if it is within the same municipality. A change of license to another municipality shall require a new license.

(3) A license may be denied, suspended or revoked on any of the following grounds:

(a) Proof of unfitness of applicant.

(b) Material misstatement in application for license.

(c) Filing a materially false or fraudulent income tax return as certified by the department of revenue.

(d) Wilful failure to comply with any provision of this section or any rule or regulation promulgated by the department under this section.

(e) Wilfully defrauding any retail buyer to the buyer's damage.

(f) Wilful failure to perform any written agreement with any retail buyer.

(4) The department may without notice deny the application for a license within 30 days after receipt thereof by written notice to the applicant, stating the grounds for such denial. Upon request by the applicant whose license has been so denied, the transportation commission shall set the time and place of hearing a review of such denial, the same to be heard with reasonable promptness.

(5) (a) No license may be suspended or revoked except after a hearing thereon.

(b) Except as provided in par. (c), the transportation commission shall give the licensee at least 5 days' notice of the time and place of the hearing. The order suspending or revoking the license shall not be effective until after 10 days' written notice thereof to the licensee, after the hearing has been had.

(c) When the department finds that the best interest of the public or the trade demands such action, the department may suspend a license upon not less than 24 hours' notice of hearing and with not less than 24 hours' notice of the suspension of the license.

(6) The department may inspect the pertinent books, records, letters and contracts of a licensee. The actual cost of each such examination shall be paid by the licensee so examined within 30 days after demand therefor by the department, and the department may maintain an action for the recovery of the costs in any court of competent jurisdiction.

(7) If a licensee is a firm or corporation, it shall be sufficient cause for the denial, suspension or revocation of a license that any officer, director or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act or omission which would be cause for refusing, suspending or revoking a license to the party as an individual. Each licensee shall be responsible for the acts of any or all salespersons while acting as the licensee's agent, if the licensee approved of or had knowledge of the acts or other similar acts and after such approval or knowledge retained the benefit, proceeds, profits or advantages accruing from the acts or otherwise ratified the acts.

(8) Any department or other person in interest being dissatisfied with an order of the transportation commission may have a review thereof as provided in ch. 227.

218.42 Examination by department. No licensee is subject to examination or audit by the department under this subchapter other than as provided in s. 218.41 (6).

218.43 Penalty. Any person violating s. 218.41 or a lawful rule or order issued thereunder shall, upon conviction, be subject to a fine of not less than \$25 and not more than \$100.

(1) The department may cancel the license of the convicted licensee.

(2) The license issued to any convicted licensee shall be surrendered to any police officer upon direction of the department without any refund of the fees paid.

(3) Any license canceled under this section may not be renewed for 12 months.

SECTION 3. 340.01 (29m) of the statutes is created to read:

340.01 (29m) "Moped" means a bicycle-type motor vehicle with fully operative pedals for propulsion by human power which has an engine certified by the manufacturer at not more than 50 cubic centimeters, and an automatic transmission. The maximum design speed of a moped shall not exceed 30 miles per hour on level ground.

SECTION 4. 340.01 (30) and (33) of the statutes are amended to read:

340.01 (30) "Motor bicycle" means a bicycle to which a motor has been added to form a ~~motor-driven~~ motor-driven cycle as distinguished from a power driven cycle ~~or~~, motor cycle ~~or~~ moped in which the motor is an integral part of the original vehicle.

(33) "~~Motor-driven~~ Motor-driven cycle" means a motor vehicle designed to travel on not more than 3 wheels in contact with the ground and having a seat for the use of the rider, including motorcycles, power driven cycles and motor bicycles but excluding tractors and mopeds.

SECTION 5. 341.25 (1) (b) of the statutes, as affected by chapter 29, laws of 1977, is amended to read:

341.25 (1) (b) For each motor vehicle with a shipping weight of 1,000 pounds or less which is designed primarily for the transportation of persons rather than property, a fee of \$5, ~~plus~~. In addition, for each such vehicle other than a moped a fixed fee of \$2 which shall be credited to the appropriation under s. 20.370 (1) (wp).

SECTION 6. 341.51 (6) of the statutes is amended to read:

341.51 (6) A person licensed under s. 218.01 or 218.41 as a dealer, distributor or manufacturer of only power driven cycles ~~or~~, motor bicycles or mopeds may, but need not, apply for registration under this section.

SECTION 7. 343.05 (1) of the statutes, as affected by chapter 29, laws of 1977, is amended to read:

343.05 (1) Except as provided in sub. (2), no person ~~shall~~ may operate a motor vehicle upon a highway in this state unless ~~such~~ the person has a license issued to him or her by the department, which license is not revoked, suspended, ~~cancelled~~ canceled or expired. A valid chauffeur's license satisfies the requirements of this section only when the licensee is operating a vehicle in the performance of his or her duties as chauffeur. No person ~~shall~~ may operate a motor-driven cycle unless ~~he~~ the person possesses a valid operator's license which has been specifically ~~indorsed~~ endorsed for motor-driven cycle operation. No person may operate a moped unless the person possesses a valid operator's license.

SECTION 8. 346.54 (1) (e) of the statutes is created to read:

346.54 (1) (e) For the purpose of parking, mopeds as defined in s. 340.01 (29m) shall be considered bicycles. Where possible without impeding the flow of pedestrian traffic, a moped may be parked on a sidewalk. A moped may be parked in a bike rack or other similar area designated for bicycle parking.

SECTION 9. 346.595 (intro.) and (6) of the statutes are created to read:

346.595 (intro.) Whenever a motor-driven cycle or a moped is operated the following rules apply:

(6) On any road for which the speed limit is more than 25 miles per hour, mopeds shall be operated only when riding single-file in the extreme right-hand lane. No person may operate a moped on any restricted access highway.

SECTION 10. 346.595 (1), (3) and (5) of the statutes are amended to read:

346.595 (1) All motor vehicles including motor-driven cycles and mopeds are entitled to the full use of a traffic lane and no vehicle ~~shall~~ may be driven or operated in such a manner so as to deprive any other vehicle of the full use of a traffic lane, ~~with the exception that motor-driven cycles may, with,~~ With the consent of both drivers, motor-driven cycles may be operated not more than 2 abreast in a single lane, but mopeds may be so operated only where the speed limit is 25 miles per hour or less.

(3) No passenger ~~shall~~ may ride a motor-driven cycle who, when properly seated, cannot rest ~~his~~ the feet on ~~the~~ assigned foot rests or pegs. No passenger may ride on a moped.

(5) The headlamps on motor-driven cycles ~~must~~ shall be lighted whenever the cycle is in operation. Mopeds shall observe the requirements for lighted headlamps and tail lamps under s. 347.06.

SECTION 11. 346.79 (5) of the statutes is created to read:

346.79 (5) No person may ride a moped upon a bicycle way.

SECTION 12. 346.80 (3) and (4) of the statutes are amended to read:

346.80 (3) Wherever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway but moped riders shall use such path only if signs specifically indicate that use of the path is required for both bicycles and mopeds.

(4) No person may operate a bicycle or moped upon a roadway where a sign is erected indicating that bicycle or moped riding is prohibited.

SECTION 13. 347.245 (1) of the statutes is amended to read:

347.245 (1) ~~It is unlawful after~~ After January 1, 1970, for ~~any~~ no person ~~to~~ may operate on a highway, day or night, any vehicle or equipment, animal-drawn vehicle, or any other machinery, including all road machinery, that usually travel at speeds less than 25 miles per hour, unless there is displayed on the most practicable visible rear area of the vehicle or combination of vehicles, a slow moving vehicle (SMV) emblem as described in and displayed as provided in sub. (2). Any towed vehicle or machine is exempt from this provision if the towing vehicle is visible from the rear and is in compliance with this section. All road machinery is excluded when it is engaged in actual construction or maintenance work either guarded by a flagman or clearly visible warning signs. The requirement of the emblem shall be in addition to any lighting

devices required or permitted by law. ~~Bicycles~~ Mopeds and bicycles are excluded from the provisions of this section. The SMV emblem need not be displayed on vehicles moving directly across the highway.

SECTION 14. 347.488 of the statutes is created to read:

347.488 Moped equipment. No person may operate a moped unless:

- (1) The moped complies with all federal emission, equipment and safety standards applicable at the time of manufacture;
- (2) None of the original equipment installed on the moped by the manufacturer has been replaced with equipment of lesser performance characteristics; and
- (3) The performance characteristics of the moped have not been altered so as to enable it to exceed the maximum design speed authorized for a moped under s. 340.01 (29m).

SECTION 15. 349.18 (1) of the statutes is amended to read:

349.18 (1) Designate the number of persons that may ride on a power driven cycle or motor bicycle at any one time and ~~the time of day at which~~ and the highways upon which a power driven cycle ~~or~~, motor bicycle or moped may or may not be operated;

SECTION 16. **Moped previously registered.** Any moped which, on the effective date of this act, is registered as a motorcycle may remain so registered for the balance of the current registration period, but shall be operated in compliance with this act. For any moped registered as a motorcycle, there shall be no refund of the fee imposed under section 341.25 (1) (b) of the statutes for the current registration period.

SECTION 17. **Effective date.** This act shall take effect on April 1, 1978, or on the first day of the month commencing at least 120 days after passage and publication, whichever is later.
