

**INCREASING PUBLIC AWARENESS OF
DISTRICT OF COLUMBIA LAWS GOVERNING
MOPEDS AND MOTOR SCOOTERS**



**REPORT AND RECOMMENDATIONS OF THE
POLICE COMPLAINTS BOARD**

TO

**MAYOR ADRIAN M. FENTY,
THE COUNCIL OF THE DISTRICT OF COLUMBIA, AND
CHIEF OF POLICE CATHY L. LANIER**

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POLICE COMPLAINTS BOARD

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I. INTRODUCTION AND OVERVIEW

As the District of Columbia's police accountability agency, the Police Complaints Board (PCB) and its administrative arm, the Office of Police Complaints (OPC), receive, investigate, and resolve police misconduct complaints filed by citizens against Metropolitan Police Department (MPD) and District of Columbia Housing Authority police officers. In addition to resolving individual complaints of police misconduct, PCB analyzes complaints filed in an effort to identify important issues and trends and, pursuant to its statutory authority, makes recommendations to the District of Columbia Mayor, Council, and Chiefs of Police that, if implemented, have the potential to reduce the incidence of police misconduct or, under appropriate circumstances, reduce the misperception that misconduct is occurring.¹

One type of citizen complaint filed periodically with OPC against MPD officers involves enforcement of District of Columbia traffic and motor vehicle laws. Recently a small but distinct subset of traffic-related complaints involved MPD officer attempts to enforce District laws governing low-speed motorcycles and motorized bikes, known popularly as mopeds and motor scooters. These complaints were filed by motor scooter and moped operators who were unaware of or mistaken about the city's legal requirements for such vehicles, and they, therefore, incorrectly believed that MPD officers had acted improperly in stopping or ticketing them. Notably these complainants failed to understand two things: First, many vehicles marketed as "motor scooters," "scooters," or "mopeds" are nevertheless classified as motorcycles under D.C. law due to their engine size and potential speed, and they require a special motorcycle operator's license in order to be driven lawfully in Washington, D.C. Second, even those motor scooters and mopeds not classified as motorcycles under District law are still subject to driver's license, registration, inspection, and motor vehicle insurance requirements in order to be lawfully operated in the District.

The District of Columbia's Department of Motor Vehicles (DMV) posts a chart on its website that explains the basis under District law for classifying some mopeds and motor scooters as motorcycles while classifying others as motorized bicycles. The chart also details the license, registration, inspection, insurance, and helmet requirements applicable to mopeds and motor scooters based on whether they meet the criteria for motorcycles or motorized bicycles. The chart, however, is very difficult to locate on DMV's website. Commendably, MPD provides a clear link to the DMV chart plus additional information about "non-traditional" motor vehicles under the Traffic Safety page of MPD's website, which viewers can access from the MPD home page. Nonetheless, because DMV has primary responsibility for administering motor vehicle registration and licensing requirements, members of the public are more likely to turn first to DMV when seeking such information and may remain uninformed if they have difficulty obtaining the information from DMV.

¹ See D.C. Official Code § 5-1104(d) (2010), which authorizes PCB to recommend to the District of Columbia Mayor, Council, and MPD Chief of Police reforms that have the potential to reduce the incidence of police misconduct. This authority has been broadly construed to include proposing measures that may reduce the filing of unwarranted police misconduct complaints. See, e.g., "Taxicab Drivers and MPD Enforcement of the District's Taxicab Regulations: Report and Recommendations of the Police Complaints Board," available at http://occr.dc.gov/occr/frames.asp?doc=/occr/lib/occr/policy_recommendations/090309_final_taxicab_commission_r.pdf.

To address these issues, PCB recommends that the District undertake a more effective public education campaign to raise awareness of the requirements for lawful operation of mopeds and motor scooters in the District of Columbia.² PCB recommends that this modest initiative be a collaborative effort spearheaded by DMV and MPD with input and participation from other relevant District agencies and community stakeholders, such as moped and motor scooter owners and commercial dealerships that market and sell mopeds and motor scooters.

The centerpiece of the public education campaign could be a brochure or pamphlet that condenses and summarizes in an easy-to-read, graphics-enhanced format the information available on DMV's existing "Non-Traditional Motor Vehicles" chart. The brochure ideally should be distributed by: 1) DMV through publication on its website and dissemination in paper form; 2) MPD, during traffic enforcement involving such vehicles, at MPD stations, and through a link to the brochure on MPD's existing traffic safety web page; and 3) Washington-area commercial dealerships that sell motorcycles, mopeds and motor scooters, as this would allow District residents to obtain accurate information about D.C. legal requirements at the time they purchase or contemplate purchasing such vehicles.

With regard to publication of the brochure on DMV's website, PCB recommends that DMV feature the information more prominently than it currently does, such as through a link to the relevant information in the "Did You Know" section of the DMV home page. Another measure that could further the goal of greater public awareness of District legal requirements for mopeds and motor scooters would be to produce a relevant public service announcement that could be aired periodically on the District's cable television channel or other appropriate media.

PCB believes that if members of the public were better educated about District laws and regulations governing mopeds and motor scooters, there would be greater compliance with these requirements. Increased compliance would improve public safety and would reduce the number of police misconduct complaints filed against MPD officers who seek to enforce District laws governing mopeds and motor scooters.³

II. APPLICABLE DISTRICT OF COLUMBIA MOTOR VEHICLE LAWS AND REGULATIONS

District of Columbia law defines a motor vehicle as "any vehicle propelled by internal combustion engine, electricity, or steam."⁴ This broad definition encompasses not only

² PCB is making these recommendations pursuant to its authority under D.C. Official Code § 5-1104(d) (2010). *See* note 1.

³ PCB is grateful for the assistance of OPC's staff in preparing this report and recommendations. OPC's executive director, Philip K. Eure, supervised the project. Other OPC staff members who assisted in preparing the report include OPC special assistant, Nicole Porter, attorney Angela Kiper, and law clerk, Zachary Oseland (Summer 2009).

⁴ *See* D.C. Official Code § 50-1501.01(1) (2010).

traditional motor vehicles, such as cars, trucks, and vans, but also non-traditional motor vehicles, such as motorcycles, mopeds, and motor scooters. Lawful operation of a motor vehicle in the District of Columbia requires an operator's permit (driver's license),⁵ vehicle registration,⁶ motor vehicle insurance,⁷ and vehicle inspection for compliance with safety and emissions standards.⁸ Because mopeds and motor scooters are motor vehicles, the aforementioned requirements apply to them but to different degrees depending on whether they meet the criteria for classification as a motorcycle or a motorized bicycle.

There are several characteristics that distinguish motorcycles from motorized bicycles under District law; however, the most significant are engine power and vehicle speed.⁹ A motorcycle is defined as a two- or three-wheeled vehicle meeting one or more of the following criteria: engine with piston displacement of greater than 50 cubic centimeters, potential speed of greater than 35 miles per hour, brake power of greater than 1.5 horsepower, manual transmission, and wheels under 16 inches in diameter.¹⁰ In contrast, a motorized bicycle is a two- or three-wheeled vehicle that meets all of the following criteria: engine with piston displacement of 50 cubic centimeters or less, maximum speed of 35 miles per hour, brake power of less than 1.5 horsepower, automatic transmission, and wheels greater than 16 inches in diameter.¹¹

Under these criteria, faster, more powerful mopeds and motor scooters are classified as motorcycles, while low-speed, less powerful mopeds and motor scooters are classified as motorized bicycles. According to DMV's non-traditional motor vehicles chart, most mopeds and motor scooters meet the District's definition of a motorized bicycle, while some mopeds and motor scooters meet the criteria for classification as a motorcycle.

Although mopeds and motor scooters are both subject to license, registration, inspection, and insurance requirements, the requirements differ depending on whether such a vehicle is classified as a motorcycle or a motorized bicycle. For example, the motorcycle registration fee is higher than that for a motorized bicycle,¹² and motorcycle operators must obtain a motorcycle endorsement on their driver's license by passing a motorcycle demonstration skills test.¹³

⁵ See D.C. Official Code § 50-1401.01(d) (2010).

⁶ See D.C. Official Code § 50-1501.02(a) (2010).

⁷ See D.C. Official Code § 31-2403(a) (2010).

⁸ See D.C. Official Code § 50-1101 (2010); D.C. Mun. Regs. tit. 18, §§ 600 and 601 (2010).

⁹ See "Non-Traditional Motor Vehicles and D.C. Law," available at http://dmv.dc.gov/info/forms/NontraditionalMotorVehiclechart_pdf.shtm.

¹⁰ See D.C. Mun. Regs. tit. 18, § 9901 (2010).

¹¹ *Id.*

¹² See D.C. Official Code §§ 50-1501.03(b)(4) and (5) (2010).

¹³ See D.C. Official Code § 50-1401.01(d) (2010).

Furthermore, motorcycle operators are required to wear a helmet, while helmets are not mandatory for motorized bicycle operators.¹⁴

The D.C. Official Code and D.C. Municipal Regulations purport to specify clearly how mopeds and motor scooters are classified and regulated in the District, but the provisions are complex and likely difficult to decipher by some members of the public without guidance. The non-traditional motor vehicles chart on DMV's website seeks to provide that guidance. However, the chart's usefulness as a public education tool is undermined by the fact that it is difficult to locate. Neither the DMV home page (e.g., in the "Did You Know" sidebar designed to inform the public of important but perhaps less well known requirements) nor the page discussing motorcycle license requirements mentions or provides a link to the chart. Rather, the chart is buried several levels below the vehicle services page under a heading that offers no clue to the existence of a chart that explains how mopeds and motor scooters are classified and that lists important requirements for legal operation. In contrast, MPD's website does an excellent job of directing members of the public from its home page to its traffic safety page, where information about D.C. moped and motor scooter requirements, including a clear link to DMV's non-traditional motor vehicles chart, is available. Given that members of the public are more likely to go first to DMV when seeking information concerning motor vehicles, it is easy to see how difficulty obtaining such information from DMV could lead to lack of public knowledge of applicable rules.

III. COMPLAINTS FILED WITH OPC

Complaints filed with OPC by moped and motor scooter operators demonstrate that members of the public lack knowledge of the requirements for lawfully operating these vehicles in the District, and some are frustrated that the lack of readily available guidance leads to noncompliance with the rules and to unwanted encounters with the police. The following summaries are illustrative of the types of complaints OPC has received:

- A complainant, who was operating a Honda moped in the District, alleged that an MPD officer harassed her by informing her that her moped was actually a motorcycle and by improperly citing her for several violations, including: failing to wear a protective helmet, operating a vehicle without insurance, failing to show proof of insurance, failing to display current tags, and failing to have her vehicle inspected. The complainant believed that her moped was a motorized bicycle under District law and contested her tickets through DMV's Adjudication Services Division. The DMV hearing officer concluded that the complainant's moped was a motorized bicycle and therefore was subject to District motor vehicle registration, insurance, and inspection requirements but dismissed the tickets for those violations, allowing them to serve as a warning of the need for future compliance. The hearing officer voided the ticket for the helmet violation on the ground that it did not apply. OPC, however, subsequently reached a different conclusion regarding proper classification of the vehicle. OPC's investigation revealed that the complainant's vehicle was capable of a maximum speed of 45 miles per hour and was thus properly classified as a motorcycle by the MPD officer. OPC dismissed the police misconduct complaint because in its view the subject officer acted lawfully in citing the

¹⁴ See D.C. Mun. Regs. tit. 18, § 2215.3 (2010).

complainant for the helmet violation and for the registration, insurance, and inspection violations.

- A District resident complained to OPC that while he was operating a motor scooter, an MPD officer stopped him and informed him that he needed “tags” for his vehicle. The complainant asserted that he did not believe he needed tags for a motor scooter, and he added that he has observed many motor scooters being operated in the District without tags. OPC ultimately closed this case because the complainant did not complete the formal filing process.
- An individual contacted OPC and stated that while riding his moped in the District, he was stopped by an unidentified MPD officer and advised that he had to register his moped. This person maintained that he contacted OPC primarily to determine what the District’s vehicle registration requirements are for mopeds. Accordingly, the case was administratively closed.

IV. POLICY CONCERNS

Complaints that have been filed with OPC contesting MPD officer enforcement of District regulations governing mopeds and motor scooters raise three main concerns. First, District residents and other members of the public are generally uninformed about District legal requirements for lawful operation of mopeds and motor scooters in the city. Second, the difference between the commonly held view of what constitutes a motorcycle and the District’s legal definition of a motorcycle--which includes mopeds and motor scooters that can travel faster than 35 miles per hour--is a particular source of noncompliance. Third, members of the public are unaware that information which explains and clarifies the requirements for lawful operation of mopeds and motor scooters in D.C. is available because the chart published on DMV’s website is difficult to find, and many people do not realize that they can obtain the information from MPD.

The first issue--public ignorance of the requirements for lawfully operating mopeds and motor scooters in the District--appears to be a product of the third issue: lack of easy access to the relevant information from DMV and lack of knowledge that the information is available from MPD. The second issue--public confusion over what constitutes a motorcycle in the District of Columbia--is easy to understand, despite that it represents a potentially serious public safety problem. Most people differentiate between motor scooters and motorcycles by sight. Motor scooters and mopeds are typically perceived to be smaller and differently configured than motorcycles, as older mopeds closely resemble non-motorized bicycles, and most late model mopeds and motor scooters have a footrest platform for the operator’s feet built into the frame. The perception that a motor scooter is an entirely different vehicle from a motorcycle is reinforced by manufacturers and dealers who advertise and sell motor scooters. For example, Vespa USA, one of the most popular motor scooter manufacturers in the U.S., with a sales increase of 60% in 2008,¹⁵ calls its Vespa GTS 300 a “scooter,”¹⁶ and this vehicle is similar in

¹⁵ Jim Motavalli, Small Victories: Sales Up 60 Percent at Vespa Maker Piaggio, BNET Auto, Apr. 27, 2009, available at: <http://industry.bnet.com/auto/10001271/small-victories-sales-up-60-percent-at-vespa-maker-piaggio/> (last visited Aug. 13, 2010).

appearance to most motor scooters. However, with the capacity to travel at speeds of up to 76 miles per hour,¹⁷ the GTS 300 is actually considered a motorcycle under District law. Because a Vespa bears little resemblance to a standard Harley-Davidson-style motorcycle and is marketed as a scooter,¹⁸ a Vespa owner unfamiliar with the District's law would have no reason to consider the vehicle a motorcycle and thus would not seek to obtain a motorcycle operator's license or motorcycle registration.

V. RECOMMENDATIONS

As the use of non-traditional motor vehicles, particularly mopeds and motor scooters, has proliferated, the District government has responded, like other jurisdictions across the country, with regulations designed ultimately to promote public safety. District laws classifying faster, more powerful mopeds and motor scooters differently from their low-speed counterparts and imposing different license, registration, and operating requirements are intended, not to confound owners and users, but to protect the public. The worthy goals underpinning the city's non-traditional motor vehicle rules cannot be fully realized, however, if the public lacks knowledge of them. Fortunately the solution, a concerted yet modest public education campaign designed to foster greater public awareness of District rules governing mopeds and motor scooters, is eminently achievable.

To help members of the public understand the District's classification of mopeds and motor scooters as motorcycles and motorized bicycles as well as the different operating requirements that apply based on these classifications, PCB makes the following recommendations:

1. The District, through DMV and with input from MPD, other interested District agencies, and community stakeholders, should consider developing an informational brochure that, as simply as possible, explains the differences between, and requirements for, motorcycles and motorized bicycles. The brochure should highlight and emphasize that motor scooters capable of speeds higher than thirty five miles per hour are considered motorcycles under District law, regardless of the vehicle's appearance or its designation by the manufacturer as a "moped" or "motor scooter." The brochure should also make clear that those mopeds and motor scooters classified as motorized bicycles under D.C. law are still subject to registration, insurance, and inspection requirements.
2. DMV should make copies of the brochure available for general distribution at each of its service locations and should supply the brochure to anyone who seeks to register a moped or motor scooter in the District.

¹⁶ See Vespa USA, <http://www.vespaua.com/scooters.php#/home/Vespa%20GTS%20300> (last visited Aug. 13, 2010).

¹⁷ *Id.*

¹⁸ See *id.*; see also Vespa Arlington, <http://vespaofarlington.com> (last visited Aug. 13, 2010); Vespa Annapolis, <http://www.chesapeakecycles.com> (last visited Aug. 13, 2010).

3. DMV should offer copies of the brochure to motor scooter, moped, and motorcycle dealerships in the Washington, D.C., metropolitan area and encourage distribution to customers to ensure that prospective motor scooter and moped operators are made aware at the outset of D.C. legal requirements governing these vehicles.
4. DMV should prominently display the brochure on its website, such as through inclusion of a link to it in the “Did You Know” sidebar on its home page.
5. MPD should have copies of the brochure available for distribution at each of its district stations and should consider having officers carry a limited number in their police cruisers for distribution to persons ticketed or warned for failing to comply with the relevant laws.
6. MPD should include a link to the new brochure on the existing MPD traffic safety page that currently provides information about mopeds, motor scooters, and other non-traditional motor vehicles.
7. DMV should consider developing a public service announcement explaining the requirements for lawful and safe operation of mopeds and motor scooters in D.C. for possible airing on the District’s cable television channel or other appropriate media.¹⁹

VI. CONCLUSION

PCB is convinced that implementing the actions recommended would lead to greater community awareness of District laws governing mopeds and motor scooters, increase compliance with the relevant laws, improve public safety, and reduce the number of police misconduct complaints filed against MPD officers seeking to enforce the District’s motor vehicle laws.

¹⁹ DMV has expressed concern that it may not have sufficient budget resources to produce and distribute a brochure or public service announcement. This is a legitimate concern given the budget constraints currently faced by the entire District government. However, PCB strongly urges that, to the extent possible, financial resources be made available to DMV for this undertaking, as the problems identified in this report will persist in the absence of efforts to better publicize the relevant information.