



THE LAW OFFICES OF DIAMOND, KISTNER & DIAMOND

THE TRAFFIC TICKET TEAM®

CONFESSIONS OF A MOTORCYCLE TICKET LAWYER





Intro

YOU NEVER FORGET YOUR FIRST



I lost mine on my Yamaha Exciter 250. Okay, so if that's not an attention getter, I don't know what is. What I lost was my clean driving record. The driving record that was only a few weeks



old. My introduction to the driving world was not in a car, but on a motorcycle. Like a lot of high school kids in my day, I got my driver's license, but I could not afford a car. So I bought myself a used motorcycle. A few weeks after my purchase, I was driving to Piper High School in Sunrise, Florida when I heard the sirens for the first time. It would not be the last. I was pulled over by a motorcycle cop who had set up a speed trap for kids, like me, leaving school. It was a 30 MPH zone and, truth be told, I don't know how fast I was going. The motorcycle only went around 40 MPH, so I knew I could not have been going that fast.

I knew enough to pull over right away and be as respectful to the cop as possible. What happened next was the worst and the best thing that ever happened to me. The cop was cold, rude and scary. He lectured me on everything from speeding, to motorcycle maintenance, and proceeded to give me five, **yes five**, traffic tickets. Best I can remember they were for: 1. Speeding, 2. Improper Lane Change, 3. Faulty Equipment (tire was balding), 4.



Faulty Equipment (horn did not work) and 5. No proof of Insurance. Considering I was working nights at McDonalds for \$3.35 per hour, I was devastated. The tickets totaled over \$200. That meant I would have to work 60 hours, before taxes to pay for these tickets. Basically, I would need to work for an entire month just to cover the cost of these tickets. That didn't leave me much money for gas, insurance or fixing the horn and replacing the bald tire. I resolved to go to court and try to explain this to the judge and hope he had some sympathy for my predicament.

I pled not guilty to the tickets and requested a trial. I imagine a lot of people have this same reaction when they get a ticket that they think is unfair or unjust. Wow, was I about to get an education. I received a hearing notice in the mail several weeks later and had to miss half a day of school to go to court. After waiting three hours, I went before a judge for the first time in my life. I told him my story and he was not as sympathetic as I had hoped. He told me to go to trial if I did not like what he was



offering. He was offering driving school for the speeding ticket and I would still need to pay all the fines. Since his offer just added \$40 to the already \$200 worth of tickets I asked for a trial. Several weeks later, I missed an entire day of school.

I got to court bright and early and had done some reading about speeding tickets and hoped I would at least get off for that ticket since I really did not think I was speeding. I felt like the cop targeted me because I was on a motorcycle. I sat in court for five hours before my case was called. When I finally had my moment in court, the judge called for the police officer who was not present. After a few phone calls and whispers behind the bench, the judge reset the case to give the officer a chance to come to court. I was assured that he would not get a second chance. So for the third time, I missed school and went to court and low and behold the cop was there. Because I had no idea what I was doing and said just about every wrong thing I could, the Judge found me guilty of all 5 tickets and fined me the \$200 plus



court costs. He also ordered me to attend driving school. I was devastated. However, but for that experience, I would not have founded the Traffic Ticket Team. I would go on to buy a new motorcycle and ride for several years. I would also get a traffic ticket from time to time and would elect traffic school when I could. When I could not (because I know you can only go once a year), I would go to court and hope for a nicer Judge. The constant for me was how unfair the whole system was. It was stacked against the very citizens who pay the cops salary, the Judge's salary and driving school's fees. The whole racket made me start thinking about how I could get revenge. Yes, revenge because I felt so helpless and felt the system was so unfair. That feeling never left me and led me to become a lawyer. Once I had the skills and experience to walk into a courtroom and even out the playing field, the feeling was nothing short of exhilarating. The first time I cross examined a cop on the witness stand and proved he was lying, I felt like I had just won the Heisman Trophy.



So here I am thirty years later still fighting the good fight. With over a million traffic tickets behind me, I still get the same thrill every time a traffic ticket is dismissed. Now if I can't get a ticket dismissed, I have the credibility in the Courtroom such that I almost always get my client's no points on their licenses and lower costs than had they just paid the ticket. Almost no clients are required to sit like a child in a classroom and listen to someone tell them that driving is risky. I will never forget my motorcycle days and the way I was treated by the cops simply because I was on two wheels instead of four. To that end, please enjoy this E-book that's dedicated to all of my motorcycle brethren. Jason A. Diamond. April, 2013



POPPING A WHEELIE DON'T EVEN THINK ABOUT IT



Like Sheriff Buford T. Justice said "you can think about it, just doooon't do it." If you don't get the quote, see Smokey and The Bandit. In October of 2008, the Florida Legislature passed some new laws, one of which affects motorcycle riders specifically. This one targets those who like to pop wheelies on their bikes.



316.2085 Riding on motorcycles or mopeds.

(2) A person shall ride upon a motorcycle or moped only while sitting astride the seat, with both wheels on the ground at all times, facing forward, and with one leg on each side of the motorcycle or moped. However, it is not a violation of this subsection if the wheels of a motorcycle or moped lose contact with the ground briefly due to the condition of the road surface or other circumstances beyond the control of the operator.

316.1926 Additional offenses.—

(1) A person who violates the provisions of s. 316.2085(2) or (3) shall be cited for a moving violation, punishable as provided in chapter 318.



This can be a \$1,141 traffic ticket. No, it's not a typo and if you don't think motorcycle riders are still disliked by the men and women who write our laws, you are mistaken. Like I said, not a lot has changed in the last 30 years. If you get a second ticket for popping a wheelie, the fine doubles to over \$2,400. If you get a third ticket, sell your motorcycle and get a scooter because that's all you will be permitted to drive in Florida.

As you can see in the Statute above, there is an exception. The one we use the most when defending these tickets is that there was loose gravel under the rear tire and when the tire finally caught, the front wheel popped up. Of course, this does not work if you are flying down the road on one wheel. It does work if you take off fast and your front tire lifts slightly in the air. Either way, I would not recommend doing it if you are on a public road anywhere in the State of Florida. When we do fight these tickets, there are a couple of things we want to know before we go to court. First, was the wheelie performed for



anyone's benefit? In other words, was this done on a deserted road or in front of a crowd of beer drinking hooligans? If it was the latter, you we are going to have problems in court. Second, did the wheelie cause an accident or any property damage? The answer is usually no, but we need to know. Third, did the wheelie cause other drivers to have to take evasive actions to avoid the motorcycle? And the last, and perhaps the most important, how is your driving record? Have you been cited for driving recklessly or carelessly before? If not, we have a good shot at getting the charge changed or reduced.

The Judge has the discretion to suspend your license even for a first offense. Florida Statutes, Section 318.32 allows a Judge to hear your case and he can suspend your license, even for a first offense. So if you have been sited with popping a wheelie, there are few things you can do to mitigate the situation. First, voluntarily take a driver improvement course BEFORE we go to court. Second, do some community service that has some relation



to driving or traffic or accidents. Even better, see if you can volunteer at the police station or fire station in your neighborhood. The last suggestion, but only if you have been cited for this before, is sell the motorcycle and bring the bill of sale to court. Don't buy a new bike until after the case is over. I know this is drastic, but it beats losing your driver's license. So make sure you keep both tires on the ground. If you are going to fool around, do it on private property, or only if you are 100% sure that nobody is around.



IMPROPERLY FIXED TAG



I know it looks cool, but is it worth a \$1,100 ticket? The law in Florida states:

316.2085 Riding on motorcycles or mopeds.—

(3) The license tag of a motorcycle or moped must be permanently affixed to the vehicle and remain clearly visible from the rear at all times. Any deliberate act to conceal or obscure the legibility of the license tag of a motorcycle is prohibited. The license tag of a motorcycle or moped may be affixed horizontally to the ground so that the numbers and letters read from left to right. Alternatively, a license tag for a motorcycle or moped for



which the numbers and letters read from top to bottom may be affixed perpendicularly to the ground. Notwithstanding the authorization to affix the license tag of a motorcycle or moped perpendicularly to the ground, the owner or operator of a motorcycle or moped shall pay any required toll pursuant to s. 316.1001 by whatever means available.

So you can mount your tag vertically, but it still must be clearly visible. This is subject to interpretation, so to bust bikers chops, cops will sometimes write this ticket or use it as an excuse to pull over otherwise lawful bikers. They do this to see if you have been drinking or check your license to make sure it's valid. I hate giving cops any reason to pull over a person, so I always suggest you keep your tag mounted on the rear center and horizontal. I have said it so many times, but it bears repeating: cops like to pull over bikers. They figure they will find some violation of the law. And if not, at least they feel cool having hassled someone today.



AVOIDING TOLLS, PRETTY SLICK



So I don't get a bunch of nasty emails, let me say for the record, don't try this at home kids. Nor should you ever break the law. Okay, now that that's out of the way, I hate to admit it, but he's my hero. I have heard a lot of stories about bikers covering their tags while going through sun pass lanes or red light camera intersections. I don't advocate breaking these or any other laws,



but the rebel in me can't help but smile when you hear about people breaking the rules of an unfair system.

It's probably not worth it if you get caught, so there's another reason not to do it. Intentionally blocking your license plate carries a maximum \$168 fine for car drivers. It's even more for those creative motorcyclists, with fines up to \$1,000. The fine is so much more for bikers, because it's actually a chronic problem. According to the Florida Highway Turnpike Enterprise, sometimes bikers do it routinely through the same plaza and get caught. If the tag is blocked, the photograph is analyzed for the bikes make and model to try to identify the owner. Area troopers can be alerted about a biker that beats the same toll every day. Troopers often wait at toll plazas to look for scofflaws. "If you're running the tolls, you may get away with it once or twice, but eventually it will catch up with you," says an FHP representative. There are other ways to try and beat the cameras. There is an online company called photoblocker.com that claims if you spray your tag, it makes it so reflective that the cameras can't read your tag. I have heard anecdotal stories, but I can't vouch for the product.



A FEW TIPS TO OUT OF STATE BIKE RIDERS IN FLORIDA


I thought you might be interested in seeing this poster that was prepared for the "snowbirds" visiting our great State:

Motorcycles


www.motorcycles.hsmv.state.fl.us/

Age Limitations

- ◆ No one under 16 years of age may legally operate a two or three wheel motor vehicle in Florida that travels more than 20 MPH.
- ◆ No one with a Florida Learners Permit may legally operate any two or three wheel motor vehicle in Florida.
- ◆ Persons under 21 years of age must successfully complete the Florida Rider Training Program 15-Hour Basic Rider Course to obtain a Motorcycle Endorsement or a motorcycle only license, which also requires the same knowledge test as required for a regular Class E driver license.
- ◆ Effective July 1, 2008, ALL first time motorcycle drivers, regardless of age, must complete the basic motorcycle safety course.



Helmet and Eye Protection Requirements




- ◆ Anyone under 21 years of age MUST wear a Department of Transportation (DOT) approved motorcycle helmet when operating or riding on a motorcycle.
- ◆ Anyone at least 21 years of age may ride a motorcycle without a helmet ONLY if they carry medical insurance coverage of at least \$10,000.
- ◆ Everyone must wear DOT approved eye-protection while riding a motorcycle.

Know Your Responsibilities

- ◆ Be visible.
- ◆ Wear proper clothing.
- ◆ Use your headlight(s) at all times.
- ◆ Ride in the best lane position to see and be seen.

Communicate Your Intentions

- ◆ Use proper signals, brake light and lane position.
- ◆ Maintain adequate space from other vehicles when following, being followed, passing, and being passed.



*For more safety tips go to:
www.rideprouddressloud.com*

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WHAT ARE THE HELMET LAWS IN FLORIDA?



316.211 Equipment for motorcycle and moped riders.—
(1) A person may not operate or ride upon a motorcycle unless the person is properly wearing protective headgear securely fastened upon his or her head which complies with Federal Motorcycle Vehicle Safety Standard 218 promulgated by the United States Department of Transportation. The



Department of Highway Safety and Motor Vehicles shall adopt this standard by agency rule.

(2) A person may not operate a motorcycle unless the person is wearing an eye-protective device over his or her eyes of a type approved by the department.

(3)(a) This section does not apply to persons riding within an enclosed cab or to any person 16 years of age or older who is operating or riding upon a motorcycle powered by a motor with a displacement of 50 cubic centimeters or less or is rated not in excess of 2 brake horsepower and which is not capable of propelling such motorcycle at a speed greater than 30 miles per hour on level ground.

(b) Notwithstanding subsection (1), a person over 21 years of age may operate or ride upon a motorcycle without wearing protective headgear securely fastened upon his or her head if such person is covered by an insurance policy providing for at least \$10,000 in medical benefits for injuries incurred as a result of a crash while operating or riding on a motorcycle.

(4) A person under 16 years of age may not operate or ride upon a moped unless the person is properly wearing protective headgear securely fastened upon his or her head which complies with Federal Motorcycle Vehicle Safety



Standard 218 promulgated by the United States Department of Transportation.

(5) The department shall make available a list of protective headgear approved in this section, and the list shall be provided on request.

Okay, you are probably saying to yourself "well that's nice if I was a lawyer, but how about some answers to my questions about helmet laws in Florida." Here are some basics and the most often asked questions and answers. You can ride without a helmet in Florida if you are at least 21 years old and you have health insurance with at least \$10,000 in medical benefits that cover you if you are injured as a result of a crash while riding your motorcycle. If you are 16 or older, you also don't need to wear a helmet if the motor displacement is 50 cc or less and its 2 horsepower or less and can't exceed 30MPH. You must always wear eye protection unless you are in an enclosed side car.



FREQUENTLY ASKED

QUESTIONS & ANSWERS

Q: WHAT DO I NEED TO RIDE WITHOUT A HELMET IN FLORIDA?

A: YOU NEED TO BE 21 AND HAVE \$10,000 IN MEDICAL COVERAGE.

Q: I DON'T HAVE MEDICAL COVERAGE, CAN'T I JUST GET PIP?

A: NO, YOU CAN'T GET PIP (PERSONAL INJURY PROTECTION) FOR A MOTORCYCLE IN FLORIDA.

Q: HOW MUCH IS MEDICAL INSURANCE TO DRIVE A MOTORCYCLE?

A: IT ALL DEPENDS ON YOUR HEALTH AND DRIVING RECORD.

Q: CAN I WEAR A COOL HELMET, WITH STUFF ON IT?



A: YES, IF YOU HAVE THE INSURANCE AND YOU ARE 21.

Q: DOES MY PASSENGER HAVE TO HAVE HER OWN INSURANCE?

A: NO, SO LONG AS YOUR COVERS ALL RIDERS.

Q: CAN I STILL RIDE WITHOUT A HELMET IF I AM ONLY VISITING FLORIDA?

A: YES, IF YOU ARE 21 AND HAVE MEDICAL INSURANCE.



**I LOVED THE BOOK; CAN YOU GIVE ME
A QUICK INDEX OF THE LAWS IN CASE I
HAVE ANY QUESTIONS?**

**SURE
TURN THE PAGE**





Motorcycles and Mopeds

Helmets, eye protection, insurance, and common infractions:

Definitions:

Motorcycle defined under 322.01(26) has more than 50cc displacement, seat or saddle, not more than 3 wheels on the ground, excludes moped or tractor: Motorcycle Only license, or Motorcycle Endorsement required.

Is insurance required for motorcycles in Florida?

Under certain circumstances, yes. Insurance is not required to register motorcycles as with four-wheel motor vehicles. However, if a motorcycle operator is charged in a crash with injuries, or has had certain violations in the operation of a motor vehicle, then the motorcycle owner or owner/operator can be held financially responsible for bodily injuries to others and property damage to the vehicles of others. If no liability coverage was in effect, then bodily injury/property damage liability insurance must be purchased and kept for three years under an S.R.22 filing to avoid license and tag/registration suspension or to reinstate license and tag/registration after suspension. (Section 324 F.S.)

Helmet requirements under Chapter 316:

Persons under 21 years of age riding or operating a motorcycle must wear DOT approved helmet fastened to head 316.211(1)

Persons over 21 with medical insurance of \$10,000 or more may ride/operate a motorcycle without helmet; proof of medical insurance is required...316.211(3)(b)

No helmet is required for person riding within an enclosed cab or any person 16 years of age or older who is operating or riding upon a moped or motorcycle with 50cc or less displacement or is rated not in excess of 2 brake horsepower and which is not capable of propelling such moped or motorcycle at a speed greater than 30 mph on level ground. 316.211(3)(a)

Eye protection requirements:

Whether a helmet is worn or not worn, eye protection is required by Florida law! 316.211(2)

License plate:

A motorcyclist may not conceal or obscure their license plate. The requirement that a motorcycle license plate be affixed horizontally is deleted. 316.2085(3)*

Packages:

No packages or bundles or other which prevent both hands on handlebars 316.2085(4)

Operators under 16 years of age:

-cannot operate a motorcycle over 150cc 316.2085(6)(a)
-rent a motorcycle 316.2085(6)(b)

Lane Splitting/Lane Sharing:

-No person shall operate a motorcycle between lanes of traffic 316.209(3)
-No more than two may ride abreast 316.209 (4)

Maximum Handlebar height:

Handlebars can be no higher than the top of the shoulders 316.2095(2)

Wheelies and/or Stunting:

Failure to ride with both wheels in contact with the ground, facing forward, while sitting with one leg on each side of the motorcycle 316.2085(2)*

Motorcycle License endorsement

No driver license endorsement for motorcycle 322.03(4)

*For a violation of 316.2085(2) or (3) above, reference statute 316.1926 in comments to ensure enhanced penalties:

1st offense - \$1,000 fine
2nd offense - \$2,500 fine
3rd offense - 3rd degree felony



[316.405](#)

Motorcycle headlights to be turned on.

[316.410](#)

Taillamps.

[316.415](#)

Reflectors

[316.420](#)

Stop lamps.

[316.271](#)

Horns and warning devices

[316.293](#)

Motor vehicle noise.



[316.440](#)

Brake equipment required.

[316.445](#)

Performance ability of motorcycle
brakes.

[316.211](#)

Equipment for motorcycle and moped
riders.

[316.2095](#)

Footrests, handholds, and handlebars.

[316.294](#)

Mirrors.



316.155

When signal required.

316.156

Signals by hand and arm or signal lamps

316.2085

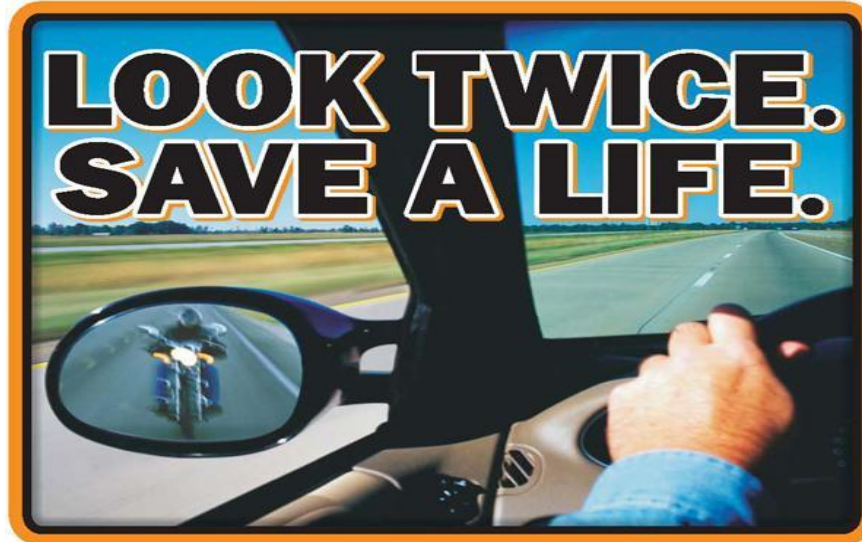
Riding on motorcycles or mopeds
(including horizontal and vertical tags)



You Have Rights

Fight for Them

Getting a ticket is a frustrating and frightening thing. Nobody is a perfect driver all of the time and tickets happen. Of course avoiding a ticket by obeying the laws is the best course of action, but if you do get a ticket, just remember that you can fight it. Whether you take a stand by yourself or with the help of a lawyer, it is your right to defend yourself and **FIGHT BACK.**



WE HOPE YOU HAVE ENJOYED THE BOOK. WE ALSO KNOW THAT A LOT OF PEOPLE WHO DON'T RIDE MOTORCYCLES WILL READ THIS BOOK. WE HOPE IT GIVES YOU A NEW PERSPECTIVE ON BIKERS AND HELPS TO REMIND YOU TO ALWAYS LOOK TWICE ... YOU CAN SAVE A LIFE.