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So far, the e-scooter has been nimble enough to avoid all kinds of legal potholes. // Amanda Morris/AP

PERSPECTIVE

## A Lawyer Explains Why Electric Scooter Laws Don't Work

**Bird, Lime, and other shared micromobility services are disrupting the legal landscape, too.**

JUN 28, 2019

These user agreements include all of the corporate contract classics: an acknowledgement that you will follow traffic laws, consent to record you and use your image for promotion, forced arbitration, and a broad waiver of liability against the company for basically anything that could possibly occur while riding a scooter.

Navigating this legal terrain can be complicated. Between state laws, local vehicle codes, and agreements between cities and scooter providers, it's still often unclear whether electric scooters are street legal at all. The good news is that if you live in a city where e-scooters are currently deployed, you can be confident that the city either explicitly or tacitly approves of their use. So even if they technically violate your state or local traffic code, you can take your chances and hop on. Worst-case scenario, you'll end up with a minor traffic citation and a good story to tell.

But slow down there easy rider! You'll still need to know where can you legally ride. Remarkably, cities have formed a near unanimous consensus. With few exceptions, cities have deemed e-scooters *vehicula non grata* on sidewalks and require that they be operated on regular roads or bike paths. This leaves scooter patrons at an uncomfortable crossroads.

The vast majority of e-scooter riders are casual users who don't own a scooter or appreciate the dangers of riding one. All riders, particularly those who are inexperienced, ought to focus on maintaining balance, learning to negotiate the throttle and brake, and watching for literal bumps in the road. Riding an electric scooter alongside two-ton SUVs is a handful even for seasoned riders; forcing new riders into mixed traffic is downright hostile.

The risks of riding an e-scooter are not insignificant. A CDC study of dockless e-scooter accidents found that riders suffered an injury for every 5,000 miles ridden—100 times the rate for cars or bikes). Nearly half of those were head injuries, and a third were to first-time riders. Bike infrastructure can help, but only if it's separated from traffic. Recent research has shown that paint-only bike lanes can be *more dangerous* for cyclists in certain situations. (And a few lines of paint won't save you if your scooter hits a pothole and sends you tumbling.)

As with cities' struggles to regulate the sharing economy for services like Uber and Airbnb, part of the problem is philosophical. Indeed, the foundation of English property law is rooted in concepts of ownership and possession. The classic owner's privilege is a right of exclusion which entitles an owner to keep others from accessing their land or personal property. By extension of the right to exclude, owners derive other property rights and privileges like the right to peacefully enjoy their property, profit from rents, and transfer to heirs after death.

The sharing economy disrupts this entire legal landscape. Part of the luxury of riding a shared scooter or bike is freedom *from* ownership. Using bikeshare relieves the rider of having to worry about lugging their bicycle up a flight of stairs, carrying a lock, or parking their vehicle in a safe location. But with the benefits of a sharing economy come new problems. A world where fewer people own bikes or scooters is also a world where fewer people own or carry helmets. New mobility services and new business models have challenged cities attempting to manage them using the traditional legal infrastructure. Airbnb may just be a digital version of a sublease; Uber a taxi company with an app; and scooter-share a decentralized rental shop. But those minor distinctions have major policy consequences.

Some cities have started to innovate to meet the challenges of the access economy. For example, LADOT created a first-of-its-kind city data collection called the Mobility Data Specification (MDS), to help steer the city's multi-modal transportation policy. But with big data comes big responsibility, and cities will have to prove that they have the technical capability to manage the risks associated with large-scale data collection in an era of growing privacy and security concerns. Private companies and privacy advocates have already begun to mount legal challenges to MDS, creating a new municipal turf war which will shape how cities can manage new mobility businesses.

## The Newspaper for the Future of Miami

# Miami commissioners push to ban use of scooters

Written by John Charles Robbins on September 28, 2021



The scooter program in the City of Miami may be running on empty when it comes to continued support from elected leaders.

Proposed legislation to make the current pilot scooter program permanent is in jeopardy as city Commissioner Alex Diaz de la Portilla is expressing a desire to end the program for good.

He has an ally in Commissioner Manolo Reyes, who has been critical of scooters in the city before.

The legislation drafted to make the scooter program permanent was supposed to be voted on in June but busy commissioners have continued to defer the matter with no clear resolution.

The scooter program came up at the commission's most recent meeting Sept. 23.

"I continue to voice my objection, and I have from the beginning," said Mr. Diaz de la Portilla. "I voted for it (the pilot program) as a courtesy to my colleagues."

He said he wants more safety measures for the scooters to continue, and is still pushing for a formal Request for Proposals, or RFP, that would have restrictions and safety measures built in.

"But I still remain concerned. I'll make a motion to eliminate the program ... I have no problem with that," said Mr. Diaz de la Portilla.

Commissioner Reyes said, "I've been an opponent since day one. And I've received a lot of complaints from people who live in Brickell ... and I've witnessed rather narrow sidewalks, there were a circle of scooters parked on the sidewalk and here comes this lady on a motorized wheelchair. She had to go up on the street and go back.

"These things are cluttering our sidewalks. They are dangerous and I think we should do what other cities have done: outlaw them.

"The only way to police it is, we need special police, and we don't have that.

"If you stand here on the corner, you can watch minors on them, even racing. It is quite dangerous. We have a huge elder population. I'm afraid one of our senior citizens will get knocked down and be really hurt," said Mr. Reyes.

Commissioners again put off a vote on the first reading of an ordinance to convert the existing motorized scooter pilot program to a permanent program, providing for increased fees for scooter operators, for enhanced penalties for violations of the program and other restrictions.

In May, Mr. Diaz de la Portilla proposed legislation to interrupt the program, saying he didn't want Miami to be the guinea pig or see residents risking themselves for an experiment.

Mr. Diaz de la Portilla's motion failed, and administrators were to ask companies in the scooter program to make sure geo-fencing technologies are in place so that scooters can't leave the pilot program area, that of Commissioner Ken Russell's District 2.

The city attorney advised Sept. 23 that the ordinance as drafted would establish the scooter program citywide and make it permanent.

Commissioner Russell said the proposal needs more work.

"Is there no will to continue the program?" Mr. Russell asked fellow commissioners.

"This version (of the proposed ordinance) is not strong enough ... but if there's no world where this body can (have the program) survive then that's the will of this body ... I believe in it," said Mr. Russell at the latest meeting.

"I made a motion to eliminate the program (in May), but I didn't get a second," said Mr. Diaz de la Portilla.

"Yes, months after you voted to keep it," responded Commissioner Joe Carollo.

"It was a pilot program," Mr. Diaz de la Portilla said.

He asked the administration to come back with a proposal that would repeal the scooter program, and another to require a Request for Proposals with restrictions and safety measures.

City Manager Art Noriega asked which of those options he wants brought back because they are two different things.

"Both," said Mr. Diaz de la Portilla.

"I'm not comfortable with something that is an accident waiting to happen," he said.

Electric scooters got mixed reviews when they were first deployed throughout the city early in 2018. A lack of

regulation and direction led to complaints, but some officials cited positive aspects that could help ease growing traffic gridlock.

The city attorney's office went after operations of the scooters via cease-and-desist letters, and most scooters were removed from the streets.

Since then, scooters have gone through a series of pilot programs, all in Mr. Russell's district as other commissioners opposed them in their own areas.

## 2 Responses to *Miami commissioners push to ban use of scooters*



**NP**

Reply

September 29, 2021 at 8:33 am

1. Love how these old backwards commissioners are. They see that the sidewalks are crowded with people scooters and bikes, and their first instinct is to ban scooters because they're seen as unsafe when at the same exact time, Florida is leading the nation in pedestrian deaths due to cars, not scooters.

The obvious solution is to designate safe protected bike lanes so all users have a means to get around the city. With that you'll probably solve a lot of the traffic issues downtown as well.



**Richard R.**

Reply

September 29, 2021 at 9:55 am

2. Unfortunately, as is the case with all types of vehicles in Miami, people use the scooters irresponsibly. I don't even see police officers citing drivers of automobiles. How likely is it that they'll cite people on scooters? The streets are already

chaotic; we don't need these scooters adding to the mayhem.

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# Man, 47, dies after losing control of scooter, hitting head on pavement

By Chris Perkins  
South Florida Sun Sentinel

A man died after he apparently lost control of his scooter and fell, hitting his head on the pavement, authorities said.

Benjamin Gethers, 47, of Fort Lauderdale, died Sunday, two days after the accident near the 2800 block of Northwest 15th Court and Northwest 29th Avenue in

unincorporated central Broward County, according to the Broward Sheriff's Office.

Gethers was going west on Northwest 15th Court about 8 p.m. Friday, and a BMW was going east and turned into a parking space on the north side of the street.

Deputies said Gethers' scooter fell over on its right side and he fell off, hitting his head on the pavement.

He was taken to Broward Health Medical Center, where he died.

Deputies said he wasn't wearing a helmet, neither the headlight or taillight worked on the scooter, and the scooter had electrical system modifications.

There were no marks on the BMW according to a preliminary investigation, indicating the car and scooter didn't collide.

# Fort Lauderdale Fire Rescue

## Scooter Medical Reports Filed in ImageTrend December 2019 - December 2021

<b>Year</b>	<b>Month Name</b>	<b>Count of Incident Number</b>
<b>2019</b>	December	4
<b>2020</b>	January	14
	February	14
	March	5
	July	8
	September	4
	December	2
<b>2021</b>	January	6
	February	4
	April	4
	May	6
	June	6
	July	8
	August	4
	October	8
	November	2
	December	4
<b>Grand Total</b>		<b>103</b>

# Lyft is pulling its scooters from cities across the US

By Fernando Alfonso III, CNN

Updated 4:12 PM ET, Mon November 18, 2019

**(CNN)** – Electric scooter enthusiasts in Nashville, San Antonio and Columbus, Ohio, will have one less brand to ride starting next week.

Lyft is ending its scooter service in six cities, the company said in a statement provided to CNN Business. The decision has resulted in 20 layoffs in its bikes and scooters team, which consists of about 400 people.

In Atlanta, the e-scooter end date is November 23, according to a message sent to customers.

"We're choosing to focus on the markets where we can have the biggest impact. We're continuing to invest in growing our bike and scooter business but will shift resources away from smaller markets and toward bigger opportunities," the company said in its statement.

The other cities losing their Lyft scooters are Dallas and the Phoenix area.



**Related Article:** Injuries prompt CDC investigation into e-scooters

The decision in Atlanta left customers like Ryan Colburn, a master's student at Georgia Institute of Technology, disappointed. Colburn has ridden Lyft scooters a few times a week and used to ride the Jump electric bicycles before the Uber subsidiary pulled them out of the city.

"Lyft scooters were the next best thing, and I loved riding them. They have the best acceleration and braking of any other scooter I've tried here," Colburn told CNN through Twitter. "For me, so many of the trips I need to make are too far to walk most of the time, but also a bit too short for me to want to deal with my car. They are especially nice when going up the hills here in Atlanta (something that isn't fun on a normal bike). I'm super sad to see them leave. Other scooters aren't as nice to

use or are more expensive."

Scooters have been a controversial topic around the country following reports of injuries and deaths. Since May, four people have been killed in Atlanta while riding an e-scooter, the Atlanta Journal-Constitution reported. The city has since imposed a nighttime e-scooter and e-bike ban and prohibited the issuance of additional scooter permits.



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# E-SCOOTERS: BOON OR BURDEN TO CITIES AND COMMERCIAL REAL ESTATE?

July 17, 2019



• **Eco-friendly?** While there are tangible benefits once the scooters are on the ground in cities, the process of getting them there is fraught with environmental issues. Bird sources its bikes from China and ships them in containers, which produce a growing percentage of global CO<sup>2</sup>. In addition, the lithium battery needs to be replaced every 300 miles. Unless your town has a means of processing these batteries, more are required.

Mandalay in Los Angeles (<https://www.latimes.com/local/lanow/la-me-ln-bird-scooter-vandalism-20180809-story.html>) and San Francisco (<https://www.businessinsider.com/san-francisco-electric-scooters-vandalized-popped-on-2018-4>) have both seen scooters vandalized in a variety of "creative" ways.

## Scooters seem to be good for cities and CRE, despite the hurdles

The verdict in South Florida is generally positive. Cities like Miami, Fort Lauderdale, and Coral Gables are partnering with startups (<https://www.miamiherald.com/news/business/article228689374.html>) to roll out these programs safely—although Fort Lauderdale beach has banned them (<https://www.sun-sentinel.com/local/broward/fort-lauderdale/fl-ne-fort-lauderdale-beach-electric-scooter-ban-20190610-eribleb3wjha3buz66aj7thjoi-story.html>) for the summer. Morris Southeast Group (<http://www.morrissegroup.com/>) is well aware of the key role efficient and cost-effective transportation plays as part of successful commercial real estate and property management in South Florida. For a free consultation on our property management services or commercial real estate investment opportunities, call us at 954.474.1776. You can also reach Ken Morris directly at 954.240.4400 or via email at [kenmorris@morrissegroup.com](mailto:kenmorris@morrissegroup.com) (<http://morrissegroup.com>).

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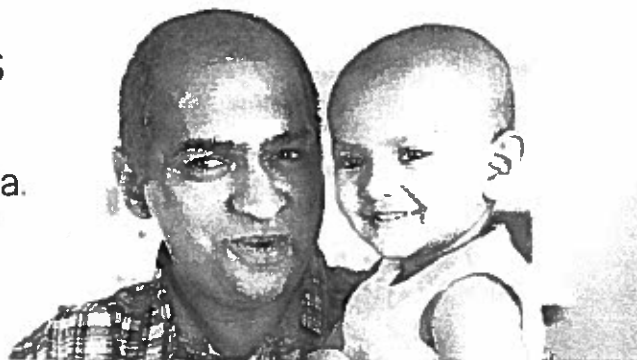
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## When electric scooters crash, who pays the bills?

Cathy Bussewitz, Associated Press Published 10:07 p.m. ET June 26, 2019 | Updated 10:14 p.m. ET June 26, 2019

We've all seen reports about head injuries, traffic crashes and even deaths that electric scooter riders have suffered as the popular new mobility option has pushed onto the streets in more than 100 cities worldwide, including Detroit.



In this Dec. 23, 2018, photo provided by Jodi Robinson, a scooter Andrew Hardy was riding sits near the car that hit him while riding the scooter in Los Angeles. Doctors told Hardy he'd likely be paralyzed for life. Five months later, he has learned to walk again. But he says he'll never ride another scooter. (Photo: AP)

Despite the dangers, riders are exposing themselves to liability and are most likely not insured for the damages they may cause.

A rider's personal health insurance – if he or she has it – could help defray the cost of their own medical bills in case of an accident.

But it's another matter entirely when a scooter rider hits and injures a pedestrian, damages someone's property or causes a car accident. The rider may be held responsible, and most insurance policies will not cover those expenses.

"Under the standard insurance policy, there's most likely a pretty significant gap in coverage," said Lucian McMahon, senior research specialist for the Insurance Information Institute. "Even if the odds are low, it doesn't mean that something bad might not happen, and owing people money or compensation for injuries that you caused them can get very, very expensive, perhaps even ruinously so."

The two largest scooter companies in the U.S. – Bird and Lime – generally place the responsibility for accidents on riders by listing in their rental agreements that riders relieve the companies of liability. Customers must agree to those terms to ride.

"My partner being a scooter owner, and me being a scooter sharing rider, we kind of realized, who is insuring those things?" said Ori Blumenthal, co-founder and CTO of Voom. "If you go to all the scooter sharing companies and you look at the terms and conditions, you actually take responsibility and liability for everything that may happen."

Buy Photo



Kellin Wirtz, 24, of Trenton who works downtown, takes a photo of the Bird scooter and then uses the app to lock it after he arrives at his destination in Detroit on Aug. 27, 2018. (Photo: Robin Buckson, The Detroit News)

Riders in the U.S. took 38.5 million trips on shared scooters last year, according to the National Association of City Transportation Officials. Within a few days of Chicago's recent electric scooters launch, LegalRideshare got calls from injured riders asking for help.

If a rider causes a car crash, he or she could be badly injured and still be held financially responsible for damages to the car, Greening said. If the rider injures a pedestrian, the rider could be responsible for the pedestrian's medical bills, lost wages and pain and suffering. Many shared electric scooter riders are riding scooters for the first time, increasing the chance of injury, Greening said.

"They don't think to themselves, 'Boy, if something goes wrong here I might be on the hook for thousands and thousands of dollars,'" Greening said.

Read or Share this story: <https://www.detroitnews.com/story/business/autos/mobility/2019/06/26/scooter-crashes-insurance-coverage-bird-lime-spin/39628481/>





## Officials look into possible age restrictions on electric scooter riders

By Katina Caraganis

KATINA@NEWPELICAN.COM

**Wilton Manors** — Now that motorized scooters are legal in Florida, the commission here has asked its attorney to look into potential age restrictions related to their operation.

During the most recent legislative session, Florida lawmakers passed House Bill 453, which developed new regulations for the operation of micromobility devices and motorized scooters. Gov. Ron DeSantis signed the bill June 18, and it immediately became law.

According to Wilton Manors Attorney Kerry Ezrol, under the new law, users of a motorized scooter or micromobility device maintain all of the rights and responsibilities applicable to individuals riding a bicycle.

Additionally, driving on sidewalks, sidewalk areas and bicycle paths is not allowed. A violation is a noncriminal



These electric scooters in Fort Lauderdale are examples of the ones now found throughout South Florida. [Staff photo]

traffic infraction punishable as a moving violation.

Ezrol said the bill does allow for local governments

to adopt ordinances governing the operation of such devices on streets, highways, sidewalks or sidewalk areas

within their jurisdiction.

Typically, he said, cities have jurisdiction over all streets and sidewalks located within their boundaries except for state roads.

“Although not expressly provided in the bill, or otherwise addressed in the legislative analysis, we spoke with the lobbyist for the Florida League of Cities who advised it was always the legislative intent to allow local governments to adopt an ordinance governing the operation of mobility devices and motorized scooters on bicycle paths as well,” Ezrol said.

Additionally, users of motorized scooters or micromobility devices are not required to have a driver’s license to ride.

“This clarifying language is a notable change from the prior version of the statute, which left some ambiguity as to whether or not a driver’s license was required,” Ezrol

said.

Mayor Justin Flippen questioned whether regulation on the local level was really needed.

“If we want to be a city that encourages multiple forms of transportation, we don’t have to do much. We can treat roads as uniformly as possible. We have sidewalks covered,” he said.

Vice Mayor Tom Green said he wouldn’t want to necessarily see a four-year-old operating a motorized scooter and asked that Ezrol look into regulating age requirements.

“I’m still a little concerned about roadways. I think they’re taking a chance during rush hour on the roadway,” he said. “I’m still not totally happy with them being in the roadway.”

Ezrol will bring back information on age requirements at a future meeting.