

BIRD SCOOTERS

(and other Scooter-Share Companies)

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DISCLAIMER: This publication provides general information regarding new legislation in North Carolina covering battery powered scooters and is not intended to be, nor is it, legal advice. If legal advice or other professional assistance is required, the services of a competent professional person should be sought.

As this publication is not intended as legal advice, any use of this information will not create an attorney-client relationship. After an initial consultation, and before representing you on any claim, a written attorney-client agreement must be signed in order to create such a relationship.

Introduction

What Are They?

The birds have landed in Winston-Salem, NC, and we're not referring to the geese! Rather, we're referring to Bird scooters, the electric shareable scooters that seemingly appeared overnight this summer and have been gaining popularity (and notoriety) ever since.

Based out of Santa Monica, California and founded in September of 2017, Bird is a scooter-share company that operates electric scooters out of 100 cities across North America, Europe and Asia. With thousands of users and thousands of scooters on the roads, the company reports that users have taken over 10 million scooter rides during their first year of operation alone.

The company's mission, according to their website, "is to make cities more livable by reducing car usage, traffic, and carbon emissions." Which sounds like a good thing, right? Less traffic is definitely a good thing, as are fewer carbon emissions. But what about the potential hazards they present on the roads and corresponding liabilities?

Before we jump in to too many specifics though, let's take a closer look at these rentable scooters and how they work.



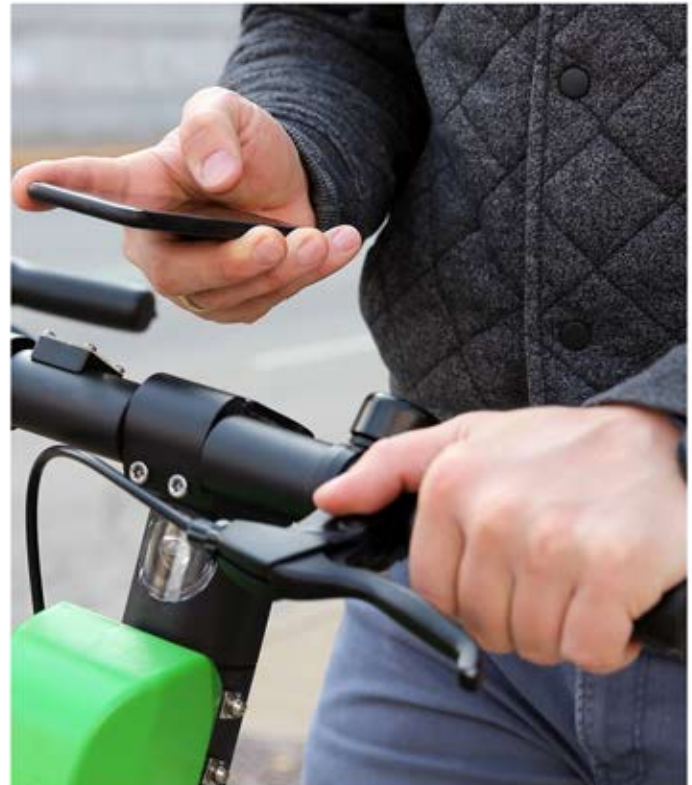
Chapter 1

How Do They Work?

Using a mobile app downloaded onto a smartphone, users can connect their credit card, scan their license, and then they're good to go. The app charges a flat rate to start the scooter and then a per-mile fee, which ends up costing about \$2 for a half-mile trip.

Before starting off though, users are required to read a list of rules and sign a term of service-style document through the app. These rules are fairly standard and designed to keep riders safe. For example, riders are required to wear a helmet (though helmets are not included with the scooters), they must have a valid driver's license, they must ride in the street (not on sidewalks), and riders are encouraged to avoid riding in parking structures.

However, let's take a moment to consider how effective these rules are in ensuring the safety of everyone on the road, including the scooter driver and those around them. First, the majority of individuals riding the scooters don't go out looking for them. One of the perks of the program is that



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they're a convenient way to get from point A to point B. However, this means that it's also highly unlikely that the average user is going to have a helmet with them at the time of use.

Second, while it might appear easy, getting used to driving one of these scooters takes a bit of time and practice, and trying it out for the first time on the road with cars and other drivers is probably not the safest situation.

Third, realistically, it's unlikely that users are going to read all of the terms of service and rules before starting on their ride. This lack of knowledge means that riders can easily break any and all of the rules, without even knowing they're doing so.

Which leads to the fourth point: who is in charge of enforcing these rules? The Bird company has no way to do so. With traffic laws, they're standardized across the nation and enforced by law enforcement. And law enforcement is charged with policing cars, trucks, and other similar types of vehicle. But where do these shareable motorized scooters fall categorically?

This leads to a discussion around liabilities, which we'll cover in the next section.

Chapter 2

What Are The Risks & Liabilities Surrounding Shareable Scooters?

As discussed earlier, there are a significant number of risks and liabilities surrounding these scooters. Initially, and perhaps most obviously, is the issue of inexperienced riders. Riding a motorized scooter is unlike most other forms of transportation – even non-motorized scooters. And other drive-able or ride-able vehicles like cars or mopeds require a lot of practice and training before drivers are allowed to take them on the road. So, even though the app requires users to scan their license in before riding a scooter, that doesn't necessarily make them qualified to or skilled at driving them.

Another major liability that these scooters present is the potential for accidents due to low visibility. While the scooters themselves have lights at the front and back (and many have multi-colored changing lights underneath the base), it's unlikely that riders would be wearing high visibility clothing. This type of clothing and equipment is required of other riders, such as cyclists, but there are currently no rules or regulations requiring this of scooter-riders.



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Therefore, even though the scooters are meant to be driven on road, their riders often aren't very visible to cars, trucks, and other vehicles on the roads. Similarly, the lights on the scooters are designed more to make the scooters visible to others and less for road visibility, so there's an added danger here in that riders may be able to see only little, if any, of the road in front of them, including any potential hazards

Moreover, scooter wrecks themselves are a major liability. As mentioned above, riders are likely not wearing a helmet or any other protective gear to guard against road rash, bumps and bruises, or more serious crash-related injuries. Similarly, it is not only the riders themselves who are at risk here. Other pedestrians can be hit by scooters, as well as cars and other vehicles.

Additionally, another serious liability is presented not by riders, but by the scooters themselves. While the terms of service require that they're ridden on the road, while they're not in use, the scooters are almost always stationed on sidewalks, often in "flocks" of two or more for use by groups. Aside from being the eyesore that the public in some cities has deemed them, this monopolization of sidewalk real estate also makes it difficult for

individuals trying to use the sidewalk to walk or run. People may trip over them if they're blocking normal paths of pedestrian traffic, and there is even the possibility of the scooters falling over in front of or even onto a passerby.



Chapter 3

The Question of Legal Liability



An additional difficulty presents itself here as well when the question of responsibility arises. If a scooter hits a car, or another person, or somehow damages someone's property, who is responsible? If a rider is in an accident while riding a scooter, what happens? Who is liable for the injuries to the rider, to the scooter, and to anyone else involved? If a scooter injures someone while not being ridden (for example, if it falls on someone while parked,

someone trips over it, or a vehicle drives over it), who is at fault? The tricky thing here is that, in many ways, the precedent for how these cases are handled legally has not been set. Generally, if you are injured while riding, the insurance that you carry should kick in. In some of the other examples laid out above, where the liability falls is less clear. And only time will tell how the courts and the legal system will rule here.



Chapter 4

How To Try Bird Safely

Up to this point, we've primarily been discussing the dangers and liabilities around shareable scooters. However, if you're curious about this new tech and interested in trying it out, there are ways to try them out safely, so long as you take proper precautions and practice good safety protocols.

First, install the scooter app ahead of time and familiarize yourself with how it works. Read up on the rules and terms of service and make sure you're following them during use. Second, plan ahead for your scooter trip, no matter how long or short it will be. Bring a helmet for yourself and ensure anyone riding with you has a properly fitting, appropriately sized helmet to wear as well. Wear bright, or if you have it, high visibility clothing while riding, especially if you plan to ride at night. If you have any safety gear for bike or motorcycle riding, such as wearable blinking lights or items of clothing or safety gear with reflective patches or panels, it's a good idea to wear those as well.



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Additionally, ensure that you're observing all applicable road laws while riding and only ride on roads, not on sidewalks or other pedestrian thoroughfares. It's always a good idea to practice beforehand in a parking lot to make sure you're familiar with the way the scooter works and comfortable navigating and maneuvering it among other vehicles and obstacles.



And lastly, but certainly not least, while you're riding it's important to be hyper-aware of both yourself and any vehicles around you. Cars, trucks, and busses have blind spots and may not be able to see you on a scooter or may simply not be paying attention. Therefore, in the interest of keeping yourself safe, you must be extra vigilant about monitoring the vehicles and other hazards around yourself as much as is possible.

Chapter 5

Winston-Salem City Regulations

During the summer of 2018, approximately 100 electric scooters rather mysteriously showed up on the streets of Winston-Salem. They were embraced by some and disdained by others. In the midst of what quickly became a polarizing dialogue around town, City Council voted to enact a temporary ban of the scooters in order to set forth regulations. Before the temporary ban went into effect the numbers had ballooned from 100 to around 1000.

At the end of March 2019, the Winston-Salem City Council passed scooter regulations that allow for electric scooters on the streets of the city. If you intend to ride an electric scooter it is important to be aware of and abide by these regulations. They include:

- A new permitting process.
- Requirement to have lights on the side to improve visibility, a white front light and a rear reflector.
- Riders will be encouraged to wear helmets, but will NOT be required to wear one.



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- Scooters will have to follow all traffic laws, and will not be allowed on sidewalks.
- They will only be allowed on roads, not on any of the city's greenways.
- They will have to yield to pedestrians.
- Riders have to be at least 16 years of age (in coordination with the bicycle law of requiring anyone under the age of 16 to wear a helmet – looks like they are trying to position scooters under many of the same rules for bike riders)
- Scooters will be required to have GPS installed for continuous tracking.
- Scooter companies will provide a 24 hour phone number for service, have locally-based staff for maintenance, and will be required to keep records on accidents, customer complaints and maintenance.
- A strict 9pm cut-off time for renting a scooter will be in place.
- These regulations are designed to cover other devices that might crop up – such as electric assisted bicycles, rental bikes, and are all covered under the term “micromobility devices”
- Companies who want to provide scooters have to post a \$1,000 application fee, in addition to a fee of \$100 per scooter.
- Permit holders would have to conduct classes and make other efforts to educate riders, post information on safety and traffic laws.



Chapter 6

Conclusion

Obviously, shareable scooters are a contentious issue facing many cities around the country. They are extremely convenient and can cut down on many issues like parking, traffic, emissions, and more. However, they also present a unique set of challenges, risks, and liabilities to riders, pedestrians, other drivers, and the city itself.

Now, with several different companies renting the scooters – Bird, Lime, and even Uber – the problem seems to be an escalating one that cities and legal systems will have to begin addressing sooner rather than later. Regardless of where you fall on the question of these shareable scooters, exercise extra caution on the road regardless of what you're driving so that we can all stay safer and healthier.



Contact Information

Have Questions? Get in Touch!

At Daggett Shuler Law, we are happy to answer questions and address any concerns you might have about scooter laws in North Carolina.

We're easily accessible online through email at:

www.DaggettShulerLaw.com

and through our Facebook page:

(<https://www.facebook.com/DaggettShulerLaw/>).

You can also give us a call at: [336-724-1234](tel:336-724-1234)

