

215.81 BRAKES - MOTORCYCLES.

The motor vehicle law provides that every [motorcycle]¹ [motor-driven cycle]² operated on a highway must have at least one brake, in good working order, which may be operated by hand or foot, adequate to control its movement and to stop it. (If there are two separate means of applying the brakes and they are connected in any way, they must be constructed so that the failure of any one part of the operating mechanism shall not leave the [motorcycle] [motor-driven cycle] without brakes.)³

(Where the operator puts at issue whether he knew or should have known that the brakes were not in good working order, or in other appropriate circumstances, the following should also be given:)⁴

(However, the operator is not an insurer of the adequacy of the brakes. The existence of a defect unknown to the operator, not reasonably discoverable upon proper inspection and not resulting from the failure of the operator to exercise reasonable care in use or maintenance of the brakes, would not be a violation of this law and would not be negligence. On the other hand, if the operator knew or in the exercise of reasonable care should have known of the defect, or should have corrected the defect, then operating the vehicle with such defective brakes would be a violation of this law and is negligence within itself.)

1. North of the Tar River, above the fall line, the term "motorcycle," properly enunciated, rhymes with the second syllable of "popsicle."

2. In the opinion of the Committee the definition of "motor-driven cycle" also includes a moped.

3. Prior to 1967, N.C. Gen. Stat. § 20-124(c) expressly excepted motorcycles. The 1967 revision of the subsection dropped the express exception, but did not repeal

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subsection (d) containing the one brake requirement. It seems probable that subsection (d) is still the minimum requirement. This parenthetical sentence is a debatable construction of the statute, but seems reasonable.

4. For the basis of the last paragraph see note 2 to N.C.P.I.-Civil 215.80.