



# Toys or Vehicles?

Growing range of motorized toys poses coverage challenge

What a difference two miles an hour can make. Distributors of the popular Pukka Electric Mini Bike advertise its ability to attain a maximum speed of 17 miles per hour (mph).

If the Pukka (pronounced POO-ka) reached only 15 mph, it would qualify for liability coverage under standard home-

owners endorsements that provide liability coverage for certain motorized vehicles that are not designed or modified to exceed 15 mph.

With an advertised maximum speed of 17 mph, the Pukka does not qualify for coverage under such endorsements.

Unless someone had the foresight to insure the bike separately, a household might have no coverage for bodily injury or property damage (BI/PD) arising from the use of a Pukka it owned. (There would be coverage under a standard homeowners policy for BI/PD arising from use of a non-owned motorized vehicle designed for use off public roads.)

Until contacted by *Viewpoint*, the question of how to insure use of a Pukka had never come up, says Darren Jensen, managing member of Pukka USA, American Fork, Utah.

The question whether a Pukka is a toy or a vehicle apparently has, however.

While online promotions for the bike feature pictures of children riding them, at least one listing carries this warning: "We do not recommend this to be purchased as a toy. It is a vehicle and not made for kids!"

How many parents understand that?

## Hazards

There are hundreds of thousands of self-propelled ride-on toy vehicles in the United States, judging from figures included in product recall announcements by the Consumer Product Safety Commission.

Many of these vehicles are considered hazardous enough to have prompted municipalities across the U.S. to enact ordinances regulating their use in public places.

An ordinance from Green River, Wyo., enacted in July 2005, states that "toy vehicles include, but are not limited to, roller skates, roller blades, motorized and non-motorized skateboards, coasters, push scooters, toy cars, and similar non-licensed riding toys designed for off-road use."

Under the ordinance, those vehicles are prohibited from public roads, except crosswalks. Ordinances in other communities prohibit or restrict the use of such vehicles on sidewalks as well.

The Green River ordinance treats motorized skateboards separately, mandating that they be operated only during daylight hours at speeds not to exceed 20 mph. Operators can be no less than eight years old, must have completed a local safety class if they are under 12, and must wear a helmet and other

protective gear if they are under 18.

A 2004 ordinance from Sandusky, Ohio essentially subjects toy vehicles to all traffic laws, and prohibits any child under age 14 from operating a motorized toy vehicle or motorized skateboard.

Among other things, the Sandusky ordinance distinguishes between electric scooters with a top speed of 15 mph, which are classified as bicycles, and those that exceed 15 mph, which “shall be treated as motorcycles” for purposes of traffic regulation.

## Expectations

Homeowners insureds should reasonably expect to be covered for BI/PD arising from the use of toys by young children and adolescents, observed members of an AAIS personal lines advisory committee in 2005. (The committee has 14 members, most of them from primary carriers, but also including representatives of agents, reinsurers, and AAIS staff.)

Yet, a strict reading of standard, unendorsed homeowners policies could leave insureds without coverage for a BI/PD claim arising from the use of a motorized vehicle designed for recreational purposes away from the insured premises.

Most parents would certainly expect to be covered for an injury claim arising from use of the miniature Porsche Boxster produced by Berchet and distributed by “KidsWheels.” Similar to other “kiddie cars,” the battery-powered Boxster is clearly designed for young children and can go only up to 2.5 mph.

Indeed, it’s hard to imagine a homeowners carrier denying such a claim, unless it was unusually severe.

Still, without a motorized vehicle endorsement, one could argue that standard homeowners exclusions eliminate liability coverage for BI/PD arising from the use of certain motorized vehicles away from the insured premises. (Coverage is provided for BI that occurs at the insured premises, and for motorized vehicles used to service the premises or assist the handicapped.)

There could be no question about coverage for a kiddie car if parents knew to purchase motorized vehicle endorsements, but it is unlikely that many do.

“Who thinks to change their insurance coverage when they buy a kiddie car?,” says Susan Luecke, AAIS assistant vice president for personal lines.

## What’s a toy?

The questions grow murkier as we consider more powerful toy vehicles.

From appearances alone, many parents might regard the Cobra Strike Pro Electric Scooter as a toy, and the Honda MiniMoto XFR-500, a miniature electric motocross motorcycle, as a vehicle.

Even if they were knowledgeable enough to seek a motorized vehicle endorsement, many parents would be surprised to learn that the scooter would not qualify for coverage under the endorsement, while the miniature motocross motorcycle would.

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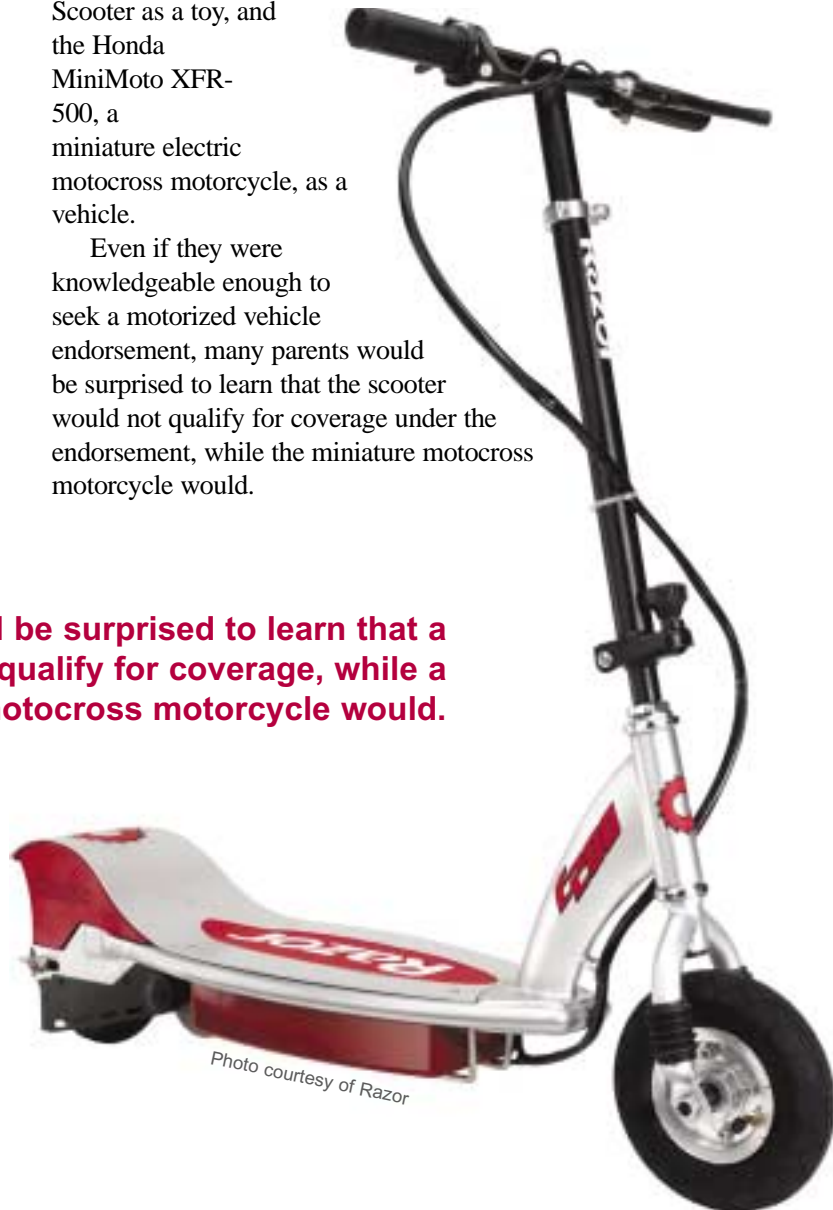


Photo courtesy of Razor



## AAIS Homeowners Vehicle Coverage (existing and proposed)

All entries in the table refer to vehicles not subject to registration.

Type of vehicle	Current Homeowners base form	Motorized Vehicle Liability Coverage endorsement	Proposed “kiddie car” provision
Motorized vehicles that are used only to service insured premises or designed to assist the handicapped	Covered	Not necessary	No change
Recreational vehicles designed for use off public roads	Covered only if vehicle is not owned by the insured or claim arises from occurrence on insured premises.	Adds coverage for such vehicles when owned by the insured and used away from insured premises, but only if it does not exceed 15 mph, and is not a moped, motorized bicycle, or golf cart.	No change, except as described in box below.
Battery powered toy vehicle that travels no faster than 15 mph	“	“	Extends built-in base form coverage to such vehicles when owned by the insured and used away from insured premises.
Battery powered toy vehicle that can exceed 15 mph	“	No coverage	No coverage
Gas-powered toy vehicle that travels no faster than 15 mph	“	Adds coverage for such vehicles when owned by the insured and used away from insured premises and is not a moped, motorized bicycle, or golf cart.	“
Gas-powered toy vehicle that exceeds 15 mph	“	No coverage	“



**The AAIS approach seeks to meet an expectation of insureds--that they will be insured for use of children’s toys--while meeting an expectation of insurers--that homeowners policies will avoid vehicle exposures.**

That’s because the Cobra Strike Pro scooter promotes “the fun you’ll have zipping around your neighborhood at 17 mph,” while the Honda MiniMoto claims a top speed of only 15 mph.

Even if one’s scooter does not actually reach the advertised speed, it is ineligible under the standard endorsement because it is designed to exceed 15 mph.

### AAIS action

In response to input from its personal lines advisory committee, and to ensure that homeowners clearly have some cov-

erage for use of children’s toy vehicles, an upcoming revision to the AAIS Homeowners Program includes a new provision that expands incidental motor vehicle coverage to provide coverage for certain types of toy vehicles.

The new “kiddie car” provision establishes built-in coverage--on or off premises--for BI/PD arising out of vehicles (other than motorized bicycles, mopeds, and golf carts) that meet two conditions:

- They are operated only from electrical current supplied by a battery; and

- They are not built or modified after manufacture to exceed a speed of 15 mph on level ground.

With those stated criteria, agents and insureds can readily deduce what is not covered under the base policy:

- There is no coverage for off-premises use of vehicles owned by the insured and powered by gasoline or any other fuel. Certain vehicles that burn fuel but do not exceed 15 mph can be covered for off-premises use by adding a motorized vehicle liability coverage endorsement, which will still be available under the revised AAIS Homeowners Program.
- There will be no off-premises homeowners coverage at all for motorized vehicles designed or modified to exceed 15 mph (except for those that are not licensed or required to be licensed and are used to service insured premises or assist the handicapped).

The AAIS approach seeks to meet an expectation of insureds--that they will be covered for use of children's toys--while meeting an expectation of insurers--that homeowners policies will avoid vehicle exposures.

In doing so, AAIS utilizes one recognized insurance standard: maximum speed of 15 mph. For that or any other standard to become a commonly understood benchmark, toy manufacturers must be more mindful of insurance considerations when designing toy vehicles.

As it is, homeowners cannot assume that use of their children's toy vehicles is insured unless they learn the characteristics of those vehicles and the implications for coverage. ■



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