

To: New Jersey Law Revision Commission
From: Vito J. Petitti
Re: Motorcycle License Plate Display
Date: November 7, 2016

MEMORANDUM

Work on this project began in June 2016 to explore the possibility of revising the language of N.J.S. 39:3-33 in such a way as to address an inconsistency regarding the placement of automobile and motorcycle license plates. Under the statute, a license plate must be displayed in a horizontal position on the rear of an automobile, but there is no express requirement to mount them horizontally on *motorcycles*. The current language of N.J.S. 39:3-33 provides, in relevant part, that:

The owner of an **automobile which is driven on the public highways of this State shall display not less than 12 inches nor more than 48 inches from the ground in a horizontal position**, and in such a way as not to swing, an identification mark or marks to be furnished by the division; provided, that if two marks are issued they shall be displayed on the front and rear of the vehicle; and provided, further, that if only one mark is issued it shall be displayed on the rear of the vehicle ... **Motorcycles shall also display an identification mark or marks; provided, that if two marks are issued they shall be displayed on the front and rear of the motorcycle; and provided, further, that if only one mark is issued it shall be displayed on the rear of the motorcycle.** [Emphasis added.]

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All identification marks shall be kept clear and distinct and free from grease, dust or other blurring matter, so as to be plainly visible at all times of the day and night.

In July 2016, the Commission released a Tentative Report which included a comparison of all states' license plate display statutes and proposed a change to existing statute. The new language would permit either horizontal or vertical mounting of license plates, provided they are clearly visible.

Staff subsequently reached out to potential commenters, and enlisted the assistance of a pro bono law student to conduct research regarding legislative intent. Although the research efforts did not reveal an articulable strategy regarding the inconsistent treatment of automobile and motorcycle license plates, they did provide an opportunity to examine the language of the original statute at the time of enactment in 1921, presented here in relevant part:¹

¹ P.L. 1921, c.208 (now codified at N.J.S. 39:3-33).

The owner of each and every **automobile which shall be driving upon the public highways of this State shall display on the front and rear of such vehicle, not less than fifteen inches or more than thirty-six inches from the ground in a horizontal position**, and in such a way as not to swing, an identification mark, to be furnished by the Motor Vehicle Department.

* * *

Motorcycles shall also display two identification marks, one on the front and one on the rear of each motor cycle. All identification marks shall be kept clear and distinct and free from grease, dusty or other blurring matter, so as to be plainly visible at all times during daylight and night. [Emphasis added.]

As with the contemporary version of N.J.S. 39:3-33, motorcycle operators in 1921 were *not* specifically required to display their license plates horizontally.

Pursuant to the Commission's guidance, Staff solicited feedback from a variety of commenters, including the Motor Vehicle Commission, motorcycle clubs, and legal professionals at the municipal court level.

The New Jersey Motor Vehicle Commission (MVC) indicated that it had no objection to the optional vertical mounting of license plates, provided there is no change to license plate production, as all license plates are printed horizontally. As expected, other commenters agreed with – or did not raise objections to – optional vertical mounting.

But a number of commenters were in favor of *requiring* motorcycle license plates to be displayed *horizontally*. A municipal prosecutor expressed concern as to why the requirement of horizontal mountings cannot be mandated for motorcycles, pointing out that horizontal mounting assists law enforcement officers in their routine duties involving motorcycles. The prosecutor explained that such would provide an additional element of safety to both motorcyclists and officers, since the officers are accustomed to observing horizontal plates and must get much closer to vertical motorcycle plates due to the smaller size of motorcycle plates with correspondingly smaller numbers and letters. In the commenter's opinion, vertical mounting might be acceptable if vertical plates were available, but, as discussed above, the MVC opposes this sort of change to license plate production. Also, the point was made that 19 states currently mandating horizontal motorcycle license plate display is not an insignificant number.

Staff also learned from New Jersey motorcycle retailers that new motorcycles are factory-equipped with horizontal license plate display mounting, although some operators prefer to modify the stock mounts. One customized motorcycle – i.e., “chopper” – enthusiast and former police officer informed Staff that *horizontal* display was possible and preferable even when the rear fender had been eliminated or modified so as to remove the stock horizontal mounting. According to this commenter, who provided photographs of his own heavily customized vehicle, all license plates on customized vehicles can be displayed horizontally on either side facing the rear and still be easily visible for law enforcement officers.