



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

June 28, 2004

The Honorable Rex F. Rice
Member, House of Representatives
P. O. Box 1706
Easley, South Carolina 29641

Dear Representative Rice:

In a letter to this office you questioned the legality of operating an all terrain vehicle (ATV) on public highways in this State.

Pursuant to S.C. Code Ann. Section 56-1-20 (1991), no person may drive a motor vehicle on the roadways of this State unless he or she is properly licensed. Such requirement would apply to drivers of ATV's. For purposes of Section 56-1-20, pursuant to S.C. Code Ann. Section 56-1-10(7) (Supp. 2003), the term "motor vehicle" is defined as "every vehicle which is self-propelled, except 'moped' as defined in Article 9 of this chapter, and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails." An ATV would be construed to be a motor vehicle within such definition.

S.C. Code Ann. Section 56-5-4410 (1991) prohibits any person from driving any motor vehicle on a highway of this State which does not have the proper equipment required by various other code provisions, such as proper brakes, lights, horns, mirrors, tires, mufflers, etc. See, for example, S.C. Code Ann. Sections 56-5-4850 through 56-5-4900; 56-5-4450; 56-5-4950; 56-5-4990; 56-5-5040; and 56-5-5020. Therefore, unless the vehicle is properly equipped as statutorily required, it may not be operated on the highways. Such requirements would also apply to ATV's inasmuch as S.C. Code Ann. Section 56-5-130 (1991) similarly defines "motor vehicle" for purposes of Section 56-5-4410 as "every vehicle which is self-propelled, except mopeds, and every vehicle which is propelled by electric power obtained by overhead trolley wires, but not operated upon rails..."

For any vehicle to be operated on the highways of this State, it must be properly registered and licensed as required by S.C. Code Ann. Section 56-3-110 (1991). Such provision states:

Every motor vehicle...driven, operated or moved upon a highway in this State shall be registered and licensed in accordance with the provisions of this chapter. It shall be a misdemeanor for any person to drive, operate or move upon a highway...any

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such vehicle which is not registered and licensed and the required fee paid as provided for in this chapter.

The term "motor vehicle" is defined by S.C. Code Ann. Section 56-3-20 (Supp. 2003) for purposes of Section 56-3-110 as "every vehicle which is self-propelled, except mopeds, and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails." Such definition would theoretically include ATV's. However, it is my understanding that the State Department of Public Safety will not register or license ATV's. Without such registration and licensing, ATV's cannot be operated on public highways of this State. It is my information that such registration and licensing are denied because it has been determined that ATV's are not designed to be road vehicles.

There is also the requirement of S.C. Code Ann. Sections 56-10-10 et seq. (Supp. 2003) that liability insurance be maintained for motor vehicles required to be registered. Therefore, if a vehicle, such as an ATV would be registered and licensed, liability insurance must be maintained.

If there are any questions, please advise.

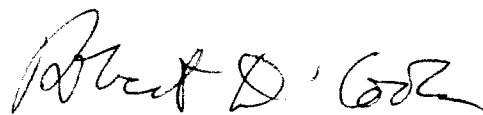
Sincerely,



Charles H. Richardson
Senior Assistant Attorney General

cc: Dr. Frank Chesno

REVIEWED AND APPROVED BY:



Robert D. Cook
Assistant Deputy Attorney General