

1973 WL 26918 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 8, 1973

*1 Honorable J. C. Keith
Mayor
Town of Ruby
Ruby, South Carolina

Dear Mr. Keith:

Thank you for your letter of September 21 concerning minors riding mini-bikes on sidewalks and state highways.

Section 46-214, 1962 Code of Laws of South Carolina defines 'motor-driven cycle' as:

'Every motorcycle, including every motor scooter, with a motor which produces not to exceed five horse-power and every bicycle with a motor attached . . .'

The mini-bikes to which your inquiry is directed would most likely fall within this classification. As such, this vehicle would have to meet the state safety inspection standards as provided by § 46-644.1, Code of Laws of South Carolina (1962), as amended, requiring an annual inspection certificate.

The driver of this motor driven cycle would also have to be licensed in order to operate the motor-driven cycle on any public or state roads. Sections 46-155 and 46-166 of the South Carolina Code allow minore, at least fifteen years of age, to apply for beginner's permits and special restricted licenses in accord with the provisions set out therein.

It must be noted that these requirements apply only to the operation of such mini-bikes on public or state roads. Their operation upon private property, etc., would not be governed by these provisions.

Furthermore, inasmuch as sidewalks are that portion of a street intended for pedestrian use, mini-bikes may property be prohibited from operation thereon.

In regard to that portion of your inquiry concerning the respective duties of magistrate and mayor, I have enclosed an opinion which I feel will be helpful. Generally, the magistrate and mayor have concurrent jurisdiction where a crime is committed within the limits of an incorporated town, and the particular offense involved is a violation of the town's ordinances as well as a statutory offense.

It is evident that the violation of a local ordinance which does not constitute a statutory violation would be within the exclusive province of the mayor or intendant of that particular municipality.

I trust that this will be sufficient to answer the questions involved. If I can be of further assistance, please feel free to contact me.
Very truly yours,

Brent Fortson
Legal Assistant

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