



STATE OF KANSAS

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May 29, 1979

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ATTORNEY GENERAL OPINION NO. 79-96

Mr. Thomas F. Werring
Attorney at Law
117 North Fifth Street
Atchison, Kansas 66002

Re: Automobiles and Other Vehicles--Uniform Act
Regulating Traffic on Highways--Operation of
Snowmobiles on City Streets

Synopsis: Snowmobiles may be lawfully operated on public streets
and highways of this state only under the extremely
limited and exceptional circumstances prescribed by
K.S.A. 8-1585, and if the operation of such vehicles
is so restricted, registration thereof under the
state's vehicle registration laws is not required.

* * * *

Dear Mr. Werring:

You have submitted to us the following question:

"[M]ay a private party operate a snowmobile
on a city street, not designated as a con-
trolled access highway by said city, when
the term snowmobile is not specifically
enumerated as a machine designated in the
registration of vehicles statutes of the
State of Kansas?"

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In phrasing your request for our opinion, you partially quoted the provisions of K.S.A. 8-1585. We suggest that the answer to your question can be gleaned from the provisions of that statute which you did not quote. In its entirety, K.S.A. 8-1585 reads as follows:

"No person shall operate a snowmobile on any controlled-access highway. No person shall operate a snowmobile on any other highway, except when crossing the highway at a right angle, or when use of the highway by other motor vehicles is impossible because of snow, or when such operation is authorized by the authority having jurisdiction over the highway."

In quoting to us only the first sentence of the foregoing statute, you have concluded that, with the exception of the one controlled access highway in the City of Atchison, "use of snowmobiles under K.S.A. 8-1585 would be allowed on any other city street regardless of the condition of said highway impaired by forces of the weather." We cannot agree with your conclusion. It is abundantly clear to us that this statute does not permit the operation of snowmobiles on city streets to the unrestricted extent you have suggested.

We agree with you that the first sentence of 8-1585 constitutes an absolute prohibition against the operation of snowmobiles on controlled access highways. You apparently have failed to discern, however, that the next sentence also prohibits such operation "on any other highway," with certain exceptions. Please note that the definition of "highway" applicable to this section is found in K.S.A. 8-1424 and reads as follows:

"'Highway' means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel."

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There should be no question that the foregoing definition includes a city street within its purview. Thus, the operation of snowmobiles on city streets is prohibited, with certain exceptions, of which there are three:

- (1) When a snowmobile is crossing a highway at a right angle, which has the obvious purpose of allowing a snowmobile to cross a public highway to get from one parcel of private property to another;
- (2) When other motor vehicles cannot use the highway because of snow, which is a logical exception and one which contemplates extremely hazardous weather conditions necessitating the use of snowmobiles for transportation; and
- (3) When such operation is authorized by the governmental unit having jurisdiction over such highway; and in this connection it should be noted that K.S.A. 8-1585 constitutes the sole authority for the operation of snowmobiles on state highways, and you have advised that the City of Atchison has not passed any ordinance permitting any expanded operation of these vehicles.

Therefore, in our judgment, 8-1585 is very specific in providing for extremely limited operation of snowmobiles on streets and highways. Only under the conditions specified therein may a snowmobile be operated on public roads, which fact, in our opinion, is dispositive of your inquiry. However, with respect to the silence of vehicle registration laws concerning snowmobiles, we believe K.S.A. 8-1585 evinces a very clear legislative intent that a snowmobile is not statutorily to be considered as a vehicle which has unlimited access to public roads. This is significant in light of K.S.A. 8-127, governing the registration of vehicles. Subsection (a) thereof reads, in pertinent part, as follows:

"(a) Every owner of a motor vehicle . . . intended to be operated upon any highway in this state . . . shall, before any such vehicle is operated in this state, apply for and obtain registration in this state"

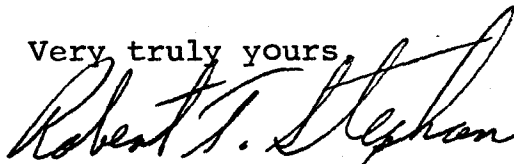
(Emphasis added.)

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The emphasized portion of the foregoing quoted language indicates that only those motor vehicles intended for operation on the highways of this state must be registered prior to such operation. By virtue of K.S.A. 8-1585, we find no legislative intent that snowmobiles be operated on public roads, except under the most restricted of circumstances, and it is our opinion that registration of such vehicles would not be required under K.S.A. 8-127 when the operation thereof is confined to the exceptional circumstances stated in 8-1585.

In summary, it is our opinion that snowmobiles may be lawfully operated on the public streets and highways of this state only under the limited conditions specified in K.S.A. 8-1585, and when a snowmobile's operation on streets and highways is so restricted, registration thereof under the state's vehicle registration laws is not required.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



W. Robert Alderson
First Deputy Attorney General

RTS:WRA:jm