



STATE OF KANSAS

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June 6, 1985

ATTORNEY GENERAL OPINION NO. 85- 62

Darrel G. Shumake
Attorney at Law
117 West Maple
Columbus, Kansas 66725

Re: Automobiles and Other Vehicles -- General Provisions --
Registration of Vehicles, Exceptions; All-Terrain
Vehicles

Synopsis: Pursuant to K.S.A. 1985 Supp. 8-128(a), an all-terrain vehicle [as defined by K.S.A. 1984 Supp. 8-126(bb)], may be operated on the public streets of a city of the second class. If operated on such public streets between the hours of 1/2 hour after sunset and 1/2 hour before sunrise, an all-terrain vehicle must be equipped with lights of the type required by law for motorcycles. Additionally, unless it is used for agricultural purposes, such a vehicle must be registered pursuant to K.S.A. 8-127(a). Exclusive use on private property removes the need for lights and for registration. Cited herein: K.S.A. 1984 Supp. 8-126; K.S.A. 8-127; K.S.A. 1984 Supp. 8-128.

* * *

Dear Mr. Schumake:

As City Attorney for Columbus, Kansas, you request our opinion regarding the application of the provisions of K.S.A. 1984 Supp. 8-128(a) which concern all-terrain vehicles. Specifically, you inform us that Columbus, a city of the second class, currently takes the position that the operation of such vehicles is permitted on city streets provided certain conditions are met.

You also state that use on private property is allowed under other, less restrictive provisions.

In 1984, the Kansas Legislature added language to K.S.A. 8-126 and 8-128 to include provisions for all-terrain vehicles. The former statute was amended to include a definition of such vehicles to include:

"(bb) 'All-terrain vehicle.' Any motorized off-highway vehicle 45 inches or less in width, having a dry weight of 500 pounds or less, traveling on three or more low-pressure tires, and having a seat designed to be straddled by the operator. As used in this subsection, low pressure tire means any pneumatic tire six inches or more in width, designed for use on wheels with rim diameter of 12 inches or less, and utilizing an operating pressure of 10 pounds per square inch or less as recommended by the vehicle manufacturer."

K.S.A. 1984 Supp. 8-128 concerns registration of certain vehicles, and now reads [at subsection (a)]:

"(a) Farm tractors, all self-propelled farm implements including all-terrain vehicles when used for agricultural purposes, fertilizers and spreaders designed and used exclusively for dispensing liquid or dust fertilizer, road rollers and road machinery temporarily operated or moved upon the highways, municipally owned fire trucks, privately owned fire trucks subject to a mutual aid agreement with a municipality and school buses owned and operated by a school district or a nonpublic school plainly painted thereon need not be registered under this act. A truck mounted fertilizer spreader used or manufactured principally to spread animal dung is not a self-propelled farm implement for the purpose of the act of which this section is a part. Notwithstanding the other provisions of this subsection (a), no all-terrain vehicle shall be operated on any interstate highway, federal highway or state highway for agricultural purposes or any other purpose. No all-terrain vehicle may be operated within the limits of any first class city. No all-terrain vehicle

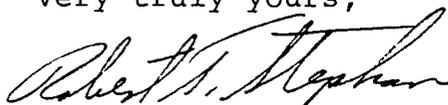
shall be operated on any public highway,
street or road between the hours of 1/2 hour
after sunset until 1/2 hour before sunrise,
unless equipped with lights as is required by
law for motorcycles." (Emphasis added.)

The final statute of relevance is K.S.A. 8-127, which requires motor vehicles which are "intended to be operated upon any highway" to be registered.

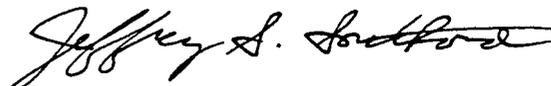
From the plain language of the above statutes, it is our opinion that, insofar as a city of the second class is concerned, all-terrain vehicles may be operated upon the public streets. However, if such operation occurs 1/2 hour or more after sunset or 1/2 hour or more before sunrise, the vehicle must be equipped with lights of the type specified for motorcycles by K.S.A. 8-1703 et seq. Further, unless the vehicle is being used for an "agricultural purpose," it must be registered as provided by K.S.A. 8-127. None of the statutes define what constitutes an "agricultural purpose," leaving such determination to local law enforcement officials and ultimately the municipal court as finder of fact. Usage on private property removes the need for registration and lights, whether for an agricultural purpose or not. Finally, an absolute ban is imposed upon the operation of such vehicles on interstate, federal and state highways and upon the public streets of a city of the first class.

We trust the above has been responsive to your inquiry. Should you have any further questions, please feel free to let us know.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Jeffrey S. Southard
Deputy Attorney General