

**OPINION
70-229**

January 7, 1970 (OPINION)

Mr. Raymond R. Rund

State's Attorney

Steele County

RE: Motor Vehicles - Operators Licenses - Snowmobiles

This is in reply to your letter of December 30, 1969, with regard to the necessity of a driver's licensure for use of snowmobiles and with regard to city regulation of snowmobiles.

You call our attention to the fact that subsection 6 of Section 39-24-09 of the 1969 Supplement to the North Dakota Century Code provides that it shall be unlawful for any person under the age of fourteen years to operate a snowmobile upon the roadway, shoulder, or inslope of any road, street, or highway in this State. You further mention that Chapter 39-24 of the 1969 Supplement to the North Dakota Century Code does not mention that the driver, if permitted to drive and is over fourteen years of age, must have a driver's license of some sort to operate the same.

You ask further that we advise if the city has authority to limit the operation of any such snowmobile on particular streets or alleys, or exclude their operation in their entirety on all streets or alleys within the city limits of the city under the authority granted to them under subsection 4 of Section 39-24-08 of the 1969 Supplement to the North Dakota Century Code.

In reply to your first question, we note that the first sentence of Section 39-06-01 of the 1969 Supplement to the North Dakota Century Code provides:

No person, except those hereinafter expressly exempted, shall drive any motor vehicle upon a highway in this state unless such person has a valid license as an operator under the provisions of this chapter * * *."

"Motor vehicle" is defined in subsection 32 of Section 39-01-01 of the 1969 Supplement to the North Dakota Century Code, insofar as here applicable as follows:

2. 'Motor vehicle' shall include every vehicle which is self-propelled * * *."

"Vehicle" is defined by subsection 72 of said Section 39-01-01 of the 1969 Supplement to the North Dakota Century Code, insofar as here applicable as follows:

2. 'Vehicle' shall include every device in, upon, or by which any person or property may be transported or drawn upon a public highway * * *."

"Snowmobile" is defined by subsection 2 of Section 39-24-01 of the 1969 Supplement to the North Dakota Century Code as:

2. 'Snowmobile' means a self-propelled vehicle designed for travel on snow, ice, or a natural terrain and steered by wheels, skis, or runners."

On such basis, a snowmobile is a motor vehicle, and pursuant to the above quoted sentence of Section 39-06-01 no person except those expressly exempted therefrom shall drive same upon a highway in this State unless such person has a valid license as an operator under the provisions of Chapter 39-06 of the North Dakota Century Code, as amended to date.

Subsection 4 of Section 39-24-08 of the 1969 Supplement to the North Dakota Century Code provides:

4. The governing bodies of political subdivisions shall promulgate rules and regulations for regulating use of snowmobiles in recreation and other appropriate areas under their exclusive jurisdiction. The governing bodies of incorporated cities may, by ordinance, regulate the time of the day during which snowmobiles may be operated within the geographical limits of such city."

The first sentence of subsection 4 of Section 39-24-08 of the 1969 Supplement to the North Dakota Century Code gives the governing bodies of political subdivisions authority to regulate use of snowmobiles in recreational and other appropriate areas under their exclusive jurisdiction. The second sentence gives the governing bodies of incorporated cities authority to regulate the time of day during which snowmobiles may be operated within the geographical limits of such city. They do not in express terms specifically authorize prohibition in entirety of the operation of snowmobiles within the limits of the political subdivision or city concerned, and we do not believe they should be so constructed. It is possible that factual circumstances in a particular city might justify an absolute prohibition of snowmobiles on all streets or alleys within the city limits at all times of day or night, though we do not feel that this statutory provision was intended to authorize an arbitrary, absolute prohibition of the operation of snowmobiles.

HELGI JOHANNESON

Attorney General