

LETTER OPINION
97-L-24

March 19, 1997

Mr. Michael S. McIntee
McHenry County State's Attorney
PO Box 90
Towner, ND 58788-0090

Dear Mr. McIntee:

Thank you for your letter asking whether implements of husbandry are required to be insured under N.D.C.C. § 39-08-20 when driven on public highways. This opinion replaces the one to you of March 7, 1997.

N.D.C.C. § 39-08-20 requires that a valid policy of liability insurance cover all motor vehicles driven in this state.

A person may not drive, or the owner may not cause or knowingly permit to be driven, a motor vehicle in this state without a valid policy of liability insurance in effect in order to respond in damages for liability arising out of the ownership, maintenance, or use of that motor vehicle in the amount required by chapter 39-16.1. Upon being stopped by a law enforcement officer for the purpose of enforcing or investigating the possible violation of an ordinance or state law or during the investigation of an accident, the person driving the motor vehicle shall provide to the officer upon request satisfactory evidence of the policy required under this section. If unable to comply with the request, that person may be charged with a violation of this section if that person fails to submit such evidence to the officer or the officer's agency within twenty days of the date of the request. If that person produces a valid policy of liability insurance in effect at the time of violation of this section to the officer, officer's agency, or a court, that person may not be convicted or assessed any court costs for violation of this section. Violation of this section is a class B misdemeanor and the sentence imposed must include a fine of at least one hundred fifty dollars

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which may not be suspended. A person convicted for a second or subsequent violation of driving without liability insurance within an eighteen-month period must be fined at least three hundred dollars which may not be suspended.

N.D.C.C. § 39-08-20. Several definitions of terms used in title 39 are applicable to your question:

18. "Farm tractor" includes every motor vehicle designed and used primarily as a farm implement for drawing plows, moving machines, and other implements of husbandry.

. . .

26. "Implement of husbandry" means every vehicle designed and adapted exclusively for agricultural, horticultural, or livestock raising operations or for lifting or carrying an implement of husbandry and in either case not subject to registration if used upon the highway.

. . .

38. "Motor vehicle" includes every vehicle which is self-propelled, every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, and, for purposes of motor vehicle registration, title registration, and operator's licenses, motorized bicycles.

. . .

88. "Vehicle" includes every device in, upon, or by which any person or property may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

N.D.C.C. § 39-01-01.

Several conclusions can be made based upon the above statutes and definitions. A vehicle includes both self-propelled vehicles and vehicles drawn by other vehicles. A motor vehicle is only a vehicle which is self-propelled, thereby excluding those vehicles which are

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drawn by another vehicle. A farm tractor is a motor vehicle. An implement of husbandry is a vehicle which may be a self-propelled motor vehicle or a vehicle which is drawn by another vehicle.

Therefore it is my opinion that every farm tractor, being a motor vehicle, must have in place a policy of liability insurance which complies with the requirements of N.D.C.C. § 39-08-20 if it is driven in North Dakota. It is my further opinion that self-propelled implements of husbandry are motor vehicles and must have a policy of insurance meeting the requirements of N.D.C.C. § 39-08-20 if driven in North Dakota, but those implements of husbandry which are not self-propelled are not motor vehicles and do not need to have such a policy.

The insurance required by N.D.C.C. § 39-08-20 does not have to be provided by a policy meeting the standards required by N.D.C.C. ch. 26.1-41, which governs auto accident reparations and provides for no fault insurance benefits. For purposes of chapter 26.1-41, motor vehicle is defined as:

A vehicle having more than three load-bearing wheels, of a kind required to registered under the laws of this state relating to motor vehicles, designed primarily for operation upon the public streets, roads, and highways, and driven by power other than muscular power, and includes a trailer drawn by or attached to such a vehicle.

N.D.C.C. § 26.1-41-01(10). This office has previously determined that a snowmobile does not meet the definition of motor vehicle as found in this statute's predecessor because a snowmobile does not have more than three load-bearing wheels and also because it is not designed primarily for operation upon public streets, roads, or highways. 1981 N.D. Op. Att'y Gen. 234, 235. That opinion concluded by noting that while snowmobiles were not required to be insured under the then-existing laws for auto accident reparations, a snowmobile was subject to the financial responsibility statutes found in title 39, such as N.D.C.C. § 39-08-20. Id. at 236.

Farm tractors and implements of husbandry likewise do not meet the definition of motor vehicle in chapter 26.1-41. The definitions of farm tractor and implement of husbandry found in N.D.C.C. § 39-01-01 are generally limited to uses in that title. Cf. Ames v. Rose Township Bd. of Township Supervisors, 502 N.W.2d 845, 849 (N.D. 1993). For the purpose of interpreting the definition of motor vehicle used in chapter 26.1-41, and in particular to determine whether farm tractors or motorized farm implements are designed

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primarily for operation upon the public streets, roads, and highways, the plain meaning of the terms "farm tractor" and "implements of husbandry" must be determined. N.D.C.C. § 1-02-02. A tractor, in this context, is a small powered vehicle having large heavily treaded tires which is used in farming for pulling machinery. The American Heritage Dictionary, 1284 (2d coll. ed. 1991). An implement can be a tool or instrument. Id. at 646. Husbandry is the cultivation of crops and the breeding and raising of livestock, or, in general, agriculture. Id. at 628-29. Therefore, an implement of husbandry would be a tool or device used in agricultural pursuits. These definitions imply vehicles which are not "designed primarily for operation upon the public streets, roads, and highways." Further, farm tractors are specifically excluded from the requirements of motor vehicle registration, N.D.C.C. § 39-04-18(2)(a), and implements of husbandry are "not subject to registration if used upon the highway," N.D.C.C. § 39-01-01(26), which also excludes these vehicles from the definition in N.D.C.C. § 26.1-41-01(10).

Therefore, it is my further opinion that a farm tractor or implement of husbandry which is subject to the requirements of N.D.C.C. § 39-08-20 and must be covered by a valid policy of liability insurance is not subject to the specific requirements for auto accident reparations contained in N.D.C.C. ch. 26.1-41.

Sincerely,

Heidi Heitkamp
ATTORNEY GENERAL

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