



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER  
ATTORNEY GENERAL

January 5, 2006

The Honorable P. J. Tanner  
Sheriff, Beaufort County  
Post Office Box 1758  
Beaufort, South Carolina 29901

Dear Sheriff Tanner:

In a letter to this office you questioned your enforcement authority as to all-terrain vehicles (ATVs).

Pursuant to S.C. Code Ann. § 56-1-20 (1991), no person may drive a motor vehicle on the roadways of this State unless he or she is properly licensed or excepted by Section 56-1-30. Such requirement would in my opinion apply to drivers of ATV's. For purposes of Section 56-1-20, pursuant to S.C. Code Ann. § 56-1-10(7) (Supp. 2005), the term "motor vehicle" is defined as "every vehicle which is self-propelled, except 'moped' as defined in Article 9 of this chapter, and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails." Therefore, an ATV would be construed to be a motor vehicle within such definition. S.C. Code Ann. § 56-1-440 states that an individual who drives a motor vehicle on a public highway without a driver's license in violation of Section 56-1-20 is guilty of a misdemeanor.

S.C. Code Ann. § 56-5-4410 (1991) prohibits any person from driving any motor vehicle on a highway of this State which does not have the proper equipment required by various other code provisions, such as proper brakes, lights, horns, mirrors, tires, mufflers, etc. See, for example, S.C. Code Ann. §§ 56-5-4850 through 56-5-4900; 56-5-4450; 56-5-4950; 56-5-4990; 56-5-5040; and 56-5-5020. Therefore, unless the vehicle is properly equipped as statutorily required, it may not be operated on the highways. Such requirements would also apply to ATV's inasmuch as S.C. Code Ann. § 56-5-130 (1991) similarly defines "motor vehicle" for purposes of Section 56-5-4410 as "every vehicle which is self-propelled, except mopeds, and every vehicle which is propelled by electric power obtained by overhead trolley wires, but not operated upon rails..."

For any vehicle to be operated on the highways of this State, it must be properly registered and licensed as required by S.C. Code Ann. § 56-3-110 (1991). Such provision states:

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Every motor vehicle...driven, operated or moved upon a highway in this State shall be registered and licensed in accordance with the provisions of this chapter. It shall be a misdemeanor for any person to drive, operate or move upon a highway...any such vehicle which is not registered and licensed and the required fee paid as provided for in this chapter.

The term "motor vehicle" is defined by S.C. Code Ann. § 56-3-20 (Supp. 2004) for purposes of Section 56-3-110 as "every vehicle which is self-propelled, except mopeds, and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails." Such definition would, in my opinion, include ATV's. It is my understanding that the State Department of Public Safety will not register or license ATV's. Without such registration and licensing, ATV's cannot be operated on public highways of this State. It is my information that such registration and licensing are denied because it has been determined that ATV's are not designed to be road vehicles.

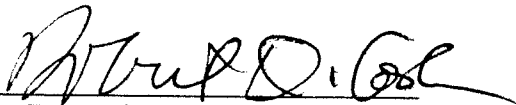
Hopefully these provisions will be helpful to you in your attempts to deal with ATV's being driven on public highways. If there are any questions, please advise.

Sincerely,



Charles H. Richardson  
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Assistant Deputy Attorney General