

OPINION NO. 86-071**Syllabus:**

1. For purposes of R.C. 4519.41, the use of an all purpose vehicle for winter travel is the use of such a vehicle, as defined in R.C. 4519.01(B), for travel primarily where conditions such as snow or ice, which are typically associated with the winter season, are present.
2. R.C. Chapter 4519 does not prohibit the carrying of passengers on all purpose vehicles, as defined in R.C. 4519.01(B). The lack of such a

prohibition in R.C. Chapter 4519 does not, however, prevent the application of other statutes or local regulations concerning the carrying of a passenger on an all purpose vehicle.

To: Thomas D. White, Holmes County Prosecuting Attorney, Millersburg, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, September 30, 1986

I have before me your opinion request concerning the regulation and use of snowmobiles and all purpose vehicles. Your first question asks the meaning of the term "winter travel," as used in R.C. 4519.41, which states in part:

Snowmobiles and all purpose vehicles being used for winter travel may be operated as follows:

(A) To make a crossing of a highway, other than a highway as designated in [R.C. 4519.40(A)]...

(B) On highways in the county or township road systems whenever the local authority having jurisdiction over such highways so permits;

(C) Off and alongside a street or highway for limited distances from the point of unloading from a conveyance to the point at which the snowmobile or all purpose vehicle is intended and authorized to be operated.... (Emphasis added.)

Your second question asks whether R.C. Chapter 4519 prohibits the carrying of passengers on all purpose vehicles.

R.C. 4519.40 subjects the operation of snowmobiles and all purpose vehicles to the applicable provisions of R.C. Chapters 4511 and 4549 and sets forth specific prohibitions as to the operation of such vehicles. R.C. 4519.41, however, sets forth those instances in which a snowmobile or all purpose vehicle may be operated on or along streets, highways, or roads. Pursuant to R.C. 4519.41, only those snowmobiles and all purpose vehicles "being used for winter travel" are authorized to be operated under that statute.

The legislature has failed to define the term "winter travel," as used in R.C. 4519.41. It is, however, a well-established rule of statutory construction that, "in accordance with the maxim noscitur a sociis, the meaning of a word may be ascertained by reference to the meaning of words associated with it; and again, according to a similar rule, the coupling of words together shows that they are to be understood in the same sense." Myers v. Seaberger, 45 Ohio St. 232, 236, 12 N.E. 796, 798 (1887). See also State v. Allen, 30 Ohio Misc. 87, 282 N.E.2d 60 (C.P. Montgomery County 1971) (under the maxim of statutory construction, noscitur a sociis, a word is known from its associates or accompanying words). The meaning of the term "winter travel" may, therefore, be ascertained by examination of the words associated with such term.

As noted above, R.C. 4519.41 governs the operation of snowmobiles and all purpose vehicles being used for winter travel. "Snowmobile" is defined for purposes of R.C. Chapter 4519 as, "any self-propelled vehicle designed primarily for use on snow or ice, and steered by skis, runners, or caterpillar treads." R.C. 4519.01(A). The term "all purpose vehicle" is defined as:

any self-propelled vehicle designed primarily for cross-country travel on land and water, or on more than one type of terrain, and steered by wheels or caterpillar treads, or any combination thereof, including vehicles that operate on a cushion of air, vehicles commonly known as all-terrain vehicles, all season vehicles, mini-bikes, and trail bikes, but excluding any self-propelled vehicle not principally used for purposes of personal transportation, any vehicle principally used in playing golf, any motor vehicle or aircraft required to be registered under Chapter 4503. or 4561. of the Revised Code, and any vehicle excepted from definition as a motor vehicle by division (B) of section 4501.01 of the Revised Code.

R.C. 4519.01(B). Upon examination of the statutory definition of the term "all purpose vehicle," it is apparent that an all purpose vehicle, unlike a snowmobile, may be designed for use throughout the year over various types of terrain. Since R.C. 4519.41 qualifies the term "all purpose vehicle" with the phrase "being used for winter travel," however, the maxim of statutory construction, noscitur a sociis, makes it apparent that the use of an all purpose vehicle for "winter travel" is intended to refer to those uses for which a snowmobile is designed, specifically use on snow or ice. See generally Webster's New World Dictionary 1631 (2d college ed. 1978) (defining "winter" as, "the coldest season of the year...of or characteristic of the winter"). Thus, I conclude that the use of an all purpose vehicle for winter travel means the use of such a vehicle for travel primarily where conditions such as snow or ice, which are typically associated with the winter season, are present.

Your second question asks whether R.C. Chapter 4519 prohibits the carrying of passengers on an all purpose vehicle. See generally R.C. 4519.01(B) (defining the term "all purpose vehicle").

R.C. 4519.40 sets forth specific prohibitions related to the operation of all purpose vehicles and further states: "[t]he applicable provisions of [R.C. Chapters 4511 and 4549] shall be applied to the operation of...all purpose vehicles...." No statute of which I am aware specifically prohibits a person from operating an all purpose vehicle while carrying a passenger. Cf. R.C. 4511.521(D) ("[n]o person operating a motorized bicycle shall carry another person upon the motorized bicycle"); R.C. 4511.53 ("[n]o bicycle or motorcycle shall be used to carry more persons at one time than the number for which it is designed and equipped"). Rather, it appears that, in certain instances, R.C. 4519.44 contemplates that a person may operate an all purpose vehicle while carrying a passenger. R.C. 4519.44 states in part:

(B) No person who is less than sixteen years of age shall operate a snowmobile or all purpose vehicle on any land or waters other than private property...unless accompanied by another person who is eighteen years of age, or older, and who holds a license as provided in division (A) of this section, except that the department of natural resources may permit such operation on state controlled land under its jurisdiction when such person is less than sixteen years of age but is twelve years of age or older and is accompanied by a parent or guardian who is a licensed driver eighteen years of age or older.

Since R.C. 4519.44(B) prohibits the operation of all purpose vehicles in specified areas by persons under a certain age unless accompanied by another person as provided for in that division, the statutory scheme clearly contemplates the operation, in certain circumstances, of all purpose vehicles carrying more than one person.

I note, however, that there may be instances in which the operation of an all purpose vehicle carrying a passenger may violate a statute outside of R.C. Chapter 4519. See, e.g., R.C. 4511.70(B) ("[n]o passenger in a vehicle...shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with his control over the driving mechanism of the vehicle"). See generally R.C. 4511.01(A) (defining "vehicle," as used in R.C. 4511.01-.80). Further, I note that R.C. Chapter 4519 does not prevent local authorities from regulating the operation of all purpose vehicles on streets, highways, and other public property under their jurisdiction, within the reasonable exercise of the police power, except as to the registration or licensing of vehicles required to be registered under R.C. Chapter 4519. R.C. 4519.48.

Based on the foregoing, it is my opinion, and you are advised that:

1. For purposes of R.C. 4519.41, the use of an all purpose vehicle for winter travel is the use of such a vehicle, as defined in R.C. 4519.01(B), for travel primarily where conditions such as snow or ice, which are typically associated with the winter season, are present.
2. R.C. Chapter 4519 does not prohibit the carrying of passengers on all purpose vehicles, as defined in R.C. 4519.01(B). The lack of such a prohibition in R.C. Chapter 4519 does not, however, prevent the application of other statutes or local regulations concerning the carrying of a passenger on an all purpose vehicle.