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MOTOR BICYCLE AS DISTINGUISHED FROM MOTORCYCLE  
—EXEMPT FROM LICENSE TAX FOR REGISTRATION YEAR  
COMMENCING FIRST OF APRIL, 1948—SECTION 6292 G. C.—  
UNIFORM TRAFFIC ACT—SECTION 6307-2 G. C.

SYLLABUS:

Payment of a license tax on motor bicycles for the year commencing April 1, 1948, discussed.

Columbus, Ohio, June 4, 1948

Hon. Joseph T. Ferguson, Auditor of State  
Columbus, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“During the present registration year several deputy registrars of motor vehicles issued licenses to several owners of Whizzer Motor Bicycles, and other similar motor bicycles.

“Subsequent to the issuance of these licenses, and payment of the fees, the owners presented claims to the Bureau of Motor Vehicles for refund of the fees on the basis that such vehicles were motor bicycles and not motorcycles, and as such were not subject to the tax outlined in G. C., Section 6292.

“In view of the foregoing, your opinion is requested as to whether or not the owners of Whizzer Motor Bicycles, or similar motor bicycles, are subject to the payment of a license fee of \$5.00 for the registration year beginning on April 1, 1948.

“In this connection, we would appreciate your opinion as to the proper legal definition of the term ‘motor bicycle’ as the same is used in the third from the last paragraph of the above section. Is there a distinction in law between a motorcycle and a motor bicycle as would legally require the payment of a license tax on a motorcycle but not on a motor bicycle?”

Section 6292, General Code, was last amended by Senate Bill No. 356 of the 97th General Assembly and became effective December 5, 1947. The portion of this section in question reads:

“The rates of such taxes shall be as follows:

“For each motor vehicle of three wheels or less except a motor bicycle five dollars.

“The minimum tax for any vehicle having motor power other than a farm truck, a motor bicycle or motorcycle shall be six dollars; \* \* \*

“For the registration year, ending on the thirty-first day of March, 1948:

“For each motor bicycle or motorcycle, five dollars. \* \* \*

“For the registration year, commencing on the first of April, 1948 and thereafter, the rates of such taxes shall be as follows:

“For each motor vehicle of three wheels or less except a motor bicycle, five dollars. \* \* \*”

It will be noted that the General Assembly by its use of the terms “motorcycle” and “motor bicycle” thereby contemplated that these vehicles should be considered as separate and distinct from one another. This legal difference was further accentuated by the exemption of but one type of vehicle, motor bicycles, from the license tax.

The definitions in our statutes today with reference to the above subject are contained in the Uniform Traffic Act, Section 6307-2, General Code, which provides:

“\* \* \* ‘Motorcycle.’ Every motor vehicle having a saddle for the use of the operator and designed to travel on not more than three wheels in contact with the ground but excluding a tractor. \* \* \*”

“‘Bicycle.’ A two-wheel vehicle, propelled by human power, having a tandem arrangement of wheels equipped with tires either of which is over twenty inches in diameter. \* \* \*”

The General Assembly has not as yet defined “motor bicycle.” However, “motor bicycle” is a common term used in every day parlance, and therefore it should be accorded its usual and ordinary significance. 37 O. Jur. 542 states:

“As a general rule, words of a statute, in common use or other than terms of art or science, will be construed in their ordinary acceptance and significance and with the meaning commonly attributed to them. Indeed, the intention of the legislature to use statutory phraseology in such manner has even been presumed. Ordinarily such words are to be given their natural.

literal, and full meaning. These rules are applicable unless such an interpretation would be repugnant to the intention of the legislature, as plainly appears from a construction of the entire statute."

Since the meaning commonly attributed to the term "motor bicycle" is: A two-wheeled vehicle having the structural characteristics of an ordinary bicycle, with a gasoline motor attached; it would appear that such meaning should be adopted. However, as the question is basically of a factual nature to be resolved in each instance by the Bureau of Motor Vehicles, the above observation made by me is intended to and can at most only serve as a guide.

Therefore, in specific answer to your inquiry, a motor bicycle, as distinguished from a motorcycle, is exempt from a license tax for the registration year commencing the first of April, 1948, in accordance with Section 6292, General Code.

Respectfully,

HUGH S. JENKINS,  
Attorney General.