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MOTOR BICYCLE—DRIVERS PERMITS OR LICENSES—OPERATOR OF MOTOR BICYCLE MUST OBTAIN OPERATOR'S LICENSE TO OPERATE A MOTOR BICYCLE WITHIN STATE OF OHIO.

SYLLABUS:

Under the provisions of the Ohio General Code relating to drivers' permits or licenses, it is necessary for the operator of a "motor bicycle" to obtain an operator's license before such operator may operate a "motor bicycle" within the State of Ohio.

Columbus, Ohio, September 1, 1949

Hon. Marvin E. Young, Prosecuting Attorney
Warren County, Lebanon, Ohio

Dear Sir:

I have before me your communication requesting my opinion which request reads as follows:

"I have Opinion Number 3258 of 1948, regarding payment of a license tax on motor bicycles for the year commencing April 1, 1948.

"I would like to know your opinion, if it necessarily follows that because no license tax is required on motor bicycles that it is also not necessary to have a driver's permit or license to operate a motor bicycle."

Section 6296-1 through Section 6296-37, inclusive, of the General Code contain the provisions of the Driver's License Law of Ohio. Section

6296-2, General Code, contains the definitions of terms used in the law. Said section provides in part as follows:

“The terms ‘motor vehicle,’ ‘state,’ ‘owner,’ ‘operator,’ ‘chauffeur’ and ‘highways,’ when used in this act, shall be construed to have the same meaning as is given such terms in section 6290 of the General Code, except in those instances where the context clearly indicates a different meaning.”

Section 6290 of the General Code provides, among other things, definitions of the following:

“1. ‘Vehicle’ means everything on wheels or runners, except vehicles operated exclusively on rails or tracks or from overhead electric trolley wires and vehicles belonging to any police department, municipal fire department, volunteer fire department or salvage company organized under the laws of Ohio or used by such department or company in the discharge of its functions. * * *”

“2. ‘Motor vehicle’ means any vehicle propelled or drawn by power other than muscular power or power collected from overhead electric trolley wires, except road rollers, traction engines, power shovels, power cranes and other equipment used in construction work and not designed for or employed in general highway transportation, well drilling machinery, ditch digging machinery, farm machinery, threshing machinery, hay baling machinery and agricultural tractors and machinery used in the production of horticultural, agricultural and vegetable products.”

“14. ‘Operator’ includes any person who drives or operates a *motor vehicle* upon the public highways.”

(Emphasis added.)

No definition of “motor bicycle” is given in the Ohio General Code, but under the Uniform Traffic Act (Section 6307-1 et seq. of the General Code) a definition of the word “bicycle” is given in Section 6307-2, which reads:

“‘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.”

(Emphasis added.)

Note from the above definitions that the distinction between a motor vehicle and a bicycle is the method of propulsion; a bicycle being a vehicle “propelled by human power” and a motor vehicle being “any vehicle propelled or drawn by power other than muscular power.”

Since the term "motor bicycle" has not been defined by the legislature, we must determine what in common parlance is meant by the term. Webster's New International Dictionary, second edition 1944, defines a "motor bicycle" as being:

"(a) A motorcycle (b) A light motorcycle resembling a bicycle in design and structure."

Clearly under the definition of motor vehicle contained in Section 6307-I, General Code, a motorcycle is a motor vehicle. Further, in the Opinion No. 3258, Opinions of the Attorney General for 1948, a definition of a "motor bicycle" is given with which I am in agreement. Said definition reads:

"A two-wheeled vehicle having the structural characteristics of an ordinary bicycle, with a gasoline motor attached."

Therefore, under the definitions of vehicle and motor vehicle contained in Section 6290 of the General Code, a "motor bicycle" is a motor vehicle. Section 6296-4 of the General Code provides:

"No person except those expressly exempted under sections 5, 6 and 8 (6296-5, 6296-6 and 6296-8) of this act, shall drive any motor vehicle upon a highway in this state unless such person, upon application, has been licensed as an operator or chauffeur by the registrar under the provisions of this act."

None of the exemptions included in the above section apply to a "motor bicycle." Therefore, since I have determined that a "motor bicycle" is a motor vehicle, an operator of said bicycle must have a driver's license.

The fact that Section 6292, General Code, effective December 5, 1947, expressly exempts a "motor bicycle" from the payment of an annual license tax, cannot operate to exclude a "motor bicycle" from the definition of a motor vehicle contained in Section 6290, General Code, *supra*. In fact, the statement in Section 6292, General Code, which reads:

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

would seem to indicate that the legislature considered a "motor bicycle" as a motor vehicle.

Therefore, in answer to your request, it is necessary for the operator of a "motor bicycle" to have a driver's permit or license in order for such operator to legally operate a "motor bicycle" within the state of Ohio.

Respectfully,

HERBERT S. DUFFY,
Attorney General.