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MOTOR VEHICLE, REGISTRAR—MAY ISSUE LICENSES TO PERSONS FOURTEEN OR FIFTEEN YEARS OF AGE—RESTRICTIVE—OPERATING MOTOR BICYCLES UPON HIGHWAYS OF STATE—SECTION 6296-7 G. C.

SYLLABUS:

The Registrar of Motor Vehicles may, under the authority of Section 6296-7 of the General Code, issue licenses to persons who are fourteen or fifteen years of age under the terms of which licenses the persons named therein are restricted to operating motor bicycles upon the highways of this state.

Columbus, Ohio, July 26, 1948

Hon. Harold K. Bostwick, Prosecuting Attorney  
Geauga County, Chardon, Ohio

Dear Sir:

You have submitted for my opinion thereon the question of whether or not minors fourteen and fifteen years of age may lawfully operate motor bicycles on the highways of this state.

In Section 6296-4 of the General Code it is provided that no person, except those expressly exempted in said section, which exemptions are immaterial hereto, shall drive any motor vehicle upon a highway in this state unless such person has been licensed as an operator or chauffeur under the provisions of the Driver's License Law.

Your inquiry, therefore, resolves itself into two questions, to-wit: (1) Is a motor bicycle a motor vehicle under the laws of this state, and (2) is there authority in law for the issuance of a driver's license to a minor aged fourteen or fifteen years.

Section 6290 of the General Code provides in part:

"Definition of terms, as used in this chapter and in the penal laws, except as otherwise provided: \* \* \*

"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 bailing machinery and agricultural tractors and machinery used in the production of horticultural, agricultural and vegetable products."

The provisions of law governing the issuance of drivers' licenses are set out in Sections 6296-1 to 6296-37 of the General Code, which sections are contained in the chapter referred to in Section 6290, supra. Therefore, the above definition is controlling in the instant case.

That a bicycle is a vehicle can scarcely be gainsaid and since the bicycles about which you inquire are propelled by power other than muscular, it follows that they are motor vehicles.

This brings us, then, to the question of whether or not a minor of the above age may lawfully be licensed to operate a motor vehicle. In Section 6296-7 of the General Code, it is provided:

"(a) No chauffeur's or operator's license shall be issued to any person under the age of sixteen years, except that the registrar may issue a restricted license as hereinafter provided to any person who is fourteen or fifteen years of age. \* \* \*"

It will be noted that the above section provides that if a driver's license is to be issued thereunder to a person under the age of sixteen years, it must be a "restricted license as hereinafter provided" and such

restricted license may be issued only to a person who is fourteen or fifteen years of age. An examination of the sections of the Driver's License Law following the above section discloses only two provisions which could possibly be alluded to under the language "as hereinafter provided."

One of said provisions is set out in Section 6296-8 of the General Code, which section authorizes the issuance of temporary instruction permits for the purpose of affording an opportunity to the holders thereof to receive instructions in operating a motor vehicle, while the other is contained in Section 6296-14a of the General Code and reads as follows:

"(a) The registrar upon issuing an operator's or chauffeur's license shall have authority whenever good cause appears to impose restrictions suitable to the licensee's driving ability with respect to the type of or special mechanical control devices required on a motor vehicle which the licensee may operate *or such other restrictions applicable to the licensee as the registrar may determine to be necessary.* \* \* \*" (Emphasis added.)

After giving careful consideration to each of the above provisions and the history thereof, I am constrained to the view that the latter is the one referred to in Section 6296-7. In other words, the restricted license referred to in the above quoted portion of said section which may be issued to a person who is fourteen or fifteen years of age is a license issued by the Registrar of Motor Vehicles upon which he may impose "such other restrictions applicable to the licensee as the registrar may determine to be necessary." That is, he may, upon issuing a license to a person who is fourteen or fifteen years of age, restrict the right given the licensee thereunder to the operation of a motor bicycle.

The conclusion that the term "a restricted license as hereinafter provided," as the same appears in Section 6296-7, refers to a license which may be issued by the Registrar under the authority of Section 6296-14a appears to become imperative when the history of said sections is considered. Section 6296-7 originally came into law on October 1, 1936 (116 O. L. Pt. 2, 33). In its original form said section contained no provision with respect to the issuance of a "restricted license as hereinafter provided." Such language came into said section for the first time in 1941 (119 O. L. 701) when it, along with Section 6296-8, was amended. When Section 6296-7 was so amended the following language was added thereto: "and no operator's license shall be issued to any person under the age of

sixteen years, except that the registrar may issue a restricted license as hereinafter provided to any person who is fourteen or fifteen years of age." The amendment to Section 6296-8 consisted merely of adding language which provided that no permit issued thereunder "shall be granted for a period to exceed six months." In the same act, Section 6296-14a in its present form came into existence for the first time.

In view of this, it is scarcely conceivable that the General Assembly, when it wrote into Section 6296-7 in 1941 the provisions authorizing the issuance of restricted licenses to persons fourteen and fifteen years of age, intended thereby to authorize the issuance of temporary instruction permits to such persons. In other words, it seems to me it is quite unlikely that that body, when it for the first time spoke of "restricted licenses as hereinafter provided," referred to some provisions which were in the law prior thereto.

Furthermore, the fact that such temporary instruction permits were not, at the time of the enactment of the original Driver's License Law in 1936, regarded as "drivers' licenses" is manifest from a reading of Section 6296-4, General Code, as originally enacted. Said section, which has undergone no change since its original enactment, reads:

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

Section 8 referred to therein was codified as Section 6296-8 of the General Code.

In light of the foregoing, you are advised that, in my opinion, the Registrar of Motor Vehicles may, under the authority of Section 6296-7 of the General Code, issue licenses to persons who are fourteen or fifteen years of age under the terms of which licenses the persons named therein are restricted to operating motor bicycles upon the highways of this state.

Respectfully,

HUGH S. JENKINS,  
Attorney General.