

OFFICIAL OPINION NO. 88-13, Financial responsibility for snowmobiles

April 28, 1988

Major Tom Dravland
Highway Patrol
500 E. Capitol
Pierre, South Dakota 57501

Official Opinion No. 88-13

Financial responsibility for snowmobiles

Dear Major Dravland:

You have requested an official opinion from this office in regard to the following set of facts:

FACTS:

Chapter 32-35, Financial Responsibility, requires that persons who operate motor vehicles, required to be registered in this state, provide evidence of financial responsibility upon request of a law enforcement officer when detained for a suspected violation. It appears that snowmobiles when operated in roadside ditches and on private property, other than the operator's own land, are motor vehicles required to be registered and licensed and are subject to Chapter 32-35.

Based upon the above facts, you have asked the following questions:

QUESTIONS:

1. Are snowmobile owners required to provide evidence of financial responsibility pursuant to SDCL Chapter 32-35?
2. Did the legislature intend that snowmobiles be included under SDCL Chapter 32-35?

Before answering your questions, there are several statutes which should be reviewed. SDCL 32-35-113 requires that "[e]very driver or owner of a motor vehicle shall at all times maintain in force" a form of financial responsibility on his motor vehicle. In addition, SDCL 32-35-114 requires:

Every person who drives a motor vehicle, required to be registered in this state, if requested by a law enforcement officer as a secondary action when the driver is detained for a suspected violation of Title 32 or some other offense, shall provide evidence of financial responsibility.

Section 32-35-2 repeats the requirement that the financial responsibility law applies to a "vehicle of a type subject to registration under the laws of this state." Therefore, for a snowmobile operator to be subject to SDCL Chapter 32-35, the following criteria must be met:

1. The snowmobile must be a motor vehicle.
2. The snowmobile must be required to be registered.

For purposes of Chapter 32-35 a snowmobile is a motor vehicle and thus meets the first criteria. A motor vehicle is defined in SDCL Chapter 32-35-1(6) as "every vehicle which is self-propelled...." Vehicle is defined in SDCL Chapter 32-35-1(14) as "every device in, upon, or by which any person or property is or may be transported or drawn upon the highway except devices moved by human power...." When the two definitions are read together, motor vehicle then becomes a vehicle which is self-propelled and is used on a highway. Since ditches are part of the highway and since a snowmobile is "any engine-driven vehicle" (SDCL 32-20A-1(7)), it is a self-propelled vehicle used to transport people or property on a highway and, therefore, is a motor vehicle.

The second criteria is also met. Pursuant to SDCL 32-30A-15 a snowmobile is required to be registered in this state. The section states that a snowmobile is subject to "title registration, initial registration tax and license plates." It further states that a dealer or an owner must submit the fees and tax "to accomplish the initial registration and titling" of a snowmobile. Although snowmobiles which are used on the owner's property or used in snowmobile races are exempt from the licensing, they are not exempt from registration. Therefore, all snowmobiles are required to be registered. However, only those snowmobiles that are used on a highway are subject to the financial responsibility law.

Therefore, in answer to your first question, snowmobile operators who operate their snowmobiles on a highway must show proof of financial responsibility.

In answer to your second question, since the statutes are clear the legislative intent need not be determined.

Respectfully submitted,

Roger A. Tellinghuisen
Attorney General