

**STATE OF TENNESSEE
OFFICE OF THE ATTORNEY GENERAL**

October 30, 2014

Opinion No. 14-97

Operation of All-Terrain Vehicles on State Highways

QUESTION

Do the provisions of Tenn. Code Ann. § 55-8-185 allow all-terrain vehicles as defined in Tenn. Code Ann. § 55-8-101 to operate on state highways that are not a part of the interstate and defense highway system?

OPINION

Yes. An all-terrain vehicle that is registered as a “medium speed vehicle” pursuant to Tenn. Code Ann. §§ 55-8-101 and 55-4-136 may be operated on a state highway that has a posted speed limit of 40 miles per hour or less.

ANALYSIS

Tenn. Code Ann. § 55-8-185 addresses the operation of an “off-highway motor vehicle” on highways.¹ “Any motor vehicle commonly referred to as a[n] . . . all terrain vehicle” is included within the definition of an “off-highway motor vehicle.” Tenn. Code Ann. § 55-3-101(c)(2)(C). As recently amended, § 55-8-185 provides:

No off-highway motor vehicle defined in § 55-3-101(c)(2) shall be operated or driven upon a highway unless the vehicle is registered as a medium speed vehicle pursuant to §§ 55-8-101 and 55-4-136; is operated or driven pursuant to subsections (c) or (e); or is operated or driven for the purpose of crossing a highway as follows:

. . . .

Tenn. Code Ann. § 55-8-185(a) (amended by 2014 Tenn. Pub. Acts, ch. 871, § 2). This subsection thus provides four separate means by which an off-highway motor vehicle may be lawfully operated on a highway.² Subsection (a) permits such operation if the

¹ “‘Highway’ means the entire width between the boundary lines of every way when any part thereto is open to the use of the public for purposes of vehicular travel.” Tenn. Code Ann. § 55-8-101(24).

² These four means developed over time. When the statute was originally enacted, such use was essentially limited to crossing a highway. *See* 1982 Tenn. Pub. Acts, ch. 749, § 2. The statute was amended in 2005 and 2007 to permit use of an all-terrain vehicle on specific highways. *See* 2007 Tenn.

off-road motor vehicle is registered as a medium-speed vehicle. The remainder of subsection (a) provides the manner and conditions under which off-highway motor vehicles may *cross* highways. Subsection (c) provides for the operation of all-terrain vehicles on two *specific* highways.³ And subsection (e) provides for the operation of all-terrain vehicles “on any unpaved streets, roads, or highways” within the boundaries of an *adventure tourism district*. In order to operate in an adventure tourism district under subsection (e), however, an all-terrain vehicle must comply with certain provisos, one of which is that “[n]o all-terrain vehicles shall be operated on any state highway or any highway that is a part of the interstate and defense highway system.” Tenn. Code Ann. § 55-8-185(e)(6).⁴

Subsection (a)’s provision for the operation upon a highway of a registered medium-speed vehicle therefore provides the sole source of potential authority for the regular operation of all-terrain vehicles on state highways.⁵ A medium-speed vehicle is defined by Tenn. Code Ann. §§ 55-8-101(32) as:

[A]ny four-wheeled electric or gasoline-powered vehicle, excluding golf carts, whose top speed is greater than thirty miles per hour (30 mph) but not more than thirty-five miles per hour (35 mph) and otherwise meets or exceeds the federal safety standards set forth in 49 CFR 571.500, except as otherwise provided in § 55-4-136.⁶

Under Tenn. Code Ann. § 55-4-136, medium-speed vehicles may be registered with the Vehicle Services Division of the Department of Revenue. *See generally* Tenn. Code Ann. §§ 55-2-101; 55-4-102. The operator must “provide[] an affidavit, under penalty

Pub. Acts, ch. 448, § 1; 2005 Tenn. Pub. Acts, ch. 60, § 1. Subsection (e) was added in 2011 as part of the Tennessee Adventure Tourism and Rural Development Act. *See* 2011 Tenn. Pub. Acts, ch. 383, §§ 1, 3. The 2014 amendment added the provision permitting highway operation of an off-highway motor vehicle if it is registered as a medium-speed vehicle.

³ One of these is State Route 116 between Railroad Street and Beech Grove Lane in Lake City, Anderson County. *Id.* § 55-8-185(c)(1)(A).

⁴ *But see id.* § 55-8-185(f) (providing some exceptions to subsection (e)).

⁵ Because subsection (a) provides a separate means by which an all-terrain vehicle may be lawfully operated on a highway, i.e., when it is registered as a medium-speed vehicle, the prohibition in subsection (e)(6) against the operation of an all-terrain vehicle on a state highway within the boundaries of an adventure tourism district would not apply to a vehicle registered as a medium-speed vehicle and thus being lawfully operated under subsection (a).

⁶ Under 49 CFR 571.500, the vehicle must meet certain safety standards and be equipped with the certain items, including a windshield. But Tenn. Code Ann. § 55-4-136(a) dispenses with the windshield requirement if the operator and each passenger of the medium-speed vehicle “wear a helmet in accordance with § 55-9-302 and eye protection, including glasses containing impact resistant lenses, safety goggles, or a face shield.”

of perjury, on a form prescribed by the department certifying that the vehicle” qualifies as a medium-speed vehicle as defined in § 55-1-125. *Id.* § 55-4-136.⁷ Once registered, medium-speed vehicles may be operated “on streets where the posted speed limit is forty miles per hour (40 mph) or less.” *Id.* § 55-8-191(b)(1).⁸ The operator must possess a valid Class D driver license. *Id.* § 55-8-191(c).

Some vehicles included within the definition of an “all-terrain vehicle” will not meet the definition of a “medium speed vehicle,” because a “medium speed vehicle” must have four wheels. *See* Tenn. Code Ann. § 55-8-101(1)(C) (defining “all-terrain vehicle” as including a motorized vehicle “not intended for use on public roads traveling on two (2) wheels”). But some types of all-terrain vehicles that have four wheels may be able to meet the definition of a “medium speed vehicle.” If so, the all-terrain vehicle may be operated on highways, including state highways, that have a posted speed limit of 40 miles per hour or less.

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⁷ The definition of a “medium speed vehicle” in Tenn. Code Ann. § 55-1-125 is nearly identical to the definition of a “medium speed vehicle” in Tenn. Code Ann. § 55-8-101(32).

⁸ The term “street” is defined in the same manner as “highway.” *See* Tenn. Code Ann. § 55-8-101(66); *id.* § 55-1-116. Tenn. Code Ann. § 55-8-191(b)(2), however, provides that municipalities and counties, in the interest of safety, may prohibit the operation of medium-speed vehicles on any road in their respective jurisdictions. Similarly, Tenn. Code Ann. § 55-8-191(b)(3) provides that the Department of Transportation, in the interest of safety, may prohibit the operation of medium-speed vehicles on any road in its jurisdiction.