



State of Alabama
Department of Revenue

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50 North Ripley Street
Montgomery, Alabama 36132

February 28, 2008

CYNTHIA UNDERWOOD
Attorney General
LEWIS A. EASTRICK
Solicitor

MEMORANDUM

2008-12

TO: ALL COUNTY LICENSE PLATE ISSUING OFFICIALS

FROM: Mike Gambic, Vehicle Services Manager
Motor Vehicle Division

SUBJECT: Attorney General's Opinion Regarding Golf Carts

Attached is a copy of an Attorney General's opinion dated February 12, 2008, addressed to the Honorable Edward T. Hines, Attorney, City of Brewton, regarding the operation of golf carts on public roads and highways in Alabama.

It is the opinion of the Attorney General that golf carts do not meet the definition of a vehicle in Section 32-1-1.1(81) and Section 40-12-240(27) of the Code of Alabama 1975; therefore, they may not be used to traverse the public streets of a municipality.

Please be advised that Attorney General's opinions are not controlling, but merely advisory, and serve to offer protection from liability to the public officer to whom the opinion is directed.

If you should have any questions, please contact the Vehicle Services Section at (334) 242-9006.

Attachments:



2008-051

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

TROY KING
ATTORNEY GENERAL

February 12, 2008

ALABAMA STATE HOUSE
11 SOUTH LEMON STREET
MONTGOMERY, AL 36131
TROY KING
ATTORNEY GENERAL

Honorable Edward T. Hines
Attorney, City of Brewton
Post Office Box 387
Brewton, Alabama 36427-0387

Traffic Offenses - Municipalities - Vehicles -
Golf Carts - Escambia County

A golf cart is a motor vehicle that may not be
used upon the sidewalk or sidewalk area.

A golf cart is not a vehicle within the definition
of sections 32-1-1.1(81) or 40-12-240(27) of the
Code of Alabama and, therefore, may not be used
to traverse the public streets of a municipality.

Dear Mr. Hines:

This opinion of the Attorney General is issued in response to your request on behalf of the City of Brewton.

QUESTIONS

Is a "golf cart" a "vehicle" so as to make it a misdemeanor violation for a person (regardless of age) to drive a golf cart upon a sidewalk or sidewalk area under section 32-5A-52?

Under what circumstances or conditions, if any, may a golf cart be operated upon the streets (not federal or state-designated highways such as U.S. Highway 31 or Alabama Highway 41) of the City of Brewton?

FACTS AND ANALYSIS

In your letter, you stated that in recent years many families in Brewton have purchased golf carts that are either electric motor or gasoline engine dri-

ven. These golf carts are being operated by both children and adults, but primarily they are being operated by children under sixteen years of age on the sidewalks throughout Brewton.

Section 32-5A-52 prohibits a person from driving "*any vehicle* upon a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway." ALA. CODE § 32-5A-52 (1999) (emphasis added). Initially, you ask whether a golf cart is a "vehicle." Title 32 of the Code of Alabama sets forth the laws of this state respecting motor vehicles and traffic. Section 32-1-1.1(32) defines a "motor vehicle" as "[e]very vehicle which is self-propelled . . . except for electric personal assistive mobility devices." ALA. CODE § 32-1-1.1(32) (Supp. 2007). Because a golf cart is a motor vehicle within the definition of section of 32-1-1.1(32) of the Code of Alabama, the restriction stated in section 32-5A-52 is applicable to golf carts. Thus, regardless of a person's age, it is a misdemeanor violation for a golf cart to be driven on a sidewalk or sidewalk area. *See, generally*, ALA. CODE § 32-5A-3 (1999).

Your next question contemplates under what conditions a golf cart may be operated on secondary city streets and not upon federal or state highways in the municipality. Determining whether a golf cart may be driven on secondary city streets requires an interpretation of both the motor vehicle laws found in title 32 and, at a minimum, applicable statutory authority found in section 40-12-240, *et seq.*, of the Code of Alabama.

Section 32-6-51 of the Code of Alabama provides, in pertinent part, as follows:

Every motor vehicle operator who operates a motor vehicle upon any city street or other public highway of or in this state shall at all times keep attached and plainly visible on the rear end of such motor vehicle a license tag or license plate as prescribed and furnished by the Department of Revenue at the time the owner or operator purchases his license.

ALA. CODE § 32-6-51 (1999) (emphasis added).

In addition, section 40-12-242 of the Code of Alabama provides, in pertinent part, that "[t]he following annual license taxes and registration fees are hereby imposed and shall be charged on each private passenger automobile operated on the public highways of this state." ALA. CODE § 40-12-242 (2003) (emphasis added). This section also states that "[n]o private passenger automobile and no motorcycle shall be used on any public highway in the state unless the proper license tag therefor has been procured and is securely

attached to the rear end thereof . . ." ALA. CODE § 40-12-242 (Supp. 2007). These provisions require every motor vehicle operated on a city street or a public highway of the State of Alabama to display, at all times, a properly procured motor vehicle license tag.

The definitions of a motor vehicle, private passenger automobile, public highway, and vehicle are set forth in section 40-12-240 of the Code of Alabama as follows:

(5) MOTOR VEHICLE. Every vehicle which is self-propelled, every vehicle which is propelled by electric power, and every vehicle that is drawn by a self-propelled vehicle, including every trailer and semitrailer.

(16) PRIVATE PASSENGER AUTOMOBILE. Every motor vehicle designed primarily for the transportation of nine persons or less except the following:

- a. Motorcycles.
- b. Motor vehicles used in the transportation of persons for hire.
- c. Trailers or semitrailers.
- d. Self-propelled campers or house cars including every motor vehicle of the type usually referred to as a bus which is owned and operated by an individual for personal or private use and not for hire, rent, or compensation. Motor trucks of the type commonly known as "pickups" or "pickup trucks," regardless of the use made of any such motor trucks and regardless of whether the owner thereof owns or has access to any other mode of transportation, shall not be deemed to constitute a private passenger automobile.

(17) PUBLIC HIGHWAY. Every highway, road, street, alley, lane, court, place, trail, drive, bridge, viaduct, or trestle, located either within a municipality or in unincorporated territory, and laid out or created by

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the public or dedicated or abandoned to the public or intended for use by or for the public. The term "public highway" shall apply to and include driveways upon the grounds of universities, colleges, schools, and institutions, but shall not include private driveways, private roads, or private places not intended for use by the public.

(27) VEHICLE. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by muscular power or used exclusively upon rails or tracks or electric personal assistive mobility devices.

ALA. CODE § 40-12-240 (2007) (emphasis added).

These definitions, read together, contemplate a vehicle that is self-propelled or propelled by electric power and designed for use upon a highway. A similar definition of vehicle is found in the Motor Vehicles and Traffic law modified in title 32 of the Code of Alabama. This section defines a vehicle as "[e]very device in, upon or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks or electric personal assistive mobility devices; provided, that for the purposes of this title, a bicycle or a ridden animal shall be deemed a vehicle, except those provisions of this title, which by their very nature can have no application." ALA. CODE § 32-1-1.(81) (Supp. 2007).

This Office has previously answered similar questions in opinions to Colonel Byron Francois, Director, Alabama Department of Public Safety, dated October 29, 1985, A.G. No. 86-0083 and to Honorable D. Lamar Stroud, Tag Commissioner, Russell County, dated August 27, 1985, A.G. No. 85-00488. Both of these opinions determined that the term "motor vehicle" contemplates a vehicle designed for use upon highways. A self-propelled vehicle not designed for use upon a highway, but designated for "off road" use by the manufacturer, does not fall within the definition of "motor vehicle." *Id.*

To determine whether a golf cart is a vehicle within the meaning of section 32-1-1.(81) or section 40-12-240(27) of the Code of Alabama, consideration should be given to the purpose for which golf carts are designed. It is doubtful that any manufacturer designed a golf cart for use on highways. As is commonly understood, a golf cart is a four-wheel vehicle used to transport

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golfers and their equipment on a golf course. Accordingly, it is the opinion of this Office that a golf cart is not designed for use upon the highways and is therefore not a vehicle within the meaning of sections 32-1-1.(81) or 40-12-240(27) of the Code of Alabama.

Notwithstanding the foregoing, if a manufacturer of golf carts should certify a particular golf cart as a vehicle for use on streets and highways, the vehicle must satisfy several statutory requirements throughout the Code of Alabama. See, generally, §§ 32-6-51, 32-5-210 to 32-5-253, 32-7-1 to 32-7-42, 32-7A-1 to 32-7A-22, 32-6-1, and 40-12-240(6).

CONCLUSION

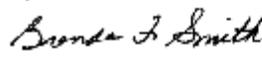
A golf cart is a motor vehicle within the definition of section 32-1-1.(32) of the Code of Alabama that may not be used upon the sidewalk or sidewalk area.

A golf cart is not a vehicle within the definition of sections 32-1-1.(81) or 40-12-240(27) of the Code of Alabama and, therefore, may not be used to traverse the public streets of a municipality.

I hope this answers your questions. If this Office can be of further assistance, please do not hesitate to contact Monet M. Ozines of my staff.

Sincerely,

TROY KING
Attorney General
By:


BRENDA F. SMITH
Chief, Opinions Division

TK/MMG

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