

**LETTER OPINION  
2003-L-29**

June 9, 2003

The Honorable Robert R. Peterson  
State Auditor  
State of North Dakota  
600 E Boulevard Ave Dept 117  
Bismarck, ND 58505

Dear Mr. Peterson:

Thank you for asking whether the Department of Transportation may license snowmobile, all-terrain vehicle, and low speed vehicle dealers, and further asking whether the Department may establish additional requirements on such dealers by rule.

As explained below, while snowmobiles, all-terrain vehicles, and low speed vehicles must be registered, and dealers of these vehicles may obtain dealer registration numbers for vehicles they own, there is no statutory authority for the Department of Transportation to license dealers of these kinds of vehicles. All motor vehicle dealers must be licensed by the Department. N.D.C.C. §39-22-14. "Motor vehicle" includes "every vehicle that is self-propelled." N.D.C.C. § 39-01-01(38). "Vehicle" includes devices transported or drawn upon a public highway. N.D.C.C. § 39-01-01(89) The definition of "motor vehicle" specifically excludes snowmobiles, N.D.C.C. § 39-01-01(38), and, therefore, a snowmobile dealer does not need a motor vehicle dealer license. An all-terrain vehicle is an "off-highway vehicle," N.D.C.C. § 39-29-01(1), and, with narrow exception, it is forbidden from being used on roadways, N.D.C.C. § 39-29-07. As such, it is not a motor vehicle to which dealer licensing under N.D.C.C. ch. 39-22 applies. Similarly, a low speed vehicle dealer is not required to obtain a motor vehicle dealer's license. N.D.C.C. §§ 39-29.1-02(1) and 39-29.1-04. While there is no licensing requirement for snowmobile, all-terrain vehicle or low speed vehicle dealers, all of these vehicles must be registered in order to be operated. N.D.C.C. §§ 39-24-02, 39-29-02, 39-29.1-03(1), and 39-29.1-04. Dealers of these vehicles may obtain dealer registration numbers for vehicles owned by the dealers. N.D.C.C. §§ 39-24-03, 39-29-03(5), and 39-29.1-04. Because no statute requires snowmobile, all-terrain vehicle, or low speed vehicle dealers to be licensed, it is my opinion that the Department of Transportation does not have authority to license these dealers.

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You also asked about the Department of Transportation's authority to establish additional requirements or adopt administrative rules concerning snowmobile, all-terrain vehicle, or low speed vehicle dealers. All of the provisions of North Dakota Century Code title 39 are under the jurisdiction of the Department of Transportation. N.D.C.C. § 24-02-01.1(2). The Department is authorized to adopt administrative rules necessary to carry out its responsibilities and functions, including those relating to N.D.C.C. title 39. N.D.C.C. § 24-02-01.5. The Department of Transportation may adopt rules for registering and displaying registration numbers for snowmobiles, all-terrain vehicles, and low speed vehicles, N.D.C.C. §§ 39-24-08(1), 39-29-08(1), 39-29.1-03(6), but it has not done so. Because the statutes do not provide for licensing of dealers in snowmobiles, all-terrain vehicles, or low speed vehicles, the Department has no licensing responsibilities concerning those dealers, and, thus, no authority to adopt administrative rules regarding that matter.

Sincerely,

Wayne Ste nehjem  
Attorney General

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