

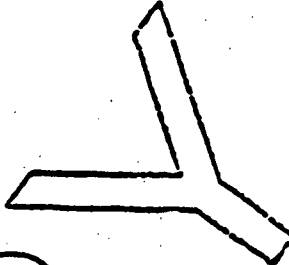


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STATE OF ILLINOIS
SPRINGFIELD

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FILE NO. 80-037

MUNICIPALITIES:
Use and Operation of a
Snowmobile on a Roadway



Honorable James E. Hinterlong
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Dear Mr. Hinterlong:

I have your letter wherein you request my opinion as to the proper interpretation of section 5-2B of the Snowmobile Registration and Safety Act (Ill. Rev. Stat. 1979, ch. 95 1/2, par. 605-213). You ask the following two questions:

1. Whether the corporate authorities of a city, village or incorporated town may adopt an ordinance so as to allow the operation of a snowmobile on a roadway.
2. Whether the corporate authorities of a city, village or incorporated town may lawfully desig-

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nate a roadway as a snowmobile trail and thereby allow the use of snowmobiles on a roadway.

For the reasons hereinafter stated, it is my opinion that the corporate authorities of a non-home rule city, village or incorporated town may not adopt an ordinance allowing the operation of a snowmobile on a roadway nor may they designate a roadway as a snowmobile trail, thus allowing the use of a snowmobile on a roadway.

Section 5-2 of the Snowmobile Registration and Safety Act (Ill. Rev. Stat. 1979, ch. 95 1/2, par. 605-2) provides in pertinent part:

"Operation on highways. It is unlawful for any person to drive or operate any snowmobile on a highway in this State except as follows:

* * *

B. On highways other than State highways, tollways, interstate highways and limited-access highways snowmobiles may be operated not less than 10 feet from the roadway and in the same direction as traffic. On such highways, the corporate authorities of a city, village or incorporated town may adopt ordinances providing for variance from the 10 foot separation requirement of this subsection within city, village or town limits. Corporate authorities of a city, village or incorporated town may adopt ordinances providing for trails and regulating snowmobile operation within city, village or town limits.

* * *

The cardinal rule in construing a statute is to give effect to the intent of the legislature. (Merrill v. Drazek (1975), 62 Ill. 2d 1, 6.) The italicized portion of section 5-2B, set forth above, was added to the statute by Public Act 79-885. The statute at that time, however,

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permitted the operation of a snowmobile not less than 15 feet from the roadway. Public Act 79-885 provided that the corporate authorities of a city, village or incorporated town may adopt ordinances providing for variance from the 15 foot separation requirement. House Bill 771, which became Public Act 79-885, was debated in the Illinois Senate on June 16, 1975, and in discussing the bill, Senator Bill Morris stated as follows:

" * * * It also broadens the definition of areas where a snowmobile may not operate to include the areas, in corporate highways, in other words, cities or villages or unincorporated * * * incorporated areas that they may adopt an ordinance that allows the snowmobile to operate within fifteen feet of the road if they would so choose. Right now, they are not allowed to operate in those areas by our State law. * * * "

The debates, therefore, indicate that one of the purposes of the questioned language was to permit the corporate authorities to adopt an ordinance to allow the operation of a snowmobile within 15 feet of the roadway. The intention therefore was that they could alter the distance from the roadway for the operation of the snowmobile. There is nothing in the debates which indicates that this language permits the operation of a snowmobile on the roadway. Public Act 81-0828, effective January 1, 1980, changed the separation requirement from 15 to 10 feet.

In construing the language of a statute, consideration must be given to the express purpose of the Act. (Lawton v. Sweitzer (1934), 354 Ill. 620, 624; Brown et al. v. Board

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of Appeals of City of Springfield (1927), 327 Ill. 644, 649-650.) The intent and purpose of the Snowmobile Registration and Safety Act is set forth in section 1-1 (Ill. Rev. Stat. 1979, ch. 95 1/2, par. 601-1) which states in pertinent part:

" * * * It is the policy of the State to promote safety for persons and property in and connected with the use, operation and equipment of snowmobiles and to promote uniformity of laws relating thereto."

Uniformity in the laws relating to snowmobiles would not be promoted by a construction of subsection 5-2B permitting the operation of a snowmobile on a roadway.

Therefore, in answer to your first question, it is my opinion that the corporate authorities of a non-home rule city, village or incorporated town, may not adopt an ordinance so as to allow the operation of a snowmobile on a roadway.

Your second question is related to your first one. You ask whether the corporate authorities of a city, village or incorporated town may lawfully designate a roadway as a snowmobile trail. This question arises because the last sentence of section 5-2B of the Snowmobile Registration and Safety Act (Ill. Rev. Stat. 1979, ch. 95 1/2, par. 605-2B) set forth above, authorizes these corporate authorities to adopt ordinances providing for trails and regulating snowmobile operations within city, village or town limits. I

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have previously mentioned the fact that Public Act 79-885 added this sentence to section 5-2B together with the previous sentence which authorized the corporate authorities to provide for a variance from the requirement that snowmobiles be operated not less than 15 feet from the roadway. The portion of the debates in the Illinois Senate on June 16, 1975, set forth above, indicates that one of the purposes of Public Act 79-885 was to authorize the corporate authorities to allow the operation of a snowmobile within 15 feet of the roadway. There is nothing to indicate that the corporate authorities could designate a roadway as a snowmobile trail or otherwise authorize the operation of a snowmobile on a roadway. As mentioned above, this statute should be so construed so that the declared intent and purpose of the General Assembly of promoting the safety for persons and property in connection with the use, operation and equipment of snowmobiles will be effectuated.

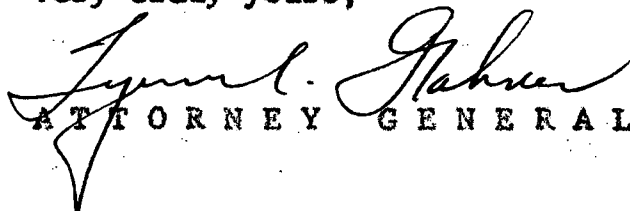
Additionally, none of the language of section 5-2B of the Snowmobile Registration and Safety Act (Ill. Rev. Stat. 1979, ch. 95 1/2, par. 605-2) expressly authorizes the corporate authorities to designate a roadway as a snowmobile trail or otherwise allow the operation of a snowmobile on a roadway. In construing a statute, one may not attribute to the legislature an intent which is not in any way expressed in the statute. (Dental Commission v. Tru-Fit Plastics, Inc.)

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(Conn. S.Ct. 1970), 269 A. 2d 265, 267; Commissioner of Internal Revenue v. Mercantile National Bank at Dallas (5th Cir. 1960), 276 F. 2d 58, 62.) A legislative intention, not expressed in some appropriate manner, has no legal existence. (State ex rel. Gebhardt et al. v. Superior Court For King County (Wash. S.Ct. 1942), 131 P. 2d 943, 951.) Furthermore, the language of item B of section 5-2 is an exception to the general application of the Act and, as such, must be strictly construed. People v. Chas. Levy Circulating Co. (1959), 17 Ill. 2d 168, 171.

Therefore, in answer to your second question, it is my opinion that the corporate authorities of a non-home rule city, village or incorporated town, may not lawfully designate a roadway as a snowmobile trail and thereby allow the use of snowmobiles on a roadway.

Very truly yours,


ATTORNEY GENERAL