

I am therefore of the opinion that county clerks on salary are not entitled to additional compensation for services as clerk of the county board of canvassers.

FRANK J. KELLEY,  
Attorney General.

75/219.1

**SNOWMOBILES:** Local ordinance regulating.

**SNOWMOBILES:** Preemption by state law.

**PREEMPTION:** Snowmobile statute.

The state has preempted the registration and regulation of snowmobiles except for the limited right of cities, villages, and townships to enact ordinances regulating the operation of snowmobiles within their jurisdiction.

A city is prohibited from mandating minimum insurance as a condition for operating a snowmobile within city limits.

A city may not impose license and registration requirements for operating a snowmobile within city limits.

A city may enact an ordinance requiring that snowmobiles be operated at a lower speed limit than other traffic and that snowmobile operators yield to faster moving traffic within city limits.

A city may increase the number of hours during which snowmobiles must be operated at a minimum speed beyond the period between 12 midnight and 6 a.m. required by state law.

A city has legal responsibility for erecting and maintaining signs in accordance with the Michigan Manual of Uniform Traffic Control Devices Standards.

A city may not prevent a child under age of 12 under the direct supervision of an adult from operating a snowmobile.

Jurisdiction over the operation of snowmobiles on frozen surface of public waters is subject to rules adopted by the Department of Natural Resources.

Opinion No. 4918  
Mr. David E. McDonald  
City Attorney  
Ironwood, Michigan

December 19, 1975.

You have asked my opinion on several questions concerning city regulation by ordinance of snowmobile operation. 1968 PA 74, as last amended by 1975 PA 156; MCLA 257.1501, *et seq*; MSA 9.3200(1), *et seq*, has preempted the area of registering and regulating snowmobiles. However, section 14 of the Act does permit limited regulation of the operation of snowmobiles by local ordinances. Section 14 reads:

“Any city, village or township may pass an ordinance regulating the *operation* of snowmobiles if the ordinance meets substantially the

minimum requirements of this act. A city, village, township or county may not adopt an ordinance which:

- “(a) Imposes a fee for a license.
- “(b) Specifies accessory equipment to be carried on the snowmobile.
- “(c) Requires a snowmobile operator to possess a motor vehicle driver’s license.
- “(d) Restricts operation of a snowmobile on the frozen surface of public waters or on lands owned by or under the control of the state except pursuant to section 14a.” (Emphasis added)

Your first question is whether the city is prohibited from mandating minimum insurance as a condition for the operation of a snowmobile upon city streets.

Relevant to this question is Const 1963, art 7, § 22, which reads in part:

“. . . Each such city and village shall have power to adopt resolutions and ordinances relating to its municipal concerns, property and government, subject to the constitution and law. . . .”

It is my opinion that the city may not enact an ordinance requiring mandatory insurance as a condition for the operation of a snowmobile. My opinion is based upon the fact that 1968 PA 74, *supra*, does not contain any provision requiring insurance. If an ordinance attempts to prohibit that which a state statute does not proscribe, both cannot stand and the ordinance is void. *City of Grand Haven v Grocer’s Cooperative Dairy Company*, 330 Mich 694; 48 NW2d 362 (1951), *Richards v City of Pontiac*, 305 Mich 666, 673.

Your next question is: May the city impose license or registration requirements?

For the same reason expressed in my response to your first question, it is my opinion that the city may not impose license and registration requirements.

Several questions concerning speed limits for snowmobiles have been raised: (a) Is the city authorized to require lesser speed limit for snowmobiles than other traffic in the city? (b) Is the city also authorized to require a snowmobile operator to yield the traffic lane, to allow faster moving traffic to proceed ahead or, for example, is a 25 MPH speed limit applicable to automobiles also applicable to snowmobiles?

Const 1963, art 7, § 29 is relevant and reads in part:

“. . . Except as otherwise provided in this constitution the right of all counties, townships, cities and villages to the reasonable control of their highways, streets, alleys and public places is hereby reserved to such local units of government.”

This constitutional provision must be read in conjunction with Const 1963, art 5, § 28, which reads in part:

“There is hereby established a state highway commission, which shall administer the state highway department and have jurisdiction

and control over all state trunkline highways and appurtenant facilities, and such other public works of the state, as provided by law.”

In *Jones v City of Ypsilanti*, 26 Mich App 574; 182 NW2d 795 (1970), the court held the local governmental unit's right to reasonable control extended to state trunkline highways located within the boundaries so long as that control pertains to local concerns and does not conflict with the paramount jurisdiction of the State Highway Commission.

Therefore, it is my opinion that (a) the city may require a lesser speed limit for snowmobiles than for other traffic within the city, and (b) the city may require that a snowmobile operator yield to faster moving traffic.

You have also asked whether the city may vary the hours set forth in 1968 PA 74, *supra*, § 15(g) which states:

“A person shall not operate a snowmobile: \* \* \* Within 100 feet of a dwelling between 12 midnight and 6 a.m., at a speed greater than minimum required to maintain forward movement of the snowmobile.”

It is my opinion that since 1968 PA 74, *supra*, § 14, authorizes a city to regulate the operation of snowmobiles if the ordinance meets substantially the minimum requirements of the Act, it is clear that the city may increase the number of hours during which time the snowmobiles must be operated at a minimum speed. However, the city may not completely prohibit snowmobile operation.

Although you have asked many questions concerning signs, they appear to be all related and may be condensed into the following:

What is the city's responsibility for posting signs?

1968 PA 74, *supra*, § 12(h) reads:

“A city or village by ordinance may designate 1 or more specific public highways or streets within its jurisdiction as egress and ingress routes for the use of snowmobiles. *A city or village acting under the authority of this subsection shall erect and maintain, in accordance with the Michigan manual of uniform traffic control devices standards, a sign unit giving proper notice thereof.*” (Emphasis added)

Based on the above-quoted language, especially the italicized portion, it is my opinion that the city has the legal responsibility for erecting and maintaining signs, in accordance with the Michigan Manual of Uniform Traffic Control Devices Standards, giving proper notice as to egress and ingress routes. Since the State Manual of Uniform Traffic Control Devices Standards contains only criteria for the facing of the sign, the choice of material from which the sign is made lies within the discretion of the appropriate jurisdictional authority.

You have asked whether the city may impose stricter age requirements than those set forth in 1968 PA 74, *supra*, § 12a. You state that the proposed city ordinance requires a minimum age of 16 to operate a snowmobile unless accompanied by an adult, with the permission of the operator's parent, and to be in possession of a valid snowmobile safety certificate permitting operation among other areas.

1968 PA 74, § 12a(1) reads in part:

“A parent or legal guardian shall not permit his child who is under the age of 12 to operate a snowmobile without the direct supervision of an adult. . . .”

From this language, it is clear that the legislative intent was to permit a child under the age of 12 to operate a snowmobile, provided that stated conditions are met. However, the proposed city ordinance apparently would not permit a child under 12 to operate a snowmobile under any conditions. Therefore, it is my opinion that there is a conflict between 1968 PA 74, § 12a and the proposed city ordinance and that the act has preempted the area age restrictions.

You have also raised an issue concerning the crossing of the Montreal River, which is the Wisconsin-Michigan boundary. This matter is covered by 1968 PA 74, *supra*, § 14(d), which in turn vests jurisdiction over proper surface of public waters in the Department of Natural Resources. 1968 PA 74, *supra*, § 14a. Thus, the city's jurisdiction over the operation of snowmobiles on the Montreal River is limited by this section which provides:

“Sec. 14a. (1) As used in this section ‘commission’ means natural resources commission.

“(2) The commission may promulgate rules in accordance with Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Compiled Laws of 1948, to govern the operation and conduct of snowmobiles, speed limits, the times when a snowmobile may be used and to establish and designate areas where snowmobiles may be used in a manner which will insure compatible use and best protection of the safety and general welfare of the public on the frozen surface of public waters.

“(3) The department of natural resources on its own initiative, or upon receipt of a certified resolution of the governing body of a political subdivision, may initiate investigations into the need for special rules to govern the operation of snowmobiles on the frozen surface of public waters. When controls for an activity are deemed necessary, or amendment or repeal of an existing rule is required, the commission shall prepare a rule for consideration at a public hearing. Notice of the public hearing shall be made in a newspaper of general circulation in the area where the rules are to be imposed, amended or repealed, at least 10 days before the hearing.

“(4) After a hearing is held pursuant to subsection (3) the proposed rule shall be submitted to the governing body of the political subdivision in which the affected frozen waters lie. The governing body shall inform the department that it approves or disapproves of the proposed rule within 30 days after receiving the rule from the department of natural resources. If the governing body disapproves the proposed rule, further action shall not be taken. If the governing body approves the proposed rule, it may enact an ordinance which shall be identical to the proposed rule and the commission shall promulgate the rule. An ordinance enacted pursuant to this subsection

shall not be effective until the proposed rule is promulgated and effective in accordance with Act No. 306 of the Public Acts of 1969, as amended.

"(5) An ordinance which is the same as a rule which is suspended by the legislature, or amended or repealed by the commission, shall likewise be suspended, amended or repealed. The governing body, by majority vote, may repeal the ordinance at any time.

"(6) Local law enforcement officers may enforce ordinances enacted pursuant to this section and state and county enforcement officers shall enforce rules which are promulgated pursuant to this section."

FRANK J. KELLEY,  
*Attorney General.*

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**BUDGET:** Executive order reductions.

**GOVERNOR:** Executive order reductions.

**SCHOOLS AND SCHOOL DISTRICTS:** Executive order reducing state school aid appropriations.

**STATE CONSTITUTION:** Executive order reductions.

Notwithstanding the absence of implementing procedural legislation the Governor may, with the approval of the appropriations committees, reduce state school aid appropriations under Const 1963, art 5, § 20.

The Governor may, with the approval of the appropriating committees, reduce state school aid appropriations under Const 1963, art 5, § 20, in a manner that substantially alters the allocation pattern set forth in the state school aid appropriation statute.

The Governor may, with the approval of the appropriations committees, reduce state school aid appropriations under Const 1963, art 5, § 20, in a manner that requires school districts to use their locally raised tax revenues to fund educational programs required by state law.

Opinion No. 4917

December 24, 1975.

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