

**OPINION
47-184**

July 10, 1947 (OPINION)

MOTOR VEHICLE

RE: Scooters are Motor Vehicles

Your letter addressed to the State Highway Commissioner under date of June 30, 1947, has been referred by him to this office for reply.

In your letter you say:

I would like to have a matter clarified in regard to young boys operating these so-called 'motor scooters.' I understand that you will issue Drivers Licenses to boys under 24 for automobiles in emergency cases. An example of this would be where the father is deceased and the boy is the oldest in the family.

Now, would you issue Permits to children under 14 to operate the motor scooters? I could write directly to the Attorney General for an opinion, but I assume that you have already passed upon this matter."

Section 39-0101 of the 1943 Revised Code defines "motor vehicle" as follows:

'Motor vehicle' shall include every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails;"

It is obvious therefore that under the foregoing definition of a "motor scooter" is a motor vehicle within the meaning of the said section. Section 39-0602 of the Revised Code provides:

No operator's license shall be issued to any person:

1. Under sixteen years of age, except as is otherwise provided in section 39-0605; * * *

Section 39-0605 provides:

An operator's license may be issued to any child who is more than fourteen years of age and less than sixteen years of age, otherwise qualified, upon the written recommendation of the county judge of the county in which such child resides. No county judge shall make a recommendation for the issuance of an operator's license to a child who is less than sixteen years of age unless such child, accompanied by his parent or guardian, shall appear in person before him and satisfy the judge that:

1. Such child is at least fourteen years of age; * * *

In view of the provisions of Sections 39-0602 and 39-0605 it is my

opinion that a driver's license may not be issued to a child under fourteen years of age. And it is further my opinion that a county judge has no jurisdiction to entertain or hear an application for his recommendation that a driver's license be issued to a child under fourteen years of age. I am not aware that said sections have been amended. The 1947 Session Laws not being available as yet, I cannot definitely say that said sections were not changed. But if amended, the State Highway Commissioner would have knowledge of that since such legislation would affect his department.

NELS G. JOHNSON

Attorney General