

TORONTO STAFF REPORT

August 25, 2006

To: Works Committee
From: City Solicitor
Subject: Pocket Bikes

Purpose:

To advise Committee with respect to Pocket Bikes, as requested by Committee.

Financial Implications and Impact Statement:

There are no financial implications resulting from this report.

Recommendations:

It is recommended that this report be received for information.

Background:

At its meeting on July 5, 2006, Works Committee requested the City Solicitor to report on whether pocket bikes might be considered a dangerous product, and the legal ramifications of that finding.

Comments:

A pocket bike is a small inexpensive motorcycle-like vehicle. They are imported into Canada and are intended for use only on private circuits. The legislative scheme that applies to them is as follows:

The federal *Motor Vehicle Safety Act* (MVSA) applies to the manufacturing and importing of motor vehicles, in order to ensure the safety of the public. The MVSA schedules and regulations provide extensive safety standards and specifications for motor vehicles that are permitted on public highways. The schedules and regulations also identify and define the types

of vehicles that are prohibited on public highways, and provide some safety standards and labelling requirements for such vehicles. The Ontario *Highway Traffic Act* (HTA) regulates the use of motor vehicles on highways in Ontario. Pocket bikes fit within the definitions of “vehicle” and “motor vehicle” under the MVSA and the HTA. The MVSA applies to classes of vehicles as prescribed in its regulations. The classification of vehicles happens at either the manufacturing or import level. Manufacturers and importers determine how their vehicles will be classed, and must ensure compliance with MVSA safety standards and specifications.

Transport Canada has taken the position that, depending on its equipment, a pocket bike can be classified as either a “competition vehicle” or a “restricted-use motorcycle”. A restricted-use motorcycle requires a Vehicle Identification Number (VIN), which the pocket bikes that are currently being imported do not have. In any event, neither competition vehicles, nor restricted-use motorcycles are permitted on public highways.

The Province maintains that pocket bikes are not permitted to be operated on roadways as they do not meet the safety standards, both federal and provincial, for vehicles that may be used on public roads. In particular, subsection 7(1) of the HTA provides that no person shall drive a motor vehicle on a highway without a currently valid permit and plates issued in accordance with the HTA and its regulations. Since the MTO will not currently issue a permit or plates for pocket bikes, they may not legally operate on a highway (including sidewalks within the road allowance). As well, there is no class of driver’s license that covers pocket bikes.

An individual who uses a pocket bike on a public road or highway may be charged with provincial offences under both the HTA and the *Compulsory Automobile Insurance Act* (CAIA).

The HTA contains several potential offences that might be relevant to the operation of pocket bikes on public roads, including: driving on a highway without a license for that class of vehicle, driving a vehicle without a VIN on a highway, and driving a vehicle on a highway without a permit and license plates.

The CAIA applies to all motor vehicles, as defined in the HTA. The most serious offence that may be relevant to pocket bike users is contained in subsection 2(1), which provides that no owner or lessee of a motor vehicle shall operate a motor vehicle or permit a motor vehicle to be operated on a highway unless the motor vehicle is insured under a contract of automobile insurance. Subsection 2(7) of the Act provides that where a person is convicted of operating a vehicle without insurance, the vehicle may be seized and impounded, for a maximum of three months.

Vendors of pocket bikes would require a provincial motor vehicle dealers’ license in order to sell them.

No relevant legislation provides for declaring a product “dangerous”. As noted above, the MVSA does provide for safety standards for vehicles, including pocket bikes.

Conclusions:

There is no legal mechanism in place to declare a product “dangerous”. The federal *Motor Vehicle Safety Act* provides extensive safety standards and specifications for motor vehicles that are permitted on public highways. The schedules and regulations also identify and define the types of vehicles that are prohibited on public highways, and provide some safety standards and labelling requirements for such vehicles.

Contact:

Robert Ashley
Solicitor
Legal Services Division
Phone: 416-392-2892
Fax: 416-397-5624
Email: rashley@toronto.ca

Anna Kinastowski
City Solicitor