



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 14, 2020

The Honorable Tracy O. King
Chair, House Committee on Licensing and Administrative Procedures
Texas House of Representatives
Post Office Box 2910
Austin, Texas 78768-2910

Opinion No. KP-0331

Re: Authority of the Texas Department of Motor Vehicles to title and register three-wheeled, electric, low-speed vehicles (RQ-0337-KP)

Dear Representative King:

You ask whether the Texas Department of Motor Vehicles (the “Department”) may title and register three-wheeled, electric, low-speed vehicles.¹ You tell us that many states title and register these vehicles as motorcycles, but that the Department contends it lacks the statutory authority to do so in Texas. Request Letter at 1. You further explain that the Department determined that such vehicles do not meet the definition of a “motorcycle” in subsection 541.201(9) of the Transportation Code because they lack the rider’s “saddle” required by that statute.² *Id.* at 2; TEX. TRANSP. CODE § 541.201(9). You posit that whether a vehicle is equipped with a saddle type of seat may not determine whether the vehicle is a motorcycle. Request Letter at 2. You explain that some states base their licensing and titling of the vehicles as motorcycles using federal law, such as a federal administrative regulation defining a motorcycle as having “a seat *or* saddle.” *Id.* at 1 (emphasis added) (citing 49 C.F.R. § 571.3). You also note that a Texas statute concerning operation of a motorcycle uses the word “seat,” requiring the operator to “ride on the permanent and regular seat attached to the motorcycle,” from which you conclude that “the terms ‘saddle’ and ‘seat’ appear to be synonymous.” *Id.* at 2 (citing TEX. TRANSP. CODE § 545.416). You first “ask for clarification on the definition of the fixture on which a rider sits while operating or riding as a passenger on a motorcycle in the State of Texas.” *Id.* Should we disagree with the Department’s position that basing registration of a vehicle as a motorcycle

¹See Letter from Honorable Tracy O. King, Chair, House Comm. on Licensing & Admin. Procedures, to Honorable Ken Paxton, Tex. Att’y Gen. at 1 (Mar. 16, 2020), <https://www2.texasattorneygeneral.gov/opinions/opinions/51paxton/rq/2020/pdf/RQ0337KP.pdf> (“Request Letter”).

²The Department indicates its review concerned a specific vehicle submitted for consideration. See Brief from Ms. Tracey Beaver, Gen. Counsel, Tex. Dep’t of Motor Vehicles. at 2 (Apr. 14, 2020) (on file with the Op. Comm.) (“Dep’t Brief”).

depends on whether the vehicle has a saddle type seat, you ask that we confirm that three-wheeled, low-speed, electric vehicles are eligible for titling and registration by the Department. *Id.*

Chapters 501 and 502 of the Transportation Code govern the titling and registration of motor vehicles. TEX. TRANSP. CODE §§ 501.001–.179 (“Certificate of Title Act”), 502.001–.492 (“Registration of Vehicles”). Both chapters define the term “motorcycle” by reference to definitions in section 521.001 or section 541.201, as applicable to the particular vehicle under consideration. *Id.* §§ 501.002(16), 502.001(24).

We begin with the definition referenced in your letter, section 541.201. That section defines “motorcycle” as “a motor vehicle, other than a tractor or moped, that is equipped with a rider’s saddle and designed to have when propelled not more than three wheels on the ground.” *Id.* § 541.201(9); *see also id.* § 661.001(1) (defining motorcycle as “having a saddle for the use of the rider” for purposes of the chapter requiring motorcycle protective headgear). The statutes do not define the word saddle. Courts interpret an undefined term in a statute according to its common, ordinary meaning “unless a contrary meaning is apparent from the statute’s language or the common meaning would lead to absurd or nonsensical results.” *See Harris Cty. Appraisal Dist. v. Tex. Workforce Comm’n*, 519 S.W.3d 113, 121–22 (Tex. 2017). A saddle is commonly understood to be “a *seat* shaped to fit the inside contours of the buttocks of a rider on horseback . . . [or] a *seat* similarly designed to be straddled on a bicycle, or motorcycle, or similar vehicle.” WEBSTER’S THIRD NEW INT’L DICTIONARY 1816 (2002) (emphasis added). Under the common understanding of the term, a saddle is a type of seat, but not all seats are saddles. Thus, a court would likely conclude that a saddle required for a vehicle to be a motorcycle under section 541.201 means a seat designed similarly to a horse saddle to be straddled by the rider.³ *See* TEX. TRANSP. CODE § 541.201(9).

A vehicle may also be classified as a motorcycle under section 521.001. *See id.* § 521.001. That section defines a motorcycle to include an enclosed three-wheeled vehicle that meets specified requirements as applicable, including federal safety requirements for seating and vehicle structure. *Id.* § 521.001(a)(6-a). To qualify as a motorcycle, the vehicle must, among other things, be

an enclosed three-wheeled passenger vehicle that:

- (A) is designed to operate with three wheels in contact with the ground;
- (B) has a single, completely enclosed, occupant compartment;
and
- (C) at a minimum, is equipped with:

³In a statute we later discuss, the Legislature distinguished the common configuration of a motorcycle as having a saddle seat when it provided for a specialized variant known as an autocycle “that does not require the operator to straddle or sit astride the seat.” TEX. TRANSP. CODE § 501.008(a)(3).

- (i) seats that are certified by the vehicle manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard No. 207, 49 C.F.R. Section 571.207

Id. Federal Standard No. 207 establishes a seat standard concerning “seats, their attachment assemblies, and their installation to minimize the possibility of their failure by forces acting on them as a result of vehicle impact.” 49 C.F.R. § 571.207 S1. For federal purposes, the standard “applies to passenger cars, multipurpose passenger vehicles, trucks and buses.” *Id.* § 571.207 S2. The federal standard requires the driver to have an “occupant seat” that meets specified performance requirements. *Id.* § 571.207 S4.1–2. An “occupant seat” is “a seat that provides at least one designated seating position.” *Id.* § 571.207 S3. The Texas statute requires additionally that the enclosed vehicle have a steering wheel and meet other requirements.⁴ TEX. TRANSP. CODE § 521.001(a)(6-a)(C). Thus, neither the Texas statute nor the incorporated federal regulation require that specific type of motorcycle to be equipped with a saddle seat. Instead, a subsection 521.001(a)(6-a) motorcycle must have a seat meeting the specified federal regulations.

Finally, in addition to these definitions of a “motorcycle,” the statutes provide that a variant vehicle known as an autocycle is considered a motorcycle for titling purposes. *See id.* § 501.008(b); *see also id.* §§ 502.005 (for registration), 545.416(c), (d), (f) (for certain rider requirements), 661.0015 (for protective headgear requirements). An autocycle is defined as

a motor vehicle, other than a tractor, that is

- (1) designed to have when propelled not more than three wheels on the ground;
- (2) equipped with a steering wheel;
- (3) equipped with *seating that does not require the operator to straddle or sit astride the seat*; and
- (4) manufactured and certified to comply with federal safety requirements for a motorcycle.

Id. § 501.008(a) (emphasis added). By operation of the terms of the statute, the seating for an autocycle must be seating other than a standard motorcycle saddle seat. *Id.* § 501.008(a)(3).

Thus, depending on its design and characteristics, a vehicle may be a motorcycle under Transportation Code subsection 521.001(a)(6-1), section 541.201, or section 501.008, each with its own specified seating requirements. These specified requirements are unaffected by the federal regulation and state statute identified in your request letter. Specifically, that federal regulation defines a motorcycle as “having a seat or saddle,” but the Legislature has not incorporated that

⁴The Department informs us that visual inspection of “the vehicle in question” revealed “that the vehicle does not have a fully enclosed cab and steering wheel.” Dep’t Brief at 2.

language into the Texas statutes.⁵ Request Letter at 1 (citing 49 C.F.R. § 571.3). Also, Transportation Code section 545.416 does not suggest that “seat” and “saddle” are synonymous. *See* TEX. TRANSP. CODE § 545.416. Instead, by requiring a motorcycle operator to “ride on the permanent and regular *seat* attached to the motorcycle,” the requirement applies to any type of motorcycle seat, including a saddle seat. *Id.* (emphasis added).

To summarize, a vehicle that is a motorcycle under sections 521.001 and 501.008 may have a seat other than a saddle seat. *Id.* §§ 521.001, 501.008. But to qualify as a motorcycle under section 541.201, the vehicle must be equipped with a rider’s saddle seat. *Id.* § 541.201(9). For purposes of that section, a rider’s saddle is a seat designed similarly to a horse saddle to be straddled by the rider. *Id.*

In your second question, you ask this office to determine “that three-wheeled, low-speed, electric vehicles are eligible for registration and titling” by the Department. Request Letter at 2. Whether a particular vehicle qualifies as a motorcycle under sections 501.008, 521.001, or 541.201, or some other vehicle regulated in the Transportation Code, would depend on particular facts, which cannot be resolved in the opinion process. *See* Tex. Att’y Gen. Op. No. KP-0178 (2018) at 3 (stating that “this office does not resolve questions of fact in the opinion process”). More importantly, the Legislature specifically delegated the classification of motorcycles to the Department. *See* TEX. TRANSP. CODE § 521.001(c) (stating that “[t]he department by rule may define types of vehicles that are ‘motorcycles’ for the purposes of this chapter, in addition to those defined under Subsection (a)(6-a), and for the purposes of Chapters 501, 502, and 503”); *see also id.* § 502.056 (stating that in disputed cases, “the department may determine . . . the classification to which a vehicle belongs”). Thus, we decline to answer your second question.

⁵Indeed, as you tell us, the 86th Legislature introduced House Bill 2163 and Senate Bill 1863 to amend the definition of a “neighborhood electric vehicle” in section 551.301 of the Transportation Code to include federal motorcycle regulations and encompass three-wheeled vehicles, but the legislation did not pass. Request Letter at 1; *see also* Tex. H.B. 2163, 86th Leg., R.S. (2019); Tex. S.B. 1863, 86th Leg., R.S. (2019). A neighborhood electric vehicle is a vehicle that may be operated at speeds not more than 35 miles per hour and on certain streets and highways with a posted speed limit of 45 miles per hour or less. TEX. TRANSP. CODE §§ 551.301, .303, .304. Under current law, the registration classification of neighborhood electric vehicles includes only four-wheeled vehicles. *See* 43 TEX. ADMIN. CODE §§ 217.3(3) (Tex. Dep’t of Motor Vehicles, Motor Vehicle Titles), 217.45(c)(5) (Tex. Dep’t of Motor Vehicles, Specialty License Plates, Symbols, Tabs & Other Devices).

S U M M A R Y

Chapters 501 and 502 of the Transportation Code govern the titling and registration of motor vehicles, including motorcycles. Depending on its design and characteristics, a vehicle may be a motorcycle under Transportation Code subsection 521.001(a)(6-1), section 541.201, or section 501.008, each with its own specified seating requirements.

A vehicle that is a motorcycle under sections 521.001 and 501.008 of the Transportation Code may have a seat other than a saddle as specified in those statutes. To qualify as a motorcycle under section 541.201, a vehicle must be equipped with a rider's saddle, which is a seat designed similarly to a horse saddle to be straddled by the rider. Whether a particular vehicle qualifies as a motorcycle under sections 501.008, 521.001, or 541.201, or some other vehicle regulated in the Transportation Code, would depend on the particular facts, which cannot be resolved in the opinion process.

Very truly yours,

A handwritten signature in black ink that reads "Ken Paxton". The signature is written in a cursive, flowing style.

KEN PAXTON
Attorney General of Texas

JEFFREY C. MATEER
First Assistant Attorney General

RYAN L. BANGERT
Deputy First Assistant Attorney General

RYAN M. VASSAR
Deputy Attorney General for Legal Counsel

VIRGINIA K. HOELSCHER
Chair, Opinion Committee

WILLIAM A. HILL
Assistant Attorney General, Opinion Committee