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I.D.# **48889**

Hon. Ken Paxton
Attorney General of the State of Texas
ATTN: Opinion Committee
P.O. Box 12548
Austin, TX 78711-2548

Re: request for an opinion regarding whether a person must possess a driver's license to lawfully operate a golf cart on a public street.

Dear Attorney General Paxton:

In this joint request, the Montgomery County District Attorney and the Montgomery County Attorney respectfully ask for your legal opinion regarding the following issue:

Must a person possess a driver's license to lawfully operate a golf cart on a public street in a master-planned community or municipality in which the operation of golf carts on public streets is expressly authorized by the Transportation Code?

a. Background.

Effective September 1, 2009, the 81st Texas Legislature expressly authorized the operation of golf carts on certain public streets described in two new sections of the Transportation Code. See Act of June 1, 2009, 81st Leg., R.S., Ch. 1136, § 7, 2009 Tex. Gen. Laws 3143, 3145.

First, the newly enacted Transportation Code section 551.403 provided that "an operator may operate a golf cart" in three specified locations: (1) "in a master planned community . . . that has in place a uniform set of restrictive covenants" and "for which a county or municipality has approved a plat"; (2) "on a public or private beach"; and (3) "on a

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public highway for which the posted speed limit is not more than 35 miles per hour, if the golf cart is operated . . . during the daytime” and “not more than two miles from the location where the golf cart is usually parked and for transportation to or from a golf course.”

Second, the new section 551.404 of the Code authorized the governing body of a municipality to “allow an operator to operate a golf cart on all or part of a public highway” that “is in the corporate boundaries of the municipality” and “has a posted speed limit of not more than 35 miles per hour.”

Public officials have since expressed conflicting opinions as to whether a driver’s license is necessary to operate a golf cart on streets described in sections 551.403 and 551.404. Some local officials have argued that no license is required to operate a golf cart in the designated locations, while a representative of the Texas Department of Public Safety informed a reporter in 2013 that “a driver’s license is required to operate a golf cart on a publicly maintained roadway.” See Leslee Bassman, *Government agencies grapple with golf cart use on suburban streets*, CommunityImpact.com, April 10, 2013, available at <https://communityimpact.com/austin/news/2013/04/10/government-agencies-grapple-with-golf-cart-use-on-suburban-streets/>.

b. Argument and authorities.

Section 521.021 of the Transportation Code provides that a driver’s license is required to operate a “motor vehicle” on a “highway”; and the term “highway” is broadly defined in section 541.302(5) of the Code as “any publicly maintained way any part of which is open to the public for vehicular traffic.”

The term “motor vehicle” is not defined within chapter 521 or within subtitle B of Title 7 of the Transportation Code (captioned “Driver’s Licenses and Personal Identification Cards”), but section 521.001(b) provides that a “word or phrase that is not defined by this chapter but is defined by Subtitle C has the meaning in this chapter that is assigned by that subtitle.”

Turning to Subtitle C (“Rules of the Road”), section 541.201(11) states that the term “[m]otor vehicle” means a self-propelled vehicle or a vehicle that is propelled by electric power from overhead trolley wires,” other than an “electric bicycle” or an “electric personal assistive mobility device.” A golf cart is a self-propelled vehicle and is not listed among the statutory exceptions, hence it is a “motor vehicle” which cannot be operated on a public street without a driver’s license under section 521.021.

Some local public officials have opined that because section 551.403 states that “an operator *may* operate a golf cart” in three specific locations (emphasis supplied), there is no additional requirement that the operator possess a driver’s license to drive a cart in those particular locations. But section 551.403 does not purport to set out all of the limitations on operating a golf cart on the street—it only specifies three of the locations where they may be driven. Other statutes impose additional requirements, such as the display of a license plate and a slow-moving-vehicle emblem when a golf cart is driven on a public street (*see* Transportation Code sections 547.703(d) & 551.402), and the possession of liability insurance if a golf cart is driven on a street pursuant to a municipal ordinance under section 551.404 (*see* Transportation Code section 601.052(a)(2-a)). And when the Legislature has intended to exempt a category of vehicles from the statutory driver’s license requirement, like electric bicycles and personal mobility devices, it has done so expressly—rather than implicitly—by excepting those vehicles from the definition of “motor vehicle” set out in section 541.201.


If a driver’s license is *not* required when operating a golf cart upon a public street, children would be permitted to drive them on busy streets—a situation which a police spokesman described as “extremely dangerous.” Jeff Wright & Jeff Chavez, *Tyler police crack down on golf cart use on public roads*, KLTV.com, June 7, 2019 (available at <https://www.kltv.com/2019/06/07/tyler-police-crack-down-golf-cart-use-public-roads/>). “If they make a mistake, go through a stop sign, or swerve in front of a car, we’re going to have some children very seriously hurt or even killed.” *Id.*

c. Conclusion.

It is respectfully suggested that the attorney general issue an opinion concluding that a driver’s license is required to lawfully operate a golf cart on a publicly maintained street.

Sincerely,


BRETT W. LIGON
Montgomery County District Attorney


B. D. GRIFFIN
Montgomery County Attorney