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OPINION LETTER NO. 46

Mr. F. M. Wilson, Director
Department of Public Safety
P.O. Box 749
Jefferson City, Missouri 65102

Dear Mr. Wilson:

This official opinion is issued in response to your request for a ruling.

Your request asks for a determination of how the "Aquascooter" is to be regulated pursuant to Chapter 306 (Watercraft) of the Missouri Revised Statutes.

The Aquascooter is a device one or more swimmers may use to be pulled through the water at an advertised speed of four miles per hour. The propulsion is created by a one-cylinder, two horsepower gasoline engine turning an enclosed propeller. A snorkle is attached to supply air to the engine. Handles are attached to enable the swimmer to direct the Aquascooter and be pulled by it. The device will float unattended. Photographs show it to be approximately two feet long, one foot high, and one foot wide.

A swimmer using the device receives no protection from the effects of the elements. The exposure is total and complete. Moreover, the Aquascooter is not designed to carry cargo and neither is it so capable. The purpose of the Aquascooter is to enhance the swimmer's enjoyment of his recreation. Its characteristics lend themselves exclusively to the recreational end.

Mr. F. M. Wilson, Director

The Aquascooter is not a "boat" as that word is commonly used. Section 306.010, S.B. No. 123, 80th General Assembly, defines three means of transport on water subject to regulation by Chapter 306: a motorboat is "any vessel propelled by machinery whether or not such machinery is a principal source of propulsion"; a vessel is, in pertinent part, "every motorboat and every description of motorized watercraft"; a watercraft is "any boat or craft, including a vessel, used or capable of being used as a means of transport on waters."

Missouri case law offers little guidance on the meaning of these terms, which appear to be practically equivalent. Indeed, Black's defines a "craft" to be a "vessel." Black's Law Dictionary 439 (4th ed. rev. 1968). The Oxford English Dictionary defines "vessel" as any structure designed to float upon and traverse the water for the carriage of persons and goods.

It is the opinion of this office that the Aquascooter does not fall within the meaning of the words "vessel", "motorboat", or "watercraft" as they are used in § 306.010, and is not to be regulated pursuant to the provisions of Chapter 306.

If a boat bracket is added to an Aquascooter, it may then be used as a motor to drive light boats, comparable to a trolling motor. Section 306.010(1), provides that a "motorboat" is any vessel propelled by machinery, whether or not such machinery is a principal source of propulsion. When an Aquascooter is attached to a vessel, such vessel becomes a motorboat under the definition found in § 306.010(1) and may be regulated by the Division of Water Safety as such.

Therefore, it is our view that an "Aguascooter" is not subject to regulation under Chapter 306, RSMo.

Sincerely,



JOHN ASHCROFT
Attorney General