

A newsletter by **Taheri & Todoro, P.C.**, devoted to *Driving While Intoxicated* law in New York State  
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## Unlicensed Operation of a Lawn Tractor on a Public Highway

In June of 2004, the Appellate Division of the Fourth Department issued a decision in the case of *People v. Canute*, 8 AD3d 1125 (4<sup>th</sup> Dept. 2004). In *Canute*, *supra*, the prosecution had appealed the decision of the Steuben County Court to dismiss Count One of a Superior Court Information charging the defendant with Aggravated Unlicensed Operation of a Motor Vehicle in the First Degree. The defendant had been arrested in an intoxicated condition while driving a lawn tractor on a public highway from a bar to his home. His driver license had been previously revoked.

The Steuben County Court had determined that the charge of Aggravated Unlicensed Operation in the First Degree should be dismissed because, in the county court's opinion, a lawn tractor did not fall within the definition of "motor vehicles" is set forth in New York State Vehicle & Traffic Law section 125. That statute defines motor vehicles as "[e]very vehicle operated or driven upon a public highway which is propelled by any power other than muscular..." The statute, however, then goes on to list a number of exceptions, such as snowmobiles and all terrain vehicles, that do not fall within the definition of "motor vehicles." The Steuben County Court found that a lawn tractor fell

within the category of "farm type tractors" that VTL § 125 specifically excepted from the definition of "motor vehicles." Because a lawn tractor was not a "motor vehicle," the defendant could not be charged with Aggravated Unlicensed Operation of a Motor Vehicle in the First Degree when driving one.

The Appellate Division for the Fourth Department, in a three to two decision, found that this analysis was in error. In overturning the decision of the Steuben County Court and reinstating the charge of Aggravated Unlicensed Operation of a Motor Vehicle in the First Degree, the Fourth Department stated:

we conclude that the exemption for such tractors applies only with respect to those tractors "used exclusively for agricultural purposes, or for snow plowing, other than for hire" ([VTL § 125]). It is undisputed that defendant was using the lawn tractor for transportation purposes and not for agricultural purposes or snow plowing, and thus a license was required in order to operate on a public highway (*see generally Matter of Reilley v. Department of Motor Vehs.*, 240 AD2d 296, 658 NYS2d 316). We note that *Vehicle and Traffic Law § 509(1)* expressly provides that a license is required to operate a motor vehicle on a public highway or other location designated in the statute. There is no licensing exemption from the licensing requirement for operators of lawn tractors that are operated on a public highway.

*Canute* at p. 1126.

The Fourth Department then went on to conclude that the statute for Aggravated Unlicensed Operation of a Motor Vehicle in the First Degree (VTL § 511(3)(a)) – when read in conjunction with VTL § 125 (definition of "motor vehicles") and VTL § 509(1) (requirement for a license to operate a motor vehicle on a public highway) – "placed the defendant on notice that the statute prohibiting aggravated unlicensed operation of a motor vehicle encompasses the operation of a lawn tractor on a public highway....," *Canute* at p. 1126. Based on this analysis – and the determination that any issue regarding whether the defendant knew or had reason to know that his privilege "of operating such motor vehicle" was revoked was a matter of proof at trial – the Fourth Department reinstated the charge of Aggravated Unlicensed Operation of a Motor Vehicle in the First Degree.

Two justices dissented in this opinion. In their dissent, the justices concluded that "because a license is not required to operate a lawn tractor in this State," *Canute* at p. 1127, it was impossible to prove that the defendant had the knowledge or reason to know that his privilege to operate "such motor vehicle" was revoked as required by VTL § 511[1](a). As a result, the defendant, in their opinion, could not be guilty of

This newsletter does not offer specific legal advice. If legal advice or other expert assistance is required, the services of a competent professional person should be sought. If you have any questions or would like a specific topic covered in the newsletter, please contact Michael S. Taheri, Esq., or Peter J. Todoro, Esq., at Taheri & Todoro, PC, 388 Evans Street, Williamsville, NY 14221, telephone no. (716) 633-0374, e-mail: [taheri@localnet.com](mailto:taheri@localnet.com).  
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