



HENRY McMASTER
ATTORNEY GENERAL

October 17, 2008

Bill Kurts, Coordinator of Transportation
Florence School District One
1810 East National Cemetery Road
Florence, South Carolina 29506

Dear Mr. Kurts:

In a letter to this office you questioned the inspection of school buses of local school districts and private school buses. You also particularly questioned whether the laws requiring inspection of school buses of local school districts applies to activity or school buses of local school districts which purchase and maintain these buses without assistance from the State Department of Education.

S.C. Code Ann. § 59-67-270 provides for the inspection of school buses in this State. Prior to a recent amendment of subsection (A)(1) by Act No. 282 of 2008, such provision stated:

(A)(1) All publicly owned or leased school buses, including buses owned or leased by a public school district, must be inspected annually in compliance with the State Department of Education's annual school bus inspection program. The State Department of Education shall assist in this requirement by providing the training and certification of a limited number of personnel designated by a school district to perform the inspection, providing the inspection manuals and forms, and supplying the inspection certificate stickers for the school buses. The State Department of Education's assistance must be free of charge.

(2) All privately owned vehicles designed and used to transport ten or more preprimary, primary, or secondary students to or from school, school-related activities, or childcare must be inspected annually. Inspections for these privately owned vehicles must comply with applicable federal inspection requirements. A copy of the vehicle inspection report must be kept on these vehicles at all times.

(3) The owner or lessee of a school bus shall be solely responsible for the implementation and accountability of school bus inspections.

(B) All school buses are subject to inspection at any time or place by officers of the State Transport Police or inspection forces. A school bus may not continue in operation in the transportation of students when the annual inspection is more than

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twelve months old or the school bus is found to be unsafe after any inspection until the unsafe conditions disclosed by the inspection have been corrected.

However, as noted, Subsection (A)(1) was amended this year to now read:

[a]ll publicly owned or leased school buses, including buses owned or leased by a public school district, must be inspected annually in compliance with either the State Department of Education's annual school bus inspection program or the federal Department of Transportation annual inspection program if the standards of the federal inspection program meet or exceed the standards of the state's program. The State Department of Education shall assist school districts using the Department of Education's program by providing the training and certification of a limited number of personnel designated by a school district to perform the inspection, providing the inspection manuals and forms, and supplying the inspection certificate stickers for the school buses. The State Department of Education's assistance must be free of charge. Any savings resulting from the ability to be inspected by either the State Department of Education or the federal Department of Transportation shall be expended on accountability programs set forth in Chapter 18 of this title.

The other provisions of that statute remained the same.

When interpreting the meaning of a statute, certain basic principles must be observed. The cardinal rule of statutory interpretation is to ascertain and give effect to legislative intent. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). Typically, legislative intent is determined by applying the words used by the General Assembly in their usual and ordinary significance. Martin v. Nationwide Mutual Insurance Company, 256 S.C. 577, 183 S.E.2d 451 (1971). Resort to subtle or forced construction for the purpose of limiting or expanding the operation of a statute should not be undertaken. Walton v. Walton, 282 S.C. 165, 318 S.E.2d 14 (1984). Courts must apply the clear and unambiguous terms of a statute according to their literal meaning and statutes should be given a reasonable and practical construction which is consistent with the policy and purpose expressed therein. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991); Jones v. South Carolina State Highway Department, 247 S.C. 132, 146 S.E.2d 166 (1966).

As set forth pursuant to the recent amendment to Section 59-67-270, "all publicly owned or leased school buses, including buses owned or leased by a public school district" must be inspected annually. Such inspection can be in compliance with either the inspection program of the State Department of Education or the federal Department of Transportation inspection program "if the standards of the federal inspection program meet or exceed the standards of the state's program." This requirement would be applicable to activity or school buses of local school districts which purchase and maintain these buses without assistance from the State Department of Education if these buses are publicly owned or leased by the school district.

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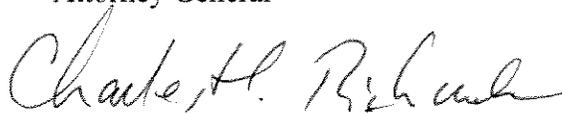
Similarly, pursuant to the provisions of subsection (A)(2) of such provision, “[a]ll privately owned vehicles designed and used to transport ten or more preprimary, primary or secondary students to and from school, school-related activities or childcare” must have an annual inspection. As provided by such provision, these inspections must be in compliance with applicable federal inspection requirements. As a result, as to buses belonging to private schools, if they fall within the category set forth in the referenced subsection, then they must have an annual inspection in compliance with federal requirements.

Therefore, in answer to your question as to whether the law requiring school bus inspections of buses of local school districts applies to activity and/or school buses purchased and maintained by school buses without assistance from the State Department of Education, Section 59-67-270(A)(1) is clear in its requirement of annual inspection in compliance with either the State Department of Education’s annual school bus inspection program or the federal Department of Education’s annual inspection program in circumstances where the federal inspection program standards meet or exceed state program standards. Furthermore, there is no constitutional problem in applying different standards, federal vs. state, in this instance in that the law allows the legislature to apply different standards to different entities as long as the action is otherwise constitutional. Lyons v. Workers’ Compensation Appeal Board, 803 A.2d 857 (Pa. 2002); Lubbock Radio Paging Service, Inc. v. Southwestern Bell Telephone Co., 607 S.W.2d 29 (Tex. Civ. App. 1980). See also: Jackson Water Works, Inc. v. Public Utilities Commission of the State of California, 793 F.2d 1090 at 1094 (9th Cir. 1986) (under ‘rational basis’ equal protection standard, “...all that is needed to uphold the state’s classification scheme is to find that there are ‘plausible,’ ‘arguable,’ or ‘conceivable’ reasons which may have been basis for the distinction.”).

With kind regards, I am,

Very truly yours,

Henry McMaster
Attorney General



By: Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Deputy Attorney General