



HENRY McMASTER
ATTORNEY GENERAL

November 12, 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 whether school districts are required to have a State Department of Education State school bus inspection or are districts within the law if they have only the federal DOT inspection on district owned buses?

As pointed out in an earlier opinion to you, 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.

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(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 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. (emphasis added).

The other provisions of that statute remained the same.

As emphasized in the amended statute, public school buses in this State "...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." Therefore, in answer to your question, in the opinion of this office, an inspection must be in compliance with either the State Department of Education's program or the federal DOT program if the federal program's standards exceed or meet the standards of the state program. This would be applicable to buses which travel out of state inasmuch as any trip would, of course, originate within this State.

This office cannot in an opinion make a determination as to whether the federal standards "meet or exceed" State standards as we have repeatedly stated that an opinion of this office cannot determine facts as investigations and determinations of facts are beyond the scope of an opinion of this office. See, e.g., Ops. Atty. Gen. dated March 19, 2008 and October 8, 2007. I can only suggest that you contact either the State Transport Police or the Office of Transportation of the State Department of Education for their assistance in such regard.

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With kind regards, I am,

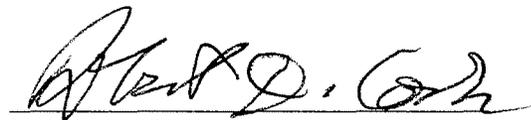
Very truly yours,

Henry McMaster
Attorney General



By: Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



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Deputy Attorney General