



ALAN WILSON  
ATTORNEY GENERAL

December 2, 2013

The Honorable Mick Zais  
State Superintendent of Education  
1429 Senate Street  
Columbia, S.C. 29201

Dear Mr. Zais,

You seek an opinion as to whether the insurance requirements for school buses set forth in S.C. Code § 59-67-710 apply to a school district's contracts with parents to transport their own children to and from school by virtue of S.C. Code § 59-67-740. The relevant portion of § 59-67-740 provides that school districts are required to ensure that the same insurance coverage set forth in § 59-67-710 is provided for "all lawful occupants of any contract vehicle ...." By way of background, you state:

School districts occasionally contract with a student's parent(s) for the parent(s) to provide transportation services for their own child. This is most often done with parents of children with disabilities who are physically unable to withstand the length of the ride on state or school district-owned buses; are medically fragile or have medical needs that post a significant risk to the students' health while being transported; engage in behaviors that pose a significant risk of dangerousness to self or others; have wheelchairs manufactured by companies that do not recommend wheelchairs for use with the existing equipment on our state and school district-owned buses; or have extra-large wheelchairs with certain equipment, such as oxygen tanks and other devices, that make the combined weight of the child, the chair, and equipment too heavy for the lifts on the state's older school buses.

The question was presented as to whether the requirements of S.C. Code Ann. § 59-67-740 apply when school districts contract with parents to take their children to and from school....

The insurance coverage requirements provided in § 59-67-710 are extensive and broader than the insurance coverage requirements found in most personal vehicle policies. The question is whether this provision applies to contracts with parents to transport their own children and if so, whether a parent can waive this provision.

Law/Analysis

The insurance coverage mandated for State-owned school buses is set forth in S.C. Code § 59-67-710 which states, in part:

(1) The Director of the Division of General Services, with the approval of the State Budget and Control Board, shall provide insurance coverage on all state-owned school buses which are operated under the authority of, and which are being used for the purposes of, Article 3 of this chapter. Such insurance contracts must be provided either through commercial carriers or through the insurance reserve funds of the Division of General Services. The insurance contracts shall provide at least the following benefits:

(a) for the lawful occupant of any such school bus who suffers bodily injuries or death, a death benefit of not less than fifty thousand dollars;

(b) for the lawful occupant of any such school bus who suffers bodily injuries, an amount sufficient to defray the cost of hospitalization, surgery, dentistry, medicine, and all other medical expenses up to three thousand dollars or such amount as promulgated by regulation of the Department of Education;

(c) additional coverage must also be provided for the following named perils:

(i) for the loss of both hands or both feet or sight of both eyes, fifty thousand dollars;

(ii) for loss of one hand and one foot, thirty thousand dollars;

(iii) for loss of either hand or foot and sight of one eye, thirty thousand dollars; and

(iv) for loss of either hand or foot or sight of one eye, thirty thousand dollars.

(2) The benefits provided for in subsection (1) shall exist without regard to fault or negligence. The insurance shall cover any accident which occurs:

(a) while getting on a school bus;

(b) while riding within a school bus;

(c) by being thrown from within a school bus;

(d) while getting off a school bus;

(e) by being run down, struck, or run over while crossing a public highway while approaching or leaving a school bus at the point of loading or unloading; or

(f) by being run down, struck, or run over by any moving vehicle while en route between home and the point of loading or en route between the point of unloading and home.

....

§ 59-67-710. Subsection (3) of § 59-67-710 goes on to provide that the insurance coverage required by this section must be sufficient to cover claims by any party brought under the Tort Claims Act, §§ 15-78-10 et seq.

The statutory provision that is the focus of your request, § 59-67-740, directs local school agencies to provide the same insurance coverage on buses owned by them as well as contract buses:

County and district boards of education owning school buses are directed to provide the same insurance coverage for the lawful occupants of a county or district-owned bus as is provided for the lawful occupants of a State-owned school bus under § 59-67-710. County and district boards of education are further directed to see that this same insurance coverage is provided for all lawful occupants of any **contract vehicle operated under contract** with such county and district boards of education.

§ 59-67-740 (emphasis added).

Thus, the central issue is whether the Legislature intended the phrase "contract vehicle operated under contract" as used in § 59-67-740 to include the personal vehicle of a parent who has agreed by contract with the school district to transport his or her child to and from school. For the reasons stated below, we do not believe this was the Legislature's intent.

A number of rules of statutory construction are applicable here. "The cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature." Hodges v. Rainey, 341 S.C. 79, 86, 533 S.E.2d 578, 581 (2000). "[Courts] will give words their plain and ordinary meaning, and will not resort to a subtle or forced construction that would limit or expand the statute's operation." Harris v. Anderson County Sheriff's Office, 381 S.C. 357, 362, 673 S.E.2d 423, 425 (2009). "If a statute's language is plain, unambiguous, and conveys a clear meaning, then the rules of statutory interpretation are not needed and a court has no right to impose another meaning." Strickland v. Strickland, 375 S.C. 76, 85, 650 S.E.2d 465, 472 (2007). "[S]tatutes must be read as a whole, and sections which are part of the same general statutory scheme must be construed together and each one given effect, if reasonable." State v. Thomas, 372 S.C. 466, 468, 642 S.E.2d 724, 725 (2007). "While it is not conclusive, it is proper in construing a statute to consider legislation dealing with the same subject matter as an aid in construction." Hartford Acc. & Indem. Co. v. Lindsay, 273 S.C. 79, 85, 254 S.E.2d 301, 304 (1979). "In construing a statute, [courts] will reject an interpretation when such an interpretation leads to an absurd result that could not have been intended by the legislature." Lancaster County Bar Ass'n v. S.C. Com'n on Indigent Defense, 380 S.C. 219, 222 670 S.E.2d 371, 373 (2008).

Here, the Legislature chose to make § 59-67-740 applicable to any "*contract vehicle* operated under contract" as opposed to any vehicle operated under contract. (Emphasis added). The use of the word "contract" as an adjective directly before "vehicle" indicates an intent to limit the section's applicability to certain types of vehicles "operated under contract." Thus, the fact that a vehicle is used in connection with a contract with a school district is not enough to bring the vehicle within the application of the statute; the vehicle must also constitute a "contract vehicle." While we are unable to find any authority specifically defining "contract vehicle" for purposes of the statute, various authorities defining a "contract carrier" indicate the term can best be understood as referring to a vehicle owned by a private contractor and used for the purpose of transporting passengers for compensation. See, e.g., S.C. Code Regs. 103-102 ("Contract Carrier by Motor Vehicle' means any person which engages in transportation by motor vehicle of property ... for compensation under contracts ...."); 40 C.F.R. § 202.10(c) ("Contract carrier by motor vehicle means any person who engages in transportation by motor vehicle of passengers or property ... for compensation ... under continuing contracts ...."); 48 C.F.R. § 47.001 ("Contract carrier means a person providing transportation for compensation under continuing agreements with one person or a limited number of persons").

Such a definition of "contract vehicle" as used in § 59-67-740 also comports with various other provisions in Chapter 67 of Title 59 concerning the transportation of pupils. See, e.g., § 59-67-10 (defining "school bus" as meaning "every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or *privately owned and operated for compensation for the transportation of children* to or from school") (emphasis added); § 59-67-108 (a driver operating a bus owned by the State, a local school agency, or "a private contractor" must be certified by the State Board of Education) (emphasis added); § 59-67-470 ("No person shall be authorized to drive a school bus in the State transporting children, whether the bus be owned by the State, by a local school agency, or by a *private contractor*, who has not been so certified by the State Board of Education"). Thus, the fact that a parent agrees by contract to transport his or her child to and from school does not render the parent's personal vehicle a "contract vehicle" for purposes of § 59-67-740. Accordingly, we do not believe § 59-67-740 applies in such situations.

Furthermore, to otherwise construe § 59-67-740 as requiring a school district to provide the personal vehicles of parents in such situations with supplemental insurance necessary to meet the distinct coverage standards mandated for school buses by § 59-67-710 would lead to absurd results which could not have been intended by the Legislature. The additional costs incurred by school districts would be superfluous as the personal vehicles of such parents are already required by law to be insured with coverage that extends to their child while being transported in the vehicle. See §§ 38-77-10 et seq. In addition, a child injured while being transported to or from school in his or her parents car and as a direct result of the parent's negligent driving would still be able to recover the no-fault benefits set forth in § 59-67-710(1) and (2) from the school district's insurance policy. Moreover, the insurance requirements of § 59-67-710 are clearly designed to meet the specific coverage needs of school buses which are used for the transportation of numerous children, are subject to distinct maintenance and inspection requirements,<sup>1</sup> and must be operated by drivers who meet certain training and other requirements,<sup>2</sup> are certified as a school

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<sup>1</sup> See § 59-67-370(A) (providing that "[a]ll publicly owned or leased school buses" as well as "[a]ll privately owned vehicles designed and used to transport ten or more ... students to or from school" must be inspected annually).

<sup>2</sup> See § 59-67-160 (school bus driver must have a certified physical examination before he or she may obtain bus driver certification and every two years thereafter); § 59-67-470 (bus drivers employed by school districts must undergo competency examination, a "rigid school bus driving training course," and be certified as a bus driver before they may operate a bus "owned by the State, by a local school agency, or by a private contractor").

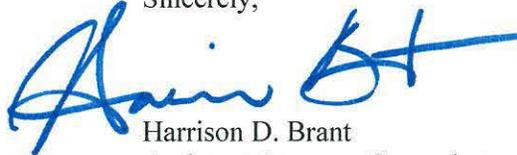
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bus driver,<sup>3</sup> are responsible for supervising the occupants of the bus and reporting any misconduct to the school principal,<sup>4</sup> and follow rules governing the safe operation of school buses in addition to traffic laws applicable to the general public.<sup>5</sup> Thus, there is no rational basis for extending the same insurance coverage required for school buses to the personal vehicle of a parent transporting his or her own child to and from school.

### Conclusion

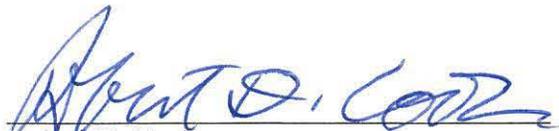
It is the opinion of this Office that § 59-67-740 does not require a school district to provide the vehicle of a parent with the insurance coverage mandated for public school buses under § 59-67-710 where the parent agrees by contract to transport his or her own child to and from school. Consistent with legal authorities which have defined a "contract carrier," and in consideration of the various other provisions of Chapter 67 of Title 59 concerning the transportation of pupils, we believe the phrase "*contract vehicle operated under contract*" as used in § 59-67-740 was intended to mean a vehicle owned by a private contractor and used for the purpose of transporting passengers for compensation. The fact that a parent agrees by contract to transport his or her child to and from school does not render that parent's personal vehicle a "contract vehicle" for purposes of § 59-67-740. For the reasons fully stated above, to otherwise construe § 59-67-740 as requiring a school district to provide the personal vehicles of parents in such situations with supplemental insurance necessary to meet the distinct coverage standards mandated for school buses by § 59-67-710 would lead to absurd results which could not have been intended by the Legislature.

Sincerely,



Harrison D. Brant  
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Solicitor General

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<sup>3</sup> See § 59-67-108 (driver operating a bus owned by State, local school agency, or "a private contractor" must be certified to do so by the State Board of Education).

<sup>4</sup> See § 59-67-180 ("driver of every school bus ... shall have general supervision of it ...."); § 59-67-240 (bus driver "shall be responsible for maintaining good conduct upon his bus and shall report promptly to the governing head of the school ... any misconduct or any violation of the driver's instructions").

<sup>5</sup> See § 59-67-220 (gas tanks on vehicle used as school bus may not be filled when pupils are board); § 59-67-230 (bus driver must bring vehicle to complete stop before crossing railroad tracks); § 59-67-515 (public school buses generally may not exceed speed of forty-five miles an hour, and in no instance may be authorized to exceed fifty-five miles an hour).