

99-102

MOTOR VEHICLES: MOTOR VEHICLE AND EQUIPMENT SAFETY – CHILD RESTRAINTS.

EDUCATION: PUPIL TRANSPORTATION.

School buses are exempt from statutory requirement that child under age 4 be properly secured in approved child restraint device. Public school buses used to transport children in Head Start Program are not required to provide children under 4 with child safety seats regardless of whether such buses have seat belts.

The Honorable Watkins M. Abbitt Jr.
Member, House of Delegates
January 11, 2000

You inquire regarding whether public school buses used to transport children in the Head Start Program must provide the younger children with child safety seats regardless of whether the buses have seat belts.

You relate that some of the school buses used to transport children in the Head Start Program in Appomattox have seat belts, while other buses have none. These buses transport children as young as three and four years of age. You advise that the police and school administration request clarification as to whether these children must be provided with child safety seats regardless of whether the buses have seat belts.

Section 46.2-1095(A) of the *Code of Virginia* provides that *any* person driving *any* motor vehicle on the highways of the Commonwealth "shall ensure that any child under the age of four whom he transports therein is provided with and properly secured in [an approved] child restraint device." The use of the word "shall" in a statute ordinarily implies that its provisions are mandatory.¹ Section 46.2-1095(F), however, provides that nothing in § 46.2-1095 "shall apply to ... school buses."

A principle of statutory construction requires that statutes be read in accordance with their plain meaning and intent.² Another dictates that statutes may be construed only where there is ambiguity.³ Otherwise, the clear and unambiguous words of a statute must be accorded their plain meaning.⁴

Section 46.2-1095(F) clearly and unambiguously exempts school buses from the requirement that children under the age of four be properly secured in an approved child restraint device. The primary object in interpreting an act of the General Assembly is to ascertain and give effect to the legislative intent underlying the act.⁵ "The ascertainment of legislative intention involves appraisal of the subject matter, purposes, objects and effects of the [act], in addition to its express terms."⁶

I note that § 22.1-177 authorizes the Board of Education to establish school bus safety requirements "relating to the construction, design, operation, equipment, and color of public school buses." I am, however, not aware of any regulation established by the State Board that requires child safety seats or devices to be provided for younger children involved in the Head Start Program. The interpretation by the agency charged with the administration of state statutes is entitled to great weight.⁷

The plain and unambiguous language in § 46.2-1095(F) exempts school buses from the requirement that a child under the age of four be properly secured in a child restraint seat or device. Consequently, I must conclude that, under current Virginia law, public school buses used

to transport children in the Head Start Program are not required by the General Assembly to provide children under the age of four with child safety seats regardless of whether such buses have seat belts.

¹See *Andrews v. Shepherd*, 201 Va. 412, 414-15, 111 S.E.2d 279, 281-82 (1959); see also *Schmidt v. City of Richmond*, 206 Va. 211, 218, 142 S.E.2d 573, 578 (1965); Op. Va. Att'y Gen.: 1998 at 56, 58; 1996 at 178, 178; 1991 at 238, 240; 1989 at 250, 251-52; 1985-1986 at 133, 134.

²See *Ambrogi v. Koontz*, 224 Va. 381, 386, 297 S.E.2d 660, 662 (1982) (rules of statutory construction are not required where language of statute is clear and unambiguous).

³See *id.* at 386-87, 297 S.E.2d at 663.

⁴*Broadnax v. Com.*, 24 Va. App. 808, 485 S.E.2d 666 (1997); *Diggs v. Commonwealth*, 6 Va. App. 300, 302, 369 S.E.2d 199, 200 (1988).

⁵See *Vollin v. Arlington Co. Electoral Bd.*, 216 Va. 674, 679, 222 S.E.2d 793, 797 (1976).

⁶*Id.*

⁷See *County of Henrico v. Mgt. Rec., Inc.*, 221 Va. 1004, 277 S.E.2d 163 (1981).