

July 20, 2001

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MEMORANDUM

TO: District School Superintendents
FROM: Wayne V. Pierson
SUBJECT: Legal Opinion on School Bus Safety Belts

Based on a request from a school district, we have requested and received a legal opinion from our Office of the General Counsel on questions about Section 316.6145, Florida Statutes--School buses; safety belts or other restraint systems required. The opinion is attached.

Please call Charlie Hood at (850) 488-4405 if you have questions or comments.

CFH

Attachment

cc: Senator J. Alex Villalobos
Transportation Directors
Florida School Bus Dealers
Cathy Wooley-Brown
Maggi Parker
Kathy Mizereck
Don Griesheimer

July 10, 2001

To: Charlie Hood
From: Maggi O'Sullivan Parker
Subject: Interpretation of Section 316.6145

You have asked this office to review the issues presented by the enactment of Chapter 99-316, Laws of Florida, which created Section 316.6145, Florida Statutes. Specifically, questions have arisen as to whether the statute requires buses leased or purchased after December 31, 2000, to have seat belts, even if the vehicles were manufactured prior to that date.

Statutory requirements

Section 316.6145, Florida Statutes, establishes seat belt requirements, addresses liability, and prioritizes the implementation of seat belts for elementary school students. Subsection (1) of the law is at issue in this inquiry:

(1) (a) Each school bus that is purchased after December 31, 2000, and used to transport students in grades pre-K through 12 must be equipped with safety belts or with any other restraint system approved by the Federal Government in a number sufficient to allow each student who is being transported to use a separate safety belt or restraint system. These safety belts must meet the standards required under ss. 316.614. A school bus that was purchased prior to December 31, 2000, is not required to be equipped with safety belts.

(b) As used in this section, "school bus" means a school bus that is owned, leased, operated, or contracted by a school district.

The law further states that a school bus purchased prior to December 31, 2000, is not required to be equipped with safety belts.

The plain meaning of the statute

When interpreting a statute, one must first look to the plain language of the statute. If the language is clear and unambiguous, it is not necessary to look beyond the plain meaning of the words themselves.

The crux of this inquiry is the phrase “each school bus that is purchased after December 31, 2000.”

Question has been raised as to whether Section 316.6145, Florida Statutes, could be construed to only apply to newly manufactured buses, and that the purchase date deadline of December 31, 2000 could apply to the first time a bus was acquired. In other words, if a bus was bought in 1999 and then sold as a used vehicle in 2001, it was “purchased” in 1999 and would not require retrofitting for seat belts when resold.

This interpretation runs counter to the plain meaning of the purchase date language of the law. The law does not state that each bus manufactured or placed into service after the deadline must have seat belts. It uses the unambiguous term “purchased.”

Construing legislative intent

Even though the plain meaning of the statute is clear, further inquiry into the legislative intent of the law is appropriate. One of the most important rules of statutory construction is that effect should be given to the Legislature’s intent in passing the law. In several instances the Legislature has spoken to the importance of transportation safety. First, as a general concept, Section 234.02, Florida Statutes, states in pertinent part that:

Maximum regard for safety and adequate protection of health are primary requirements that must be observed by school boards in routing buses, appointing drivers, and providing and operating equipment, in accordance with all requirements of law and regulations of the commissioner in providing transportation pursuant to ss. 234.01 . . .

More specifically, subsection (4) of Section 316.6145, Florida Statutes, directs districts to ensure that the youngest bus riders are the soonest to have seat belts:

In implementing the provisions of this section, each school district must prioritize the allocation of buses equipped with safety belts or restraint system to ensure that elementary schools within the district receive first priority. ..

Subsection (2) requires passengers on a school bus that is equipped with safety belts to use them at all times.

These legislative statements indicate the weight placed on safety and the use of seat belt restraints. Section 316.6145, Florida Statutes, should be construed to effectuate that intent. The interpretation that would permit used buses purchased after December 31, 2000 to not have seat belts would slow the implementation of the statute, and cause fewer children to ride in buses with seat belts.

Construing the statute with administrative rules

You also advised me that equipment requirements for school buses are usually tied to the date of the manufacture of the bus or the date of the state pool purchase. Section 234.051(2), Florida Statutes, requires school buses to meet applicable federal motor vehicle safety standards “and other specifications as prescribed by regulations of the commissioner.” As part of the standards promulgated by the Commissioner in Rule 6-3.029(1), Florida Administrative Code, each school bus, “shall meet the requirements of the Florida School Bus Specifications applicable for the year the bus was manufactured or the previous year if specifications were not revised and approved for a given year.” (Emphasis added).

While the administrative rule generally establishes the applicability of standards to the manufacturing date, Section 316.6145(1), Florida Statutes, provides a specific date and directive as to the effective date of school bus purchases. When interpreting the applicability of statutes and rules, the legislature’s expression in statute takes precedence over an administrative rule. Put another way, an administrative rule may not be drafted or construed to contradict a specific statutory provision.

I also reviewed the legislative staff’s analysis of HB 1837, which became Chapter 99-316, Laws of Florida. While the analysis is not binding, it does provide some insight into the issues considered by the legislature when passing the bill. Page six of the analysis acknowledges the additional costs and re-allocation of resources in order to ensure that elementary school routes have seat belts first, and that “the obligation to pay the higher price for a new bus with seat belts will effect taxpayers when new buses are required.” The Fiscal Analysis and Economic Impact section on page nine, summarizes the estimated costs to equip buses with seat belts and acknowledges that roughly \$2.5 million may be expended by districts each year as new buses, equipped with seat belts, are purchased.

This opinion does not address any specific bus purchase. We have also discussed that school districts may impose additional requirements as part of contract negotiations with leasing companies or bid specifications for the purchase of vehicles, as long the provisions meet statutory standards and do not include conditions that are contrary to the law.