

8165 Library



HENRY McMASTER
ATTORNEY GENERAL

June 7, 2006

Trent Canady, Chief of Police
Edisto Beach Police Department
2414 Murray Street
Edisto Beach, South Carolina 29438

Dear Chief Canady:

In a letter to this office you raised several questions regarding the operation of golf carts in this State.

In your first question you asked whether the child restraint law applies to golf carts. S.C. Code Ann. § 56-5-6410 states that

(e)very driver of a motor vehicle (passenger car, pickup truck, van or recreational vehicle¹) operated on the highways and streets of this State when transporting a child five years of age or younger upon the public streets and highways of the State must provide an appropriate child passenger restraint system and must secure the child....

Inasmuch as a golf cart is not considered to be a passenger car, pickup truck, van or recreational vehicle, it does not appear that the child restraint law would apply to a golf cart. Further support for such conclusion is found in S.C. Code Ann. § 56-5-6445 which states that "(t)he provisions of this article apply to all motor vehicles equipped with safety belts." Inasmuch as a golf cart typically is not equipped with a safety belt, in my opinion, a golf cart would not have to have a child passenger restraint system.

¹As to any questions that a golf cart could be considered a "recreational vehicle" reference may be made to definitions of such term in other provisions of the Code. See: S.C. Code Ann. §§ 56-1-2030 and 56-5-5015 which define "recreational vehicle" as "...a self-propelled or towed vehicle that is equipped to serve as temporary living quarters for recreational, camping, or travel purposes and is used solely as a family/personal conveyance."

Request Letter

You next questioned whether only the owner may operate the golf cart. S.C. Code Ann. § 56-3-115 states

The owner of a vehicle commonly known as a golf cart, if he has a valid driver's license, may obtain a permit from the Department of Motor Vehicles upon the payment of a fee of five dollars and proof of financial responsibility which permits his agent, employees, or him to:

- (1) operate the golf cart on a secondary highway or street within two miles of his residence or place of business during daylight hours only; and
- (2) cross a primary highway or street while traveling along a secondary highway or street within two miles of his residence or place of business during daylight hours only.

As specified by such provision, an owner of a golf cart, if he has a valid driver's license, may obtain a permit upon payment of five dollars and proof of financial responsibility which allows "his agent, employees, or him" to operate a golf cart within the limits specified.

You also questioned whether the driver of a golf cart is required to have a registration and proof of financial responsibility when operating a golf cart on a road. As specified above, the owner of a golf cart obtains a permit from the Department of Motor Vehicles upon payment of the required fee and proof of financial responsibility. Upon obtaining the permit, the owner, his agent, and employees are authorized to operate the golf cart as restricted by the statute. Section 56-3-115 itself does not specify that the driver of a golf cart have a registration and proof of financial responsibility in his or her possession while operating the cart. Such is, therefore, a variance from S.C. Code Ann. § 56-3-1250 which requires that a registration card issued by the Department of Motor Vehicles to the owner of a "vehicle" be carried by the person driving or in control of the vehicle at all times. Such provision also varies with S.C. Code Ann. § 56-10-225 which requires that the owner of a motor vehicle "maintain proof of financial responsibility in the motor vehicle at all times." I have been informed by an individual with the Department of Motor Vehicles that the permit provided by the Department is to be displayed on the golf cart. Consistent with such, it does not appear that the driver of the golf cart must have in his or her possession a registration and proof of financial responsibility when the permit is displayed on the golf cart.

You further questioned whether a golf cart is considered "a regular motor vehicle" with the result that an operator of such has to comply with all motor vehicle laws. Prior opinions of this office have determined that a golf cart falls within the definition of a "motor vehicle" for purposes of various State statutes. See: Ops. Atty. Gen. dated April 22, 2004 and October 6, 1998. In

particular, the referenced 1998 opinion concluded that while the legislature has by Section 56-3-115 authorized the operation of golf carts under the limited circumstances permitted by such statute, there must still be compliance with statutory requirements regulating the manner of operation of a vehicle by a licensed driver. The 2004 opinion concluded that "...inasmuch as a golf cart comes within the definition of a motor vehicle, in order to drive the golf cart upon the highways or streets as permitted by Section 56-3-115, an individual must be licensed unless exempted by Section 56-1-30." Another opinion of this office dated September 10, 1980 had also specified that golf carts would fall within the definition of a "motor vehicle" as referenced in S.C. Code Ann. § 56-5-130. Such statute defines a "motor vehicle" as "[e]very vehicle which is self-propelled, except mopeds...." Section 56-5-130 defines a "motor vehicle" for purposes of Chapter 5 of Title 56 which is the "Uniform Act Regulating Traffic on Highways". Chapter 5 generally regulates the operation of motor vehicles on the roads of this State. Therefore, in my opinion, State statutes regulating the manner of operation of motor vehicles generally would apply to the operation of a golf carts in this State.

In your last question, you asked whether a passenger riding in the bed of a pickup truck is required to ride in the cab of the truck if a seat with a seat belt is available. S.C. Code Ann. § 56-5-6520 states:

The driver and every occupant of a motor vehicle, when it is being operated on the public streets and highways of this State, must wear a fastened safety belt which complies with all provisions of federal law for its use. The driver is charged with the responsibility of requiring each occupant seventeen years of age or younger to wear a safety belt or be secured in a child restraint system as provided in Article 47 of this chapter. However, a driver is not responsible for an occupant seventeen years of age or younger who has a driver's license, special restricted license, or beginner's permit and who is not wearing a seat belt; such occupant is in violation of this article and must be fined in accordance with Section 56-5-6540.

S.C. Code Ann. § 56-5-6510(1) includes a truck within the definition of a "motor vehicle" for purposes of Section 56-5-6520. Therefore, generally, a rider in a pickup truck would be required to use a seat belt. Exceptions to such requirement are set forth in S.C. Code Ann. § 56-5-6530 which states:

The provisions of this article do not apply to:

- (1) a driver or occupant who possesses a written verification from a physician that he is unable to wear a safety belt for physical or medical reasons;
- (2) medical or rescue personnel attending to injured or sick individuals in an emergency vehicle when operating in an emergency situation as well as the injured or sick individuals;
- (3) school, church, or day care buses;

- (4) public transportation vehicles except taxis;
- (5) occupants of vehicles in parades;
- (6) United States mail carriers;
- (7) an occupant for which no safety belt is available because all belts are being used by other occupants;
- (8) a driver or occupants in a vehicle not originally equipped with safety belts.

Therefore, there is an exception for "an occupant for which no safety belt is available because all belts are used by other occupants." An opinion of this office dated August 23, 2001 concluded that "...unless no seat with a seat belt is available in the cab of a pickup truck, an unrestrained passenger in the bed of the truck would be in violation of Section 56-5-6520." As to your question of whether a passenger riding in the bed of a pickup truck is required to ride in the cab of the truck if a seat with a seat belt is available, in my opinion, consistent with the prior opinion and Section 56-5-6520, a passenger in a pickup truck is required to ride in the cab if a seat with a seat belt is available.

The August 23, 2001 opinion also concluded that transporting a child under the age of six in the back of a pickup truck would violate the "child passenger restraint system law" as set forth in S.C. Code Ann. § 56-5-6410 which states that "[e]very driver of a motor vehicle (passenger car, pickup truck, van, or recreational vehicle) operated on the highways and streets of this State when transporting a child five years of age or younger upon the public streets and highways of the State must provide an appropriate child passenger restraint system and must secure the child as...(specified)...." unless otherwise excepted as specifically provided by other statutes.

There is an additional statutory provision that is relevant to your inquiry. S.C. Code Ann. §56-5-3900 states that

- (A) It is unlawful to transport a person under fifteen years of age in the open bed or open cargo area of a pickup truck or trailer. An open bed or open cargo area is a bed or cargo area without permanent overhead restraining construction.
- (B) Subsection (A) does not apply when:
 - (1) an adult is present in the bed or cargo area of the vehicle and is supervising the child;
 - (2) the child is secured or restrained by a seat belt manufactured in compliance with Federal Motor Vehicle Safety Standard No. 208, installed to support a load of not less than five thousand pounds for each belt, and of a type approved by the Department of Public Safety;
 - (3) an emergency situation exists;
 - (4) the vehicle is being operated in an organized hayride or parade pursuant to a valid permit;
 - (5) the vehicle is being operated while hunting or in an agricultural enterprise;

(6) the vehicle is being operated in a county which has no incorporated area with a population greater than three thousand five hundred; or

(7) the vehicle has a closed metal tailgate and is being operated less than thirty-six miles an hour.

(C) A person violating this section is guilty of a misdemeanor and, upon conviction, must be fined twenty-five dollars. (emphasis added).

An opinion of this office dated September 15, 2003 stated that such provision is an exception to the seatbelt and child safety restraint statutes referenced above. That opinion stated that

...it is the opinion of this office that the General Assembly intended to carve out exceptions only for children between the ages of six and fifteen in relation to the legality of transporting minors in the open bed of a pickup truck...The heading for ...the provision)...is "[t]ransportation of teenagers in open vehicles." The General Assembly provided that the purpose of adding this section was "to provide the conditions upon which a person under fifteen years of age may be transported in the open bed or open cargo area of a pickup truck or trailer"...It seems apparent from the use of the word "teenagers" that the General Assembly did not intend to cover all children including infants and small children within the exceptions of Section 56-5-3900(b), but only minors in a certain age group. This Office is also of the opinion that the "Child Safety Restraint System" law, as it was amended in 2001, is too specific as to its application, as well as too recently enacted, to be trumped by the exceptions in Section 56-5-3900(B). It seems that the General Assembly has decided as an important policy matter to make sure that infants and small children under the age of six are properly restrained in a safety device while traveling in a motor vehicle. This is obvious from the fact that the General Assembly has contemplated the proper safety device necessary for each stage of a child's development up until the age of six...Accordingly, this office advises that, reading Sections 56-5-6410 and 56-5-3900 in *pari materia*, children under the age of six are not covered by the pickup truck exceptions and are required to be restrained in the proper safety device whenever being transported in a pickup truck...It seems apparent to this office that the provisions of Section 56-5-3900 are simply additional exceptions to the general seatbelt requirement, in that they list specific conditions under which a child under fifteen may legally ride in the bed of a pickup truck without a seatbelt...This office must therefore conclude that the General Assembly intended for Section 56-5-3900(B) to provide specific exceptions to the general seatbelt requirement in Section 56-5-6520, as well as the general prohibition against minors riding in the bed of a pickup truck in Section 56-5-3900(A). Accordingly, we advise that Section 56-5-3900, which specifically provides the conditions under which a minor may be


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transported in the bed of an open bed or open cargo area of a pickup truck or trailer,
applies only to minors between the ages of six and fifteen.

Therefore, as to your question of whether a passenger riding in the bed of a pickup truck is required to ride in the cab of the truck if a seat with a seat belt is available, generally, the answer is affirmative unless coming within the provisions of Section 56-5-3900(B).

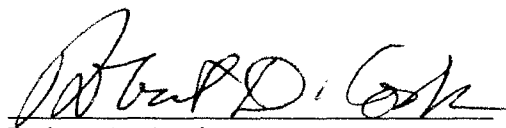
With kind regards, I am,

Very truly yours,



Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Assistant Deputy Attorney General