

7265 Liberty



The State of South Carolina  
**OFFICE OF THE ATTORNEY GENERAL**

CHARLIE CONDON  
ATTORNEY GENERAL

November 30, 2001

The Honorable Joe Wilson  
Senator, District No. 23  
P.O. Box 5709  
West Columbia, South Carolina 29171

**Re: Your Letter of October 9, 2001**  
**S.C. Code Ann. §56-5-195**

Dear Senator Wilson:

In your above-referenced letter, you request an opinion "... as to the application of the Bill that was known as Jacob's Law ... [Senate Bill] 3300 that was signed by the Governor on May 26, 2000." Specifically you ask "if church groups have to abide by this bill or if the churches can continue to use the 15 passenger vans."

As you mentioned, Jacob's Law was passed by the General Assembly during its 2000 Session and signed by the Governor on May 26th of that same year. Jacob's Law amended the South Carolina Code of Laws by adding Sections 56-5-195 and 56-5-196. With reference to your question, Section 56-5-195 provides that:

Effective July 1, 2000, any entity transporting preprimary, primary, or secondary school students to or from school, school-related activities, or child care, and utilizing a vehicle defined as a 'school bus' under 49 U.S.C. Section 30125, as defined on April 5, 2000, must transport these students in a vehicle meeting federal school bus safety standards, as contained in 49 U.S.C. Section 30101, et seq., or any successor statutes, and all applicable federal regulations....

Generally, 15-passenger vans do not meet federal school bus safety standards as required by Section 56-5-195. Therefore, such a van could not be used by an "... entity transporting preprimary, primary, or secondary school students to or from school, school-related activities, or child care ...." Whether the requirements of Section 56-5-195 apply to church groups is a matter of legislative intent. In a previous opinion, this Office analyzed the law with reference to its application to municipalities which transport children to various activities throughout the year. See OP. ATTY. GEN. (Dated February 21, 2001) (copy enclosed). The conclusion of that opinion was that given the nature of the

*Request Letter*

The Honorable Joe Wilson  
Page 2  
November 30, 2001

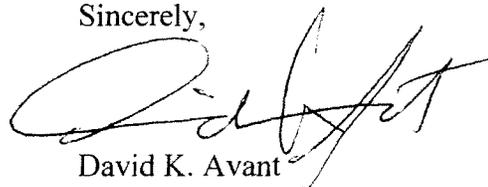
statute and its ambiguities, legislative or judicial clarification was needed. For the reasons briefly expressed below, I believe that the same conclusion is applicable to your question.

Section 56-5-195 appears to have come into existence as the result of a fatal accident involving a 15-passenger van and a tractor-trailer. 6-year-old Jacob Strebler was killed in July of 1994 when the van he was riding in as part of a Heathwood Hall Episcopal School summer program was struck by a large tanker truck. The 15-passenger van was found to lack the structural protections for its occupants that a "school bus" meeting mandated federal safety standards has. Given these circumstances it is clear that Section 56-5-195 is remedial in nature. Moreover, it is clear that the general intent of the Legislature is to better provide for the health and welfare of our State's children. Remedial statutes, the purpose of which is to promote public safety and welfare are to be given a more liberal construction. S.C. Op. Atty. Gen. No. 83-96, see also McKenzie v. People's Baking Co., 205 S.C. 149, 21 S.E.2d 154 (1944). Further, the South Carolina Supreme Court has stated that statutes regarding children are entitled to "favorable and liberal construction." State v. Cagle, 111 S.C. 548, 96 S.E. 291 (1918).

A liberal reading of Section 56-5-195 would lend itself to an interpretation which would include churches in those entities covered by its requirements. Particularly those churches which undertake to transport school-aged children to or from school, school-related activities, or child care. Our analysis, however, cannot end here as other factors must be taken into account in interpreting this statute. As more fully addressed in the February 21, 2001, opinion, there are some indications that perhaps a more restrictive reading was intended. Accordingly, it is my opinion that legislative or judicial clarification is needed to fully answer your question.

This letter is an informal opinion only. It has been written by a designated Assistant Attorney General and represents the position of the undersigned attorney as to the specific question asked. It has not, however, been personally scrutinized by the Attorney General and not officially published in the manner of a formal opinion.

Sincerely,



David K. Avant  
Assistant Attorney General

DKA/an  
Enclosure