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OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

February 25, 1999

Charles F. Reid, Chief of Staff & Counsel to the Speaker  
South Carolina House of Representatives  
P.O. Box 11867  
Columbia, South Carolina 29211

RE: Informal Opinion

Dear Mr. Reid:

You have written on behalf of Speaker David Wilkins requesting an interpretation of certain provisions found in Section 56-31-30(A) of the South Carolina Code of Laws. Your specific questions arise out of the disclosure requirements found in this section.

Section 56-31-30(A) provides in pertinent part as follows:

Airport surcharges which do not apply to every customer may be quoted and charged but must be disclosed clearly and conspicuously in all advertisements of a rental rate either as a specific fee or as a range of fees. The means of avoiding airport surcharges must be disclosed clearly and conspicuously in all advertisements of a rental rate to which airport surcharges may apply. ...

A number of principles of statutory construction are important in resolving your inquiry. First and foremost, in interpreting a statute, the primary purpose is to ascertain the intent of the General Assembly. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). The words of a statute must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation. Bryant v. City of Charleston, 295 S.C. 408, 368 S.E.2d 899 (1988). The Court must apply the clear and unambiguous terms of a statute according to their literal meaning. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991).

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You first ask how narrowly or broadly should the phrase "which do not apply to every customer" be interpreted. You ask whether this phrase means every customer at a particular airport, state, advertising market, or every potential customer of a rental company system wide. The statute does not define the phrase "every customer" and, therefore, attention must be turned to the plain and ordinary meaning of these terms. The term "every" is defined as "[c]onstituting each and all members of a group without exception." The American Heritage Dictionary 475 (3<sup>rd</sup> ed. 1993). The term "customer" is defined as "[o]ne that buys goods or services." The American Heritage Dictionary 341 (3<sup>rd</sup> ed. 1993).

Combining these terms lead to a plain and ordinary meaning of the phrase "every customer" as each and all members of a group that buys goods and services, without exception. In this case, the group would be those who rent private passenger automobiles. This definition seems to dictate a broad interpretation of the phrase. The phrase "which do not apply to every customer" modifies "[a]irport surcharges." Thus, an interpretation of the phrase as a whole leads to the following: airport surcharges which do not apply to everyone who rents private passenger automobiles may be quoted and charged but must be disclosed clearly and conspicuously in all advertisements of a rental rate.

You next ask for an interpretation of the phrase "the means of avoiding airport surcharges." You ask whether this phrase includes becoming a member of a class of customers who are deemed by the car rental company to be exempt from airport surcharges, or does the statute contemplate disclosure of other types of steps that must be taken to avoid such surcharges.

The statute reads in pertinent part "[t]he means of avoiding airport surcharges must be disclosed clearly and conspicuously in all advertisements of a rental rate to which airport surcharges may apply." As the statute does not specify the means of avoiding airport surcharges, attention must be focused on the plain and ordinary meaning of the word "means." This word is defined as "[a] method, a course of action, or an instrument by which an act can be accomplished or an end achieved." The American Heritage Dictionary 841 (3<sup>rd</sup> ed. 1993). Thus, based on the previously cited rules of statutory construction, the statute would, at a minimum, require that the advertisement disclose the method or course of action which may be taken in order to avoid being charged an airport surcharge. I cannot cite with approval or disapproval whether a specific example would meet the disclosure requirements as I would imagine such would depend, at least in part, on a particular car rental company's policies.

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You have also asked whether certain language contained in advertisements would meet the disclosure requirements of the statute. A legal opinion of this Office cannot state with absolute certainty whether particular language in an advertisement meets the disclosure requirements of the statute as only a court could make this determination. However, generally, an advertisement which informs the public that an airport surcharge may be charged, either as a specific fee or a range of fees-such as up to a certain percent- and also discloses how the airport surcharge may be avoided, would appear to satisfy the requirements of the statute.

Finally, you ask if the application of the statute's disclosure requirements depend on the geographical scope of the advertisement containing the advertised rate. In particular, you ask if section 56-31-30(A) applies only to advertisements in local media or to quotes and advertisements specific to South Carolina locations or does it pertain to national advertisements and quotes as well. Section 56-31-30 does not address the scope and form of advertisements under the statute, whether local, statewide or nationwide. However, Section 56-31-10 provides that the chapter applies to the rental of a private passenger automobile from a location in South Carolina. Typically, the local or statewide media would be the forum for advertising the rental of an automobile from a local location. Whether the statute contemplates national advertising, particularly in light of Section 56-31-10 regarding the statute's applicability, is unclear. I have been unable to locate any prior opinions or court decisions on this question and, thus, I am unable to comment further with respect to national advertisements.

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 questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kindest regards, I remain

Very truly yours,



Paul M. Koch  
Assistant Attorney General