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HENRY McMASTER
ATTORNEY GENERAL

October 19, 2006

William R. Neill, Interim Director
South Carolina Criminal Justice Academy
5400 Broad River Road
Columbia, South Carolina 29212

Dear Mr. Neill:

In a letter to this office you questioned the driver's license requirement for certification of law enforcement officers. According to the latest legislative enactment as set forth in Act No. 317 of 2006, Section 23-23-60(B) provides:

All city and county police departments, sheriffs' offices, state agencies, or other employers of law enforcement officers having such officers as candidates for certification shall submit to the director, for his confidential information and subsequent safekeeping, the following:...

(5) evidence satisfactory to the director that the candidate is a person of good character. This evidence must include, but is not limited to:...

(b) evidence satisfactory to the director that the candidate holds a valid current state driver's license with no record during the previous five years for suspension of driver's license as a result of driving under the influence of alcoholic beverages or dangerous drugs, driving while impaired (or the equivalent), reckless homicide, involuntary manslaughter, or leaving the scene of an accident. Candidates for certification as state or local correctional officers may hold a valid current driver's license issued by any jurisdiction of the United States. (emphasis added).

You have questioned whether pursuant to such provision, a South Carolina driver's license is still required for certification as a law enforcement officer.

The provision set forth above is identical to language set forth as Section 23-6-440(B)(5)(b) in Act No. 118 of 2005. Prior to the latest amendment, the statute as amended by Act No. 505 of

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1994 read that a candidate for certification has to present "...evidence satisfactory to the director that the candidate holds a valid current South Carolina driver's license...."¹

When interpreting the meaning of a statute, certain basic principles must be observed. The cardinal rule of statutory interpretation is to ascertain and give effect to legislative intent. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). Additionally, a statute as a whole must receive a practical, reasonable, and fair interpretation consonant with the purpose, design and policy of the lawmakers. Caughman v. Cola. Y.M.C.A., 212 S.C. 337, 47 S.E.2d 788 (1948). As stated, "[t]he cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature." Hawkins v. Bruno Yacht Sales, Inc., 353 S.C. 31, 39, 577 S.E.2d 202, 207 (2003).

A court should not consider a particular clause or provision in a statute as being construed in isolation, but should read it in conjunction with the purpose of the statute and the policy of the law. State v. Gordon, 356 S.C. 143, 588 S.E.2d 105 (2003). As our Supreme Court has recognized, "[i]n ascertaining the intent of this Legislature, a court should not focus on a single section or provision but should consider the language of the statute as a whole." Croft v. Old Republic Ins. Co., 365 S.C. 402, 412, 618 S.E.2d 909, 914 (2005). Additionally, in determining legislative intent, a court will, if necessary, reject the literal import of words used in a statute. It has been said that "words ought to be subservient to the intent, and not the intent to the words." Arkwright Mills v. Murph, 219 S.C. 438, 443-44, 65 S.E.2d 665, 667 (1951) (quoting Greenville Baseball, Inc. v. Bearden, 200 S.C. 363, 20 S.E.2d 813, 816 (1942)).

In the opinion of this office, it was not the intent of the General Assembly to remove the requirement that a candidate for certification as a law enforcement officer have a South Carolina driver's license. As a result, a South Carolina driver's license must be held by any such candidate. Support for such construction is found in reviewing other provisions of the same statute. As set forth by Section 23-23-60(B)(5)(b), "[c]andidates for certification as state or local correctional officers may hold a valid current driver's license issued by any jurisdiction of the United States." Such distinction would have not been necessary if all candidates were only required to have a driver's license issued by any state.

It is also helpful to examine the title of Act No. 118 of 2005, the act which originally enacted the present statutory language at issue. It is recognized that "... the title or caption of an act may be properly considered to aid in the construction of a statute and to show the intent of the Legislature." Op. S.C. Atty. Gen., October 15, 2004, citing Lindsay v. Southern Farm Bureau Cas. Ins. Co., 258 S.C. 272, 188 S.E.2d 374 (1972). The title to Act No. 118 stated that it was

¹Such provision also stated that "[c]andidates for certification as Class II-SCO (Department of Corrections) in any county with a prison system that borders another state may hold a valid current driver's license issued by any jurisdiction of the United States."

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AN ACT TO AMEND SECTION 23-6-440, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ISSUANCE OF CERTIFICATES THAT INDICATE THAT A PERSON HAS COMPLETED SUCCESSFULLY CERTAIN LAW ENFORCEMENT TRAINING, SO AS TO SUBSTITUTE THE TERM "STATE DRIVER'S LICENSE" FOR THE TERM "SOUTH CAROLINA DRIVER'S LICENSE", TO DELETE THE PROVISION THAT ALLOWS CANDIDATES FOR CERTIFICATION AS CLASS-II SCO (DEPARTMENT OF CORRECTIONS) IN ANY COUNTY WITH A PRISON SYSTEM THAT BORDERS ANOTHER STATE TO HOLD A DRIVER'S LICENSE ISSUED BY ANY JURISDICTION OF THE UNITED STATES, AND TO REPLACE IT WITH A PROVISION THAT ALLOWS CANDIDATES FOR CERTIFICATION AS STATE OR LOCAL CORRECTIONAL OFFICERS TO HOLD A DRIVER'S LICENSE ISSUED BY ANY JURISDICTION OF THE UNITED STATES.

While admittedly such title refers specifically to the replacement of the term "South Carolina driver's license with "state driver's license", such title supports the above construction that the primary intent of the amendment was to address requirements for correctional officers, i.e., that such officers, and not just those DOC officers "in any county with a prison system that borders another state" have a driver's license "issued by any jurisdiction of the United States." Again, such a requirement would not have been necessary had the simple requirement of possession of a driver's license issued by any state been the requirement for all candidates seeking certification as a law enforcement officer. Instead, it is the opinion of this office that all candidates for certification as a law enforcement officer, with the exception of correctional officers, have a South Carolina driver's license.

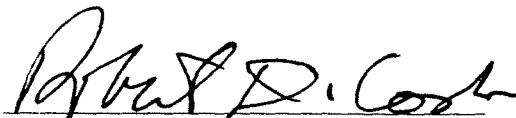
If there are any questions, please advise.

Sincerely,



Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Assistant Deputy Attorney General