

Reg. 5165



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

January 5, 1996

Scott Suttles, Chief of Police
Lyman Police Department
59 Groce Road
Lyman, South Carolina 29365

Re: Informal Opinion

Dear Chief Suttles:

You have asked our advice as to the meaning of the term "cargo area" as used in S.C. Code Ann. Section 61-5-20(1). That Subsection provides:

(1) Any person may transport alcoholic liquors to and from any place where alcoholic liquors may be lawfully possessed or consumed; but if the cap or seal on the container has been opened or broken, it shall be unlawful to transport such liquors in any motor vehicle, except in the luggage compartment or cargo area. (emphasis added).

Several principles of statutory construction are pertinent here. Of course, the cardinal tenet when interpreting a statute is to determine legislative intent. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). The statute should be given a reasonable and practical construction which is consistent with the purpose and policy expressed therein. Jones v. S.C. State Hwy. Dept., 247 S.C. 132, 146 S.E.2d 166 (1966). Words used in 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. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991). Finally, courts have held that a remedial statute should be liberally construed to effectuate its purpose, S.C. Dept. of Mental Health v. Hanna, 270 S.C. 210, 241 S.E.2d 563 (1978) and that provisos or exceptions contained in a statute should be strictly construed. Barringer v. Dinkler Hotels Co., 61 F.2d 82 (4th Cir. 1932).

The obvious purpose of Section 61-5-20(1) is to broadly prohibit the transportation of alcoholic liquors in a motor vehicle where the seal or cap is broken except in certain limited circumstances, i.e. where such transportation is in "the luggage compartment or cargo area" of the vehicle. Manifestly, the intent of the General Assembly was to insure that the unsealed liquor was not available or accessible to the driver of the motor vehicle while driving.

The term "cargo" normally means the load of a vessel or other instrumentality. Su v. M/V Southern Aster, 978 F.2d 462, 469 (9th Cir. 1992). It signifies the load or freight of a vehicle. Websters Third New International Dictionary. Thus, the "cargo area" of a vehicle is the place where the load or freight is usually placed.

In previous opinions, this Office has recognized this application as it relates to Section 61-5-20(1). An opinion, dated November 14, 1967 addressed the issue of the "proper place for the possession and transportation of liquor in a pickup truck or a station wagon when the seal has been broken." There, we cited Rules 4 and 5 of the Alcoholic Beverage Control Commission, which stated:

The term 'luggage compartment' shall mean the trunk of a motor vehicle which possesses such; however, with respect to a motor vehicle which does not contain a trunk, the term 'luggage compartment' shall refer to the area of the motor vehicle in which the manufacturer designed that luggage be carried or to the area of the motor vehicle in which luggage is customarily carried. In regard to a station wagon, the term 'luggage compartment' shall refer to the area behind the last seat.

Rule 5 of the Commission defines cargo area as follows:

The term 'cargo area' shall mean the area without and behind the cab of a truck which is designed by the manufacturer for the boarding of goods or materials or the area without and behind the cab of a truck which is customarily used for the boarding of goods or materials.

Thus, the opinion concluded:

[i]t would appear, then, that one may possess a liquor container which has its seal broken in the area behind the last

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seat when a station wagon is involved and within the bed of a pickup truck.

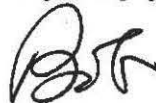
See also Op. Atty. Gen., January 3, 1968.

Of course, since these opinions were written, other types of motor vehicles have emerged upon the scene. It would appear, however, that regardless of the type of vehicle involved, the "cargo area" of the vehicle (if it has one) would ordinarily be that area "designed by the manufacturer for the boarding of goods or materials or the area without and behind the cab of a truck which is customarily used for the boarding of goods or materials." Other compartments in the vehicle, such as the compartment next to the driver in the seat where small items are commonly stored (containing e.g. cassettes) or the glove compartment, for example, would not fit within the statutory exception for possession and transportation of unsealed alcoholic liquors.

This letter is an informal opinion only. It has been written by a designated Assistant Deputy 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 kind regards, I am

Very truly yours,



Robert D. Cook
Assistant Deputy Attorney General

RDC/an