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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES M. CONDON
ATTORNEY GENERAL

October 6, 1998

The Honorable Glenn F. McConnell
Senator, District No. 41
311 Gressette Building
Columbia, South Carolina 29202

Re: **Informal Opinion**

Dear Senator McConnell:

You have enclosed a copy of a letter you received from Mr. Kruger B. Smith. You note that it appears that the Colleton County Sheriff's Department is interpreting S. C. Code Ann. Sec. 56–3-115 as prohibiting the crossing from one golf course to another of a golf cart on a public road. You state that "[o]bviously, the statute was written to prevent operation of these down the lanes of traffic without a license. It certainly was not meant to restrict the use of the vehicle to cross a highway on a golf cart crossing." Your question is therefore

> ... whether or not Section 56-3-115 prohibits golf carts from crossing a numbered highway in South Carolina to go from one part of the golf course to another without first getting a license to operate on the roads of this State.

By way of further background, Mr. Smith has enclosed a copy of § 56-3-115 with the following notation written thereupon by a Colleton County Deputy Sheriff:

> [t]his Law [§ 56-3-115] pertains to secondary highways only. Hwy. 174 or commonly known as Palmetto Blvd. is a U.S.

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> primary highway, therefore, it is against the law to operate a golf cart on Hwy. 174 [and] ... crossing is operating on a primary highway. [emphasis in original].

Law / Analysis

S. C. Code Ann. Sec. 56-3-115 provides as follows:

> [t]he 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 upon the payment of a fee of five dollars and proof of financial responsibility which permits him to operate the golf cart on a secondary highway or street within two miles of his residence during daylight hours only.

A number of principles of statutory construction are relevant to your inquiry. In interpreting any 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). Where a statute is clear and unambiguous, its terms must be given a literal meaning. Crown Cork and Seal Co., Inc. v. S. C. Tax Comm. 302 S. C. 140, 394 S.E.2d 315 (1990). It is the duty of the court to given an unambiguous statute effect according to the clear meaning of the statute. Helfrich v. Brasington Sand and Gravel Co., 268 S.C. 236, 233 S.E.2d 291 (1977). Laws pertaining to the same subject-matter must be construed together and effect given to each. Cola. Gaslight Co. v. Mobley, 139 S.C. 107, 137 S.E. 211 (1927). The enumeration of particular things in a statute excludes the idea of something else not mentioned. Pennsylvania Natl. Mutual Casualty Ins. Co. v. Parker, 282 S. C. 546, 320 S.E.2d 458 (1984) ["expressio unius est exclusio alterius"].

In an Opinion of this Office, dated September 10, 1980, we responded to the question of whether a golf cart" may be legally driven on the public highways of this State." Therein, we referenced an earlier Opinion of May 30, 1978, in which it was concluded that golf carts would fall within the definition of a "motor vehicle" as defined by § 56-5-130. In the 1980 Opinion, we noted that §56-5-4410 "prohibits any person from driving any vehicle which does not contain equipment required by various other code sections."

> [t]here are numerous provisions in the Code which require such equipment as proper brakes, lighting requirements, bumpers,

> horns and warning devices, mirrors, etc. See for example, Code of Laws of South Carolina §§ 56-5-4850-56-5-4900; 56-5-4450, et seq.; 56-5-4910-56-5-4940; 56-5-4950; 56-5-4990; 56-5-5040; and 56-5-5020. Unless the vehicle is so equipped, it should not be operated on the public highways of this State....
>
> If the golf cart is properly equipped with all equipment required by law, then the vehicle should be licensed and registered and have secured the applicable insurance as required by other sections of the Code.

And, in Op. No. 87-59 (June 12, 1987), we reiterated and reaffirmed the May 30, 1978 and September 10, 1980 Opinions, applying the reasoning of these Opinions to the question of motorized carts and wheelchairs operating on State highways. We concluded as follows:

> [r]eferencing the above, and consistent with the May 30, 1978 and September 10, 1980 opinions of this Office, for any vehicle, including motorized carts and wheelchairs operated by the handicapped, to be operated upon the highways of this State, it must meet the various requirements imposed on vehicles operating on State highways generally, such as being properly registered, licensed, equipped [etc.] ... This Office is unable to construe the provisions of Section 43-33-25 and 43-33-20 concerning the handicapped as authorizing avoidance of State law requirements for vehicles operated on highways in this State. Moreover, municipalities are not authorized to enact provisions in conflict with State requirements pertaining to vehicles on highways.

Subsequently, by way of the 1987-88 Appropriations Act [Act No. 170, Part II, § 45], the General Assembly enacted § 56-3-115. It would appear that the General Assembly has now expressly permitted the operation of a golf cart on a **secondary highway** or street within two miles of his residence in daylight hours if he has a valid driver's license and has obtained a permit from the Department of Highways and Public Transportation and shown proof of financial responsibility. There is no indication or suggestion in the statute of any exception for "crossing" a primary highway. Even if § 56-3-115 is not deemed exclusive, and there is no indication to the contrary, still, in order to "operate" the golf cart on a primary highway,

the requirements of proper, equipment, license, registration, etc. emphasized in our earlier opinion would have to be met, including the possession of a valid driver's license. We have previously concluded that the meaning of operation of a motor vehicle on the public highways of South Carolina is to be broadly construed Op. Atty. Gen., June 10, 1969. It is evident that crossing a primary highway in a golf cart would be encompassed within such term.

Courts in other jurisdictions as well as the opinions of other Attorneys General have agreed that the operation of a golf cart on a public highway constitutes a "motor vehicle". See e.g., Nepstod v. Rendall, 152 N.W.2d. 383 (S. D. 1967). In Ohio Op. Atty. Gen., Op. No. 90-043 (June 20, 1990), for example, it was stated that "[a] golf cart may not lawfully be operated on public streets and highways unless it satisfies the statutory requirements that are applicable to motor vehicles." The Ohio Attorney General found that such included a valid drivers license, proof of financial responsibility and operating requirements applicable to any other motor vehicle. And, in Fla. Op. Atty. Gen., AGO 91-41 (June 10, 1991), the Florida Attorney General determined that a statute similar to § 56-3-115 was exclusive and that "[w]here the Legislature has prescribed the conditions and exceptions under which golf carts may be operated on public roads and streets, no others may be inferred." Applying this same statute, and the principle of statutory construction of "expressio unius est exclusio alterius", the Florida Attorney General has also concluded that "until and unless judicially or legislatively determined to the contrary, that a golf cart may not cross a state road at a controlled intersection of a city street and a state road." Fla. Op. Atty. Gen., AGO 83-101 (December 29, 1983). See also, N. C. Op. Atty. Gen., (Oct. 14, 1982). Finally, in 73 Ops. Cal. Atty. Gen. 273 (September 26, 1990), the California Attorney General observed that "those traffic safety considerations for a combined use street or highway are just as compelling in the situation where a golf cart crosses a street or highway, as when it travels along it." See also Del E. Webb Cactus Development, Inc. v. Jessup, 176 Ariz. 541, 863 P.2d 260 (1993) [no exception in statute for golf cart crossing public highway; thus Court would not "expand deliberate statutory exceptions; Court therefore rejected contention that the golf cart "crossing of the highway was merely incidental to playing around of golf", and thus held the cart operator and owner of golf course jointly and severably liable for accident with automobile.]

Accordingly, it appears that Mr. Smith's remedy lies in the legislative arena. I would note that other jurisdictions have created express exceptions for golf carts crossing a highway. For example, § 14-1 of the General Statutes of Connecticut excludes from the definition of "motor vehicle"

> ... golf carts operated on highways solely for the purpose of crossing from a part of the golf course to another....

See, East v. Labbe, 1998 WL 123068 (March 9, 1998). It may well be that legislation is the sole means of resolving Mr. Smith's problem.

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/ph