1980 WL 131246 (S.C.A.G.)

Office of the Attorney General

State of South Carolina
July 8, 1980

RE: Driver's License - Classified/Special Restricted

***1** Lt. F. D. McCarty
Highway Patrol

You have asked this office whether §56-1-130 pertaining to classified driver's licenses for the operation of motorcycles impliedly repeals §56-1-180(3) pertaining to special restricted licenses for the operation of motor scooters or light motor-driven cycles?

In 1959 the South Carolina General Assembly passed a statute which, among other things, allowed minors, without benefit of a regular driver's license, to operate a motor scooter or light motor-driven cycle of 5 brake horsepower or less. S. C. Acts & Joint Resolutions 1959 (51) 564. At that time, there was no classified license required for the operation of a motor cycle; a regular driver's license was sufficient. See S. C. Code Ann. §§46-152 and 46-162 (1962). The apparent intent of the Legislature in 1959 was to create a special classification so that minors who were ineligible for regular driver's licenses would be able to get a special license for the operation of motor scooters and light motor-driven cycles.

In 1974, the General Assembly passed a law requiring a classified license for the operation of motorcycles. S. C. Acts & Joint Resolutions 1974 (58) 2349. Since the term “motorcycles” includes motor scooters and light motor-driven cycles of 5 brake horsepower or less (§56-1-10(8)), it is arguable that in order for anyone to operate any type of motorcycle he must have a classified license.

Was the passage of §56-1-130 meant by the General Assembly to impliedly repeal §56-1-180(3)? South Carolina case law holds that the last act of the legislature is the law and has the effect of repealing all prior inconsistent laws. Garey v. City of Myrtle Beach, 263 S.C. 247, 209 S.E.2d 893 (1974). The Doctrine of Implied Repeal of Statutes is well established (82 C.J.S. Statute § 286 et seq. See also State ex rel. McLeod v. Mills, 256 S.C. 21, 180 S.E. 2d 638 (1971)), however it is not favored and is only applicable where no other reasonable construction can be applied. Rhodes v. Smith, 254 S.E.2d 249 (S.C. 1979). Acts which are seemingly repugnant should be harmonized or reconciled if possible. State v. Hood, 181 S.C. 488, 188 S.E. 134 (1936).

It is possible to harmonize these two statutes. Section 56-1-180(3) created a special exception to the general licensing requirement in favor of minors, and this special exception still applies even though the general licensing requirement has been changed. Nothing indicates in intent on the part of the legislature to rescind the special treatment previously authorized. If they had meant to repeal §56-1-180(3) it would have been a simple matter to expressly do so and remove all doubt. Section 56-1-180(3) was always in derogation of the general licensing requirements, and the mere passage of §56-1-130 does not evidence any intent to change that result.

***2** In summary Section 56-1-180 is obviously a statute of special application in that it applies to a special group of people (at least 15 years old and less than 16 years old), concerns only a special group of motorcycles (motor scooter or light motor-driven cycle of five-brake horsepowers or less) and authorizes operation at only a certain time of the day (basically daylight). On the other hand §56-1-130 is a later general statute. It was passed after §56-1-180, and it is general in that it applies to all operators, all motorcycles and all times of day. This office is of the opinion that there is no conflict between §§56-1-130 and 56-1-180(3), which cannot be resolved and therefore is of the opinion that §56-1-130 did not impliedly repeal §56-1-180(3).

Rick Bybee
Assistant Attorney General

Reviewed and Approved By:

Victor S. Evans
Deputy Attorney General

1980 WL 131246 (S.C.A.G.)

End of Document