

1978 S.C. Op. Atty. Gen. 168 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-132, 1978 WL 22600

Office of the Attorney General

State of South Carolina

Opinion No. 78-132

July 7, 1978

**\*1 SUBJECT: Statutory Construction, Motor Vehicles**

To effectuate the clear legislative intent of [Section 56–23–80 of the Code of Laws of South Carolina \(1976\)](#), the term ‘and until’ contained therein should properly be interpreted as ‘or until.’

TO: T. M. LeGrand  
Captain  
Traffic Safety Education

QUESTION PRESENTED:

What meaning should properly be given to the phrase ‘and until’ as contained in [Section 56–23–80 of the Code of Laws of South Carolina \(1976\)](#) in order to give effect to the Legislative intent.

STATUTES AND CASES:

60 Acts and Joint Resolutions 391 (1977)

Code of Laws of South Carolina (1976)

[§ 56–23–80](#)

[§ 56–23–70](#)

[Atlantic Coastline Railroad Co. v. S.C. Public Service Commission](#), 245 S.C. 229, 139 S.E. 2d 911 (1965)

[Folgun v. Bleakley](#), 117 S.C. 286, 181 S.E. 30 (1935)

[Helfrich v. Brasington Sand & Gravel Co.](#), 268 S.C. 236, 233 S.E. 2d 291 (1977)

[Woodward v. State Rural Electrification Authority](#), 190 S.C. 465, 3 S.E. 2d 537 (1939)

2A Sands, Sutherland, [Statutory Construction](#), § 21.14, p. 90.

South Carolina State Highway Department R63–524

DISCUSSION:

Inquiries have been directed to the Department regarding the meaning of the term, ‘and until,’ found in [Code of Laws of South Carolina, § 56–23–80](#). That Section provides:

‘Temporary instructor permits may be issued after special examination by the Department and upon payment of a ten dollar fee to the Department. Temporary instructor permits shall be valid for six months and until the next available and approved qualifying class but in no event shall such permit exceed one year.’

The fundamental rule of statutory construction is to ascertain and give effect to the intent of the legislature. [Helfrich v. Brasington Sand & Gravel Co.](#), 268 S.C. 236, 233 S.E. 2d 291 (1977). Where the purpose of the statute is clear, it is proper to deviate from the ordinary meaning of the words employed in order to effectuate the intent of the legislature. [Woodward v. State Rural Electrification Authority](#), 190 S.C. 465, 3 S.E. 2d 537 (1939); [Folgun v. Bleakley](#), 177 S.C. 286, 181 S.E. 30 (1935). In particular, statutory employment of the conjunctive term ‘and’ and the disjunctive term ‘or’ has frequently required courts to interchange one for the other where effectuation of the legislative intent so requires. See, 2A Sands, Sutherland, [Statutory Construction](#), § 21.14, page 90; [Folgun v. Bleakley](#), *supra*.

Passage of this Act was rendered pursuant to the legislature's police power to regulate the use of public highways and streets to the extent necessary to promote public safety. [Atlantic Coastline Railroad Company v. S.C. Public Service Commission](#), 245 S.C. 229, 139 S.E. 2d 911 (1965). Read in conjunction with the entire Act, § 56–23–80's obvious purpose was to provide a prospective driving instructor the opportunity to obtain a temporary permit to instruct if no qualifying courses, as provided for by § 56–23–70, are then being offered. Applying the ordinary meaning of the term ‘and until’ to the clause in question infers that one may be issued a temporary permit which will be effective for six months irrespective of the possibility that a qualifying course may be offered during that six month period. Clearly the legislature intended that all driving instructors be required to submit to a qualifying course, and merely provided them a temporary permit provision to accommodate those who initially seek instructor status at a time when no course is being offered.

\*2 This interpretation is consistent with the administrative interpretation which has been in effect for a number of years exemplified by the Department regulations defining and amplifying this provision. For example, R63–524 provides that an instructor seeking a temporary permit must take the first available instructor course which is offered. With the passage of the Administrative Procedures Act of 1977, 60 Acts and Joint Resolution 391 (1977), those regulations were deemed to have the full force and effect of law.

Applying the ordinary meaning to the term ‘and’ in § 56–23–80 could mean that a driving instructor specifically hired for a temporary duration may never be required to take the qualifying course. Moreover, should a driving school only operate for six consecutive months out of every year, it could conceivably have its employees apply for temporary instruction permits annually without ever having any instructor subjected to the requirement of taking the qualifying course. As noted earlier, the temporary driving instructor permits were merely provided so that one's opportunity to become a driving instructor would not be contingent on a course being offered at the particular time of his application. To give effect to the clear intent of the legislature, the term ‘and’ should be construed in the disjunctive, and this means that a temporary driver instructor permit is valid for six months or until the next qualifying course is offered. If at the termination of the six month period no course has been offered, the permit will remain valid for up to one year or until a qualifying course is offered.

#### CONCLUSION:

It is proper to deviate from the ordinary meaning of words employed in a statute in order to give effect to the intent of the legislature.

Richard D. Bybee  
Assistant Attorney General

1978 S.C. Op. Atty. Gen. 168 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-132, 1978 WL 22600

End of Document

© 2017 Thomson Reuters. No claim to original U.S. Government Works.