

1975 WL 29658 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 4, 1975

\*1 The Honorable Melvin E. Nunnery  
House of Representatives  
State of South Carolina  
Columbia, South Carolina

Dear Representative Nunnery:

This letter is in answer to your request for an opinion on the application of the term 'contract vehicle' in Section 21-840.3 to private vehicles used to transport handicapped children pursuant to contracts with school districts/State Department of Education under Section 21-838 and the last provision of 1974 Act No. 1136, Section 28, relative to transportation of handicapped pupils. (See current Senate Bill 42, which is identical to this provision in last year's appropriation act.) In my opinion the term 'contract vehicle' would apply to such private vehicles used for this aforementioned purpose. I base this opinion on the statutes cited above and the procedures followed and forms used by the State Department of Education, as discussed with Mr. R. M. Hendrix, Director of the Office of Transportation. (See attached forms and Section 28, 1974 Act No. 1136.)

It does not necessarily follow, however, that persons transporting their own child possibly along with other handicapped pupils to school in their private vehicle pursuant to such a contract would have to have bus insurance on their personal, private vehicles, since Section 21-840.3 requires the 'same insurance coverage' (emphasis my own) for contract vehicles. The term 'coverage' generally means the sum or aggregate of risks covered by the terms of contract of insurance. Words and Phrases, Vol. 10, Coverage.

In my opinion these private contract vehicles would satisfy this requirement so long as they had the same minimum coverage provided by Section 21-840(1)(a) for occupants of school buses. Such coverage would not automatically place these contract vehicles in the same classification as school buses. Most likely, many companies might not change the classification and rates from the 'private passenger' classification because of the small number of passengers and the nominal amount reimbursed under the contract. Others might change such a vehicle to the 'private livery' classification, but I understand from the Insurance Commission that rates for such a classification would be the same as those for the 'private passenger' classification where the number of passengers, excluding the driver, does not exceed eight. In addition some insurance companies might require a rider to one's current policy if the limits of said policy were not commensurate with those for occupants of school buses; for example, the minimum medical required by Section 46-750.111 as amended is \$1,000 and that required for school buses under Section 21-840(1)(a) as amended is \$3,000. In other words, it is entirely possible such use of private vehicles would not change their classification and rates from that of 'private passenger'; but, if there were a change, such a change probably would not be as great as that for a school bus because of the number of passengers and the amount and purpose of the reimbursement.

\*2 Please contact me if I can provide any further assistance.  
Sincerely,

Hardwick Stuart, Jr.  
Assistant Attorney General

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