

# **SOUTH CAROLINA CODE OF LAWS GOVERNING PUBLIC SCHOOL BUS TRANSPORTATION**

## **TITLE 23    LAW ENFORCEMENT AND PUBLIC SAFETY CHAPTER 1 GENERAL PROVISIONS**

### **SECTION 23-1-15. PUBLIC PARKING LOTS WITHIN POLICE JURISDICTION.**

Any real property which is used as a parking lot and is open to use by the public for motor vehicle traffic shall be within the police jurisdiction with regard to the unlawful operation of motor vehicles in such parking lot.

Such parking lots shall be posted with appropriate signs to inform the public that the area is subject to police jurisdiction with regard to unlawful operation of motor vehicles. The extension of police jurisdiction to such areas shall not be effective until the signs are posted.

In any such area the law enforcement agency concerned shall have the authority to enforce all laws or ordinances relating to the unlawful operation of motor vehicles which such agency has with regard to public streets and highways immediately adjoining or connecting to the parking area.

## **TITLE 56    MOTOR VEHICLES CHAPTER 5 UNIFORM ACT REGULATING TRAFFIC ON HIGHWAYS**

### **SECTION 56- 5-190. SCHOOL BUS**

Every motor vehicle that complies with the color and identification requirements set forth in S 59-67-30 and State Board of Education Regulations and Specifications Pertaining to School Buses which is used to transport children to or from public school or in connection with school activities, but not including buses operated by common carriers not exclusively engaged in the transportation of school students and vehicles having school bus markings temporarily removed or covered, is a "school bus".

HISTORY: 1962 Code 46-218; 1952 Code 46-218; 1949 (46) 466.

### **SECTION 56-5-195. SCHOOL BUS SAFETY STANDARDS**

(A) Effective July 1, 2000, any entity transporting preprimary, primary, or secondary school students to or from school, school-related activities, or child care, and utilizing a vehicle defined as a 'school bus' under 49 U.S.C. Section 30125, as defined on April 5, 2000, must transport these students in a vehicle meeting federal school bus safety standards, as contained in 49 U.S.C.

Section 30101, et seq., or any successor statutes, and all applicable federal regulations. Nothing in this section prohibits the transportation of children to or from child care in nonconforming vehicles by a State of South Carolina human service provider or public transportation authority as long as each child is accompanied by a parent or legal guardian whose transportation is in connection with his work, education, or training.

(B) Notwithstanding subsection (A) of this section, any vehicle that is purchased before July 1, 2000, and is utilized to transport preprimary, primary, or secondary students to or from school, school-related activities, or child care is not subject to the requirements contained in subsection (A) of this section until July 1, 2006. A vehicle that is purchased on or after July 1, 2000, and is utilized to transport preprimary, primary, or secondary students to or from school, school-related activities, or child care is subject to the requirements contained in subsection (A) of this section once the vehicle is utilized for those purposes.

(C) Before July 1, 2006, nothing in this section may be construed to create a duty or other obligation to cease utilizing nonconforming vehicles purchased before the effective date of this act.

(D) To facilitate compliance with the provisions contained in this section, any entity contained in this section may purchase conforming vehicles under the State of South Carolina contracts for purchase of these vehicles.

(E) Nothing in the section prohibits the transportation of students by common carriers that are not exclusively engaged in the transportation of school students or by the entities subject to this section which own or operate these vehicles. However, the motor carriage used by the common carrier or entity to transport students must be designed to carry thirty or more passengers."

**SECTION 56-5-196. DESIGNATION OF DAY CARE CENTER AS ORIGIN OR DESTINATION FOR SCHOOL TRANSPORTATION**

The parents or legal guardians of a student who is eligible to receive public school bus transportation must have the option of designating a child daycare center or other before or after school program as the student's origin or destination for school transportation."

**SECTION 56-5-2570. PARKING OF UNATTENDED MOTOR VEHICLE**

No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key and effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the curb or side of the highway.

HISTORY: 1962 Code 46-491; 1952 Code 46-491; 1949 (46) 466.

**SECTION 56-5-2720. CERTAIN VEHICLES SHALL STOP AT ALL RAILROAD GRADE CROSSINGS; GEARS SHALL NOT BE CHANGED WHILE CROSSING GRADE.**

(A) Except as provided in subsection (B), the driver of a school bus or a motor vehicle with a capacity of sixteen or more persons, a vehicle permitted by the Department of Health and Environmental Control to carry hazardous waste and a vehicle described in regulations issued pursuant to subsection (C), before crossing at grade any tracks of a railroad, shall stop the vehicle within fifty feet, but not less than fifteen feet, from the nearest rail of the railroad and while stopped shall listen and look in both directions along the track for an approaching train and for signals indicating the approach of a train and shall not proceed until he can do so safely. After stopping and upon proceeding when it is safe to do so, the driver of the vehicle shall cross only in the gear of the vehicle that there is no necessity for manually changing gears while traversing the crossing and the driver shall not manually shift gears while crossing the tracks.

(B) Except for school buses, the provisions of this section do not apply at:

- (1) a railroad grade crossing where traffic is controlled by a police officer or human flagman;
- (2) a railroad grade crossing where traffic is regulated by a traffic-control signal;
- (3) a railroad grade crossing protected by crossing gates or an alternately flashing light signal intended to give warning of the approach of a railroad train when the gate or flashing signal does not indicate the approach of a train;
- (4) a railroad grade crossing where an official traffic-control device gives notice that the stopping requirement imposed by this section does not apply.

ALSO SEE 59-67- 230.

**SECTION 56-5-2735. ADEQUATE SPACE FOR VEHICLE ENTRY INTO INTERSECTION, CROSSWALK OR RAILROAD CROSSING; TRAFFIC AT RAILROAD GRADE CROSSINGS.**

(A) Notwithstanding the indication of a traffic signal to proceed, no driver shall enter an intersection or a marked crosswalk or drive onto a railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk, or railroad grade crossing to accommodate the vehicle the driver is operating without obstructing the passage of other vehicles, pedestrians, or railroad trains.

(B) No vehicle shall be driven on the left side of the roadway while attempting to pass another vehicle within one hundred feet of a railroad grade crossing.

(C) When stopping as required at a railroad crossing, the driver shall keep as far to the right of the highway as possible and shall not form two lanes of traffic unless the roadway is marked for two or more lanes of traffic on the driver's side of the center line of the highway.

**SECTION 56-5-2740. PLACE WHERE DRIVERS SHALL STOP FOR STOP SIGNS**

Every driver of a vehicle approaching a stop sign shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, shall stop at a clearly marked stop line but, if none, then at the point nearest the intersecting highway where the driver has a view of approaching traffic on the intersecting highway before entering the intersection except when directed to proceed by a police officer or traffic-control signal.

HISTORY: 1962 Code 43-474; 1952 Code 46-474; 1949 (46) 466.

Case Notes

Applied in *Spartanburg v Winteres*, 233 SC 526, 105 SE2d 703 (1958).

**SECTION 56-5-2745. EMERGING FROM ALLEY, DRIVEWAY OR BUILDING**

The driver of a vehicle emerging from an alley, building, private road or driveway within a business or residential district shall stop the vehicle immediately prior to driving on to a sidewalk or onto the sidewalk area extending across the alley, building entrance, road or driveway or, in the event there is no sidewalk area, shall stop at the point nearest the street to be entered where the driver has a view of approaching traffic

**SECTION 56-5-2770. SIGNALS AND MARKINGS ON SCHOOL BUSES; MEETING, OVERTAKING AND PASSING SCHOOL BUS.**

(A) The driver of a vehicle meeting or overtaking from either direction a school bus stopped on a highway or private road must stop before reaching the bus where there are in operation on the bus flashing red lights specified in State Department of Education Regulations and Specifications Pertaining to School Buses, and the driver must not proceed until the bus resumes motion or the flashing red lights are no longer actuated.

(B) The driver of a vehicle need not stop upon meeting a stopped school bus when traveling in the opposite direction on a multi-lane highway or multi-lane private road.

(C) The driver of a vehicle must not overtake a school bus which has amber visual signals actuated.

(D) A school bus must be equipped with red and amber visual signals meeting the requirements of State Department of Education Regulations and Specifications Pertaining to School Buses, which must be actuated by the driver whenever the bus is stopped or preparing to stop on the highway for the purpose of receiving or discharging school children. A driver must not actuate the special visual signals when the bus is in designated school bus loading or off-loading areas if the bus is off the roadway entirely.

(E) A school bus must bear upon its front and rear plainly visible signs containing the words 'SCHOOL BUS' in black letters not less than eight inches in height.

(F) A school bus route that requires passengers to be loaded or off-loaded along a multi-lane highway or multi-lane private road must be designed to ensure that a student is not required to cross a multi-lane highway or multi-lane private road.

(G) For the purposes of this section a multi-lane highway or multi-lane private road is a highway or private road that consists of four or more traffic lanes, having at least two traffic lanes traveling in each direction.

**SECTION 56-5-2775. VIOLATION OF SECTION 56-5-2735 AS MISDEMEANOR; PENALTY.**

The driver of a vehicle violating the provisions of Section 56-5-2735 is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars or more than two hundred dollars or imprisoned for not more than thirty days.

**SECTION 56-5-2780. PENALTIES FOR UNLAWFULLY PASSING A STOPPED SCHOOL BUS**

(A) A driver of a vehicle violating Section 56-5-2770 (A) or (C) is guilty of a misdemeanor and, upon conviction, entry of a plea of guilty or nolo contendere, or forfeiture of bail for a first offense must be fined not less than five hundred dollars or imprisoned not more than thirty days. In lieu of imprisonment, the court may require that the individual complete an appropriate term of community service of not fewer than ten days upon terms and conditions the court considers proper. Notwithstanding any other provision of law, a first offense for a violation of Section 56-5-2770 (A) or (C) may be tried in magistrate's court. Upon conviction, entry of a plea of guilty or nolo contendere, or forfeiture of bail for a second or subsequent violation of Section 56-5-2770 (A) or (C), a person is guilty of a misdemeanor and must be fined not less than two thousand dollars or more than five thousand dollars or imprisoned for not fewer than thirty days and not more than sixty days.

(B) If a driver of a vehicle violates Section 56-5-2770 (A) or (C), and the violation proximately causes great bodily injury or death to a pedestrian, the person is guilty of a felony and, upon conviction, entry of a plea of guilty or nolo contendere, or forfeiture of bond, the person must be:

(1) fined not less than five thousand dollars or more than ten thousand dollars and imprisoned for not less than sixty days or more than one year when great bodily injury results;

(2) fined not less than ten thousand dollars or more than twenty-five thousand dollars and imprisoned for not less than one year or more than five years when death results.

As used in this subsection, 'great bodily injury' means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

The department shall suspend the driver's license of a person who is convicted or who receives a sentence upon a plea of guilty or nolo contendere pursuant to this subsection for the term of imprisonment plus one year.

**HISTORY:** 1962 Code 46-477; 1952 Code 46-477; 1949 (46) 466, 1950 (46) 2379.

**Cross References-**

As to school bus passing another school bus, see 59-67-210.

As to use of signal equipment imposing duty to yield right-of-way and stop as prescribed in this section, see 59- 5-4700.

Case Notes

This section (Code 1962 46-477) is mandatory. All motor vehicles must stop and remain stopped before passing any school bus at rest on the highway as provided by this section (Code 1962 46-477). Fisher v Sheridan Co., 182 SC 316, 189 SE 356 (1936).

Vehicles must remain stopped until bus moves on. All motor vehicles, without regard to the direction in which they are traveling, must remain stopped until the children are taken on or discharged, and until such school bus has moved on. Hunter v Boyd, 203 SC 518, 27 SE2d 412 (1943).

#### Attorney General's Opinions

The term "separate roadways," as used in this section (Code 1962 46-477), means roadways which are separated by some physical barrier from other portions of the highway (1971-72 Ops. Atty. Gen., No. 3300, p. 115.)

### **SECTION 56-5-3810. LIMITATIONS ON BACKING**

(a) No driver shall back a vehicle unless such movement can be made with safety and without interfering with other traffic.

(b) No driver shall back a vehicle upon any shoulder or roadway of any controlled access highway.

HISTORY: 1962 Code 46-492; 1952 Code 46-492; 1949 (46) 466.

### **SECTION 56-5-3820. OPERATION OF VEHICLE WHEN DRIVER'S VIEW OR CONTROL OVER DRIVING MECHANISM INTERFERED WITH**

No person shall drive a vehicle when it is so loaded or when there are in the front seat such number of persons, exceeding three, as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle. No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the side or to interfere with his control over the driving mechanism of the vehicle.

HISTORY: 1962 Code 46-493; 1952 Code 46-493; 1949 (46) 466.

### **SECTION 56-5-4700. AUDIBLE SIGNAL DEVICES AND SIGNAL LAMPS FOR AUTHORIZED EMERGENCY VEHICLES, SCHOOL BUSES AND POLICE VEHICLES; RESTRICTIONS ON USE; EFFECT OF USE**

(a) Every authorized emergency vehicle shall, in addition to any other equipment and distinctive markings required by this chapter, be equipped with a siren, exhaust whistle or bell capable of giving an audible signal.

(b) Every school bus and every authorized emergency vehicle shall, in addition to any other equipment and distinctive markings required by this chapter, be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, which shall be capable of displaying to the front two alternately flashing red lights located at the same level and to the rear two alternately flashing red lights located at the same level, and these lights shall have sufficient intensity to be visible at five hundred feet in normal sunlight. Provided, that vehicles of any fire department or funeral home when equipped with a mounted, oscillating, rotating or flashing red light, visible in all directions for a distance of five hundred feet in normal sunlight, shall not be required to have additional signal lamps.

(c) A police vehicle when used as an authorized emergency vehicle may but need not be equipped with alternately flashing red lights as specified herein. Also, such vehicle may in lieu of the alternately flashing red lights be equipped with a special dome-mounted oscillating, rotating, or flashing red or blue light visible from a distance of five hundred feet to the front in normal sunlight; provided, that it shall be unlawful for any person to possess any flashing, oscillating or rotating blue light on any vehicle except one used primarily for law enforcement purposes.

Provided, however, that after January 1, 1967, all police vehicles when used as an authorized emergency vehicle shall then be equipped with dome-mounted, oscillating, rotating or flashing blue lights visible from a distance of five hundred feet.

(d) The alternately flashing lighting described in subsection (b) of this section shall not be used on any vehicle other than an authorized emergency vehicle. Provided, that a school bus may use the alternately flashing red lighting described in subsection (b), or red flashing lights in the rear and amber flashing lights in the front.

(e) The use of the signal equipment described herein shall impose upon drivers of other vehicles the obligation to yield right-of-way and stop as prescribed in 56-5-2360 and 56-5-2770.

HISTORY: 1962 Code 46-544.1; 1966 (54) 2567; 1967 (55) 131; 1970 (56) 2320.

#### Attorney General's Opinions

Number of red flashing lamps required. Subsection (b) of this section (Code 1962 46-544.1) does not necessarily require four signal lamps. If two lamps would achieve the prescribed effect, such would be sufficient to comply with the law. 1965 Ops. Atty. Gen., No. 2208, p. 352.

Use of portable red flashing lamps. The requirement of subsection (b) of this section (Code 1962 46-544.1) can be met by placing of a portable bar with two signal lamps attached on top of an authorized emergency vehicle where the two lamps are synchronized so as to display two alternately flashing red lights to the front and two to the rear. 1965-66 Ops. Atty. Gen., No. 2208, p. 352.

"Dome-mounted" defined. The term "dome-mounted" used in subsection (c) means that on each police vehicle there should be a blue light that is in the form of a dome, i.e., conical, and that such conically shaped light be placed in an elevated position either on or in such vehicle and visible from a distance of five hundred feet. 1965-66 Ops. Atty. Gen., No. 2087, p. 185.

Unmarked highway patrol cars not required to have dome-mounted blue light. Subsection (c) requiring police vehicles to be equipped with oscillating, dome-mounted blue light does not require unmarked highway patrol vehicles to be equipped with such a light on the roof of such vehicles. 1965-66 Ops. Atty. Gen., No. 2087, p. 185.

Authorized emergency vehicles. There is no authorization for a single dome-mounted oscillating red light for authorized emergency vehicles, 1965-66 Ops. Atty. Gen., No. 2158, p. 289.

Vehicles and boats of the Division of Commercial Fisheries need not be equipped with flashing blue lights. 1965-66 Ops. Atty. Gen., No. 2191A, p. 335.

Section inapplicable to automobiles of members of volunteer fire departments and rescue squads. See 1966-77. Ops. Atty. Gen., No. 2256, p. 64.

**SECTION 56-5-5000. WINDOWS SHALL BE UNOBSTRUCTED; WINDSHIELD WIPERS**

No person shall drive any motor vehicle with any sign, poster or other non-transparent material upon the front windshield, widewings or side or rear windows of such vehicle which obstructs the driver's clear view of the highway or any intersection highway. The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield, which shall be constructed as to be controlled or operated by the driver of the vehicle. Every windshield wiper upon a motor vehicle shall be maintained in good working order.

HISTORY: 1962 Code 46-592; 1952 Code 46-592; 1949 (46) 466.

**TITLE 59    EDUCATION**  
**CHAPTER 5**  
**STATE BOARD OF EDUCATION**

**SECTION 59-5-60. GENERAL POWERS OF BOARD**

The State Board of Education shall have the power to:

- (1) Adopt policies, rules and regulations not inconsistent with the laws of the State for its own government and for the government of the free public schools.
- (2) Annually approve budget requests for the institutions, agencies, and service under the control of the Board as prepared by the State Superintendent of Education prior to being submitted to the Budget and Control Board and to the General Assembly.
- (3) Adopt minimum standards for any phase of education as are considered necessary to aid in providing adequate educational opportunities and facilities.
- (4) Prescribe and enforce rules for the examination and certification of teachers.
- (5) Grant State teachers' certificates and revoke them for immoral or unprofessional conduct, or evident unfitness for teaching.
- (6) Prescribe and enforce courses of study for the free public schools.
- (7) Prescribe and enforce the use of textbooks and other instructional materials for the various subjects taught or used in conjunction within the free public schools of the State, both high schools and elementary schools in accordance with the courses of study as prepared and promulgated by the Board.
- (8) Appoint such committees and such members of committees as may be required or as may be desirable to carry out the orderly function of the Board.
- (9) Cooperate fully with the State Superintendent at all times to the end that the State system of public education may constantly be improved.
- (10) Assume such other responsibilities and exercise such other powers and perform such other duties as may be assigned to it by law or as it may find necessary to aid in carrying out the purpose and objectives of the Constitution of the State.

**TITLE 59    EDUCATION  
CHAPTER 63  
PUPILS GENERALLY**

**SECTION 59-63-210.    GROUNDS FOR WHICH TRUSTEES MAY EXPEL, SUSPEND,  
OR TRANSFER PUPILS; PETITION FOR READMISSION;  
EXPULSION, SUSPENSION, OR TRANSFER**

(A) Any district board of trustees may authorize or order the expulsion, suspension, or transfer of any pupil for the commission of any crime, gross immorality, gross misbehavior, persistent disobedience, or for violation of written rules and promulgated regulations established by the district board, county board, or the State Board of Education, or when the presence of the pupil is detrimental to the best interest of the school. Each expelled pupil has the right to petition for readmission for the succeeding school year. Expulsion or suspension must be construed to prohibit a pupil from entering the school or school grounds, except for a prearranged conference with an administrator, attending any day or night school functions, or riding a school bus. The provisions of this section do not preclude enrollment and attendance in any adult or night school.

(B) A district board of trustees shall not authorize or order the expulsion, suspension, or transfer of any pupil for a violation of Section 59-150-250(B).

**SECTION 59-63-1110.    CONSENT TO SEARCH PERSON OR HIS EFFECTS**

Any person entering the premises of any school in this State shall be deemed to have consented to a reasonable search of his person and effects.

**SECTION 59-63-1120.    SEARCHES BY SCHOOL ADMINISTRATORS OR OFFICIALS  
WITH OR WITHOUT PROBABLE CAUSE**

Notwithstanding any other provision of law, school administrators and officials may conduct reasonable searches on school property of lockers, desks, vehicles, and personal belongings such as purses, bookbags, wallets, and satchels with or without probable cause.

**SECTION 59-63-1130.    SEARCHES BY PRINCIPALS OR THEIR DESIGNEES**

Notwithstanding any other provision of law, school principals or their designees may conduct reasonable searches of the person and property of visitors on school premises.

**SECTION 59-63-1140.    STRIP SEARCHES PROHIBITED**

No school administrator or official may conduct a strip search.

**SECTION 59-63-1150. COMPLIANCE WITH CASE LAW; TRAINING OF SCHOOL ADMINISTRATORS**

Notwithstanding any other provision of this article, all searches conducted pursuant to this article must comply fully with the “reasonableness standard” set forth in *New Jersey v. T.L.O.*, 469 U.S. 328 (1985). All school administrators must receive training in the “reasonableness standard” under existing case law and in district procedures established to be followed in conducting searches of persons entering the school premises and of the students attending the school.

**SECTION 59-63-1160. POSTING OF NOTICE; COSTS OF NOTICE TO BE PAID BY STATE; EFFECT OF FAILURE TO POST NOTICE**

Notice must be conspicuously posted on school property informing the provisions of this article. The notice must be posted at least at all regular entrances and any other access point to the school grounds.

The costs of posting the notice required by this section must be paid by the State. No school or school district shall be required to incur any financial obligation for complying with the notice requirements contained in this section. The failure to post the notice provided in this section shall not constitute a defense to any civil action or criminal prosecution and shall not constitute grounds for any legal liability.

**TITLE 59    EDUCATION**  
**CHAPTER 67**  
**TRANSPORTATION OF PUPILS, SCHOOL BUSES**

**SECTION 59-67-10. "SCHOOL BUS" DEFINED**

When used in this article, "school bus" shall be construed to mean every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school.

HISTORY: 1962 Code 21-791; 1952 Code 21-791; 1942 Code 1626-3; 1937 (40) 367.

Cross References-

As to meeting, overtaking and passing school bus, see 56-5-2770.

Case Notes

Common-Law requirement of due care is not limited. This section (Code 1962 21-791) and following sections relating to school buses contain many provisions in regard to the equipment and operation of such buses, but these provisions do not limit in any way the common-law requirement that due care shall be exercised, or, on the contrary, this article is obviously designed to promote the safety of children using a school bus. *Hunter v Boyd*, 203 SC 518, 28 SE2d 412 (1943).

Driver must select proper place for unloading. A school bus driver is not required to get out of the bus and direct or escort children across the road, but he is not relieved from the responsibility of selecting a reasonably proper place for the unloading of his passenger pupil or pupils. *Hunter v Boyd*, 203 SC 518, 28 SE2d 412 (1943).

**SECTION 59-67-20.    REGULATIONS OF STATE BOARD OF EDUCATION GOVERNING DESIGN AND OPERATION OF SCHOOL BUSES**

The State Board of Education, by and with the advice of the State Highway Department, shall adopt and enforce regulations not inconsistent with Chapter 5 of Title 56 to govern the design and operation of all school buses used for the transportation of school children when owned and operated by any school district in this State and such regulations shall by reference be made a part of any such contract with a school district. Every school district, its officers and employees, and every person employed under contract by a school district shall be subject to such regulations. Any officer or employee of any school district who violates any of such regulations or fails to include the obligation to comply with such regulations in any contract executed by him on behalf of a school district shall be guilty of misconduct and subject to removal from office or employment. Any person operating a school bus under contract with a school district who fails to

comply with any such regulations shall be guilty of breach of contract and such contract shall be cancelled after notice and hearing by the responsible officers of such school district.

HISTORY: 1962 Code 21-792; 1952 Code 21-792; 1949 (46) 466.

### **SECTION 59-67-30. PAINTING AND MARKINGS OF SCHOOL BUSES**

Every State-owned school bus while being used in the transportation of school pupils shall be substantially painted with high visibility yellow paint, conforming and similar to National School Bus Chrome Yellow, and shall display the following markings:

- (1) Sides - The words "SOUTH CAROLINA PUBLIC SCHOOLS" in no less than four inch high letters located directly under the windows.
- (2) Back - The words "SCHOOL BUS" in letters not less than eight inches high located between the warning signal lamps.
- (3) Front - The words "SCHOOL BUS" in letters not less than eight inches high located between the warning signal lamps.

The State Board of Education is hereby authorized to adopt and to enforce whatever additional regulations regarding the painting and marking of school buses which they may deem necessary and proper.

HISTORY: 1962 Code 21-794; 1952 Code 21-794; 1942 Code 1626-3; 1937 (40) 367; 1946 (44) 2583; 1949 (46) 466; 1964 (53) 2067; 1973 (58) 689.

### **SECTION 59-67-40. APPLICABILITY OF LAWS AND REGULATIONS TO PRIVATE SCHOOL BUSES**

All school buses owned and operated by a private school or operated under contract for a private school must conform to State laws and regulations of the State Board of Education with respect to painting, lettering on the front and rear of the bus, use of stop arm and warning lights for loading and unloading pupils on the highway, maximum speeds and stopping at railroad crossings.

Buses not complying with these requirements shall be painted a color other than yellow and shall not be entitled to the privileges and protection of a school bus operating on the highways of this State.

HISTORY: 1962 Code 21-794.1; 1967 (55) 651.

### **SECTION 59-67-50. REMOVAL OF IDENTIFICATION MARKS FROM FORMER SCHOOL BUSES**

All school buses in this State, when no longer used for school purposes and sold to any person for private or public use, must have all marks of identification showing that these buses

were used by schools and school districts removed before private or public use may be made of them. Any person violating the provisions of this section shall be subject to a fine not exceeding twenty-five dollars or imprisonment upon the public works of the county in which the offense is committed for a period of not more than thirty days.

HISTORY: 1962 Code 21-795; 1952 Code 21-795; 1942 Code 1626-4; 1937 (40) 122.

#### **SECTION 59-67-60. RE-PAINTING OF FORMER SCHOOL BUSES**

Any person who purchases a used school bus must paint it a color other than yellow before operating such bus on the highway. Any person violating the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars or imprisoned for not more than thirty days, or both, in the discretion of the court.

HISTORY: 1962 Code 21-795.1; 1956 (49) 1686.

#### **SECTION 59-67-70. DUAL WHEELS**

County boards of education may at their discretion require that all replacement or new buses, placed in service in their respective counties, shall be equipped with dual wheels.

HISTORY: 1962 Code 21-797; 1952 Code 21-797; 1942 Code 1626-3; 1937 (40) 367.

#### **SECTION 59-67-80. WINDSHIELD WIPER, BRAKES, LIGHTS AND REAR VIEW MIRRORS**

Every school bus shall be equipped with a power-driven windshield wiper, adequate brakes and efficient lights which shall at all times when in use be in good working order and also with a rear view mirror or mirrors of such dimension as will enable the driver, from the driver's seat, to see reflected in them not only the occupants of the vehicle but also the road to the left and to the rear of the vehicle for a proper distance adequately to observe traffic in his rear.

HISTORY: 1962 Code 21-797; 1952 Code 21-797; 1942 Code 1626-3; 1937 (40) 367.

#### **SECTION 59-67-90. GASOLINE TANKS**

The gasoline tank of every school bus shall be filled, vented and located entirely outside of that part of the school bus utilized for carrying passengers. HISTORY: 1962 Code 21-798; 1952 Code 21-798; 1942 Code 1626-3; 1937 (40) 367.

**SECTION 59-67-100. SEATING SPACE; AISLE, SEATS, NUMBER AND LOCATION OF PUPILS**

Sufficient seating space must be provided so far as practicable for each passenger transported inside each school bus, an aisle in the school bus must not be less than twelve inches in width and all seats must be securely fastened to the floor or body of the vehicle. All students must be within the body of the bus at all times while the bus is in motion. Students are not permitted any place outside the bus—and may not ride with heads or arms protruding through open windows. The number of students assigned to a school bus must not be greater than the manufacturer certified seating capacity, and all passengers transported must have adequate seating area to comply with the occupant protection performance standards required in the Federal Motor Vehicle Safety Standards. Provided, however, that a limited number of excess passengers on regular routes may be permitted until the bus routes can be adjusted to accommodate the overload but not to exceed twenty school days

HISTORY: 1962 Code 21-799; 1952 Code 21-799; 1942 Code 1626-3; 1937 (40) 367; 1956 (49) 1668; 1974 (58) 2841.

**SECTION 59-67-105. RIDE TIME AND SEATING CAPACITY**

(A) A student may not ride continuously on a state-owned school bus for more than ninety minutes. With the approval of the Department of Education, the ninety-minute maximum ride time may be exceeded when the area's geography requires longer than average highway travel because of a circuitous or meandering road network, extremely low population density, or waterway barriers. The ninety-minute maximum ride time may be exceeded when attendance zones are multidistrict or countywide.

(B) The Department of Education annually shall assure that state-owned school buses are routed in the most efficient manner and shall require that they are operated only on adequately maintained and safe public and private accessible highways and streets.

**SECTION 59-67-108. SCHOOL BUS DRIVER'S CERTIFICATION.**

(A)(1) Only a person who has been certified by the State Board of Education may drive a school bus, as defined in Section 59-67-10, when transporting preprimary, primary, or secondary students to or from school.

(2) When transporting public school students, a driver operating a bus owned by the State, a local school agency, or by a private contractor that is in compliance with Section 56-5-2770 and the National School Bus chrome yellow requirements in Section 59-67-30 must possess a School Bus Driver's Certificate-A, as established by the State Board of Education. A driver awarded a school bus driver's certificate pursuant to Section 59-67-470 shall be issued the School Bus Driver's Certificate-A.

(3) When transporting public school students, a driver operating a bus owned by a local school agency or by a private contractor that is not in compliance with either Section 56-5-2770 or the National School Bus chrome yellow requirements in Section 59-67-30 must possess a School Bus Driver's Certificate-B, as established by the State Board of Education. A driver who possesses a School Bus Driver's Certificate-B may not use traffic control devices permitted in Section 56-5-2770.

(B) Any person transporting ten or more preprimary, primary, or secondary students to or from school, school-related activities, or childcare in a vehicle with enabled traffic control devices must receive training as to the proper operation of these traffic control devices. The State Department of Education shall establish an appropriate level of driver certification.

**SECTION 59-67-110. FRONT ENTRANCE-EXIT; EMERGENCY EXIT**

Every school bus shall be provided with a front entrance-exit on the right side of the vehicle and a rear emergency exit or door, conspicuously marked on the inside "emergency door" and equipped with a fastening device capable of being quickly released in emergency but entirely safe from accidental opening upon the application of any pressure from within the bus. Except in the event of an emergency, no person shall be allowed to enter or leave the bus by any other than the front entrance-exit.

HISTORY: 1962 Code 21-800; 1952 Code 21-800; 1942 Code 1626-3; 1937 (40) 367.

**SECTION 59-67-120. TAMPERING WITH GOVERNORS PROHIBITED**

It shall be unlawful for any person, other than authorized mechanics, to tamper with governors on school buses operated in this State. Any person violating the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined the sum of one hundred dollars or be imprisoned for a term of thirty days.

HISTORY: 1962 Code 21-801; 1953 (48) 198.

**SECTION 59-67-130. INSPECTION OF ROAD CONDITIONS ON BUS ROUTES; REPORTING HAZARDS**

Prior to the opening of school each year, each school superintendent shall be responsible for inspecting the road conditions of all designated bus routes including school property and all conditions deemed to be hazardous shall be reported, in writing, to the State-employed county transportation supervisor who shall verify any such hazardous conditions and report them, in writing, to the proper municipal, county, or State official who shall be responsible for taking corrective action.

HISTORY: 1962 Code 21-804; 1974 (58) 2311.

**SECTION 59-67-140. INSPECTION OF ROAD CONDITIONS ON BUS ROUTES; DUTIES OF DRIVERS**

During the school year, each school bus driver shall report, in writing, to the proper school official any hazardous road conditions on his routes. The school official shall forward such reports

to the county transportation supervisor who shall follow the procedure required of him in 59-67-130.

HISTORY: 1962 Code 21-805; 1974 (58) 2311.

**SECTION 59-67-150. QUALIFICATIONS OF BUS DRIVER; DRINKING OR SMOKING ON BUS**

The driver of each school bus must be an experienced driver of good moral habits, and neither he nor any pupil nor any other person shall use alcoholic liquors or smoke any cigar, cigarette, pipe, tobacco or other substance in such vehicle during the time he is operating the same as a school bus.

HISTORY: 1962 Code 21-807; 1952 Code 21-807; 1942 Code 1626-3; 1937 (40) 367; 1946 (44) 1341.

**SECTION 59-67-160. REPEALED BY 1978 ACT NO. 622 1, EFF. JULY 23, 1978**

**SECTION 59-67-170. REPEALED BY 1978 ACT NO. 622 2, EFF. JULY 23, 1978**

**SECTION 59-67-180. GENERAL SUPERVISION OF BUS BY DRIVER**

The driver of every school bus while the bus is being used as such shall have general supervision of it and shall not permit or allow any person in the bus to occupy such a position as will interfere with the vision of the driver either to the front, either side or rear of the vehicle while it is in motion.

HISTORY: 1962 Code 21-811; 1952 Code 21-811; 1942 Code 1626-3; 1937 (40) 367.

**SECTION 59-67-190. DRIVER PROHIBITED FROM LEAVING BUS WHILE ENGINE IS RUNNING**

No driver or operator of a school bus shall leave the bus while the engine is running.

HISTORY: 1962 Code 21-812; 1952 Code 21-812; 1942 Code 1626-3; 1937 (40) 367.

**SECTION 59-67-200. COMPLETE STOP TO RECEIVE OR DISCHARGE PASSENGER REQUIRED**

Each school bus come to a complete stop with clutch disengaged before a passenger is permitted to alight or enter.

HISTORY: 1962 Code 21-813; 1952 Code 21-813; 1942 Code 1626-3; 1937 (40) 367.

Cross References-

As to meeting, overtaking and passing school buses, see 56-5-2770.

**SECTION 59-67-210. SCHOOL BUS PASSING ANOTHER SCHOOL BUS UNLAWFUL**

It shall be unlawful for any person operating a school bus to pass another school bus unless the lead bus is in a stopped position and the driver of the lead bus has signaled to the operator of the bus in the rear that it is safe to pass. Any person violating the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined the sum of one hundred dollars or be imprisoned for a term of thirty days.

HISTORY: 1962 Code 21-813.1; 1953 (48) 200.

**SECTION 59-67-220. FILLING GASOLINE TANK WHILE ENGINE IS RUNNING OR PUPILS ARE ON BUS PROHIBITED**

No gasoline tank on or in any vehicle used as a school bus shall be filled while engine is running or, except in an emergency, when there are pupils in the bus.

HISTORY: 1962 Code 21-814; 1952 Code 21-814; 1942 Code 1626-3; 1937 (40) 367.

**SECTION 59-67-230. DRIVER REQUIRED TO STOP BEFORE CROSSING RAILROAD TRACK**

The operator of any school bus shall, before crossing at grade any tracks of any railroad, bring his vehicle to a full and complete stop within not less than fifteen feet nor more than fifty

feet from the rail of the tract nearest to the front of such vehicle and shall, after such stop, ascertain if it is safe to proceed before crossing such tracks.

HISTORY: 1962 Code 21-815; 1952 Code 21-815; 1942 Code 1626-3; 1937 (40) 367; 1972 (57) 2492.

#### **SECTION 59-67-240. OTHER DUTIES AND DISCIPLINARY POWERS OF DRIVER**

The driver of each school bus shall cooperate with the teachers in their work in the school to which he is transporting pupils by being on time in the mornings and waiting in the afternoons until all his pupils are dismissed by the school faculty and safely aboard his bus. He also shall take particular notice along his route in the morning and give pupils within sight a reasonable time in which to board his bus. The driver shall be responsible for maintaining good conduct upon his bus and shall report promptly to the governing head of the school to or from which the pupils are transported any misconduct or any violation of the driver's instructions by any person riding in his bus.

District boards of school trustees in this State may authorize school administrators to suspend or expel pupils from riding a school bus for misconduct on the bus or for violating instructions of the driver.

HISTORY: 1962 Code 21-816; 1952 Code 21-816; 1946 (44) 1341.

#### **SECTION 59-67-245. INTERFERENCE WITH OPERATION OF SCHOOL BUS PENALTIES**

No person shall willfully and wrongfully interfere with the operation of a school bus, either public or private, by boarding, restricting movement or using threats, either physical or verbal, to the driver or any passenger while the bus is engaged in the transportation of pupils to and from school or any lawful school activity or while passengers are entering or leaving the bus nor shall any person willfully fail or refuse to obey a lawful order of a school bus driver relating to the occupancy of a school bus. The use of threatening, obscene or profane language addressed to the driver or any passenger entering, leaving or waiting for a school bus is disorderly conduct and any person convicted for the use of such language shall be punished as provided in 16-17-530. Nothing contained herein shall be interpreted to infringe upon the powers and duties of duly constituted authorities.

#### **SECTION 59-67-250. POSTING OF COPIES OF RELEVANT STATUTES**

The trustees of the various school districts shall cause to be posted in each school bus operating within their district at least two copies of 59-67-240, and the Superintendent of

Education of this State shall furnish a sufficient number of copies of said section to the various school districts to the end that the provisions of this section may be complied with.

HISTORY: 1962 Code 21-817; 1952 Code 21-817; 1946 (44) 1341.

#### **SECTION 59-67-260. CHECK OF SCHOOL BUS OPERATION BY STATE HIGHWAY DEPARTMENT**

The State Highway Department shall have the operation of school buses spot checked periodically and report all infractions of the laws or misconduct of any kind on the part of the drivers to the chairman of the board of trustees of the school that may be affected thereby.

HISTORY: 1962 Code 21-818; 1953 (48) 201.

#### **SECTION 59-67-270. INSPECTION OF BUSES**

(A)(1) All publicly owned or leased school buses, including buses owned or leased by a public school district, must be inspected annually in compliance with the State Department of Education annual school bus inspection program. The State Department of Education shall assist in this requirement by providing the training and certification of a limited number of personnel designated by a school district to perform the inspection, providing the inspection manuals and forms, and supplying the inspection certificate stickers for the school buses. The State Department of Education's assistance must be free of charge.

(2) All privately owned vehicles designed and used to transport ten or more preprimary, primary, or secondary students to or from school, school-related activities, or childcare must be inspected annually. Inspections for these privately owned vehicles must comply with applicable federal inspection requirements. A copy of the vehicle inspection report must be kept on these vehicles at all times.

(3) The owner or lessee of a school bus shall be solely responsible for the implementation and accountability of school bus inspections.

(B) All school buses are subject to inspection at any time or place by officers of the State Transport Police or inspection forces. A school bus may not continue in operation in the transportation of students when the annual inspection is more than twelve months old or the school bus is found to be unsafe after any inspection until the unsafe conditions disclosed by the inspection have been corrected.

HISTORY: 1962 Code 21-819; 1952 Code 2-819; 1942 Code 1626-3; 1936 (40) 367.

#### **SECTION 59-67-280. PENALTIES**

The doing of anything prohibited by this article or failing to do anything required by this article shall be a misdemeanor, punishable by a fine of not more than one hundred dollars or imprisonment in the county jail for not less than five nor more than thirty days.

HISTORY: 1962 Code 21-820; 1952 Code 21-820; 1942 Code 1626-3; 1937 (40) 367.

**SECTION 59-67-290. NEGLIGENCE OR CARELESSNESS OF DRIVER NOT IMPUTABLE TO PASSENGERS**

The negligence or carelessness of the driver of any motor-driven vehicle used for the transportation of children to and from school shall not be imputed to the passengers on such vehicle.

HISTORY: 1962 Code 46-802; 1952 Code 46-802; 1942 Code 1626; 1932 Code 1626; 1928 (35) 1320; 1938 (40) 1599.

**Section 59-67-300. CENTRALIZED PARKING**

State-owned school buses must be parked overnight and during the school day in a location that is central to the area in which the school buses are operated. The Department of Education shall grant a waiver to the requirements of this section if a waiver is requested by the district superintendent in compliance with Department of Education policies

**SECTION 59-67-410. CONTROL BY STATE BOARD OF EDUCATION OF SCHOOL BUS TRANSPORTATION**

The control and management of all school bus transportation in the State shall be vested in the State Board of Education.

HISTORY: 1962 Code 21-833; 1952 Code 21-833; 1951 (47) 546.

**SECTION 59-67-415. PARENT RESPONSIBILITY**

Parents or guardians are responsible for the safety, conduct, and the timely arrival of their children to, from, and at the designated school bus stop before the arrival of the school bus for pick up and transport to school and the timely departure of the child after the school bus leaves the designated school bus stop after transporting the children from school. For purposes of this section, the phrase 'arrival of the school bus' includes the time that the school bus assigned to the school bus stop activates the required pedestrian safety devices, stops, and loads or unloads students until the school bus deactivates all pedestrian safety devices.

**SECTION 59-67-420. EXTENT OF TRANSPORTATION TO BE PROVIDED**

(A) The State, acting through the State Board of Education, assumes no obligation to transport any student to or from school who lives within one and one-half miles of the school he attends, nor to provide transportation services extending within three-tenths of a mile walking distance of the residence of any student, nor to furnish transportation for any student who attends a school outside the school attendance zone in which the student resides when the same grade is taught in an

appropriate school that is located within the school district in which the student resides. The State shall bear the cost of transporting students to regularly organized instructional classes in the school attendance area for which state-required school credit is given. The State is not responsible for any additional transportation that is not authorized by state law or regulation.

(B) The State may assume the obligation of transporting students living within one and one-half miles of their schools and within three-tenths of a mile walking distance of their residences when it is for the health and safety of the students where hazardous traffic conditions are involved, provided funds are appropriated annually by the General Assembly for this purpose. In these cases, the local school district shall apply in writing to the State Department of Education for the State to assume the financial responsibility for this transportation provided funds are appropriated annually by the General Assembly for this purpose. If funds are not appropriated by the General Assembly, then neither the State nor a local school district is required to assume this obligation. Highway and railroad traffic hazardous criteria must be established by the school district governing body and must address the safety of the walk zone as it relates to the location of the school to the student's residence, the traffic patterns, speeds and volume on roadways and railroads, the existence of sidewalks or other walk paths, the student's age, available crossing control systems and personnel, and other factors considered pertinent. The districts shall weigh the need for state hazardous transportation funds by giving priority to students who are least familiar with traffic movement and the complexity of the traffic hazards. The Department of Education shall equitably allocate appropriated funds to the district for hazardous transportation services, provided funds are appropriated by the General Assembly for this purpose. The department shall receive each district's applications for transportation within a hazardous area and apply these against the district's allocation until available funds are exhausted. When available state funds are exhausted, the remaining costs are the responsibility of the respective district, if the local school district has elected to assume this obligation. If funds are not appropriated by the General Assembly, then neither the State nor a local school district shall be required to assume this obligation.

(C) Notwithstanding the provisions of subsection (A), the State shall transport and bear the cost of transporting three and four-year-old students attending public school programs to their residences at the conclusion of a morning child development session and from their residences to an afternoon child development session.

(D) The State shall provide school transportation service as closely and safely as practicable, to the residence of each unescorted student who is eligible to receive state-funded school transportation service and who is enrolled in a full-day four-year-old child development program or kindergarten through the second grade, provided funds are appropriated annually by the General Assembly for this purpose. The State shall provide school transportation service within two-tenths of a mile of each unescorted student's residence who is eligible to receive state-funded school transportation service and who is enrolled in third through fifth grade provided funds are appropriated annually by the General Assembly for this purpose. The special provisions of unescorted students in child development through fifth grade are limited to service documented in the annual route plan. If funds are not appropriated by the General Assembly, then neither the State nor a local school district is required to assume this obligation. Any unescorted stop made pursuant to this subsection is deemed in compliance with any applicable regulation as determined by the State Department of Education.

(E) An unescorted student is defined as a student who has no adult or responsible older person available to accompany him to or from the school bus stop for the purpose of providing protection and guidance. Parents or guardians may be considered unavailable for escort if they make application to, meet the unescorted criteria established by, and are granted approval by the school

district governing body. The extent and level of service for students will be established and implemented by each individual school district to assure that the most efficient, safe, and timely service possible is provided. To insure equitable distribution of available funds, the State Department of Education must approve the school district criteria associated with the distribution of funds as provided in this subsection. The criteria may consider parents and guardians who are nonambulatory, who are caretakers for a person requiring their undivided attention, or for other similar circumstances.

(F) The State shall provide to the local school district the number of school buses required to accommodate all students identified as eligible for transport with state funds under the provisions of Section 59-67-420.

HISTORY: 1977 Act No. 85; 1978 Act No. 644, Part II, 6A, apparently effective July 24, 1978.

**SECTION 59-67-425. TRANSPORTATION OF CHILDREN ATTENDING CHILD DEVELOPMENT PROGRAMS**

Three, four, or five-year old children attending public school-sponsored kindergarten or child development programs must be permitted to ride state-owned buses to the extent funds are

made available by the General Assembly or as long as transportation services may be provided at no additional cost to the State.

HISTORY: 1980 Act No. 519, Part II, 9, effective June 23, 1980.

**SECTION 59-67-430. ADOPTION OF PURCHASING SYSTEM FOR NEW BUSES**

The Board shall adopt a purchasing system for new buses similar to that used by the State Highway Department for the purchase of its equipment.

HISTORY: 1962 Code 21-836; 1952 Code 21-836; 1951 (47) 546.

**SECTION 59-67-440. BOARD MAY BORROW FROM DIVISION OF SINKING FUNDS AND PROPERTY TO EFFECT PURCHASES OF SCHOOL BUS EQUIPMENT**

The State Board of Education is empowered to borrow, and the Division of Sinking Funds and Property is empowered and directed to lend to the State Board of Education, such sums of money as the State Board of Education shall require to enable it to effect purchases of school bus equipment, provided, that, the aggregate of such indebtedness to be outstanding shall not at any time exceed one million five hundred thousand dollars. The indebtedness shall be repayable not later than one year from the occasion that it shall be incurred only to the extent that the aggregate of such indebtedness, plus the other indebtedness incurred pursuant to Article 5 of Chapter 71 of this Title for school bus equipment, shall not exceed, on the date that such indebtedness shall mature, the limit prescribed by 59-71-420 for outstanding bonded indebtedness incurred for the purpose of school bus equipment, it being intended that notwithstanding that the aggregate of indebtedness prescribed for school bus equipment may be increased through the incurring of indebtedness pursuant to this section to an extent which may, on the occasion that the short term indebtedness herein authorized shall be incurred, exceed the limit prescribed for bonded debt to be outstanding for school bus equipment, the limit established by 59-67-420 shall not be otherwise exceeded.

HISTORY: 1962 Code 21-837; 1959 (51) 606.

**SECTION 59-67-450. FORM OF INDEBTEDNESS; INTEREST; PAYMENT**

The indebtedness incurred pursuant to 59-67-440 shall be in such form and shall bear such rate of interest as may be agreed upon between the State Budget and Control Board and the State Board of Education.

For the payment of the indebtedness and the interest to accrue thereon, the principal proceeds of the next bonds to be issued pursuant to Article 5 of Chapter 71 of this Title for school purposes shall be pledged and on the occasion that such further school bonds shall be issued

pursuant thereto, sufficient of the proceeds thereof shall be used to retire such indebtedness, both principal and interest.

HISTORY: 1962 Code 21-837.1; 1959 (51) 606.

**SECTION 59-67-460. CONTRACTS FOR TRANSPORTATION SERVICES WITH PRIVATE INDIVIDUALS OR CONTRACTORS: STATE AID**

Any county board of education may at any time contract for any part or all of its transportation services with private individuals or contractors for the furnishing of such services. In any such instance the county board of education shall execute the contracts. The county board shall be responsible for the payment of all sums due under the contracts so entered into and shall receive aid from the State for pupils thus transported only on the basis of the average per pupil operating cost of State-owned equipment for the current year as determined by the State Board of Education.

The Board may enter into agreements with county boards of education whereby pupils living in isolated areas may be transported by special arrangements when such transportation can be provided at lower cost than by operating a regular bus route.

HISTORY: 1962 Code 21-838; 1952 Code 21-838; 1951 (47) 546; 1953 (48) 3.

Case Notes

Cited in *Sanders v Jasper County Board of Education*, 233 SC 414, 105 SE2d 201 (1958).

**SECTION 59-67-470. BUS DRIVERS; SELECTION, ELIGIBILITY; TRAINING AND CERTIFICATES**

The school bus drivers, whether students or adults, shall be selected and employed by the respective boards of trustees of the school districts, subject to the approval of the respective county boards of education. No person under sixteen years of age shall be eligible for consideration as a bus driver.\* Before being employed, all prospective drivers shall be examined by the State Board of Education to determine their competency. The State Board of Education shall provide a rigid school bus driver training course and issue special "school bus driver's certificates" to successful candidates. No person shall be authorized to drive a school bus in this State transporting children, whether the bus be owned by the State, by a local school agency, or by a private contractor, who has not been so certified by the State Board of Education. All school bus driver certificates shall be renewed every three years. Drivers who have certificates issued prior to September 1962, must enroll and satisfactorily complete bus driver training courses prior to September 1965, and each three years thereafter. Local school superintendents shall supervise the conduct of pupils being transported and of school bus drivers. When any person is relieved of his duties as a bus driver, for just cause, the local school superintendent shall require the driver to turn in his school bus driver certificate which shall be forwarded to the State Board of Education. A certificate may be

reissued to such a driver at a later date upon approval of the local superintendent and the State Board of Education. The provisions of this section shall not apply to private schools.

(\* **The United States Department of Labor discontinued granting an exemption for 16- and 17-year-olds effective June 30, 1987.**)

HISTORY: 1962 Code 21-839; 1952 Code 21-839; 1951 (47) 546; 1953 (48) 350; 1964 (53) 2097; 1965 (54)649.

Cross References-

As to other provisions as to qualifications of school bus drivers, see 59-67-150, 59-67-160, 59-67-170.

#### ATTORNEY GENERAL'S OPINIONS

Upon the declaration of a state of emergency and for its duration, the Governor is authorized to order the use of State-owned school buses in emergency operations and the normal required qualifications and certification of school bus drivers would be inapplicable. These persons or agencies which might be held responsible for injuries or damages sustained by others as a result of the operation of such buses would necessarily depend upon the peculiar facts and circumstances of each and upon an interpretation of existing statutes. The Department of Education could seek reimbursement for unbudgeted disaster expenses incurred in operating such buses where circumstances neither permitted nor justified Federal aid. 1975-76 Op. Atty. Gen., No. 4255, p. 59.

#### **SECTION 59-67-480. SALARIES OF DRIVERS OF STATE-OWNED BUSES**

Salaries of school bus drivers of State-owned buses shall be fixed annually by the General Assembly.

HISTORY: 1962 Code 21-839.1; 1952 Code 21-839.1; 1951 (47) 546, 710; 1964 (53) 2099.

#### **SECTION 59-67-490. PROPOSED ROUTES SHALL BE SUBMITTED TO BOARD OF EDUCATION ANNUALLY; APPROVAL**

The boards of trustees of each district shall make a thorough study of transportation needs each year, and shall submit proposed route descriptions in accordance with the limitations of 59-67-420 and approved by county school authorities to the State Board of Education annually. All routes served by State-owned equipment shall be subject to the approval of the Board and the local board of trustees; no such equipment shall be operated except upon routes so approved.

HISTORY: 1962 Code 21-839.2; 1952 Code 21-839.2; 1952 (47) 546; 1964 (53) 2164.

**SECTION 59-67-500. ROUTES OF BUSES OWNED AND OPERATED BY LOCAL SCHOOL AGENCIES**

The Board shall have no jurisdiction over the routing of buses owned and operated by local school agencies whether directly or by contract.

HISTORY: 1962 Code 21-839.3; 1952 Code 21-839.3; 1951 (47) 546.

**SECTION 59-67-510. USE OF TRANSPORTATION EQUIPMENT FOR SPECIAL EVENTS AND OTHER EDUCATIONAL PURPOSES**

County boards of education may permit the use of school bus equipment for transportation in connection with athletic events, boys' and girls' clubs, special events in connection with the schools and such other educational purposes as may appear proper to the respective boards.

HISTORY: 1962 Code 21-839.4; 1952 Code 21-839.4; 1951 (47) 546.

**ATTORNEY GENERAL'S OPINIONS**

School buses may be used to transport pupils participating in "Head Start" programs where the respective county boards of education determine that such programs are a proper educational purpose and provided that such programs are conducted and sponsored by school authorities. 1964-65 Ops. Atty. Gen., No. 1863, p. 126.

**SECTION 59-67-515. SPEED LIMIT FOR PUBLIC SCHOOL BUSES**

No public school bus may be operated in this State in excess of forty-five miles an hour, except when traveling on a highway with a posted maximum speed limit above fifty-five miles an hour, or when traveling to and from special events which necessitate travel on interstate or state primary highways. Special event variances from the authorized speed limit for public school buses must be obtained by written authorization from the Department of Education. In no instance may the public school bus be authorized to exceed the speed of fifty-five miles an hour. Public school buses are not required to have devices to govern the speed or operation of the vehicles.

**Provisions repealed.** Section 59-67-525 of the 1976 Code is repealed.

**SECTION 59-67-520. TRANSPORTATION OF HANDICAPPED PERSONS**

Notwithstanding the provisions of 59-33-50, 59-67-420 and 59-67-510, the State Department of Education shall have the responsibility for transporting handicapped persons of lawful school age to and from the nearest school in which a handicapped pupil has been assigned. Additionally, when a school district is providing classes for handicapped persons between the ages of five and twenty-one, and when a cost reduction will result, the Department may enter into a reciprocal agreement with the facility whereby certain handicapped persons between the ages of five and twenty-one years may be transported on buses not owned by the Department and certain

handicapped persons under age five and over age twenty-one may be transported on Department-owned buses.

HISTORY: 1980 Act No. 406, eff. May 19, 1980.

**SECTION 59-67-525. REPEALED (SEE 59-67-515)**

**SECTION 59-67-530. EXPENSES OF OPERATION OF STATE AND LOCALLY-OWNED BUSES**

The Board shall be responsible for all expenses of operation of State-owned buses and for the replacement of obsolete equipment. The State shall assume no obligation whatever for the expenses of operating buses owned by local or county school agencies, except as provided in 59-67-460.

HISTORY: 1962 Code 21-839.5; 1952 Code 21-839.5; 1951 (47) 546.

**SECTION 59-67-535. USE OF BOATS OPERATED BY STATE DEPARTMENT OF EDUCATION TO TRANSPORT BLIND, ELDERLY OR DISABLED PERSONS**

Boats operated by the State Department of Education for transportation of school children from islands to mainland schools may also be used to transport, on a space available basis only, any South Carolina resident who is over fifty-five years of age or disabled or legally blind as defined in 43-25-20 of the 1976 Code. A person requesting boat transportation shall present his medicare card or other card approved by the South Carolina Commission on Aging to the employee of the State Department of Education who is in charge of the particular boat, and a person who is disabled or legally blind shall present to such person in charge of the boat a certificate to that effect from a licensed doctor of medicine or an official of an agency authorized by law to make determination of disability or blindness.

The term "disabled" as used herein shall mean the inability to perform substantial gainful employment by reason of a medically determinable impairment, either physical or mental, which has lasted or is expected to last for a continuous period of twelve months or more.

Use of such boats by residents who are over fifty-five years of age or who are disabled or blind shall be only on a space available basis and only at such time as the boat is being otherwise operated on official business. School children shall in every case be given priority of carriage. Provided, that special trips on such boats may be approved by the County Board of Education, in which case all costs shall be borne by the users.

Any person authorized for transportation pursuant to the provisions of this section shall, prior to boarding, execute a "covenant not to sue" the State of South Carolina or any agency thereof, on a form approved by the State Department of Education.

Nothing in this section shall be construed as a waiver of the State's general immunity from liability and suit.

The benefits provided by the provisions of Article 3, Chapter 77 of Title 15 and Article 5, Chapter 67 of Title 59 shall not be available to persons authorized to be transported pursuant to the provisions of this section.

HISTORY: 1981 Act No. 51, 1, eff. May 5, 1981.

**SECTION 59-67-540. SUPPLIES AND MAINTENANCE OF STATE-OWNED BUSES; MAINTENANCE AND SUPPLY STATIONS**

The State Highway Department shall be responsible for providing all supplies required for the operation of State-owned school buses and for maintaining them in efficient and safe mechanical condition. The Department shall be reimbursed periodically by the State Board of Education for expenditures incident to the operation and maintenance of buses, but no charge by, or reimbursement to, the Highway Department shall be made except to cover direct and additional expenses incurred by the Department on account of the performance of this service. Provided, however, that the Board of Education shall have authority to establish and operate maintenance and supply stations, on an experimental or permanent basis, if it should be determined to be of advantage to the State, and in connection therewith to acquire real property by purchase or lease.

HISTORY: 1962 Code 21-839.6; 1952 Code 21-839.6; 1951 (47) 546; 1958 (50) 1721.

**SECTION 59-67-545. NON STUDENT RIDERS**

Parents and other adult school volunteers or employees authorized to ride route school buses on space available basis.

Parents and other adult school volunteers or employees may ride route school buses on a space available basis. Parents and other adults also may ride school buses in conjunction with special programs that are sponsored by the local school district. This use of route school buses shall be in accordance with local school district board policies and programs.

School districts may not re-route school buses in order to accommodate the pickup of adults authorized to ride school buses as provided by this section. The State is not responsible for any costs associated with parents and other adults riding school buses in conjunction with special programs. The provisions of this section shall not be construed as a waiver or abrogation of the state's limited immunity from liability and suit under the State Tort Claims Act.

**SECTION 59-67-550. INSTALLMENT PURCHASE OF MAINTENANCE SHOPS**

The State Board of Education is authorized to enter into an installment payment agreement with any political subdivision offering to convey real property to the Board for use as a school bus maintenance shop, whereby payments for such property may be extended over a period of not more than ten years.

HISTORY: 1962 Code 21-839.7; 1959 (51) 599.

**SECTION 59-67-560. SALE OF USED SCHOOL BUSES**

Repealed by 1981 Act No. 148, 14, eff. July 30, 1981.

**SECTION 59-67-570. RULES AND REGULATIONS**

The State Board of Education may adopt such rules and regulations as may be necessary to carry out the intent and purposes of this article. Such rules and regulations shall have the full force of and effect of law. But rules and regulations that affect the functions of the State Highway Department under this article or operation of buses on the highways shall be adopted only jointly with the Highway Department.

HISTORY: 1962 Code 21-839.9; 1952 Code 21-839.7; 1951 (47) 546.

Cross References-

As to rules and regulations promulgated under authority of this section, see Rules and Regulations, State Board of Education.

**SECTION 59-67-580. SCHOOL BUS REPLACEMENT**

(A) With funds appropriated by the General Assembly for school bus purchases, the State Board of Education shall implement a school bus replacement cycle to replace approximately one-fifteenth of the fleet each year with new school buses, resulting in a complete replacement of the fleet every fifteen years. These funds must not be used for school bus maintenance or fuel.

(B) With funds appropriated by the General Assembly for transportation grant programs, the department shall establish a grant program to fund transportation of students to alternate public schools including, but not limited to, vocational second and third choice schools, magnet schools, montessori schools, international baccalaureate schools, and English as a second language schools. Those districts having alternate public schools may apply to the department for grant funds to pay for the additional cost of transporting students to these schools. If funds are not appropriated by the General Assembly for this purpose, then neither the State nor a local school district is required to assume this obligation.

**SECTION 59-67-585. BIODIESEL FUEL USE**

The State Department of Education, when feasible, shall utilize biodiesel fuel as an energy source to power the state school bus fleet

**SECTION 59-67-710. CONTRACTS OF INSURANCE ON STATE-OWNED SCHOOL BUSES**

**SECTION 4.** Section 59-67-710 of the 1976 Code, as last amended by Act 215 of 1977, is further amended to read:

"Section 59-67-710.

- (1) The Director of the Division of General Services, with the approval of the State Budget and Control Board, shall provide insurance coverage on all state-owned school buses which are operated under the authority of, and which are being used for the purposes of, Article 3 of this chapter. Such insurance contracts shall be provided either through commercial carriers or through the insurance reserve funds of the Division of General Services. The insurance contracts shall provide at least the following benefits:
  - (a) for the lawful occupant of any such school bus who suffers bodily injuries or death, a death benefit of not less than fifty thousand dollars;
  - (b) for the lawful occupant of any such school bus who suffers bodily injuries, an amount sufficient to defray the cost of hospitalization, surgery, dentistry, medicine, and all other medical expenses up to three thousand dollars or such amount as promulgated by regulation of the Department of Education;
  - (c) additional coverage must also be provided for the following named perils:
    - (i) for the loss of both hands or both feet or sight of both eyes, fifty thousand dollars;
    - (ii) for loss of one hand and one foot, thirty thousand dollars;
    - (iii) for loss of either hand or foot and sight of one eye, thirty thousand dollars; and
    - (iv) for loss of either hand or foot or sight of one eye, thirty thousand dollars.
- (2) The benefits provided for in subsection (1) shall exist without regard to fault or negligence. The insurance shall cover any accident which occurs:
  - (a) while getting on a school bus;
  - (b) while riding within a school bus;
  - (c) by being thrown from within a school bus;
  - (d) while getting off a school bus;
  - (e) by being run down, struck, or run over while crossing a public highway while approaching or leaving a school bus at the point of loading or unloading; or

- (f) by being run down, struck, or run over by any moving vehicle while en route between home and the point of loading or en route between the point of unloading and home.
- (3) (a) For any action of claim for damages brought under the provisions of Chapter 78 of Title 15 of the 1976 Code, the liability shall not exceed the following limits:
- (i) No person shall recover in any action or claim brought hereunder for bodily injury or death a sum exceeding two hundred fifty thousand dollars because of loss arising from a single occurrence regardless of the number of agencies or political subdivisions involved.
  - (ii) The total sum recovered hereunder arising out of a single occurrence shall not exceed five hundred thousand dollars regardless of the number of agencies or political subdivisions or claims or actions involved; provided, the provisions of this section shall in no way limit or modify the liability of a licensed physician or dentist.
- (b) No award for damages under Chapter 78 of Title 15 of the 1976 Code may include punitive or exemplary damages or interest prior to judgment.
  - (c) The insurance required by this section shall contain sufficient coverage for the provisions of this item.
  - (d) Any recovery from the State or governmental entity shall be reduced by the sum received pursuant to subsections (1)(a) and (c) and (2) of this section. In any recovery from a third party, the State shall have a right of subrogation for recovery of payments pursuant to this section."

HISTORY: 1962 Code 21-840; 1953 (48) 3, 396; 1959 (51) 287; 1968 (55) 3027; 1974 (58) 2335.

#### Cross References-

As to regulation of insurance, generally, see Title 38.

#### Case Notes

Types of coverage- As no fault insurance under Code 1962 21-840 (1)(a) (Code 1976 59-67-710 (1)(a)) covers only persons injured while using a school bus, a plaintiff injured when a school bus hit rear of the automobile in which plaintiff was a passenger was entitled to payment out of liability policy issued under Code 1962 21-840 (1)(b) (Code 1976 59-67-710 (1)(b)). *Steinmeyer v Nationwide Mut. Ins. Co.* (1977, SC) 235 SE2d 131.

#### Attorney General's Opinions

Approval of applications of self-insurers and approval of the medical fee schedule are judicial functions and duties of the Judicial Department of the Industrial Commission. The Industrial Commission also administers the fund set aside for major medical benefits to school bus passengers in excess of those benefits provided in Code 1962 21-840 (1)(a). (Code 1976 59-67-710 (1)(a)). 1974-75 Op. Atty. Gen., No. 3937, p. 19.

**SECTION 59-67-720. PAYMENT OF PREMIUMS**

The premiums on all insurance contracts procured under the authority of 59-67-710 shall be paid out of the annual appropriation for transportation operated by the State Board of Education. Such premiums shall be considered a part of the general expenses of operating school bus transportation.

HISTORY: 1962 Code 21-840.1; 1953 (48) 396.

**SECTION 59-67-730. COUNTIES AND OTHER POLITICAL SUBDIVISIONS PROHIBITED FROM PROVIDING SUPPLEMENTAL BENEFITS ON STATE-OWNED BUSES**

No county or other political subdivision shall supplement the benefits provided in this article by the procuring of insurance or by any other means on State-owned buses.

HISTORY: 1962 Code 21-840.2; 1953 (48) 396.

**SECTION 59-67-740. CONTRACTS OF INSURANCE ON COUNTY AND DISTRICT-OWNED AND CONTRACT BUSES**

County and district boards of education owning school buses are directed to provide the same insurance coverage for the lawful occupants of a county or district-owned bus as is provided for the lawful occupants of a State-owned school bus under 59-67-710. County and district boards of education are further directed to see that this same insurance coverage is provided for all lawful occupants of any contract vehicle operated under contract with such county and district boards of education.

HISTORY: 1962 Code 21-840.3; 1953 (48) 396.

**SECTION 59-67-760. WAIVER OF CLAIM AGAINST BUS DRIVER**

The acceptance of any payment or the bringing of any action authorized by this article shall constitute a waiver of any liability that might otherwise exist on the part of the driver of any State-owned school bus operated under the authority of Article 3 of this chapter.

HISTORY: 1962 Code 21-840.5; 1953 (48) 396.

**SECTION 59-67-765. WAIVER OF SOVEREIGN IMMUNITY UP TO LIMITS OF INSURANCE COVERAGE**

For the purpose of this article, the doctrine of sovereign immunity for the State is hereby waived up to the limits of the insurance coverage specified therein.

HISTORY: 1977 Act No. 215 3.

**SECTION 59-67-770. STATE'S IMMUNITY NOT WAIVED**

Nothing in this article shall be construed as a waiver of the State's general immunity from liability and suit beyond the limits of the insurance coverage specified therein.

HISTORY: 1977 Act No. 215 4.

Effect of Amendments-

The 1977 amendment inserted the words "beyond the limits of the insurance coverage specified herein" at the end of this section.

## **SECTION 59-67-780. RULES AND REGULATIONS**

The Director of the Sinking Funds and Property Division of the State Budget and Control Board may promulgate any rules or regulations or set up any procedure which will, in his judgment, clarify the provisions or facilitate the purposes of this article.

HISTORY: 1962 Code 21-840.7; 1953 (48) 396.

## **SECTION 59-67-790. MAJOR MEDICAL BENEFITS FUND**

SECTION 5. Section 59-67-790 of the 1976 Code, as last amended by Act 215 of 1977, is further amended to read:

"Section 59-67-790. There is hereby created a fund to be administered by the Director of the Division of General Services to provide major medical benefits for bodily injuries to school bus passengers when the cost exceeds the benefits provided for in subsection (1)(a) of Section 59-67-710 of the 1976 Code. No claim shall exceed fifty thousand dollars for any one person for any one accident.

The Director of the Division of General Services shall pay into the Pupil Injury Insurance Fund that portion of the premiums charged to the State Department of Education for providing insurance covering buses he deems necessary to maintain the Pupil Injury Insurance Fund at an actuarially sound level sufficient to pay the benefits authorized by this section.

No payment from the Pupil Injury Insurance Fund shall be permitted when other insurance benefits or workers' compensation is available to pay such cost or where no charge is made for treatment. Whoever shall file a claim for payment from the Pupil Injury Insurance Fund shall at the same time file an affidavit swearing under oath that the requested claim is not covered by other insurance benefits or workers' compensation to be received for the claim; provided, this shall not apply to any injured school bus passenger who receives, for bodily injuries, an amount not exceeding three thousand dollars under Section 59-67-710(1)(b) of the 1976 Code.

Any recovery from the State or governmental entity under Chapter 78 of Title 15 of the 1976 Code shall be reduced by the sum received pursuant to this section. In any recovery from a third party, the State shall have a right of subrogation for recovery of payments pursuant to this section.

The Director of the Division of General Services, with the approval of the State Budget and Control Board, shall promulgate such rules and regulations as may be necessary to carry out the provisions of this section."

HISTORY: 1977 Act No. 215 2.

Effect of Amendments-

The 1977 amendment substantially revised this section.

#### Attorney General's Opinions

Approval of applications of self-insurers and approval of the medical fee schedule are judicial functions and duties of the Judicial Department of the Industrial Commission. The Industrial Commission also administers the fund set aside for major medical benefits to school bus passengers in excess of those benefits provided in Code 1972 21-840 (1)(a) (Code 1976 59-67-710 (1)(a)). 1974 Ops. Atty. Gen., No. 3937, p. 19.

**TITLE 56    MOTOR VEHICLE  
CHAPTER 1  
DRIVER'S LICENSE  
SOUTH CAROLINA COMMERCIAL DRIVER LICENSE ACT**

**SECTION 56-1-2020. CONSTRUCTION**

This article is a remedial law and must be construed liberally to promote the public health, safety, and welfare. To the extent that this article conflicts with general driver licensing provisions, this article prevails. Where this article is silent, the general driver licensing provisions apply.

**SECTION 56-1-2030. DEFINITIONS**

As used in this article:

- (1) "Commercial driver's license" means a license issued in accordance with the requirements of the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Public Law 99-570) to an individual which authorizes the individual to drive a class of commercial motor vehicle.
- (2) "Commercial Driver's License Information System" means the information system established pursuant to the Commercial Motor Vehicle Safety Act of 1986 to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.
- (3) "Commercial driver's instruction permit" means a permit issued pursuant to Section 56-1-2080(D) of this article.
- (4) "Commercial motor vehicle" means a motor vehicle designed or used to transport passengers or property if the vehicle:
  - (a) has a gross vehicle weight rating of twenty-six thousand one or more pounds;
  - (b) is designed to transport sixteen or more persons, including the driver; or
  - (c) is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. part 172, subpart F.
- (5) "CMVSA" means the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Public Law 99-570).
- (6) "Controlled substance" means a substance classified under Section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) listed on Schedules I through V of 21 C.F.R. part 1308, as revised.
- (7) "Conviction" means an unvacated adjudication of guilty, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.
- (8) "Disqualification" means a withdrawal of the privilege to drive a commercial motor vehicle.
- (9) "Drive" means to drive, operate, or be in physical control of a motor vehicle.
- (10) "Driver" means a person who drives a commercial motor vehicle or who is required to hold a commercial driver's license.
- (11) "Driver's license" means a license issued to an individual which authorizes the individual to drive a motor vehicle.

- (12) “Employer” means a person, including the United States, a state, or a political subdivision of a state who owns or leases a commercial motor vehicle or assigns a person to drive a commercial motor vehicle.
- (13) “Endorsement” means a special authorization to drive certain types of vehicles or to transport certain types of property or a certain number of passengers.
- (14) “Felony” means an offense under state or federal law that is punishable by death or imprisonment for more than one year.
- (15) “Foreign jurisdiction” means a jurisdiction other than a state of the United States.
- (16) “Gross vehicle weight rating” means the weight or the value specified by the manufacturer as the maximum loaded weight of a single or a combination vehicle. The gross vehicle weight rating of a combination vehicle (commonly referred to as the “gross combination weight rating”) is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating of a towed unit.
- (17) “Hazardous materials” has the meaning as that found in Section 103 of the Hazardous Materials Transportation Act (49 U.S.C. 1801, et seq.).
- (18) “Motor vehicle” means a vehicle which is self-propelled and a vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails, except a vehicle moved solely by human power and motorized wheelchairs.
- (19) “Out-of-service order” means declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local jurisdiction that a person, a commercial motor vehicle, or a motor carrier operation is out of service pursuant to 49 CFR Sections 386.72, 390.5, 392.5, 395.13, 396.9, or compatible laws, or the North American Uniform Out-of-Service Criteria. For purposes of this article, regulations requiring disqualifications for violations of out-of-service orders affect all vehicles with a gross combination weight rating or gross vehicle weight rating greater than 10,000 pounds, as contained in 49 CFR Sections 383, 390.5, and 393 of the Federal Motor Carrier Regulations.
- (20) “Recreational vehicle” means a self-propelled or towed vehicle that is equipped to serve as temporary living quarters for recreational, camping, or travel purposes and is used solely as a family/personal conveyance.
- (21) “Restriction” means a prohibition against driving certain types of vehicles or a requirement that the driver comply with certain conditions when driving a motor vehicle.
- (22) “Serious traffic violation” means a conviction when operating a motor vehicle of:
- (a) excessive speeding, involving a single charge for a speed fifteen miles an hour or more above the speed limit;
  - (b) reckless driving, including charges of driving a commercial motor vehicle in a wilful or wanton disregard for the safety of persons or property;
  - (c) improper or erratic traffic lane changes;
  - (d) following the vehicle ahead too closely; or
  - (e) a violation of a state or local law related to motor vehicle traffic control, other than a parking violation, arising in connection with an accident or collision resulting in death or serious bodily injury to a person.
- (23) “State” means a state or territory of the United States and the District of Columbia and the federal government and a province or territory of Canada.
- (24) “Tank vehicle” means a vehicle that is designed to transport a liquid or gaseous material within a tank that either is attached permanently or temporarily to the vehicle and which has a capacity of one thousand gallons or more.
- (25) “United States” means the fifty states and the District of Columbia.
- (26) “Farm related vehicle” means a vehicle used:

- (a) in custom harvester operations;
  - (b) in livestock feeding operations; or
  - (c) by an agri-chemical business or a company which hauls agri-chemical products to a farm.
- (27) "Seasonal restricted commercial driver's license" means a commercial driver's license issued under the authority of the waiver promulgated by the Federal Department of Transportation (57 Federal Register 13650) by the department to an individual who has not passed the knowledge or skill test required of other commercial driver's license holders. This license authorizes operation of a commercial motor vehicle only on a seasonal basis, stated on the license, by a seasonal employee of a custom harvester, livestock feeder, agri-chemical operation, and company hauling agri-chemical products to a farm within one hundred fifty miles of the place of business.

**SECTION 56-1-2040. COMMERCIAL DRIVERS TO HAVE ONE DRIVER'S LICENSE ONLY; EXCEPTION**

No person who drives a commercial motor vehicle may have more than one driver's license except during the ten-day period beginning on the date the person is issued a driver's license.

**SECTION 56-1-2045. QUALIFICATIONS TO BE STUDENT AT TRUCK DRIVER TRAINING SCHOOL**

A person qualifies to be a student at a South Carolina truck driver training school, which offers instruction toward a South Carolina Class Three truck driver's license, if he has a Class Three learner's permit or an equivalent permit issued by his state of residence.

**SECTION 56-1-2050. NOTIFICATION OF CONVICTIONS; NOTIFICATION OF SUSPENSION, REVOCATION, OR CANCELLATION OF LICENSE; INFORMATION TO BE SUPPLIED TO EMPLOYER**

(A) Notification of Convictions.

(1) A driver holding a commercial driver license issued by this State, who is convicted of violating a state law or local ordinance relating to motor vehicle traffic control in any other state, other than a parking violation, shall notify the department in the manner specified by the department within thirty days of conviction.

(2) A driver holding a commercial driver license issued by this State, who is convicted of violating a state law or local ordinance relating to motor vehicle traffic control in this or any other state, other than a parking violation, shall notify his employer in writing of the conviction within thirty days of the conviction.

(B) A driver whose commercial driver license is suspended, revoked, or canceled by a state, or who loses the privilege to drive a commercial motor vehicle in any state for any period, including being disqualified from driving a commercial motor vehicle, or who is subject to an out of service order, shall notify his employer of that fact before the end of the business day following the day the driver received notice of that fact.

(C) A person who applies to be a commercial motor vehicle driver shall provide the employer, at the time of the application, with the following information for the ten years preceding the date of application:

- (1) a list of the names and addresses of the applicant's previous employers for which the applicant was a driver of a commercial motor vehicle;
- (2) the dates between which the applicant drove for each employer;
- (3) the reason for leaving that employer;
- (4) any additional information required by the employer;
- (5) certification that all information furnished is true and complete.

#### **SECTION 56-1-2060. EMPLOYER'S RESPONSIBILITIES**

(A) Each employer shall require the information specified in Section 56-1-2050(C).

(B) No employer knowingly may allow, permit, or authorize a person to drive a commercial motor vehicle during a period in which:

- (1) the person's commercial driver license is suspended, revoked, or canceled by a state, has lost the privilege to drive a commercial motor vehicle in a state, is disqualified from driving a commercial motor vehicle, or is subject to an out-of-service order in a state;
- (2) the person has more than one driver's license, except during the ten-day period beginning on the date the employee is issued a driver's license; or
- (3) an employer who knowingly allows, permits, or authorizes a person to drive a commercial motor vehicle during a period in which either the vehicle or the person is subject to an out-of-service order is subject to a civil penalty of not less than two thousand five hundred dollars nor more than ten thousand dollars.

#### **SECTION 56-1-2070. DRIVING COMMERCIAL MOTOR VEHICLE WITHOUT VALID LICENSE PROHIBITED; EXCEPTIONS; DRIVING WHILE LICENSE SUSPENDED, REVOKED, OR CANCELLED; VIOLATIONS**

(A) Except as provided in subsection (C) or when driving under a commercial driver instruction permit and accompanied by the holder of a commercial driver license valid for the vehicle being driven, no person may drive a commercial motor vehicle on the highways of this State, unless the person has been issued, and is in immediate possession of, a valid commercial driver license and applicable endorsements valid for the vehicle which the person is driving.

(B) A person operating a commercial motor vehicle as defined in Section 56-1-2030 and 49 CFR 383.5, without the proper class commercial license or permit with all applicable endorsements or restrictions as defined in Section 56-1-2100 must be placed out of service and is guilty of a misdemeanor and upon conviction of a first offense, must be fined not less than one hundred fifty dollars and not more than two hundred dollars or imprisoned for thirty days and upon conviction of a second offense or subsequent offense must be fined not less than two hundred fifty dollars and not more than five hundred dollars or imprisoned forty-five days or both.

(C) The following persons may operate commercial motor vehicles without a commercial driver license:

- (1) active duty military personnel; members of the military reserve; members of the South Carolina National Guard who are on active duty, including personnel on full-time South Carolina National Guard duty; personnel on part-time South Carolina National Guard training and South Carolina National Guard Military technicians required to wear uniforms; and active duty military United States Coast Guard personnel while operating vehicles owned or operated by the United States government or this State for military purposes. This exception does not apply to technicians in the United States Reserves.
  - (2) Operators of a farm vehicle which is:
    - (a) controlled and operated by a farmer;
    - (b) used to transport agricultural products, farm machinery, farm supplies, or a combination of them to or from a farm including the transportation of hazardous materials which do not pose a substantial danger to the public health and safety including fuels, fertilizers, and other agricultural chemicals used in normal farming operations as exempted pursuant to 49 C.F.R Part 173.5;
    - (c) not used in the operation of a common or contract motor carrier; and
    - (d) Used within one hundred fifty miles of the person's farm.
  - (3) Persons operating authorized emergency vehicles as defined in Section 56-5-170;
  - (4) operators of recreational vehicles used solely for personal use.
- (D) No person may drive a commercial motor vehicle on the highways of this State while:
- (1) his commercial driver license or privilege to drive is suspended, revoked, or canceled;
  - (2) subject to a disqualification; or
  - (3) in violation of an out-of-service order.
- (E) A person violating the requirements of subsection (D)(3) must be punished as follows, while all other violations of this section must be punished as though convicted of a violation of Section 56-1-460. A person is disqualified for not less than:
- (1) ninety days nor more than one year if the person is convicted of a first violation of an out-of-service order. Additionally, a person who is convicted of violating an out-of-service order is subject to a civil penalty of not less than one thousand dollars nor more than two thousand five hundred dollars;
  - (2) one year nor more than five years if during a ten-year period the person is convicted of two violations of out-of-service orders in separate incidents. Additionally, a person who is convicted of violating an out-of-service order is subject to a civil penalty of not less than one thousand dollars nor more than two thousand five hundred dollars;
  - (3) three years nor more than five years if during a ten-year period the person is convicted of three or more violations of out-of-state service orders in separate incidents. Additionally, a person who is convicted of violating an out-of-service order is subject to a civil penalty of not less than one thousand dollars nor more than two thousand five hundred dollars;
  - (4) one hundred eighty days nor more than two years if the driver is convicted of a first violation of an out-of-service order while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act (49 U.S.C. 5101-5127), or while operating motor vehicles designed to transport more than fifteen passengers, including the driver. A driver is disqualified for a period of not less than three years nor more than five years if during a ten-year period the person is convicted of any subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act, or while operating motor vehicles designed to transport more than fifteen passengers, including the driver. Additionally,

a driver who is convicted of violating an out-of-service order is subject to a civil penalty of not less than one thousand dollars nor more than two thousand five hundred dollars.

**SECTION 56-1-2080. QUALIFICATIONS FOR LICENSE; ADMINISTRATION OF SKILLS TEST; PERSONS TO WHOM LICENSE MAY NOT BE ISSUED; COMMERCIAL DRIVER INSTRUCTION PERMIT**

(A) (1) No person may be issued a commercial driver license unless that person is a resident of this State and has passed a knowledge and skills test for driving a commercial motor vehicle which complies with the minimum federal standards established by 49 CFR part 383, subparts G and H, and has satisfied all other requirements of the CMVSA as well as any other requirements imposed by state law or federal regulation. The tests must be prescribed and conducted by the department.

(2) The department may authorize a person, including an agency of this or another state, an employer, or a department, agency, or instrumentality of local government, to administer the skills test specified by this section if:

(a) the test is the same which otherwise would be administered by the department; and  
(b) the third party has entered into an agreement with the department which contains at least the following provisions:

(i) authorization for the department or the Federal Highway Administration or its representatives to conduct random examinations, inspections, and audits without prior notice;

(ii) permission for the department or its representative to conduct onsite inspections at least annually;

(iii) a requirement that all third-party examiners meet the same qualifications and training standards as the department's examiners to the extent necessary to conduct the driving skill tests;

(iv) authorization for the department to charge a fee, as determined by the department, which is sufficient to defray the actual costs incurred by the department for administering and evaluating the employer testing program and for carrying out any other activities considered necessary by the department to assure sufficient training for the persons participating in the program.

(B) A commercial driver license or commercial driver instructional permit may not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle or while the person's driver's license is suspended, revoked, or canceled in any state, nor may a commercial driver license be issued to a person who has a commercial driver license issued by any other state unless the person first surrenders all those licenses, each of which must be returned to the issuing state for cancellation.

(C) (1) A commercial driver instruction permit may be issued to an individual who holds a valid Class "D" license and who has passed the appropriate vision and written test for the type of commercial driver license sought.

(2) The holder of a commercial driver instruction permit, unless otherwise disqualified, may drive a commercial motor vehicle but only when accompanied by the holder of a commercial driver license with applicable endorsements which is valid for the type of vehicle driven, and who occupies a seat beside the individual for the purpose of giving instruction in driving the commercial motor vehicle.

(3) The commercial driver instruction permit may not be issued for longer than six months. Only one renewal or reissuance may be granted within a two-year period.

**SECTION 56-1-2085. SEASONAL RESTRICTED COMMERCIAL DRIVER'S LICENSE; PROOF OF SEASONAL EMPLOYMENT AND OTHER REQUIREMENTS; PRIVILEGES GRANTED; DURATION**

(A) No person may drive a commercial vehicle in this State in violation of any of the restrictions or limitations stated on the person's commercial license or restricted commercial license.

(B) The department may issue a seasonal restricted commercial driver's license in accordance with this section.

(C) A South Carolina seasonal restricted commercial driver's license may be issued only to a person who:

(1) is a seasonal employee of a custom harvester, livestock feeder, or an agri-chemical business;

(2) holds a valid South Carolina Class E (2) or F (3) driver's license or takes and successfully completes the required written and skill test for a class E (2) license;

(3) has at least one year driving experience as a licensed driver; and

(4) has satisfied every requirement for issuance of a commercial driver's license, except successful completion of the knowledge and skill test.

(D) The department may not issue or renew a seasonal restricted commercial driver's license for the operation of a commercial vehicle unless the applicant has not and certifies that he has not at any time during the two years immediately preceding the date of application:

(1) had more than one driver's license;

(2) had any driver's license or driving privileges suspended, revoked, or canceled;

(3) been subject to disqualification listed in 383.51 of the Federal Motor Carrier Regulations;

(4) contributed to an accident;

(5) received more than four points against his license.

(E) The applicant shall certify and provide evidence satisfactory to the department that he is employed on a seasonal basis by a custom harvester, livestock feeder, agri-chemical business, or a company hauling agri-chemical products to a farm in a job requiring the operation of a commercial vehicle.

(F) A seasonal restricted commercial driver's license entitles the licensee to operate type B and C commercial vehicles only, with the proper restriction or endorsement, or both.

(G) A seasonal restricted commercial driver's license does not entitle the licensee to operate a Class A type commercial vehicle or a vehicle placarded for hazardous materials.

(H) A seasonal restricted commercial driver's license is valid for one hundred eighty days from the date of issue in one calendar year.

(I) A seasonal restricted commercial driver's license allows the driver to operate within one hundred fifty miles of the place of business as shown on the vehicle registration.

**SECTION 56-1-2090. APPLICATION; CHANGE OF LICENSEE'S NAME OR ADDRESS; PENALTIES FOR FALSIFYING INFORMATION**

(A) The application for a commercial driver license or commercial driver instruction permit must include:

- (1) the full name and both the current mailing and residential address of the person;
- (2) a physical description of the person including sex, height, and weight;
- (3) date of birth;
- (4) the applicant's Social Security number;
- (5) the person's signature;
- (6) the person's consent to be photographed;
- (7) certifications including those required by 49 C.F.R. part 383.71(a);
- (8) any other information required by the department;
- (9) a consent to release driving record information; and
- (10) a nonrefundable application fee of fifteen dollars, except for public school bus drivers.

(B) When the holder of a commercial driver license changes his name, mailing address, or residence, an application for a renewal license must be made as provided in Section 56-1-230.

(C) No person who has been a resident of this State for thirty days or longer may drive a commercial motor vehicle under the authority of a commercial driver license or commercial driver instruction permit issued by another state.

(D) A person who knowingly falsifies information or certifications required under subsection (A) of this section is subject to cancellation of his commercial driver license and may not obtain a commercial driver license or commercial driver instruction permit for at least sixty consecutive days after the time he otherwise would be eligible for a commercial driver license or commercial driver instruction permit.

**SECTION 56-1-2100. COMMERCIAL DRIVER LICENSE**

(A) The commercial driver license must be marked "Commercial Driver License" or "CDL", and must be, to the maximum extent practicable, tamper proof. It must include, but not be limited to, the following information:

- (1) the name and residential address of the person;
- (2) the person's color photograph;
- (3) a physical description of the person including sex, height, and weight;
- (4) date of birth;
- (5) a number or identifier considered appropriate by the department;
- (6) the person's signature;
- (7) the class or type of commercial motor vehicles which the person may drive together with any endorsements or restrictions;
- (8) the name of this State; and
- (9) the dates between which the license is valid.

(B) The holder of a valid commercial driver license may drive all vehicles in the class for which that license is issued and all lesser classes of vehicles except motorcycles. Vehicles which require an endorsement may not be driven unless the proper endorsement appears on the license. Commercial driver licenses may be issued with the following classifications, endorsements, and restrictions:

- (1) Classifications:
    - (a) Class A: A combination of vehicles with a gross combination weight rating of twenty-six thousand one pounds or more provided the gross vehicle weight rating of the vehicle being towed is in excess of ten thousand pounds.
    - (b) Class B: A single vehicle with a gross vehicle weight rating of twenty-six thousand one pounds or more, or any such vehicle towing a vehicle not in excess of ten thousand pounds gross vehicle weight rating.
    - (c) Class C: A single vehicle, or combination of vehicles, that are not Class A or B vehicles but either designed to transport 16 or more passengers including the driver, or are placarded for hazardous materials under 49 CFR, Part 172, subpart F.
  - (2) Endorsements:
    - (a) "H" authorizes the person to drive a vehicle transporting hazardous materials;
    - (b) "T" authorizes double trailers;
    - (c) "P" authorizes driving vehicles carrying passengers;
    - (d) "N" authorizes driving tank vehicles;
    - (e) "X" represents a combination of hazardous materials or tank vehicle endorsements, or both;
    - (f) "S" authorizes the person to drive Department of Education school buses or school district owned activity buses.
  - (3) Restrictions:
    - (a) "K" restricts the person to vehicles not equipped with airbrakes;
    - (b) "Z" except tractor trailer;
    - (c) "Z-1" may not operate commercial motor vehicles with a gross vehicle weight rating or a gross combination weight rating exceeding 26,000 pounds.
- (C) Before issuing a commercial driver license, the department must obtain a driving record through the Commercial Driver License Information System, the National Driver Register, and from each state in which the person has been licensed.
- (D) Within ten days after issuing a commercial driver license, the department must notify the Commercial Driver License Information System of that fact, providing all information required to insure identification of the person.
- (E) A commercial driver license issued by the department expires on the licensee's birth date on the fifth calendar year after the calendar year in which it is issued.
- (F) Every person applying for renewal of a commercial driver license shall complete the application form required by Section 56-1-2090(A), providing updated information and required certifications. If the applicant wishes to retain a hazardous materials endorsement, the written test for a hazardous materials endorsement must be taken and passed again. The person shall submit to a vision test.

**SECTION 56-1-2110. DISQUALIFICATION FROM DRIVING COMMERCIAL MOTOR VEHICLE**

- (A) A person is disqualified from driving a commercial motor vehicle for not less than one year if convicted of a first violation of:
- (1) driving a commercial motor vehicle under the influence of alcohol, a controlled substance, or a drug which impairs driving ability;

- (2) driving a commercial motor vehicle while the alcohol concentration of the person's blood or breath or other bodily substance is four-one hundredths or more;
- (3) knowingly and willfully leaving the scene of an accident involving a commercial motor vehicle driven by the person;
- (4) using a commercial motor vehicle in the commission of a felony as defined in this article;
- (5) refusal to submit to a test to determine the driver's alcohol concentration while driving a commercial motor vehicle.

If any of the above violations occur while transporting a hazardous material required to be placarded, the person is disqualified for not less than three years.

(B) A person is disqualified for life if convicted of two or more violations of any of the offenses specified in subsection (A) or a combination of those offenses, arising from two or more separate incidents.

(C) Only offenses committed after the effective date of this article may be considered in applying this subsection.

(D) The department may issue regulations establishing guidelines, including conditions, under which a disqualification for life under subsection (B) may be reduced to not less than ten years.

(E) A person is disqualified from driving a commercial motor vehicle for life who uses a commercial motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance or possession with intent to manufacture, distribute, or dispense a controlled substance.

(F) A person is disqualified from driving a commercial motor vehicle for not less than sixty days if convicted of two serious traffic violations or one hundred twenty days if convicted of three serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three-year period.

(G) After suspending, revoking, or canceling a commercial driver license, the department shall update its records to reflect that action immediately. After suspending, revoking, or canceling a nonresident commercial driver's privilege, the department shall notify the licensing authority of the state which issued the commercial driver license or commercial driver instruction permit within ten days.

#### **SECTION 56-1-2115. COMMERCIAL DRIVER'S LICENSE RE-EXAMINATION**

(A) A person who has been disqualified from driving a commercial vehicle pursuant to the provisions contained in Section 56-1-2110 for one year or more, must complete successfully the requirements contained in Section 56-1-2080 and satisfy all other requirements imposed by state or federal law before the person is eligible to be re-examined pursuant to the provisions contained in subsection (B).

(B) The re-examination consists of the commercial driver license standards contained in 49 CFR of the Federal Motor Carrier Regulations which includes successful completion of the applicable knowledge tests and the complete road test which includes pre-trip inspection, basic control skills, and the on-road test.

**SECTION 56-1-2120. DRIVING WITH MEASURABLE AMOUNT OF ALCOHOL PROHIBITED; POSSESSION OF ALCOHOLIC BEVERAGE**

- (A) A person may not drive a commercial motor vehicle within this State while having a measurable amount of alcohol in his body.
- (B) A person who drives a commercial motor vehicle within this State while having a measurable amount of alcohol in his system or who refuses to submit to an alcohol test under Section 56-1-2130 must be placed out-of-service for twenty-four hours.
- (C) A person who drives a commercial motor vehicle in this State with an alcohol concentration of four one-hundredths of one percent or more must be disqualified from driving a commercial motor vehicle under Section 56-1-2110.
- (D) A person must not be on duty or operate a commercial motor vehicle while he possesses an alcoholic beverage that is not part of the manifest and transported as part of the shipment.

**SECTION 56-1-2130. TESTS FOR ALCOHOL OR DRUGS; PRESUMPTION OF CONSENT; ADMINISTRATION OF TESTS; WARNINGS; REFUSAL TO TAKE TEST; REPORTS REQUIRED**

- (A) A person who drives a commercial motor vehicle within this State is considered to have given consent, subject to provisions of Section 56-5-2950, to take a test of that person's blood, breath, or urine for the purpose of determining that person's alcohol concentration or the presence of other drugs.
- (B) Tests may be administered at the direction of a law enforcement officer, who after stopping or detaining the driver of a commercial motor vehicle, has probable cause to believe that the driver was driving a commercial motor vehicle while having a measurable amount of alcohol in his system.
- (C) A person requested to submit to a test as provided in subsection (A) must be warned by the law enforcement officer requesting the test, that a refusal to submit to the test must result in that person being placed out of service immediately for twenty-four hours and being disqualified from operating a commercial motor vehicle for not less than one year under Section 56-1-2110.
- (D) If the person refuses testing, or submits to a test which discloses an alcohol concentration of four one-hundredths of one percent or more, the law enforcement officer shall submit a report to the department certifying that the test was requested pursuant to subsection (A) and that the person refused to submit to testing, or submitted to a test which disclosed an alcohol concentration of four one-hundredths of one percent or more.
- (E) Upon receipt of the report of a law enforcement officer submitted under subsection (D), the department shall disqualify the driver from driving a commercial motor vehicle under Section 56-1-2110.

**SECTION 56-1-2140. REPORT OF CONVICTION OF NONRESIDENT LICENSEE; REQUIRED ACTION**

Within ten days after receiving a report of the conviction of a nonresident holder of a commercial driver license for a violation of state law or local ordinance relating to motor vehicle traffic

control, other than a parking violation, committed in a commercial motor vehicle, the department shall notify the driver licensing authority in the licensing state of the conviction.

**SECTION 56-1-2150. AUTHORIZED DRIVERS OF COMMERCIAL MOTOR VEHICLES**

A person may drive a commercial motor vehicle if the person has a commercial driver license issued by a state in accordance with the minimum federal standards for the issuance of commercial motor vehicle driver licenses, if the person's license is not suspended, revoked, or cancelled and if the person is not disqualified from driving a commercial motor vehicle.

**SECTION 56-1-2156. FAILURE OF COMMERCIAL MOTOR VEHICLE DRIVERS TO COMPLY WITH LANE RESTRICTIONS**

Notwithstanding any other provision of law, a commercial motor vehicle driver may not be assessed points against his driving record for failing to comply with lane restrictions posted on the interstate highway system by the Department of Transportation. For purposes of this section, a driver record means a commercial driver's license issued pursuant to Article 13, Chapter 1 of Title 56 and a driver's license issued pursuant to Section 56-1-130 for which points are assessed in Section 56-1-720.

**SECTION 56-1-2160. PENALTIES**

An offense for which no specific penalty is provided by this article must be punished in accordance with Section 56-5-6190.

**SECTION 56-1-3350. SPECIAL IDENTIFICATION CARDS MAY BE ISSUED; REQUIREMENTS; FEES; INDICATION WHERE HOLDER IS UNDER TWENTY YEARS OF AGE**

Upon application by any person five years of age or older who is a resident of South Carolina, the department shall issue a special identification card as long as:

- (1) the application is made on a form approved and furnished by the department; and
- (2) the applicant presents to the person issuing the identification card a birth certificate or other evidence acceptable to the department of his name and date of birth.

The fee for the issuance of the special identification card is five dollars, and the identification card expires five years from the date of issuance. The renewal fee is also five dollars. Issuance and renewal fees are waived for indigent persons who are mentally ill, mentally retarded, homeless, or who are on public assistance as the sole source of income. As used in this section "indigent" means a person who is qualified for legal assistance which is paid for with public funds. For purposes of this section, a homeless person is an individual who lacks a fixed and regular nighttime residence or an individual who has a primary nighttime residence that is:

- (a) a supervised publicly or privately operated shelter designed to provide temporary living accommodations, including congregated shelters and transitional housing;
- (b) an institution that provides a temporary residence for individuals intended to be institutionalized; or
- (c) a public or private place not designed for, or ordinarily used as, regular sleeping accommodations for human beings.

The term does not include any individual imprisoned or otherwise detained pursuant to an act of Congress. Annually, the director of a facility which provides care or shelter to homeless persons must certify this fact to the department. The department must maintain a list of facilities which are approved by the department, and only letters from the directors of these approved facilities are considered to comply with the provisions of this section. To have the issuance or renewal fee waived for an identification card, a homeless person must present a letter to the department from the director of a facility that provides care or shelter to homeless persons certifying that the person named in the letter is homeless. The letter may not be older than thirty days.

Special identification cards issued to persons under the age of twenty-one must be marked, stamped, or printed to readily indicate that the person to whom the card is issued is under the age of twenty-one.

#### **SECTION 56-1-3360. MISUSE OF CARD PROHIBITED**

It is unlawful for any person to:

- (1) alter a special identification card so as to provide false information on the card or to sell or issue a fictitious special identification card;
- (2) use a special identification card not issued to the person, an altered special identification card, or a special identification card containing false information to defraud another or violate the law;
- (3) to lend his special identification card to any person or knowingly permit its use by another.

Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned for not more than thirty days.