

MOTOR VEHICLES: MOTOR VEHICLE AND EQUIPMENT SAFETY - CHILD RESTRAINTS.

Voluntary rescue squad vehicles are not exempt from child restraint device requirement, unless interior design of vehicles makes such device impractical. Rescue squads in Amherst County are required to provide child restraint devices where there is small seat in rear area of rescue vehicles.

The Honorable W. Edward Meeks III

Commonwealth's Attorney for Amherst County

October 13, 1998

You inquire regarding the child safety restraint requirements of Article 13, Chapter 10 of Title 46.2 of the *Code of Virginia*.¹ You relate that a local volunteer rescue squad questions whether it is required to provide a child restraint device in the service area of emergency rescue vehicles. You advise that this inquiry does not pertain to the transportation of children receiving rescue services in the service area of the vehicle, but involves small children who may be accompanying injured or ill parents to the hospital. In your written opinion,² you assert that the language of § 46.2-1095 requires child restraints for children under the age of four³ and exempts only taxicabs, school buses, executive sedans, limousines or the rear cargo area of pickup trucks or other vehicles.⁴ You also advise that § 46.2-1099 further exempts vehicles the interior design of which makes the use of child restraint devices impractical. Finally, you advise that it is not impractical for the local rescue squad to provide such a device where there is a small seat in the rear area of the rescue vehicle.

Section 46.2-1095(A) provides that *any* person driving *any* motor vehicle on the highways of the Commonwealth "shall ensure that any child under the age of four whom he transports therein is provided with and properly secured in [an approved] child restraint device." The use of the word "shall" in a statute ordinarily implies that its provisions are mandatory.⁵

There are several principles of statutory construction applicable to your request. One such principle requires that statutes be read in accordance with their plain meaning and intent.⁶ Another dictates that statutes may be construed only where there is ambiguity.⁷ Otherwise, the clear and unambiguous words of the statute must be accorded their plain meaning.⁸

Section 46.2-1095(A) clearly and unambiguously requires, without limitation, that *anyone* transporting a child on the highways of the Commonwealth, in *any* vehicle, must ensure that such child is secured in an approved child restraint device when the child is under the age of four. The primary object in interpreting an act of the General Assembly is to ascertain and give effect to the legislative intent underlying the act. "The ascertainment of legislative intention involves appraisal of the subject matter, purpose, objects and effects of the [act], in addition to its express terms."⁹

Article 13 does not exempt voluntary rescue squad vehicles from the child restraint device requirement. When there is no ambiguity in a statute, the clear and unambiguous words must be accorded their plain meaning.¹⁰ A person transporting a child under the age of four is exempt from the child restraint device requirement in the following instances:

1. When traveling in "taxicabs, school buses, executive sedans, limousines, or the rear cargo area of pickup trucks or other vehicles";¹¹

2. When a licensed medical doctor determines that use of a child restraint system is impractical because of a child's weight, physical unfitness, or other medical reason;¹²

3. When transporting a child in a vehicle which has an interior design that makes such a device impractical;¹³ or

4. When traveling by "public transportation, bus, school bus, or farm vehicle."¹⁴

Clearly, if the internal design of any rescue squad vehicles makes "such device impractical,"¹⁵ then the exemption would apply. You advise, however, that the interior design of the voluntary rescue squad vehicles in your locality does not make a child restraint device impractical where there is a small seat in the rear area of the rescue vehicle. Therefore, I must conclude that Article 13 requires the rescue squads in your locality to provide child restraint devices in the service areas of the rescue vehicles.

¹Sections 46.2-1095 to 46.2-1100.

²Section 2.1-118 requires that any request by a Commonwealth's attorney for an opinion from the Attorney General "shall itself be in the form of an opinion embodying a precise statement of all facts together with such attorney's legal conclusions."

³Section 46.2-1095(A) provides: "*Any* person who drives on the highways of Virginia *any* motor vehicle manufactured after January 1, 1968, shall ensure that any child under the age of four whom he transports therein is provided with and properly secured in a child restraint device of a type which meets the standards adopted by the United States Department of Transportation." (Emphasis added.)

⁴Section 46.2-1095(F).

⁵See *Schmidt v. City of Richmond*, 206 Va. 211, 218, 142 S.E.2d 573, 578 (1965); *Andrews v. Shepherd*, 201 Va. 412, 414, 111 S.E.2d 279, 281-82 (1959); *Op. Va. Att'y Gen.*: 1997 at 155, 155; 1996 at 20, 21; 1991 at 238, 240.

⁶See *Ambrogi v. Koontz*, 224 Va. 381, 386, 297 S.E.2d 660, 662 (1982).

⁷See *id.* at 386-87, 297 S.E.2d at 663.

⁸*Broadnax v. Com.*, 24 Va. App. 808, 485 S.E.2d 666 (1997); *Diggs v. Commonwealth*, 6 Va. App. 300, 302, 369 S.E.2d 199, 200 (1988).

⁹*Vollin v. Arlington Co. Electoral Bd.*, 216 Va. 674, 679, 222 S.E.2d 793, 797 (1976).

¹⁰See *Ambrogi v. Koontz*, 224 Va. at 386, 297 S.E.2d at 662.

¹¹Section 46.2-1095(F).

¹²Section 46.2-1096.

¹³Section 46.2-1099.

¹⁴*Id.*

¹⁵*Id.*