

Vehicle inspection; F.S. 316.615(4)

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Subject:
Vehicle inspection; F.S. 316.615(4)

Mr. James W. York
Executive Director
Department of Highway Safety and Motor Vehicles
Neil Kirkman Building
Tallahassee, Florida 32301

RE: DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES--Applicability of state law to inspection of school buses

Dear Mr. York:

This is in response to your request for an opinion on the following questions:

1. What vehicles is the Department of Highway Safety and Motor Vehicles required under s. 316.615(4), F.S., to inspect?
2. Does the word "bus" in s. 316.615(2)(a), F.S., refer to any "bus" as that term is defined in s. 316.003(3), F.S., or only to a "school" bus as the quoted term is defined in s. 316.615(1)(b), F.S.?
3. Are the minimum requirements for a bus specified in s. 316.615(2)(a), (b) and (c), F.S., the only requirements to be applied in the inspection of such vehicles pursuant to s. 316.615(4), F.S., or is the Department of Highway Safety and Motor Vehicles authorized to promulgate additional vehicle equipment requirements under s. 316.615(5), F.S.?
4. Does the term "school bus drivers" as used in s. 316.615(3)(b), F.S., refer only to drivers of non-public school buses?

Question One

Subsection (4) of s. 316.615, F.S., provides: "All school buses and all motor vehicles *covered by subsection (1)* shall be inspected annually by the department, and when found satisfactory for safe operation shall display on the vehicle a current certificate of inspection." (e.s.) The department referred to herein is the Department of Highway Safety and Motor Vehicles. See, s. 316.003(8), F.S. You question what vehicles this annual inspection requirement is applicable to and state that the department has historically construed this subsection to be applicable to non-public school buses. Subsection (4) is clear in its language that it is applicable to "[a]ll school buses and all motor vehicles covered by subsection (1)[.]" Subsection (1)(a) of s. 316.615, F.S.,

provides:

"All motor vehicles, *other than* private passenger automobiles and *school buses with a seating capacity of less than 24 pupils*, which are used primarily for the transportation of pupils to school, *but which are not operated by or under the purview of the state or a political subdivision thereof or under a franchise issued by a municipality or the Public Service Commission*, shall comply with the requirements for school buses of chapter 234." (e.s.)

The language of this statute is plain and where the language of a statute is clear and unambiguous and conveys a clear and definite meaning, there is no need to resort to rules of statutory interpretation, and construction and the statute must be given its plain and obvious meaning. See, *Thayer v. State*, 335 So.2d 815 (Fla. 1976); *Ross v. Gore*, 48 So.2d 412 (Fla. 1950); *Vocelle v. Knight Brothers Paper Company*, 118 So.2d 664 (1 D.C.A. Fla., 1960). Section 316.615(1)(a), F.S., clearly excepts from its application and operation "private passenger automobiles *and* school buses with a seating capacity of less than 24 pupils," (e.s.); such automobiles and school buses thereby are not required to comply with the requirements for school buses of Ch. 234, F.S. School buses with a seating capacity of less than 24 pupils are required to be equipped as specified in subsection (2)(a) of s. 316.615. The annual inspection requirement of subsection (4) is applicable to *all school buses* (public and non-public) *and* all motor vehicles (other than private passenger automobiles) which are used primarily for the transportation of pupils to school but which are *not* operated by or under the purview of the state or a political subdivision thereof or under a franchise issued by a municipality or the Public Service Commission. Thus, the statute imposes on the department the duty to annually inspect all public as well as non-public school buses, and all motor vehicles (other than private passenger automobiles) which are used primarily for the transportation of pupils to school but which are not operated by or under the purview of the state or a political subdivision thereof or under a franchise issued by a municipality or the Public Service Commission.

Question Two

Subsection (2) of s. 316.615, F.S., in pertinent part, provides: "Every bus with a seating capacity of less than 24 pupils shall be equipped with the following[.]" Subsection (2)(a) then sets forth a list of equipment required for such vehicles. Subsection (1)(b) for the purpose of s. 316.615 defines "school" to include "all public and private nursery, pre-elementary, elementary, secondary, and college level schools." "School bus" is generally defined for the purpose of Ch. 316, except where the context otherwise require, to mean "[a]ny motor vehicle that complies with the color and identification requirements of chapter 234 and is used to transport children to or from school or in connection with school activities, but not including buses operated by common carriers in urban transportation of school children." Section 316.003(46), F.S. It is apparent upon a reading of s. 316.615 as a whole that subsection (2)(a) in the context in which it is used relates back or refers to subsection (1) and provides equipment requirements for school buses with a seating capacity of less than 24 pupils; all other motor vehicles (except for private passenger automobiles, which are excepted from the operation of s. 316.615[1][a], F.S.) used primarily for transportation of pupils to school but not operated by or under the purview of the state or a political subdivision thereof or under a franchise issued by a municipality or the Public Service Commission must comply with the requirements for school buses contained in Ch. 234, F.S. Chapter 234 requires that school buses meet the standards and specifications of the State

Board of Education. Section 234.051, F.S. The definition of "bus" in subsection (3) of s. 316.003, F.S., is a general provision for "[a]ny motor vehicle designed for carrying more than 10 passengers and used for the transportation of persons and any motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation." (e.s.) Cf., s. 316.003(46), F.S., defining "school bus" to mean any motor vehicle which complies with the color and identification requirements of Ch. 234 and is used to transport children to or from school (school buses with a seating capacity of less than 24 pupils are excepted from compliance with the requirements for school buses of Ch. 234 by s. 316.615[1][a], F.S.). Therefore, I conclude that subsection (2)(a) refers to school buses as that term is described and used in s. 316.615(1)(a); the term does not apply to any "bus," defined in s. 316.003(3) as motor vehicles used for the transportation of persons for compensation.

Question Three

Subsection (4) of s. 316.615, F.S., provides: "All school buses and all motor vehicles covered by subsection (1) shall be inspected annually by the department [of highway safety and motor vehicles], and when found satisfactory for safe operation shall display on the vehicle a current certificate of inspection." As hereinbefore noted, this provision applies to *all* school buses *and* all motor vehicles covered by subsection (1) from which private passenger automobiles are excepted, and the requirements of subsection (2)(a), (b) and (c) are applicable to school buses with a seating capacity of less than 24 pupils.

There is no authority in s. 316.615, F.S., for the Department of Highway Safety and Motor Vehicles to promulgate additional vehicle equipment requirements. Subsection (5) of s. 316.615, F.S., gives the department the rulemaking authority to effect the purposes of s. 316.615, it does not delegate to the department the power to require additional equipment on school buses with a seating capacity of less than 24 pupils as it may see fit.

Question Four

Paragraph (b) of subsection (3), s. 316.615, provides: "All school bus drivers shall pass an annual physical examination, and have posted in the bus a certificate to drive same." This is a general provision and applies to *all* "school bus drivers" and is not limited to drivers of non-public buses. Cf., subsection (3)(a) providing that no person shall operate or cause to be operated a motor vehicle covered by subsection (1) unless the operator has met the physical examination requirements of s. 234.16, F.S. (repealed by omission by s. 106 of Ch. 72-221, Laws of Florida; see *also*, Ch. 234, F.S. [1972 Supp.]). Persons employed as school bus drivers must further meet any requirements adopted by the State Board of Education prior to employment by district school boards. See, s. 234.101, F.S. This office is without authority to read into a statute language that is not contained therein. You state in your letter that historically the Department of Highway Safety and Motor Vehicles has construed the term "school bus driver" contained in subsection (3)(b) of s. 316.615, F.S., as applicable only to non-public school buses and their drivers. The requirement contained in subsection (3)(b) however, clearly applies to *all* school bus drivers.

In summary I conclude:

1. The Department of Highway Safety and Motor Vehicles is required pursuant to s. 316.615, F.S., to annually inspect all public and non-public school buses, and all motor vehicles (other than private passenger automobiles) which are used primarily for the transporting of pupils to school but which are not operated by or under the purview of the state or a political subdivision thereof or under a franchise issued by a municipality or the Public Service Commission.
2. The word "bus" used in subsection (2)(a) of s. 316.615, F.S., refers to school buses as that term is described and used in s. 316.615(1)(a); the term does not apply to any "bus" as defined in s. 316.003(3), F.S., which applies to motor vehicles used for the transportation of persons for compensation.
3. There is no authority contained in s. 316.615, F.S., for the Department of Highway Safety and Motor Vehicles to promulgate additional vehicle equipment requirements beyond those specified in subsection (2)(a) of s. 316.615, F.S.
4. The requirement contained in subsection (3)(b) of s. 316.615, F.S., that "[a]ll school bus drivers shall pass an annual physical examination," applies to *all* school bus drivers, both public and non-public.

Sincerely,

Jim Smith
Attorney General

Prepared By:

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