CHAPTER 67

Transportation of Pupils; School Buses

ARTICLE 1

General Provisions

**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 Section 21‑791; 1952 Code Section 21‑791; 1942 Code Section 1626‑3; 1937 (40) 367.

CROSS REFERENCES

Meeting, overtaking and passing school bus, see Section 56‑5‑2770.

NOTES OF DECISIONS

In general 1

1. In general

This article does not limit in any way the common‑law requirement that due care shall be exercised, for, on the contrary, this article is obviously designed to promote the safety of children using a school bus. Hunter v. Boyd (S.C. 1943) 203 S.C. 518, 28 S.E.2d 412.

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 (S.C. 1943) 203 S.C. 518, 28 S.E.2d 412. Carriers 303(10)

**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 Department of Public Safety, 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 or privately owned and operated under contract with 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 canceled after notice and hearing by the responsible officers of such school district.

HISTORY: 1962 Code Section 21‑792; 1952 Code Section 21‑792; 1949 (46) 466; 1993 Act No. 181, Section 1575.

LIBRARY REFERENCES

Schools 159.5(1).

Westlaw Key Number Search: 345k159.5(1).

**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 not 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 Section 21‑794; 1952 Code Section 21‑794; 1942 Code Section 1626‑3; 1937 (40) 367; 1946 (44) 2583; 1949 (46) 466; 1964 (53) 2067; 1973 (58) 689.

LIBRARY REFERENCES

Schools 159.5(1).

Westlaw Key Number Search: 345k159.5(1).

**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 Section 21‑794.1; 1967 (55) 651.

LIBRARY REFERENCES

Schools 159.5(2).

Westlaw Key Number Search: 345k159.5(2).

**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 Section 21‑795; 1952 Code Section 21‑795; 1942 Code Section 1626‑4; 1937 (40) 122.

LIBRARY REFERENCES

Schools 159.5(1).

Westlaw Key Number Search: 345k159.5(1).

**SECTION 59‑67‑60.** Repainting 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 Section 21‑795.1; 1956 (49) 1686.

LIBRARY REFERENCES

Schools 159.5(1).

Westlaw Key Number Search: 345k159.5(1).

**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 Section 21‑796; 1952 Code Section 21‑796; 1942 Code Section 1626‑3; 1937 (40) 367; 1946 (44) 2583.

LIBRARY REFERENCES

Schools 159.5(1).

Westlaw Key Number Search: 345k159.5(1).

**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 dimensions 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 Section 21‑797; 1952 Code Section 21‑797; 1942 Code Section 1626‑3; 1937 (40) 367.

LIBRARY REFERENCES

Schools 159.5(1).

Westlaw Key Number Search: 345k159.5(1).

**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 Section 21‑798; 1952 Code Section 21‑798; 1942 Code Section 1626‑3; 1937 (40) 367.

LIBRARY REFERENCES

Schools 159.5(1).

Westlaw Key Number Search: 345k159.5(1).

**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 Section 21‑799; 1952 Code Section 21‑799; 1942 Code Section 1626‑3; 1937 (40) 367; 1956 (49) 1668; 1974 (58) 2841; 2007 Act No. 79, Section 4, eff June 7, 2007.

Effect of Amendment

The 2007 amendment, in the second sentence, substituted “students” for “pupils”, rewrote the third sentence to eliminate the reference to riding on the running boards, rewrote the fourth sentence relating to seating capacity, in the fifth sentence, substituted “excess passengers on regular routes” for “standees”, and made nonsubstantive changes throughout.

LIBRARY REFERENCES

Schools 159.5(1).

Westlaw Key Number Search: 345k159.5(1).

**SECTION 59‑67‑105.** Maximum ride time; routing.

(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.

HISTORY: 2007 Act No. 79, Section 1, eff June 7, 2007.

**SECTION 59‑67‑108.** Training and certification of drivers.

(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.

HISTORY: 2007 Act No. 79, Section 2, eff June 7, 2007.

**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 Section 21‑800; 1952 Code Section 21‑800; 1942 Code Section 1626‑3; 1937 (40) 367.

LIBRARY REFERENCES

Schools 159.5(1).

Westlaw Key Number Search: 345k159.5(1).

**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 Section 21‑801; 1953 (48) 198.

LIBRARY REFERENCES

Schools 159.5(1).

Westlaw Key Number Search: 345k159.5(1).

**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 Section 21‑804; 1974 (58) 2311.

LIBRARY REFERENCES

Schools 159.5(1).

Westlaw Key Number Search: 345k159.5(1).

**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 Section 59‑67‑130.

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

LIBRARY REFERENCES

Schools 159.5(1).

Westlaw Key Number Search: 345k159.5(1).

**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 Section 21‑807; 1952 Code Section 21‑807; 1942 Code Section 1626‑3; 1937 (40) 367; 1946 (44) 1341.

CROSS REFERENCES

Other qualifications of school bus drivers, see Section 59‑67‑470.

LIBRARY REFERENCES

Schools 159.5(6).

Westlaw Key Number Search: 345k159.5(6).

Attorney General’s Opinions

While no appellate court in this State has examined issues related to random drug testing of schoolbus drivers, courts in other jurisdictions have upheld such random drug testing against constitutional challenges where such program is motivated by safety concerns such as schoolbus safety. 1991 Op Atty Gen, No 91‑57, p 143.

**SECTION 59‑67‑160.** Physical examination of school bus driver.

A school bus driver shall have a physical examination that meets the requirements of the Federal Motor Carrier Safety Regulations (FMCSR), 49 C.F.R. 391.41, and meets the certification requirements of this section, certified by a medical examiner as defined in 49 C.F.R. 390.5, before the testing required to operate a school bus and at least every two years after that. The certification must be made on forms provided by the State Department of Education or the United States Department of Transportation. The school bus driver candidate shall provide the testing administrator with the certified physical examination before taking the school bus driver physical performance test and the commercial driver’s license skills test. The school bus driver candidate shall provide a copy of the certification to the employing school district. A school district may require additional physical examinations as the district determines to be appropriate. The State assumes no responsibility for the cost of physical examinations required by districts.

HISTORY: 2006 Act No. 351, Section 1, eff June 9, 2006; 2015 Act No. 66 (H.3882), Section 1, eff June 8, 2015.

Effect of Amendment

2015 Act No. 66, Section 1, rewrote the first sentence, substituting federal requirements for prior state protocols and guidelines, and in the third to last sentence, deleted “physician, nurse practitioner, or physician assistant’s” following “copy of the”.

**SECTION 59‑67‑180.** General supervision of bus by driver.

The driver of every school bus while the bus is being operated 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 Section 21‑811; 1952 Code Section 21‑811; 1942 Code Section 1626‑3; 1937 (40) 367.

LIBRARY REFERENCES

Schools 159.5(6).

Westlaw Key Number Search: 345k159.5(6).

**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 Section 21‑812; 1952 Code Section 21‑812; 1942 Code Section 1626‑3; 1937 (40) 367.

LIBRARY REFERENCES

Schools 159.5(6).

Westlaw Key Number Search: 345k159.5(6).

**SECTION 59‑67‑200.** Complete stop to receive or discharge passenger required.

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

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

CROSS REFERENCES

Meeting, overtaking and passing school buses, see Section 56‑5‑2770.

LIBRARY REFERENCES

Schools 89.13(4).

Westlaw Key Number Search: 345k89.13(4).

C.J.S. Schools and School Districts Sections 476, 777.

**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 signalled 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 Section 21‑813.1; 1953 (48) 200.

LIBRARY REFERENCES

Schools 159.5(1).

Westlaw Key Number Search: 345k159.5(1).

**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 the engine is running or, except in an emergency, when there are pupils in the bus.

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

LIBRARY REFERENCES

Schools 159.5(1).

Westlaw Key Number Search: 345k159.5(1).

**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 track 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 Section 21‑815; 1952 Code Section 21‑815; 1942 Code Section 1626‑3; 1937 (40) 367; 1972 (57) 2492.

LIBRARY REFERENCES

Schools 159.5(1).

Westlaw Key Number Search: 345k159.5(1).

**SECTION 59‑67‑240.** Other duties of driver; discipline of pupils for misconduct.

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 mornings 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 Section 21‑816; 1952 Code Section 21‑816; 1946 (44) 1341; 1982 Act No. 296, Section 1.

CROSS REFERENCES

Requirement that copies of this section be posted in each school bus, see Section 59‑67‑250.

LIBRARY REFERENCES

Schools 159.5(6).

Westlaw Key Number Search: 345k159.5(6).

**SECTION 59‑67‑245.** Interference with operation of school bus; penalties.

No person shall wilfully 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 wilfully 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 Section 16‑17‑530. Nothing contained herein shall be interpreted to infringe upon the power and duties of duly constituted authorities.

HISTORY: 1979 Act No. 75, Section 1.

LIBRARY REFERENCES

Disorderly Conduct 1.

Westlaw Key Number Search: 129k1.

C.J.S. Disorderly Conduct Sections 2 to 5.

RESEARCH REFERENCES

ALR Library

23 ALR 5th 1 , Tort Liability of Public Schools and Institutions of Higher Learning for Accidents Associated With Transportation of Students.

NOTES OF DECISIONS

In general 1

1. In general

A school district was entitled to summary judgment in an action, brought by a student who was attacked by a non‑student on a school bus, which was based on the district’s alleged failure to enforce Section 59‑67‑245 (penalties for interference with a school bus), even though the student had been threatened on the bus prior to the attack and the district did not call the police, where the district counseled the student and her assailant after the threat, and attempted to contact their parents; the district exercised at least slight care and thus was not grossly negligent. Clyburn v. Sumter County School Dist. 17 (S.C.App. 1993) 311 S.C. 521, 429 S.E.2d 862, rehearing denied, certiorari granted, affirmed 317 S.C. 50, 451 S.E.2d 885.

**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 Section 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 Section 21‑817; 1952 Code Section 21‑817; 1946 (44) 1341.

**SECTION 59‑67‑260.** Check of school bus operation by Department of Public Safety.

The Department of Public Safety 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 Section 21‑818; 1953 (48) 201; 1993 Act No. 181, Section 1576.

LIBRARY REFERENCES

Schools 159.5(1).

Westlaw Key Number Search: 345k159.5(1).

Attorney General’s Opinions

While no appellate court in this State has examined issues related to random drug testing of schoolbus drivers, courts in other jurisdictions have upheld such random drug testing against constitutional challenges where such program is motivated by safety concerns such as schoolbus safety. 1991 Op Atty Gen, No 91‑57, p 143.

**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 either the State Department of Education’s annual school bus inspection program or the federal Department of Transportation annual inspection program if the standards of the federal inspection program meet or exceed the standards of the state’s program. The State Department of Education shall assist school districts using the Department of Education’s program 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. Any savings resulting from the ability to be inspected by either the State Department of Education or the federal Department of Transportation shall be expended on accountability programs set forth in Chapter 18 of this title.

(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 Section 21‑819; 1952 Code Section 21‑819; 1942 Code Section 1626‑3; 1937 (40) 367; 2007 Act No. 79, Section 5, eff June 7, 2007; 2008 Act No. 282, Section 3, eff June 5, 2008.

Effect of Amendment

The 2007 amendment added subsection (A) and designated the existing text as subsection (B), substituting in the first sentence “Transport Police” for “Highway Patrol”, in the second sentence substituting “students” for “pupils” and adding “ the annual inspection is more than twelve months old or the school bus is” and “after any inspection”, and making nonsubstantive changes throughout.

The 2008 amendment, in paragraph (A)(1), added the provisions relating to inspection of buses by the Federal Department of Transportation and the fourth sentence relating to use of any savings.

LIBRARY REFERENCES

Schools 159.5(1).

Westlaw Key Number Search: 345k159.5(1).

Attorney General’s Opinions

While no appellate court in this State has examined issues related to random drug testing of schoolbus drivers, courts in other jurisdictions have upheld such random drug testing against constitutional challenges where such program is motivated by safety concerns such as schoolbus safety. 1991 Op Atty Gen, No 91‑57, p 143.

**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 less than five dollars nor more than one hundred dollars or imprisonment in the county jail for not less than five nor more than thirty days.

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

LIBRARY REFERENCES

Schools 159.5(6).

Westlaw Key Number Search: 345k159.5(6).

**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 Section 46‑802; 1952 Code Section 46‑802; 1942 Code Section 1626; 1932 Code Section 1626; 1928 (35) 1320; 1938 (40) 1599.

LIBRARY REFERENCES

Schools 89.13(3).

Westlaw Key Number Search: 345k89.13(3).

C.J.S. Schools and School Districts Sections 477, 777.

**SECTION 59‑67‑300.** Overnight 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.

HISTORY: 2007 Act No. 79, Section 9, eff June 7, 2007.

ARTICLE 3

Transportation by State or State Aid for Transportation

**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 Section 21‑833; 1952 Code Section 21‑833; 1951 (47) 546.

CROSS REFERENCES

State Board of Education, as successor to State Educational Finance Commission, to prescribe and promulgate rules and regulations to carry out provisions of Sections 59‑5‑100, 59‑5‑110, 59‑21‑10 et seq., 59‑67‑410 et seq., 59‑71‑10 et seq., and 59‑71‑410 et seq., see Section 59‑5‑120.

LIBRARY REFERENCES

Schools 159.5(1).

Westlaw Key Number Search: 345k159.5(1).

Attorney General’s Opinions

It is within the discretion of the State Board of Education and the State Department of Education as to whether funding should be provided for student transportation only within particular attendance zones. 1992 Op Atty Gen No. 92‑57.

NOTES OF DECISIONS

In general 1

1. In general

In light of their lack of autonomy, school districts in South Carolina were arms of the state for purposes of the Eleventh Amendment, and were therefore immune from private suits under Fair Labor Standards Act (FLSA); school districts could not purchase or sell school property without prior approval from state‑level administrators, had to seek approval from the State Superintendent of Education for all construction plans and specifications before seeking bids for the construction, and Department of Education retained control over school transportation. Smith v. School Dist. of Greenville County, 2004, 324 F.Supp.2d 786. Federal Courts 2388(2)

The State Board of Education has the broad power to adopt policies, rules and regulations for the state’s public schools, is charged with planning construction of school buildings, and has broad responsibilities with respect to transportation. Therefore, it is a proper defendant in a suit seeking injunctive relief from alleged segregation of schools. Stanley v. Darlington County School Dist., 1995, 879 F.Supp. 1341, reversed in part 84 F.3d 707.

Plaintiff’s release for all claims arising out of accident in which her automobile was struck by school bus to State of South Carolina, South Carolina State Board of Education, South Carolina Department of Education, Royal Insurance Company, their respective agents, officers, employees and their respective heirs, successors and assigns effectively released school superintendent and school district trustees, as every school district is a body of state and control and management of all school bus transportation is vested in state board of education. Camp v. Sarratt (S.C. 1987) 291 S.C. 480, 354 S.E.2d 390. Release 29(1)

**SECTION 59‑67‑415.** Parental responsibility for safe and timely arrival of children to and from bus stop.

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 children 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.

HISTORY: 2007 Act No. 79, Section 3, eff June 7, 2007.

**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: 1962 Code Section 21‑834; 1952 Code Section 21‑834; 1951 (47) 546; 1977 Act No. 85; 1978 Act No. 644 Part II Section 6A; 1984 Act No. 512, Part II, Section 15A; 1988 Act No. 532, Section 15; 2007 Act No. 79, Section 6, eff June 7, 2007.

Effect of Amendment

The 2007 amendment rewrote this section.

CROSS REFERENCES

Constitutional provision prohibiting direct aid to religious or other private educational institutions, see SC Const, Art 11, Section 4.

Requirement that boards submit proposed school bus routes in accordance with the limitations of this section, see Section 59‑67‑490.

Transportation of handicapped children, see Section 59‑67‑520.

LIBRARY REFERENCES

Schools 159.5.

Westlaw Key Number Search: 345k159.5.

C.J.S. Civil Rights Section 134.

C.J.S. Schools and School Districts Sections 744 to 777.

Attorney General’s Opinions

It is within the discretion of the State Board of Education and the State Department of Education as to whether funding should be provided for student transportation only within particular attendance zones. 1992 Op Atty Gen No. 92‑57.

**SECTION 59‑67‑421.** Liability in regard to school transportation within hazardous areas.

In relation to expenditures for transportation within hazardous areas as authorized by Section 59‑67‑420, no school district shall suffer liability for designation of such area as within the authority of Section 59‑67‑420 or for failure to designate any area as hazardous.

HISTORY: 1994 Act No. 497, Part II, Section 15E.

LIBRARY REFERENCES

Schools 89.13(3).

Westlaw Key Number Search: 345k89.13(3).

C.J.S. Schools and School Districts Sections 477, 777.

**SECTION 59‑67‑425.** Transportation of children attending kindergarten or 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, Section 9; 1984 Act No. 512, Part II, Section 15B.

LIBRARY REFERENCES

Schools 159.5(1).

Westlaw Key Number Search: 345k159.5(1).

**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, and 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 Section 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 Section 59‑71‑420 shall not be otherwise exceeded.

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

LIBRARY REFERENCES

States 118.

Westlaw Key Number Search: 360k118.

C.J.S. States Section 214.

**SECTION 59‑67‑450.** Form of indebtedness; interest; payment.

The indebtedness incurred pursuant to Section 59‑67‑440 shall be in such form and shall bear such rate of interest as may be agreed upon between the State Fiscal Accountability Authority 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 Section 21‑837.1; 1959 (51) 606.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

LIBRARY REFERENCES

States 148.

Westlaw Key Number Search: 360k148.

C.J.S. States Section 252.

**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 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 Section 21‑838; 1952 Code Section 21‑838; 1951 (47) 546; 1953 (48) 3.

CROSS REFERENCES

Obligations for expenses of operating buses owned by school agencies not assumed by the state, see Section 59‑67‑530.

LIBRARY REFERENCES

Schools 159.5(5).

Westlaw Key Number Search: 345k159.5(5).

NOTES OF DECISIONS

In general 1

1. In general

Cited in Sanders v. Jasper County Bd. of Ed. (S.C. 1958) 233 S.C. 414, 105 S.E.2d 201.

**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.

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

CROSS REFERENCES

Other provisions as to qualifications of school bus drivers, see Section 59‑67‑150.

LIBRARY REFERENCES

Schools 159.5(6).

Westlaw Key Number Search: 345k159.5(6).

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 Section 21‑839.1; 1952 Code Section 21‑839.1; 1951 (47) 546, 710; 1964 (53) 2099.

LIBRARY REFERENCES

Schools 159.5(6).

Westlaw Key Number Search: 345k159.5(6).

**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 Section 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 Section 21‑839.2; 1952 Code Section 21‑839.2; 1951 (47) 546; 1964 (53) 2164.

LIBRARY REFERENCES

Schools 159.5(1).

Westlaw Key Number Search: 345k159.5(1).

Attorney General’s Opinions

It is within the discretion of the State Board of Education and the State Department of Education as to whether funding should be provided for student transportation only within particular attendance zones. 1992 Op Atty Gen No. 92‑57.

**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 either directly or by contract.

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

LIBRARY REFERENCES

Schools 159.5(1).

Westlaw Key Number Search: 345k159.5(1).

**SECTION 59‑67‑510.** Use of transportation equipment for special events, office of Adjutant General and armed services reserve component functions, and other educational purposes.

County boards of education may permit the use of school bus equipment for transportation in connection with athletic events, boy’s and girl’s clubs, special events in connection with the schools, official functions by the office of the Adjutant General of South Carolina, and the Reserve Components of the United States Armed Forces which must reimburse the boards of education, at least, for the costs of use of the buses, including depreciation, and other educational purposes as may appear proper to the respective boards.

HISTORY: 1962 Code Section 21‑839.4; 1952 Code Section 21‑839.4; 1951 (47) 546; 1999 Act No. 100, Part II, Section 38.

LIBRARY REFERENCES

Schools 159.5(2).

Westlaw Key Number Search: 345k159.5(2).

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 Op Atty Gen, No 1863, p 126.

**SECTION 59‑67‑515.** Speed limit for public school buses; exceptions.

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.

HISTORY: 1992 Act No. 351, Section 1; 1993 Act No. 52, Section 1.

LIBRARY REFERENCES

Schools 159.5(1).

Westlaw Key Number Search: 345k159.5(1).

**SECTION 59‑67‑520.** Transportation of handicapped persons.

Notwithstanding the provisions of Sections 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 duly assigned. Additionally, when a school district is providing classes for handicapped persons between the ages of five and twenty‑one years at the same location where classes and programs are provided for handicapped persons under age five and over age 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: 1975 (59) 111; 1980 Act No. 406, Section 1.

CROSS REFERENCES

Operation of public pupil transportation services, see S.C. Code of Regulations R. 43‑80.

LIBRARY REFERENCES

Schools 159.5(4).

Westlaw Key Number Search: 345k159.5(4).

Attorney General’s Opinions

A court would likely find that a school bus traveling twice a day on school days on a private road to pick‑up or drop‑off a handicapped student would be considered a reasonable use of the easement. S.C. Op.Atty.Gen. (Sept. 13, 2010) 2010 WL 3896169.

**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 Section 59‑67‑460.

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

LIBRARY REFERENCES

Schools 87.

Westlaw Key Number Search: 345k87.

C.J.S. Schools and School Districts Section 452.

**SECTION 59‑67‑535.** Use of boats for transportation of school children from Sandy Island to transport residents.

Boats operated by the State Department of Education for transportation of school children from Sandy Island to mainland schools also may be used to transport, on a space available basis only, any Sandy Island resident. A person requesting boat transportation shall present his residence verification to the employee or representative of the State Department of Education who is in charge of the particular boat.

The term “resident” as used herein means a person with an official residential address on Sandy Island.

Use of these boats by residents 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 in every case shall be given priority of carriage. Provided, that other trips on the Sandy Island boat may be approved by the county school district, in which case the operations, logistics, and all costs shall be borne by the school district to the extent that funds are available. The school district may contract with a third party to operate the ferry and manage the logistics associated with the other trips. Persons who are not residents of Sandy Island may be allowed to be transported by the boat when accompanied by a resident.

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.

HISTORY: 1981 Act No. 51, Section 1; 2009 Act No. 17, Section 1, eff May 14, 2009.

Effect of Amendment

The 2009 amendment rewrote this section to limit its application to Sandy Island and to allow transportation of any resident rather than only those over fifty‑five or disabled or legally blind.

LIBRARY REFERENCES

Schools 159.5(4).

Westlaw Key Number Search: 345k159.5(4).

**SECTION 59‑67‑540.** Supplies and maintenance of State‑owned buses; maintenance and supply stations.

The Department of Transportation 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 Department of Transportation 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 Section 21‑839.6; 1952 Code Section 21‑839.6; 1951 (47) 546; 1958 (50) 1721; 1993 Act No. 181, Section 1577.

LIBRARY REFERENCES

Schools 159.5(1).

Westlaw Key Number Search: 345k159.5(1).

**SECTION 59‑67‑545.** 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.

HISTORY: 1997 Act No. 104, Section 1.

LIBRARY REFERENCES

Schools 159.5(1).

Westlaw Key Number Search: 345k159.5(1).

**SECTION 59‑67‑550.** Instalment purchase of maintenance shops.

The State Board of Education is authorized to enter into an instalment 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 Section 21‑839.7; 1959 (51) 599.

**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 and effect of law. But rules and regulations that affect the functions of the Department of Public Safety under this article or the operation of buses on the highways shall be adopted only jointly with the Department of Public Safety.

HISTORY: 1962 Code Section 21‑839.9; 1952 Code Section 21‑839.7; 1951 (47) 546; 1993 Act No. 181, Section 1578.

CROSS REFERENCES

Rules and regulations promulgated under authority of this section, see Rules and Regulations, State Board of Education R. 43‑50 et seq.

LIBRARY REFERENCES

Schools 159.5(1).

Westlaw Key Number Search: 345k159.5(1).

Attorney General’s Opinions

It is within the discretion of the State Board of Education and the State Department of Education as to whether funding should be provided for student transportation only within particular attendance zones. 1992 Op Atty Gen No. 92‑57.

**SECTION 59‑67‑580.** Replacement cycle; funding.

(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.

HISTORY: 2007 Act No. 79, Section 7, eff June 7, 2007.

**SECTION 59‑67‑585.** Use of biodiesel fuel.

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

HISTORY: 2007 Act No. 79, Section 8, eff June 7, 2007.

ARTICLE 5

Insurance on School Buses

**SECTION 59‑67‑710.** Contracts of insurance on State‑owned school buses.

(1) The Director of the Division of General Services, with the approval of the State Fiscal Accountability Authority, 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 must 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 or claim for damages brought under the provisions of Chapter 78 of Title 15 of the 1976 Code, the liability may not exceed the following limits:

(i) Except as provided in Section 59‑67‑710(3)(a)(iii), no person may recover in any action or claim brought hereunder 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) Except as provided in Section 59‑67‑710(3)(a)(iv), the total sum recovered hereunder arising out of a single occurrence may not exceed five hundred thousand dollars regardless of the number of agencies or political subdivisions or claims or actions involved.

(iii) No person may recover in any action or claim brought hereunder against any governmental entity and caused by the tort of any licensed physician or dentist, employed by a governmental entity and acting within the scope of his profession, a sum exceeding one million dollars because of loss arising from a single occurrence regardless of the number of agencies or political subdivisions involved.

(iv) The total sum recovered hereunder arising out of a single occurrence of liability of any governmental entity for any tort caused by any licensed physician or dentist, employed by a governmental entity and acting within the scope of his profession, may not exceed one million dollars regardless of the number of agencies or political subdivisions or claims or actions involved.

(v) The provisions of Section 59‑67‑710(3)(a)(iii) and (3)(a)(iv) shall in no way limit or modify the liability of a licensed physician or dentist, acting within the scope of his profession, with respect to any action or claim brought hereunder which involved services for which the physician or dentist was paid, should have been paid, or expected to be paid at the time of the rendering of the services from any source other than the salary appropriated by the governmental entity.

(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 Section 21‑840; 1953 (48) 3, 396; 1959 (51) 287; 1968 (55) 3027; 1974 (58) 2335; 1977 Act No. 215 Section 1; 1986 Act No. 463, Section 4; 1988 Act No. 352, Section 11.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

CROSS REFERENCES

Creation of a fund to provide major medical benefits for bodily injuries to school bus passengers, see Section 59‑67‑790.

Regulation of insurance, generally, see Sections 38‑1‑10 et seq.

Requirement that counties and districts owning school buses provide the same insurance coverage as the state, see Section 59‑67‑740.

LIBRARY REFERENCES

Schools 19(5), 89.13(1).

Westlaw Key Number Searches: 345k19(5); 345k89.13(1).

C.J.S. Schools and School Districts Sections 13, 474, 777.

LAW REVIEW AND JOURNAL COMMENTARIES

Annual Survey of South Carolina Law: Insurance Law. 38 S.C. L. Rev. 151 ( Autumn 1986).

Attorney General’s Opinions

Section 59‑67‑740 does not require a school district to provide the vehicle of a parent with the insurance coverage mandated for public school buses under Section 59‑67‑710 where the parent agrees by contract to transport his or her own child to and from school. S.C. Op.Atty.Gen. (Dec. 2, 2013) 2013 WL 6516331.

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 Section 21‑840(1)(a). [Code 1976 Section 59‑67‑710(1)(a).] 1974‑75 Op Atty Gen, No 3937, p 19.

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1. In general

The legislature’s inclusion of Sections 10‑7‑10 through 10‑7‑40, 59‑67‑710, and 59‑67‑790 within the general provisions of Section 1‑11‑140 was not intended to render all other provisions relating to insurance on public entities inapplicable, but merely delineated specific additional insurance coverage which the State Budget and Control Board was authorized to provide; finding the subsequent provisions inapplicable would lead to absurd results which would not be in the best interest of the Board. Charleston County School Dist. v. State Budget and Control Bd. (S.C. 1993) 313 S.C. 1, 437 S.E.2d 6.

Where a school child was struck and killed by school bus B after alighting from school bus A, the involvement of either school bus was sufficient to entitle her administrator to collect the benefits provided by Section 59‑67‑710(1)(a). Toney v. South Carolina Dept. of Educ. (S.C. 1985) 284 S.C. 401, 327 S.E.2d 322.

In an action for damages resulting from the death of a child who, as she was crossing the highway in front of the stopped school bus on which she had been a passenger, was struck and killed by another school bus passing the stopped bus, the trial court, while it improperly decided that the defendant Department of Education did not have the benefit of sovereign immunity, it properly overruled defendant’s demur on the basis that the state had waived its immunity under Section 59‑67‑710. Toney v. South Carolina Dept. of Educ. (S.C.App. 1983) 279 S.C. 484, 309 S.E.2d 773, certiorari granted in part 284 S.C. 418, 327 S.E.2d 326, quashed 284 S.C. 401, 327 S.E.2d 322.

In actions by a father arising out of the death of his daughter who was struck and killed by a school bus, there was no violation of the prohibition against double recovery where the father sought damages for his daughter’s wrongful death under Section 59‑67‑710(l)(a) and damages for the parents’ personal injuries under Section 59‑67‑710(1)(b); Section 59‑67‑710(1)(b) granted the father a cause of action for the parents’ personal injuries exclusive of Section 59‑67‑710(1)(a). Nance v. State Bd. of Ed. (S.C. 1981) 277 S.C. 64, 282 S.E.2d 848.

Quoted in Sheffield v. American Indem. Co. (S.C. 1965) 245 S.C. 389, 140 S.E.2d 787, 13 A.L.R.3d 1220.

This section [Code 1962 Section 21‑840] requires insurance on all State‑owned school buses. Sossamon v. Nationwide Mut. Ins. Co. (S.C. 1964) 243 S.C. 552, 135 S.E.2d 87.

Allegations in the husband’s complaint as to his wife’s injuries have a substantial relation to the controversy between the husband and the insurer of the school bus. It is necessary for the husband, in order to recover for loss of consortium and for the medical expenses which he incurred in the care and treatment of his wife to show that his wife received personal injuries as a result of the actionable negligence of the school bus driver in the operation of the school bus. There was no error on the part of the trial judge in refusing to strike these allegations of the husband’s complaint as to his wife’s injuries. Sossamon v. Nationwide Mut. Ins. Co. (S.C. 1964) 243 S.C. 552, 135 S.E.2d 87.

Where a wife alleges personal injuries in an action under this section [Code 1962 Section 21‑840] and generally alleges her damages the allegation of her injuries and damage is sufficient to warrant a recovery for necessary medical expenses, if such were, in fact, paid for or incurred by her and for which the husband is not liable. There was no error on the part of the trial judge in refusing to require the wife to make her complaint more definite and certain by alleging whether she has paid or incurred any doctor or hospital bills and if so the amount thereof. Sossamon v. Nationwide Mut. Ins. Co. (S.C. 1964) 243 S.C. 552, 135 S.E.2d 87.

Where evidence showed that small boy, who had been out of school for a week due to illness, had not eaten breakfast, was not dressed in his school clothes, and was carrying money which may have been his brother’s lunch money, the brother being already on the bus, question was for the jury as to whether boy was attempting to board bus to attend school (paragraph (a) of subsection (1) of this section [Code 1962 Section 21‑840] being then applicable) or to give brother his lunch money (in which case a showing of negligence would be necessary under paragraph (b)). Weston v. Nationwide Mut. Ins. Co. (S.C. 1961) 237 S.C. 464, 118 S.E.2d 67.

Where there were separate insurers and separate policies for the indemnities provided in paragraphs (a) and (b) of subsection (1) of this section [Code 1962 Section 21‑840], the insurer which issued the policy covering injuries to any person other than a person riding in a school bus was not liable to one who was run over by a school bus while crossing the road to get on the bus. Farmer v. National Sur. Corp. (S.C. 1953) 223 S.C. 143, 74 S.E.2d 580.

2. Types of coverage

The legislature intended to provide for two forms of coverage: (1) Providing coverage for school children, without regard to fault or negligence, while doing certain acts in connection with school attendance; and (2) where a member of the general public or persons, not making use of the facilities for the purpose of attending school, are injured by the negligent operation of the school bus. Weston v Nationwide Mutual Ins. Co. (1961) 237 SC 464, 118 SE2d 67. Coker v Nationwide Mut. Ins. Co. (1963) 243 SC 170, 133 SE2d 122. Sossamon v Nationwide Mut. Ins. Co. (1964) 243 SC 552, 135 SE2d 87.

Section 59‑67‑710(1)(a) permits recovery for death or damages to occupant of school bus without proof of fault or negligence, while Section 59‑67‑710(1)(b) allows recovery, upon proof of fault or negligence, to any person, other than occupant or someone qualifying for benefits under (1)(a); therefore, parents of decedent, if they can prove fault or negligence, should be able to recover for personal injuries they suffered as result of death of daughter by alleged negligent operation of school bus. Nance v. State Bd. of Ed. (S.C. 1981) 277 S.C. 64, 282 S.E.2d 848.

As no fault insurance under Code 1962 Section 21‑840(1)(a) [Code 1976 Section 59‑67‑710(1)(a)] covers only persons injured while using a schoolbus, a plaintiff injured when a schoolbus hit rear of the automobile in which plaintiff was a passenger was entitled to payment out of a liability policy issued under Code 1962 Section 21‑840(1)(b) [Code 1976 Section 59‑67‑710(1)(b)]. Steinmeyer v. Nationwide Mut. Ins. Co. (S.C. 1977) 268 S.C. 572, 235 S.E.2d 131.

The provisions of this section [Code 1962 Section 21‑840] prescribe the two types of insurance coverage required for school buses. Subdivision (1)(a) requires coverage for injuries or death to any “lawful occupant” of any school bus, without regard to fault or negligence; and subsection (2) extends such benefits to certain stated school bus connected accidents, and the two types of coverage are separate and distinct, and a person cannot recover under both. Coats v. Insurance Co. of North America (S.C. 1974) 262 S.C. 331, 204 S.E.2d 436.

The coverage afforded under subdivision (1)(a) is extended by subsection (2) to cover any school child, whether a “lawful occupant” of a bus at the time or not, who is injured in any of the situations named in subsection (2). Coats v. Insurance Co. of North America (S.C. 1974) 262 S.C. 331, 204 S.E.2d 436.

3. What constitutes “bodily injuries”

The 1977 amendment to Section 59‑67‑710(1)(b) changed the term “personal injuries” to the much narrower term “bodily injuries.” The kinds of injuries recoverable under the Wrongful Death Act (pecuniary loss, mental shock and suffering, wounded feelings, grief, sorrow, and loss of society and companionship) are not included within the term “bodily injuries,” and therefore may not be recovered in an action based on subsection (1)(b) of Section 59‑67‑710. Toney v. South Carolina Dept. of Educ. (S.C. 1985) 284 S.C. 401, 327 S.E.2d 322.

4. What constitutes a personal injury

The term “personal injury” is broader and more comprehensive than the term “bodily injury” and is synonymous with “injury to person.” Sossamon v. Nationwide Mut. Ins. Co. (S.C. 1964) 243 S.C. 552, 135 S.E.2d 87.

A husband’s loss of consortium is a “personal injury” within the meaning of paragraph (b) or subsection (1). If the loss of consortium is a personal injury to the husband, then the defendant is liable therefor under the aforesaid statute. Sossamon v. Nationwide Mut. Ins. Co. (S.C. 1964) 243 S.C. 552, 135 S.E.2d 87.

Since this section [Code 1962 Section 21‑840] requires insurance coverage on all State‑owned school buses and provides against liability for damages for “personal injury,” an action for loss of consortium and for medical expenses incurred in the care and treatment of the wife falls within the category of “personal injuries,” and makes the defendant liable to the husband for such damages as he has sustained, not exceeding the limitation of this section [Code 1962 Section 21‑840], which fixes such amount at ten thousand dollars. Sossamon v. Nationwide Mut. Ins. Co. (S.C. 1964) 243 S.C. 552, 135 S.E.2d 87.

5. Injury to more than one person

Paragraph (b) of subsection (1) of this section [Code 1962 Section 21‑840] provides for an amount not exceeding ten thousand dollars for “any one person” who suffers personal injuries because of the negligent operation of any school bus. This section [Code 1962 Section 21‑840] then provides a maximum of twenty‑five thousand dollars for “any one accident.” By the language of the statute, it is logical to conclude that the legislature contemplated that injury or damage might occur, as the result of the negligent operation of a school bus, to more than one person in one accident. Sossamon v. Nationwide Mut. Ins. Co. (S.C. 1964) 243 S.C. 552, 135 S.E.2d 87.

Where as the result of one accident, a wife received personal injuries and her husband’s loss of consortium was held to be a personal injury within the meaning of this section [Code 1962 Section 21‑840], since each had suffered a personal injury because of the negligent operation of a school bus, each was entitled to recover an amount not exceeding ten thousand dollars for such injury. Sossamon v. Nationwide Mut. Ins. Co. (S.C. 1964) 243 S.C. 552, 135 S.E.2d 87.

6. Recovery limited to actual damages

Allegations in a complaint that a school bus had been operated in a reckless, willful and wanton manner were irrelevant in an action under statute authorizing recovery of only actual damages due to negligent operation of a school bus. Considering only the complaint and the motion to strike, the trial judge was in error in refusing to grant the motion of the defendant insurer to strike from the complaint all allegations therein of “gross negligence and recklessness.” Sossamon v. Nationwide Mut. Ins. Co. (S.C. 1964) 243 S.C. 552, 135 S.E.2d 87.

Subsection (3) limits the recovery provided for in paragraphs (b) and (c) of subsection (1) to actual damages. Sossamon v. Nationwide Mut. Ins. Co. (S.C. 1964) 243 S.C. 552, 135 S.E.2d 87.

Paragraph (b) of subsection (1) and subsection (3) of this section [Code 1962 Section 21‑840] limit recovery to actual damages because of “the negligent operation of any such school bus.” Coker v. Nationwide Mut. Ins. Co. (S.C. 1963) 243 S.C. 170, 133 S.E.2d 122.

Since paragraph (b) of subsection (1) and subsection (3) of this section [Code 1962 Section 21‑840] only authorize the recovery of actual damages because of the negligent operation of a school bus, allegations of the complaint that the school bus was operated in a reckless, willful and wanton manner are irrelevant to and have no connection with nor effect upon the action authorized by the aforesaid statute. Coker v. Nationwide Mut. Ins. Co. (S.C. 1963) 243 S.C. 170, 133 S.E.2d 122.

7. Contributory negligence

In the event of a plea of contributory negligence on the part of the defendant, it may introduce evidence of any facts which tend to establish this defense. Coker v Nationwide Mut. Ins. Co. (1963) 243 SC 170, 133 SE2d 122.

In the event of a plea of contributory negligence on the part of the defendant as it would have a right to assert, the plaintiff would have a right to show that the defendant was guilty of reckless, willful and wanton conduct so as to overcome the plea of contributory negligence. Coker v Nationwide Mut. Ins. Co. (1963) 243 SC 170, 133 SE2d 122. Sossamon v Nationwide Mut. Ins. Co. (1964) 243 SC 552, 135 SE2d 87.

There is no provision in this section [Code 1962 Section 21‑840] requiring allegation and proof of the absence of contributory negligence on the part of a plaintiff. Coker v. Nationwide Mut. Ins. Co. (S.C. 1963) 243 S.C. 170, 133 S.E.2d 122.

The plaintiff may avail himself of any facts which tend to disprove such negligence as he is charged with even though not alleged in his complaint. Coker v. Nationwide Mut. Ins. Co. (S.C. 1963) 243 S.C. 170, 133 S.E.2d 122.

8. Instructions to jury

The judge who tries a case can properly instruct the jury as to the damages recoverable under the allegations of the complaint and can limit such in accordance with this section [Code 1962 Section 21‑840]. Sossamon v. Nationwide Mut. Ins. Co. (S.C. 1964) 243 S.C. 552, 135 S.E.2d 87.

**SECTION 59‑67‑720.** Payment of premiums.

The premiums on all insurance contracts procured under the authority of Section 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 Section 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 Section 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 Section 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 Section 21‑840.3; 1953 (48) 396.

LIBRARY REFERENCES

Schools 19(5).

Westlaw Key Number Search: 345k19(5).

C.J.S. Schools and School Districts Section 13.

Attorney General’s Opinions

Section 59‑67‑740 does not require a school district to provide the vehicle of a parent with the insurance coverage mandated for public school buses under Section 59‑67‑710 where the parent agrees by contract to transport his or her own child to and from school. S.C. Op.Atty.Gen. (Dec. 2, 2013) 2013 WL 6516331.

**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 Section 21‑840.5; 1953 (48) 396.

LIBRARY REFERENCES

Schools 19(5).

Westlaw Key Number Search: 345k19(5).

C.J.S. Schools and School Districts Section 13.

**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, Section 3.

LIBRARY REFERENCES

States 112(2).

Westlaw Key Number Search: 360k112(2).

LAW REVIEW AND JOURNAL COMMENTARIES

Annual Survey of South Carolina Law: Insurance Law. 38 S.C. L. Rev. 151 (Autumn 1986).

**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: 1962 Code Section 21‑840.6; 1953 (48) 396; 1977 Act No. 215, Section 4.

LIBRARY REFERENCES

States 112(2).

Westlaw Key Number Search: 360k112(2).

NOTES OF DECISIONS

In general 1

1. In general

Doctrine of sovereign immunity from tort liability is abolished, except as to legislative, judicial, and executive bodies and to public officials who are vested with discretionary authority, for action taken in their official capacities. Doctrine abolished retroactively as to cases currently pending or filed on or before July 1, 1986, providing defendant has liability insurance and also providing recovery not exceed limits of liability insurance. McCall v Batson, 285 SC 243, 329 SE2d 741. Graham v Charleston County School Bd. (1974) 262 SC 314, 204 SE2d 384.

**SECTION 59‑67‑780.** Rules and regulations.

The Director of the Sinking Funds and Property Division of the State Department of Administration 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 Section 21‑840.7; 1953 (48) 396.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

**SECTION 59‑67‑790.** Pupil Injury Insurance Fund.

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 that 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 Department of Administration, shall promulgate such rules and regulations as may be necessary to carry out the provisions of this section.

HISTORY: 1962 Code Section 21‑840.8; 1974 (58) 2608; 1977 Act No. 215, Section 2; 1986 Act No. 463, Section 5.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

CROSS REFERENCES

Inapplicability of provisions of this article to elderly, blind or disabled persons receiving transportation on boats operated by State Department of Education, see Section 59‑67‑535.

LIBRARY REFERENCES

Schools 89.13(1).

Westlaw Key Number Search: 345k89.13(1).

C.J.S. Schools and School Districts Sections 474, 777.

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 Section 21‑840(1)(a) [Code 1976 Section 59‑67‑710(1)(a)]. 1974‑75 Op Atty Gen, No 3937, p 19.

NOTES OF DECISIONS

In general 1

1. In general

The legislature’s inclusion of Sections 10‑7‑10 through 10‑7‑40, 59‑67‑710, and 59‑67‑790 within the general provisions of Section 1‑11‑140 was not intended to render all other provisions relating to insurance on public entities inapplicable, but merely delineated specific additional insurance coverage which the State Budget and Control Board was authorized to provide; finding the subsequent provisions inapplicable would lead to absurd results which would not be in the best interest of the Board. Charleston County School Dist. v. State Budget and Control Bd. (S.C. 1993) 313 S.C. 1, 437 S.E.2d 6.