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OFFICIAL OPINION 2007-2

July 6, 2007

Representative David L. Niezgodski
106 State House
200 West Washington Street
Indianapolis, Indiana 46204-2786

Paul Whitesell, Superintendent
Indiana State Police
N340 Indiana Government Center North
100 North Senate Avenue
Indianapolis, Indiana 46204

Re: Taxicab Drive Exemption under Indiana Code chapter 9-19-10

Dear Representative Niezgodski and Superintendent Whitesell:

You have requested a legal opinion on the following question:

Does the exemption language in Indiana Code section 9-19-10-1(3), pertaining to commercial vehicles that make frequent stops for the delivery of goods or services, exempt a taxicab driver from the passenger restraint law?

Brief Answer

A taxicab does not meet the definition of a commercial vehicle that is exempted from the passenger restraint laws at section 9-19-10-1(3). As of July 1, 2007, each occupant of a taxicab, including the operator, unless otherwise exempted under the law, must have a safety belt properly fastened around the occupant's body.

Analysis

Indiana Code chapter 9-19-10 sets out the state law for passenger restraint systems and seatbelt enforcement. Section 9-19-10-2 was recently amended by Public Law Number 214-2007 (HEA 1237). As of July 1, 2007, "*each occupant* of a motor vehicle equipped with a safety belt . . . shall have a safety belt properly fastened about the occupant's body at all times when the vehicle is in forward motion." (emphasis added). Thus, as of July 1, 2007, *all* occupants of any seating position of a motor vehicle must wear a safety belt unless exempted under section 9-19-10-1.

There are limited exceptions under section 9-19-10-1 to the general requirement that all occupants of motor vehicles wear a safety belt at all times when the vehicle is in motion. Individuals exempted from the seatbelt requirements include, but are not limited to, those who for medical reasons should not wear seatbelts, rural mail carriers on a rural postal route, newspaper motor route carriers, and driver examiners who are conducting an examination. Ind. Code § 9-19-10-1. Amendments in 2007 added several additional exceptions to the seatbelt requirement including the exemption of occupants in the living quarters of a recreational vehicle, treatment area of an ambulance or sleeping area of a tractor. Pub. L. No. 214-2007, sec. 6. The new amendments also exempt occupants, but not operators, of garbage trucks, trucks on construction sites, and tow trucks. *Id.*

Subsection 9-19-10-1(3) exempts occupants who are "traveling in a commercial or a United States Postal Service vehicle that makes frequent stops for the purpose of pickup or delivery of goods or services." You have asked whether a taxicab driver is exempt from the seatbelt requirement under this subsection as being a driver of a "commercial" vehicle that "makes frequent stops for the purpose of pickup or delivery of goods or services."

When the meaning of a statute is at issue, the rules or maxims of statutory construction are useful in ascertaining and giving effect to the intent of the legislature. *State v. Kokomo Tube Co.*, 426 N.E.2d 1338, 1345 (Ind. Ct App. 1981).

"Commercial vehicle" is not defined for purposes of section 9-19-10-1(3). However, "in construing the meaning of certain words contained in a statute, the legislative definition of the same words in another act (although not conclusive) is entitled to consideration in construing the same words when used in another statute upon the same, or related, subject." *Adkins v. Ind. Empl. Sec. Div.*, 70 N.E.2d 31, 33 (Ind. Ct. App. 1946). Title 9 states that for the limited purpose of section 9-18-2-4.5 (registration of commercial vehicles), "commercial vehicle" is defined as a motor vehicle "used in commerce to transport property" and having a gross weight of at least 26,001 pounds. Ind. Code § 9-13-2-31.5. A taxicab, with an average weight of 3000 to 5000 pounds, would not meet the definition of "commercial vehicle" under section 9-18-2-4.5.¹ Nor

¹ The average passenger car used as a taxicab weighs approximately 3,000 pounds. Minivans, also used as taxicabs, weigh on the average of less than 5,000 pounds. See Nat. Nat'l Highway Traffic Safety Admin. New Passenger Car Fleet Average Characteristics available at <http://www.nhtsa.gov>.

does a taxicab meet the definition for a commercial vehicle requiring a commercial driver's license from the Indiana Bureau of Motor Vehicles.² Ind. Code § 9-24-1-6; 140 IAC 7-3-1(e) and 7-3-8. Therefore, it is logical to assume that the legislature's reference to "commercial vehicle" under subsection 9-19-10-1(3) was not intended to be construed as including a taxicab.

Neither does subsection 9-19-10-1(3) define "delivery of goods or services." While the phrase could be used to generally describe the activity of a taxicab, the function of a taxicab has been further defined elsewhere in Indiana law. At section 9-13-2-17(b)(2), where a taxicab is differentiated from a bus, a taxicab is described as a motor vehicle "designed or used for the transportation of persons for compensation." Moreover, under laws establishing gasoline taxes, "taxicab" is defined as a motor vehicle, for public hire, designed to carry up to seven individuals, "at a fare regulated by municipal ordinance and based upon length of trips or time consumed," and which operates as part of a commercial enterprise in the business of providing taxicab service. Ind. Code § 6-6-1.1-103(l); *see also* § 8-2.1-17-16. In construing a statute we presume that the legislature, in enacting a particular piece of legislation, was aware of existing statutes relating to the same subject. *Poehlman v. Feferman*, 717 N.E.2d 578, 582 (Ind. 1999). Therefore, the legislature's use of the phrase "delivery of goods or services" under subsection 9-19-10-1(3) would not appear to be a reference to the operation of a taxicab. The services offered by taxicabs have been defined differently elsewhere in the law by the legislature.

Furthermore, while the word "taxicab" does not appear under section 9-19-10-1, the term "taxicab" is expressly used at section 9-19-11-1 to clarify that taxicabs are exempt from requirements regarding passenger restraint systems for children. As noted above, an express reference to "taxicab" also appears in the definitional section of Title 9. *See* Ind. Code § 9-13-2-17(b)(2). The rules of statutory construction provide that "the enumeration of certain things in a statute necessarily imply the exclusion of all others." *Brandmaier v. Metro. Dev. Comm'n of Marion Co.*, 714 N.E.2d 179, 180 (Ind. Ct. App. 1999). "This principle is particularly appropriate where the same term is present in certain portions of the same enactment, but not in other portions." *Id.* *See also* *Mem'l Hosp. v. Szuba*, 705 N.E.2d 519, 523 (Ind. Ct. App. 1999) (observing that where two other statutes within the act used the word "parent," the legislature did not then intend for the term "parent" to be applied in another section of the act where it was not included). Because the legislature did not expressly include the term "taxicab" under section 9-19-10-1, it would not appear that taxicabs are to be included in the list of motor vehicles exempted from seatbelt requirements.

Finally, when interpreting a statute, the "goals of the statute and the reasons and policy underlying the statute's enactment" should be considered. *Town of Merrillville v. Merrillville Conservancy Dist.*, 649 N.E.2d 645, 649 (Ind. Ct. App. 1995). Social legislation should be liberally construed in favor of those intended to benefit from it. *Kokomo Tube Co.*, 426 N.E.2d at 1345. "The Indiana seatbelt statute, I.C. § 9-19-10-2, was enacted to promote highway safety

² Drivers of taxicabs transporting less than sixteen (16) persons for hire must possess a "public passenger chauffeur's license" under Indiana Code chapter 9-24-5.

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and to protect Indiana citizens." *Kelver v. State*, 808 N.E.2d 154, 159 (Ind. Ct. App. 2004). Therefore, any exception to the seatbelt law listed under section 9-19-10-1 should be narrowly construed in order to effectuate the legislature's intent. To that end, taxicabs should not be considered as included in the definition of those "commercial vehicles" exempted from seatbelt requirements under section 9-19-10-1(3).

Conclusion

It is the opinion of this office that taxicabs do not meet the definition of commercial vehicles exempted from the passenger restraint laws at section 9-19-10-1(3).

Thank you for your inquiry.

Sincerely,



Stephen Carter
Attorney General

Rebecca Walker
Deputy Attorney General