



STATE OF KANSAS

Office of the Attorney General

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CURT T. SCHNEIDER
Attorney General

September 12, 1975

ATTORNEY GENERAL OPINION NO. 75- 363

Senator Chuck Wilson, D.V.M.
District Thirty-seven
P. O. Box 142
La Crosse, Kansas 67548

Re: Automobiles and Other Motor Vehicles--Drivers'
License Act--Persons to whom license not issued;
exceptions; restricted licenses; conditions.

Synopsis: K.S.A. 1975 Supp. 8-237--Laws, The definition of
"Days" as used in K.S.A. 1975 Supp. 8-237.
Definition of "days" as used in K.S.A. 1975 Supp.
8-237 is defined as a school term or period of
time to meet the requirements of the regulations
promulgated by the State Board of Education.

K.S.A. 1975 Supp. 8-237--May the holder of a
restricted license operate a vehicle during the
hours of darkness when on a specific errand for
a parent?
The holder of a restricted license may operate a
vehicle during the hours of darkness when on a
specific errand for a parent if said transporta-
tion is going to or from or in connection with
any job or employment of the licensee.

* * *

Dear Senator Wilson:

You have raised several questions in regards to K.S.A. 1975
Supp. 8-237. You requested the definition of the word "days"
as used in 1975 Supp. 8-237(a) which states "Any such restricted
license shall entitle the licensee to operate the appropriate
vehicle at anytime while going to or from or in connection with
any job or employment, or on days, while school is in session."
[Emphasis added]. You further state you believe "days" is
defined to mean the days the law requires the schools to operate

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during the year and such a definition would allow the licensee legally to operate a vehicle to and from school activities as conducted on days other than those designated as a regular school year. As an example, you mentioned most schools conduct football practice in advance of the official opening of schools and many schools conduct their activities on Saturdays and holidays that are not normally considered official school days.

In answer to your first question the definition of "days" as used in the statute does not refer to daylight hours. The Legislature in adopting House Bill No. 2051 specifically struck out the language used in the old law, K.S.A. 1974 Supp. 8-237, which limited the operation of a passenger vehicle from the hours of 7:00 a.m. to 7:00 p.m. and in fact struck out similar language as used in the original House bill. In essence, all limitations as used in K.S.A. 1974 Supp. 8-237 and the amended bills have been stricken and removed from the bill as adopted by the Legislature. Even under the old law, 7:00 a.m. and 7:00 p.m. and days were used together. Therefore, if "days" meant daylight there would be no necessity to use 7:00 a.m. and 7:00 p.m. Therefore, "days" means something other than daylight. "Days" refers to the school term which must be 180 days per the State Department of Education regulation.

As a second part of your first question, you feel the definition of "days" does not refer to daylight and, therefore, the student could drive the appropriate vehicle to school activities on a day other than an official school day or weekend which is not normally considered to be an official school day. I believe the statute specifically answers this question. K.S.A. 1975 Supp. (a), in pertinent part states "Any such restricted license shall entitle a licensee to operate the appropriate vehicle at any time while going to or from or in connection with any job or employment, on or days, while school is in session, over the most direct and accessible route between the licensee's residence and his or her school of enrollment for the purposes of school attendance, ..." [Emphasis added].

The comparison of the old law and the new law will show the Legislature does not draw any distinction between those licensees who reside in a city which has adopted an ordinance requesting

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the Division of Motor Vehicles not to issue operator licenses to minors under the age of 16 years except upon a showing of necessity and of those licensees who reside in a city which has not adopted the ordinance or who live outside the city limits. All persons under sixteen and over fourteen years of age must have their parent or guardian submit an application to the chief law enforcement officer of the city or chief law enforcement officer of a county with the necessary approval before they may hold a restricted license. K.S.A. 1974 Supp. 8-237 paragraph 2 has been repealed. I believe it is important to note that this section under the old law allowed a licensee to drive a vehicle between 7:00 a.m. and 7:00 p.m. over the most accessible route between the licensee's residence and the school in which he is enrolled and does not contain the phraseology as adopted by the Legislature which is more restrictive than the phraseology contained in K.S.A. 1974 Supp. 8-237 paragraph 2. The Legislature by adding the more restrictive language does not allow students holding a restricted license to travel to participate in functions conducted by school authorities as extracurricular activities which does not require the attendance of the student as required by law.

K.S.A. 72-1111 defines compulsory school attendance and the attendance as required by the Legislature is that attendance required by the school board in order that the student fulfill his or her obligation as required by K.S.A. 72-1111. If the Legislature had intended a broader definition, they could have used the words "activities" or "school functions". "Activities" as defined in K.S.A. 72-133 "means school activities and contests in the fields of athletics, music, forensics, dramatics and any other interschool extracurricular activities by pupils enrolled in any of the grades from seven (7) to twelve (12), inclusive." The statute recognizes the distinction between "school" and "activities". K.S.A. 1974 Supp. 8-1461 defines school bus as "every motor vehicle owned by a public or governmental agency and operated for the transportation of children to and from school, or to and from activities, as defined in K.S.A. 72-133..." [Emphasis added]. Since the Legislature has drawn the distinction between school and activities but did not use the term "activities" in House Bill No. 2051, we believe the Legislature did not intend a licensee to operate a vehicle in order to attend school activities. The Legislature could have seized upon the opportunity in amending the old law by broadening the definition, but instead has given a more restrictive definition than the original law.

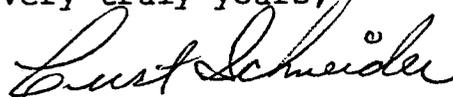
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You also inquire whether a holder of a restricted license may operate a vehicle during the hours of darkness when on a specific errand for a parent, such as picking up parts or supplies. K.S.A. 1975 Supp. 8-237 states "any such restricted license shall entitle the licensee to operate the appropriate vehicle at any time while going to or from on in connection with any job or employment." Therefore, the licensee must be going to or from or in connection with any job or employment before he can operate any appropriate vehicle except when the licensee is operating a passenger car and accompanied by an adult who is a holder of a valid Class A, B, or C, driver's license and who is actually occupying a seat beside the driver or when such licensee is operating a motorcycle at any time when accompanied by an adult who is the holder of a valid Class D driver's license and who is operating a motorcycle in the general proximity of the licensee.

The old law, K.S.A. 1974 Supp. 8-237, allowed the licensee for the purpose of performing errands for his parents in connection with farming or other agriculture pursuits to operate a vehicle between 7:00 a.m. and 7:00 p.m. This specific exception has been repealed. Therefore, a holder of a restricted license may operate a vehicle during the hours of darkness when on a specific errand for a parent if it is going to or from or in connection with any job or employment of the licensee.

In summary, the licensee who holds a restricted license is not limited by time, but is limited by the purpose for the transportation. Said transportation must be job-related or be for the purpose of school attendance as required by law and not extracurricular activities. The only exception to the limitation of purpose is when a licensee is operating a passenger car when accompanied by an adult who is a holder of a valid Class A, B, or C driver's license and who is actually occupying a seat beside the driver or when such licensee is operating a motorcycle when accompanied by an adult who is a holder of a valid Class D driver's license who is operating a motorcycle in the general proximity of the licensee.

Very truly yours,



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CTS:RRS:bv