



COMMONWEALTH of VIRGINIA

Office of the Attorney General

Mark R. Herring
Attorney General

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900 East Main Street
Richmond, Virginia 23219
804-786-2071
FAX 804-786-1991
Virginia Relay Services
800-828-1120
7-1-1

Walter C. Erwin, III, Esquire
City Attorney, City of Lynchburg
City Hall
900 Church Street
Lynchburg, Virginia 24504

Dear Mr. Erwin:

I am responding to your request for an official advisory Opinion in accordance with § 2.2-505 of the *Code of Virginia*.

Issue Presented

You ask whether an institution of higher education located within a city has the authority to allow its employees to operate utility vehicles on public highways within the institution's property limits if the city has not designated the highways for such use.

Response

It is my opinion that an institution of higher education within a city may not allow its employees to operate utility vehicles on public highways within the institution's property limits unless the city has designated and posted the highways for such use following an appropriate review.

Background

You relate that there is a four-year institution of higher education located within the City of Lynchburg. Several public highways are located on the campus, and none of them have been designated by the city for use by utility vehicles. The institution wishes to allow its employees to drive utility vehicles on these highways. Because the City and the institution have different interpretations of the applicable law, you seek guidance from this Office.

Applicable Law and Discussion

The operation of golf carts and utility vehicles on public highways is governed by the provisions of Article 13.1 of Chapter 8 of Title 46.2.¹ Principles of statutory construction dictate that, while these provisions are to be construed according to their plain meaning,² they are not to be read in isolation, but

¹ VA. CODE ANN. §§ 46.2-916.1 through 46.2-916.3 (2014). For the applicable statutory definitions of "golf cart," "utility vehicle," and "highway," see § 46.2-100 (2014).

² "A principal rule of statutory interpretation is that courts will give statutory language its plain meaning." *Davenport v. Little-Bowser*, 269 Va. 546, 555, 611 S.E.2d 366, 371 (2005) (citing *Jackson v. Fidelity & Deposit*

rather are to be considered *in para materia*.³

The first principal statute is § 46.2-916.1. It provides that “[n]o person shall operate a golf cart or utility vehicle on or over any public highway in the Commonwealth except as provided in this article [Article 13.1, titled “Golf Cart and Utility Vehicle Operation”].”

The next principal statute, which is also in Article 13.1, is § 46.2-916.2. With certain conditions, it allows “[t]he governing body of any county, city or town . . . [to] authorize the operation of golf carts and utility vehicles on designated public highways within its boundaries”⁴ It further emphasizes the necessity of local governmental approval by stating, “[n]o portion of the public highways may be designated for use by golf carts and utility vehicles unless the governing body of the county, city, or town in which that portion of the highway is located has reviewed and approved such highway usage.”⁵ That review is to encompass the “speed, volume and character” of traffic on the highway and a determination that the operation of golf carts or utility vehicles is consistent with state and local transportation plans and the Commonwealth’s Statewide Pedestrian Policy.⁶ If certain highways are designated by a locality for such use, signage must be posted by the locality.⁷

In enacting these provisions, the General Assembly clearly vested sole and exclusive authority to designate public highways for golf cart or utility vehicle usage with local governing bodies, and even then only subject to certain restrictions. One restriction relevant to this analysis is imposed by a third principal statute, § 46.2-916.3(A)(1), which provides that a locality is authorized to allow a golf cart or utility vehicle to be operated on a designated highway only where the posted speed limit is 25 miles per hour or less.⁸

A statutory exemption from the 25-miles-per-hour posted maximum speed limit on designated highways is set forth in § 46.2-916.3(B)(3). It provides that this maximum posted speed limit “shall not apply” to golf carts and utility vehicles being operated as necessary by employees of public or private two-year or four-year institutions of higher education where the public highway is within the property limits of such institution, provided the posted speed limit is 35 miles per hour or less.⁹ This exemption applies only “on designated public highways.” It does not remove the requirement that a local governing body designate a public highway for golf cart and utility vehicle use before such use is legal. It merely changes the maximum permissible posted speed limit for such designated highways from 25 miles per hour to 35 miles per hour for public highways within the property limits of institutions of higher education, and

Co., 269 Va. 303, 313, 608 S.E.2d 901, 904 (2005)).

³ “The general rule is that statutes may be considered as *in pari materia* when they relate to the same person or thing, the same class of persons or things or to the same subject or to closely connected subjects or objects. Statutes which have the same general or common purpose or are parts of the same general plan are also ordinarily considered as *in pari materia*.” *Prillaman v. Commonwealth*, 199 Va. 401, 405, 100 S.E.2d 4, 7 (1957).

⁴ Section 46.2-916.2(B). It is noteworthy that approval may be granted only by the governing body, not by any administrative official such as a city manager or a traffic engineer.

⁵ Section 46.2-916.2(A).

⁶ Section 46.2-916.2(B).

⁷ Section 46.2-916.2(E).

⁸ Other restrictions are that a driver must have in his possession a valid driver’s license, and that the vehicles may be operated only between sunrise and sunset unless equipped with proper lights. Section 46.2-916.3(A)(3) and (5).

⁹ Section 46.2-916.3(B)(3).

even then only when the golf cart or utility vehicle is being operated "as necessary by employees."¹⁰ If a highway has not been "designated" by the local governing body for such use, then this exemption does not apply, and neither employees of the institution nor anyone else may legally operate golf carts or utility vehicles on public highways there.

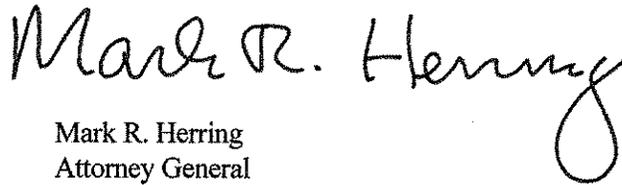
In short, the exemption created by § 46.2-916.3(B)(3) merely allows employee-operated utility vehicles to operate on highways within the campus of an institution of higher education with a higher posted speed limit than would otherwise be applicable, but it does not negate the clear statutory mandate of § 46.2-916.2 that no utility vehicle be operated on any public highway unless the locality has first designated and posted the highway for such use. The three key statutes within Article 13.1, as discussed above, compel this conclusion both by their plain meaning and when they are considered *in pari materia*.

Conclusion

Accordingly, it is my opinion that an institution of higher education within a city may not allow its employees to operate utility vehicles on those portions of public highways that are within the institution's property limits unless the city has designated and posted the highways for such use following an appropriate review.

With kindest regards, I am

Very truly yours,


Mark R. Herring
Attorney General

¹⁰ *Id.*