



2007-104

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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June 14, 2007

ALABAMA STATE HOUSE
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Honorable Mike Hill
Member, House of Representatives
Cahaba Title Inc.
1900 Indian Lake Drive
Birmingham, Alabama 35244

Child Labor Laws – Firefighters –
Minors – Juveniles – Training
Programs – Jefferson County

Current law does not specifically prohibit persons 16 years old and older from riding in fire trucks to the scene of a fire. If the Alabama Department of Labor (“Department”) determines that such activities are a danger to life and limb, the Department may promulgate rules and regulations that regulate or restrict the ability of persons who are under 18 years of age.

Dear Representative Hill:

This opinion of the Attorney General is issued in response to your request.

QUESTION

Is there any Alabama law that would prohibit participants in Fire and Emergency Services Exploring who are 16 years of age and older from riding with firefighters in fire trucks to the scene of a fire?

FACTS AND ANALYSIS

Learning for Life is a program designed to support schools and community-based organizations in their efforts to prepare youth to, among

other things, successfully handle the complexities of contemporary society. Exploring is the work-site based portion of the Learning for Life Program. Exploring provides career education for individuals that are age 14 and have successfully completed the eighth grade or persons ages 15 through 20 years of age. Your question concerns the Fire and Emergency Services Exploring program. Specifically, you ask whether persons age 16 years old and older that are participating in the Fire and Emergency Services Exploring program may ride with firefighters on fire trucks without violating any Alabama statute.

Section 36-32-1 of the Code of Alabama defines "firefighter," "volunteer firefighter," and "trainee" as follows:

(4) FIRE PROTECTION PERSONNEL and FIREFIGHTER. Any person permanently employed in fire administration, fire prevention, fire suppression, fire education, arson investigation, and emergency medical services, but excluding employees of the Alabama State Forestry Commission.

(5) VOLUNTEER FIREFIGHTER. Any person who is not permanently employed as fire protection personnel or firefighter.

(6) TRAINEE. A firefighter who has not been certified by the commission as having met the minimum basic training as set forth by Section 36-32-7 and by the rules and regulations adopted by the commission.

ALA. CODE § 36-32-1 (2001).

Previously, in an opinion issued to the Honorable Richard Laird, this Office determined that persons under the age of 18 may not engage in firefighting activities. This opinion further stated that persons under 18 years of age may participate in non-firefighting activities if performed under adult supervision. Opinion to Honorable Richard Laird, State Representative, dated May 7, 1997, A.G. No. 97-00176. In reaching this decision, the *Laird* opinion reviewed section 25-8-43 of the Code of Alabama. This section states, in pertinent part, as follows:

(a) No person under 18 years of age shall be employed or permitted or suffered to work at

any of the following occupations, positions, or places:

....

(9) As firefighters

....

(26) In any place or occupation which the department may declare dangerous to life or limb or injurious to the health or morals of persons under 18 years of age.

(b) This section shall not apply to persons 16 or 17 years of age enrolled in work-study, student-learner, cooperative education or similar programs in which the employment is an integral part of the course of study and is registered by the Bureau of Apprenticeship and Training of the United States Department of Labor or to employment procured and supervised through the Alabama Department of Education and approved by the Alabama Department of Labor.

ALA. CODE § 25-8-43 (2000).

The *Laird* opinion further stated the following:

In interpreting statutes, the underlying consideration always is to ascertain and effectuate the intent of the legislature as expressed in the statute. Moreover, in reviewing the Alabama Child Labor Law, we are compelled to examine the entire Act and construe it in its entirety. It is clear that one of the primary purposes of the Child Labor Law is to ensure the safety of young persons relating to certain occupations, positions, and places. Since the child labor provisions manifest an intent to keep children from working at any "occupation, position or place" that is "dangerous to life or limb," it is our opinion that Section 25-8-43 does apply to "volunteer fire departments."

Section 25-8-43 makes no mention of other non-firefighting activities such as cleaning and washing equipment, fundraising, crowd control, participating in fire drills, public information and fire prevention programs. When a statute specifically mentions certain things, it is construed as excluding those things not expressly enumerated. Therefore, it is our opinion that persons under 18 years old may engage in certain non-firefighting activities if performed under adult supervision. Clearly, such activities must not be dangerous or injurious in nature or expressly prohibited by section 25-8-43. It should be noted that persons under 18 years of age are prohibited by section 25-8-43(5) from driving any truck or heavy equipment over three tons gross weight.

Laird at 3-4.

The *Laird* opinion is distinguishable from the present matter because individuals who are under 18 years of age are not attempting to make their livelihood as firefighters or be members of a volunteer fire department. Instead, persons participating in the Explorers program are attempting to learn more about the firefighter profession, fire safety, and emergency procedures. Although distinguishable, the essence of the conclusion reached in the *Laird* opinion - persons under 18 years of age may not participate in firefighting activities but may participate in non-firefighting activities if performed under adult supervision - is applicable. If the Department of Labor determines such activities are a danger to life and limb, then the Department of Labor may promulgate rules and regulations that regulate or restrict the ability of persons who are under 18 years of age.

The definition of a firefighter is extremely broad, and as such, there are several aspects to the profession other than fighting fires in which a person in the Exploring program may participate. Pursuant to section 25-8-43(26) of the Code, the Alabama Department of Labor has the authority to make a determination as to whether a place or occupation poses a threat to the health or safety of a person under the age of 18. The Department's determination as to whether riding in fire trucks with firefighters to the scene of a fire poses a danger to life or limb must be made through the adoption of rules and regulations under the Alabama Administrative Procedure Act. ALA. CODE §§ 41-22-1 through 41-22-27 (2000 & Supp. 2006).

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CONCLUSION

Current law does not specifically prohibit persons 16 years old and older from riding in fire trucks to the scene of a fire. If the Alabama Department of Labor determines that such activities are a danger to life and limb, the Department may promulgate rules and regulations that regulate or restrict the ability of persons who are under 18 years of age.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Monet Gaines of my staff.

Sincerely,

TROY KING
Attorney General

By:

A handwritten signature in cursive script that reads "Brenda F. Smith".

BRENDA F. SMITH
Chief, Opinions Division

TK/MMG
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