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FILE NO. S-706

MOTOR VEHICLES:  
Traffic Regulations  
School Speed Zone

Honorable C. Brett Bode  
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Pekin, Illinois 61554

Dear Mr. Bode:

I have your letter asking whether the clause  
" \* \* \* when school children are present", appearing in  
section 11-605 of The Illinois Vehicle Code (Ill. Rev.  
Stat. 1971, ch. 95 1/2, par. 11-605) means (1) when  
visibly present on or about the street area; or (2) while  
school is in session even though the students are inside  
the school building. The section reads, in pertinent part:

"No person shall drive a motor vehicle at  
a speed in excess of 20 miles per hour while  
passing a school zone or while traveling upon

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any public thoroughfare on or across which children pass along to and from school during school days when school children are present."

I am of the opinion that interpretation (1) is correct and that interpretation (2) is wrong and not tenable. The word "present", as defined in both law and general dictionaries, means present to sight or to the other senses. The Superintendent of Public Instruction has consistently followed that interpretation over the years. To interpret "present" as authorizing the 20-mile speed limitation when school children are inside the school building and not outside on the streets or in the school zone would not only disregard the plain meaning of the words used in the Act, but also its intention and the object sought to be accomplished.

The language of the Act requires the 20-mile limit (i) while a vehicle is passing a school zone or while traveling on a public thoroughfare on or across which children pass going to and from school; (ii) but only during school days when school children are "present." The phrase beginning "during school" modifies both of the preceding

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clauses. That is, while traveling in a school zone or on a street used by children going to and from school, the 20-mile limit is effective only (a) on school days (b) when school children are "present" in the zone or are "present" on a street along which children pass going to and from school.

In the general dictionaries the word "present" is defined as the state or fact of being present, as with others or in a place, as opposed to being absent. (Dictionary of the American Language, Random House, 1970.) In the law dictionaries the word "presence" means the being in a particular place (2 Bouvier's Law Dictionary, 1914), or the act or fact or state of being in a certain place, or within sight or at hand. (Black's Law Dictionary, Rev. 4th Ed., 1968.) Similarly, in determining whether a quorum is "present", or whether a will has been signed by the witnesses in the "presence" of the testator, actual physical presence is required. In re Calo's Estates, 1 Ill. 2d 376, 382.

Construing the word "presence", as it appears in section 11-605, to mean actual physical presence of children

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in the streets or in the school zone not only gives effect to the standard meaning of "present", but also effectuates the obvious intention of the legislature. That intention is to protect school children from injury by vehicles in the streets adjacent to, or leading to, the school. There is no need to protect children inside a school from vehicles in the streets.

The legislature appears to have drafted the language of section 11-605 with care to achieve the result desired. The section as originally enacted in 1959 (Laws of 1959, p. 2433) differed from the comparable provision of section 20(b) 1.a of article VI of the Uniform Act Regulating Traffic on Highways which provides a 20-mile speed limit:

"When passing a school building or the grounds thereof during school recess or while children are going to or leaving school during opening or closing hours."

The Illinois Traffic Regulation Act (Laws of 1935, p. 1247) embodied the substance of some sections of the Uniform Act, but did not include the above quoted section 20(b) 1.a from the Uniform Act nor any of the provisions of present section 11-605. (11 Uniform Laws Annotated, pp. 1, 6, (1938).) Since

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the Illinois legislature knew of the provisions of the Uniform Act, the failure to include section 20(b) 1.a of that Act must be taken to be deliberate. The departure from those provisions in 1959, when section 11-605 was adopted, appears to have been carefully designed to provide more protection to Illinois children. In contrast to the Uniform Act, section 11-605 applies not only to the school grounds but to streets leading to the school and to times when children are "present" on school days, playing for example, in the school yard, or carrying on organized games or athletic activities.

Thus, it appears that the language of section 11-605, given its standard every-day meaning, effectuates the intention of the legislature precisely. In Illinois, it is settled law that the intention of the legislature must be ascertained and given effect. (Certain Taxpayers v. Sheahan, 45 Ill. 2d 75.) The legislative language is the best exposition of legislative intent, and if the legislative intent can be determined from the language of the statute, it must prevail and be given effect. (Droste v. Kerner, 34 Ill. 2d 495, cert. den., 385 U.S. 456.)

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No rule of construction permits a court to say that the legislature did not mean what the plain language of a statute imports. United Airlines, Inc. v. Mahin, 49 Ill. 2d 45.

It is my opinion, therefore, that section 11-605 of The Illinois Vehicle Code limits vehicle speed to 20 miles per hour only during school days while the vehicle is passing a school zone or is traveling on a street on or across which children pass going to or from school, and then only when children are physically present on such a street or are outside the school building in a school zone. The 20-mile limit is not in effect when the children are inside the school building even though school is in session.

Very truly yours,

A T T O R N E Y   G E N E R A L