Whether a "bus" is exempt from requirements of child restraint device for transporting children in motor vehicles and whether the interior design of a vehicle or the weight and size of a child makes it "impractical" for the child to be placed in a child restraint device is a factual question. Words are to be given their usual and ordinary meaning. Significantly, the 2002 Session of the General Assembly did not change the types of vehicles that were exempt from child restraint device requirements.

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 inquire regarding the child safety restraint requirements of Article 13, Chapter 10 of Title 46.2, §§ 46.2-1095 through 46.2-1100 ("child restraint laws"). Specifically, you ask for an interpretation of the words "bus" and "impractical" as used in § 46.2-1099.

Response

It is my opinion that the words "bus" and "impractical," as used in § 46.2-1099, should be given their usual and ordinary meanings, absent a definition of these terms in the child restraint laws. The determination in each specific case involves an interpretation of facts, such as the size, configuration and use of the vehicle, as well as prior interpretations of those terms as applied to a particular vehicle, and is not an appropriate issue on which to render an opinion. I note, however, that the types of vehicles that were exempt from the requirements for age specific child restraints before July 1, 2002, remain exempt from the requirements of the child restraint laws.

Background and Applicable Law

The 2002 Session of the General Assembly amended §§ 46.2-1095 and 46.2-1100. Specifically, the amendment to § 46.2-1095(A) increased the age of a child to be secured in a child restraint device from "under the age of four" to "through age five." The amendment to § 46.2-1100 increased the age limits for children authorized to be secured by seat belt instead of child restraint devices. Section 46.2-1100 raises the age of a child who may be secured by seat belt to "at least four years old but less than six years old," if the weight and size of the child make the use of the seat belt practical and the use of a child restraint device impractical.

Prior to the 2002 amendment, § 46.2-1095 required any child "under the age of four" who was transported in a motor vehicle manufactured after January 1, 1968, to be secured in a child restraint device, unless the child was transported in a vehicle exempt under subsection F. The 2002 amendments redesignated subsection F as subsection E. The exempt vehicles listed in § 46.2-1095(E) include "taxicabs, school buses, executive sedans, limousines, or the rear cargo area of vehicles other than pickup trucks." Section 46.2-1099 further exempts
vehicles involved in "[t]he transporting of children by public transportation, bus, school bus or farm vehicle." Further, § 46.2-1099 provides that the child restraint requirements shall not apply to "[t]he transporting of any child in a vehicle having an interior design which makes the use of such device impractical."

It is my understanding that organizations providing child care are concerned about the impact of the 2002 amendments to the child restraint laws on their operations. I further understand that some childcare organizations use passenger vans that are smaller than a "commercial motor vehicle," as that term is defined in § 46.2-341.4, but are larger than the typical seven-passenger minivan used by many families in the Commonwealth.

Discussion

Although Title 46.2 defines the terms "school bus" and "farm vehicle," the motor vehicle statutes do not define the word "bus." In the absence of a statutory definition, it is assumed that the legislature intended the common, ordinary meaning of the term to apply. The ordinary meaning of the term "bus" is "a large motor vehicle designed to carry passengers [usually] along a fixed route according to a schedule." Additionally, the definition of "bus" includes "a large motor-driven vehicle … sometimes under charter for a special trip (as by a social group or an athletic team)." Whether a specific motor vehicle falls within the ordinary definitions of "bus" for the purposes of § 46.2-1095(E) is a determination of fact rather than one of law, and is not an appropriate issue on which to render an opinion.

It is significant that the 2002 Session of the General Assembly did not add a definition of "bus," or of any other exempt vehicles, to the child restraint laws. Therefore, the type of vehicles that were exempt before July 1, 2002, should still be exempt from the requirements of the child restraint laws. If a vehicle was considered a "bus" by law enforcement or the courts prior to July 1, 2002, that factual determination should not be affected by the 2002 amendments to the child restraint laws.

Given that the meaning of "bus" was not changed by the 2002 Session of the General Assembly, whatever designation was applied to any particular vehicle prior to July 1, 2002, would not change after July 1, 2002. The design, configuration and use of each motor vehicle are other factors for consideration in that factual determination. If the General Assembly had intended the "bus" exemption to be based solely on the number of passengers the vehicle could carry, it could have established a specific numeric limitation.

In regard to your second question, the word "impractical" also is not defined in Title 46.2. The child restraint laws limit the eligibility of a child to be exempt from being transported in a child restraint device to the impracticality of placing the child in such a device. Section 46.2-1099 provides that the child restraint requirements shall not apply to "[t]he transporting of any child in a vehicle having an interior design which makes the use of such device impractical." Section 46.2-1100 authorizes the use of a seat belt for a child who is at least four but not six years old, and whose weight and size make the use of the child restraint device "impractical" and the use of the seat belt practical.

Again, in the absence of a statutory definition, a term should be given its plain and ordinary meaning. The word "impractical" means "not wise to put into or
keep in practice or effect”; “incapable of being put into use or effect or of being accomplished or done successfully or without extreme trouble, hardship or expense.” As with the term "bus," the determination whether it would be impractical to put a child restraint device in a motor vehicle due to the interior design of the vehicle or the weight and size of the child is a factual one. It is clear that the purpose of the child restraint laws is to protect children from injury. This purpose should be foremost in determining whether the vehicle transporting a child is a "bus" exempt from the child restraint laws or whether it is "impractical" to put a child restraint device in the vehicle.

Conclusion

Accordingly, it is my opinion that the words "bus" and "impractical," as used in § 46.2-1099, should be given their usual and ordinary meanings, absent a definition of these terms in the child restraint laws. The determination in each specific case involves an interpretation of facts, such as the size, configuration, and use of the vehicle, as well as prior interpretations of those terms as applied to a particular vehicle. I note, however, that the types of vehicles that were exempt from the requirements for age specific child restraints before July 1, 2002, remain exempt from the requirements of the child restraint laws.

2Id.
6"Commercial motor vehicle" includes a motor vehicle that "is designed to transport sixteen or more passengers including the driver." Va. Code Ann. § 46.2-341.4 (Michie Repl. Vol. 1998).
9Pursuant to § 46.2-1163, the Department of State Police has promulgated regulations governing the making of motor vehicle inspections, which define the term "bus" as "a motor vehicle with motive power designed to carry more than 10 persons." Current Virginia Official Inspection Manual, 19 VAC 30-70-290; 19 VAC 30-70-660 (Law. Coop. 1996). It does not appear that the General Assembly intended for these definitions to govern what constitutes a "bus" under § 46.2-1099. If the General Assembly had intended such a definition to apply to the term "bus" as found in § 46.2-1099, it could have included such a definition as it has done for "farm vehicle." Statutes are only considered in pari materia when they relate to the same subject or thing or are part of the same general plan. See Prillaman v. Commonwealth, 199 Va. 401, 405, 100 S.E.2d 4, 7 (1957).
10See 1995 Op. Va. Att’y Gen. 91, 91 (stating that, because there is no statutory definition of "runoff," term is intended to have its ordinary meaning).
12Webster’s Third New International Dictionary of the English Language Unabridged 301 (1993).
14 See, e.g., Advanced Marine Enterprises v. PRC Inc., 256 Va. 106, 125, 501 S.E.2d 148, 159 (1998) (noting that, if General Assembly had intended for award of treble damages to be subject to statutory limitation for punitive damages, it would have included express reference to such damages in statutory language); Smith v. Board of Supervisors, 155 Va. 343, 351, 154 S.E. 479, 482 (1930) (noting that, if General Assembly had intended board of supervisors to use forms furnished by budget director for required notice of proposed local levy increase, it has not used appropriate language to express that intention).

15 See cite supra note 10.

16 Webster’s Third New International Dictionary of the English Language Unabridged, supra note 12, at 1136.

17 This Office previously has concluded that such devices are required in voluntary rescue vehicles that have a small seat in the rear of the vehicle. See 1998 Op. Va. At’y Gen. 103.