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July 25, 2019

Mr. Ed Boyce
Black Ankle Vineyard
14463 Black Ankle Road
Mount Airy, Maryland 21771

Re: Temporary Workers/License to Drive

Dear Mr. Boyce:

You asked me to provide a legal opinion regarding the validity of temporary workers to operate a motor vehicle if they do not have a Maryland driver's license. Since there are temporary workers in the employment of Black Ankle, you wanted clarification of this issue since there has been some confusion with the local law enforcement.

The legal issue is regarding the alleged violation of Section 16-101(a)(1), which states in part:

“§16-101. Drivers must be licensed

- (a) In general – (1) An individual may not drive or attempt to drive a motor vehicle on any highway in this State unless:
- (i) The individual holds a driver's license issued under this title;
 - (ii) The individual is expressly exempt from the licensing requirements of this title; or
 - (iii) The individual otherwise is specifically authorized by this title to drive vehicles of the class that the individual is driving or attempting to drive.”

Transportation Article Section 16-102(a) provides for exemptions to the licensing requirements. Specifically, under (a)(10) they do not apply to:

- “(10) A nonresident of the United States if:

- (i) The individual has a valid license to drive issued to the individual by the country of residence;
- (ii) The individual's license authorizes him to drive in that country vehicles of the class he is driving in this State;
- (iii) The individual is at least the same age as that required of a resident for the vehicle he is driving in this State; and
- (iv) Except as provided for in Subtitle 8 of this title, the vehicle is not a commercial motor vehicle..."

Transportation Article Section 11-149 defines a "resident" as any person:

- "(1) Who is domiciled in this State;
- (2)(i) Who owns, leases, or rents a primary place of residence in this State; and
- (ii) Who regardless of the person's domicile resides in this State for more than a year;
- (3)(i) Who maintains a main or branch office or warehouse facility in this State; and
- (ii) Who bases and operates motor vehicles intrastate in this State; or
- (4) Who has filed as a Maryland resident for income tax purposes."

In addition, pursuant to Motor Vehicle Administration regulations, "resident" is defined as follows:

"B. An individual is presumed to be domiciled in this State under §A (1) of this regulation if the individual:

- (1) Owns, leases, or rents a primary place of residence in Maryland for more than 6 months;
- (2) Has no other residence in any other state to country; and
- (3) Is not:
 - * * * * *
- (d) Temporarily employed in Maryland for a period not to exceed 1 year, or..."

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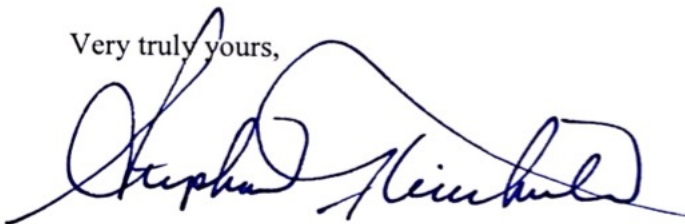
The question is whether a temporary worker is required to have a Maryland driving license in order to operate a motor vehicle. As has been outlined in this letter, a temporary worker is excluded from the requirement of a Maryland driver's license if the following conditions are in place:

1. The worker has a domicile in his/her home country;
2. The worker has a valid driver's license in the country of residence;
3. The worker is authorized to drive in the home country vehicles of the class operated in Maryland;
4. The worker does not own, lease or rent a primary place of residence in Maryland for more than six (6) months; and
5. The worker is not temporarily employed for a period exceeding one (1) year.

There are other conditions that could require a Maryland driver's license, but the outline you provided does not require a Maryland driver's license for a temporary worker. As you are aware, this issue was recently reviewed by an Assistant State's Attorney for Carroll County who agreed with this assessment and dismissed a citation involving TA 16-101 (a)(1).

If you need any further comment or an additional legal opinion, please feel free to contact me. The opinion in this case refers to the specific facts that were presented.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Stephan Timchula", with a large, sweeping flourish extending from the end of the signature.

Stephan A. Timchula

SAT/knh