

MEMORANDUM OF LAW

DATE: February 23, 1995

TO: B. Chris Brewster, Lifeguard Chief

FROM: City Attorney

SUBJECT: Use of Seat Belts by Lifeguards

You have asked whether there is a legal requirement that lifeguards wear seat belts while driving on the beach or "off- road" areas. You indicated that your department's practice has been to permit lifeguards to not wear seat belts in such areas so that they may expeditiously exit their vehicles to make rescues.

California Vehicle Code ("CVC") section 27315 (d)(1) states in relevant part: "No person shall operate a private passenger motor vehicle on a highway unless that person and all passengers 16 years of age or over are properly restrained by a safety belt." As you can see, this section requires seat belt use on highways. CVC section 360 defines "highway" as "a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. Highway includes street." We can find no requirement that persons in vehicles not driven on the highway are required to wear seat belts. There is no seat belt requirement in the CVC Off-Highway Vehicle Division, CVC sections 38000-38506.

This memorandum of law is not intended to express an opinion on the relative safety of such a practice or on its possible effect in the Workers' Compensation or other legal areas.

JOHN W. WITT, City Attorney

By

Mary Kay Jackson

Deputy City Attorney

MKJ:mb:263(x043.2)

cc Marcia McLatchy, Park and Recreation Director

Sharon A. Marshall, Deputy City Attorney

Joseph M. Battaglino, Deputy City Attorney

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